

NOTE: This order is nonprecedential.

**United States Court of Appeals for  
the Federal Circuit**

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**VERMONT YANKEE NUCLEAR POWER  
CORPORATION,**  
*Plaintiff-Cross Appellant,*

v.

**ENERGY NUCLEAR VERMONT YANKEE, LLC  
AND ENERGY NUCLEAR OPERATIONS, INC.,**  
*Plaintiffs-Cross Appellants,*

v.

**UNITED STATES,**  
*Defendant-Appellant.*

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2011-5033, -5034, -5042

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Appeals from the United States Court of Federal  
Claims in consolidated case nos. 02-CV-898 and 03-CV-  
2663, Judge Thomas C. Wheeler.

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**ON MOTION**

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Before MOORE, *Circuit Judge.*

**ORDER**

Plaintiff-cross appellant Entergy Nuclear Vermont Yankee, LLC (“Entergy”) moves for leave to file a two-page response to the amended brief of Amicus Curiae State of Vermont. The United States does not oppose Entergy’s motion, and Plaintiff-cross appellant Vermont Yankee Nuclear Power Corporation (“VYNPC”) takes no position.

Amicus Curiae State of Vermont filed a brief on May 19, 2011, on its own behalf and supporting VYNPC. Under the original briefing schedule Entergy was able to respond to both appellants and to any amicus curiae support of those appellants with its initial brief. Amicus Curiae State of Vermont filed an amended brief on October 24, 2011, to which Entergy has not had the opportunity to respond.

Entergy’s proposed response states that it “agrees with Point I.C. of Vermont’s amended Amicus Brief, which urges this Court not to decide whether federal law . . . preempts Vermont’s Act 74” and, in essence, merely encourages the court not to decide the preemption issue. The proposed response brief contains little, if any, substantive argument. Additionally, because the United States has already filed its reply brief, it would not have the opportunity to respond to Entergy’s proposed response.

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

JAN 30 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Brad Fagg, Esq.  
Richard James Conway, Esq.  
Harold D. Lester, Jr., Esq.  
Kyle Landis-Marinello, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

JAN 30 2012

JAN HORBALY  
CLERK