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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Presiding Officer

In the Matter of)
)
**POWER AUTHORITY OF THE)
STATE OF NEW YORK and ENTERGY)
NUCLEAR FITZPATRICK, LLC,)
ENTERGY NUCLEAR INDIAN)
POINT 3, LLC, and ENTERGY)
NUCLEAR OPERATIONS, INC.)
)
(James A. FitzPatrick Nuclear Power)
Plant and Indian Point Nuclear)
Generating Unit No. 3))**

**Docket Nos. 50-333-LT
and 50-286-LT
(consolidated)**

Office of the
Public
Assistant

**NYPA/ENTERGY COMPANIES RESPONSE TO
CITIZENS AWARENESS NETWORK, INC.
MOTION FOR SCHEDULE CHANGE AND
MOTION FOR CHANGE OF HEARING LOCATION**

On December 11, 2000, Citizens Awareness Network, Inc. ("CAN") filed a motion to change the schedule for this proceeding and a motion to change the hearing location. The Power Authority of the State of New York, Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. ("NYPA/Entergy Companies") hereby respond to CAN's motions.

1. Motion for Schedule Change. CAN asks the Presiding Officer to extend the schedule established in the Commission's November 27, 2000 Memorandum and Order, CLI-00-22. Specifically, CAN requests that the deadline for filing written statements and direct testimony be changed from December 27, 2000 to January 12, 2001; for filing a revised financial qualifications issue from January 2, 2001 to January 5, 2001; written responses to direct

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testimony, rebuttal testimony and proposed questions on direct testimony from January 16, 2001 to February 1, 2001; proposed questions to rebuttal testimony from January 26, 2001 to February 12; oral hearing from February 2, 2001 to February 19, 2001; and post-hearing comments from February 22, 2001 to March 12, 2001.

Section 2.1325(c) of Subpart M to 10 C.F.R. Part 2 authorizes the Presiding Officer to entertain motions for extensions of time and changes in schedule. NYPA/Entergy Companies do not oppose the schedule changes proposed by CAN. The schedule if revised would also resolve a preexisting schedule conflict that would make one of the likely Entergy Companies' witnesses unavailable for the oral hearing.

2. Motion for Change of Hearing Location. CAN proposes that the Presiding Officer change the hearing location from the NRC's headquarters in Rockville, Maryland to a location in Westchester County, New York. CAN acknowledges that this proceeding involves facilities in two widely separated locations in New York State. The Indian Point 3 and Fitzpatrick facilities are approximately 250 miles apart. Nonetheless, CAN argues that a Westchester location is appropriate in part because "a number of the intervening parties are governmental and municipal entities near Indian Point" and because a Westchester location would reduce the travel burden on CAN's representatives.

NYPA/Entergy Companies oppose CAN's request. At least two of the "governmental and municipal entities near Indian Point" relied upon for CAN's convenience argument, the Town of Cortlandt and the Hendrick Hudson School District, have informed us that they are filing a motion to withdraw from this proceeding today. A hearing at a Westchester County location would be much less convenient than Rockville for many participants in this proceeding,

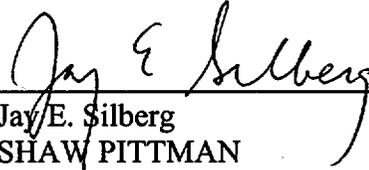
including one of CAN's counsel (whose office is in Washington, D.C.), the NRC counsel for Nuclear Generation Employees Association (whose offices are in Washington, D.C. and Northern Virginia), counsel for NYPA/Entergy Companies (whose office is in Washington, D.C.), the NRC Staff, and the Presiding Officer. Other participants, while not located near the NRC headquarters, are still significant distances from Westchester County. For example, CAN's executive director is in Shelburne Falls, MA, CAN's *pro se* representative and the Nuclear Generation Employees Association counsel are in Syracuse, NY, and the Entergy Companies counsel are based in Jackson, MS and Plymouth, MA. In addition, since the decision in a Subpart M proceeding is issued by the Commission itself, the Commissioners and their staffs have a direct interest in the hearing. Moving its location to Westchester, New York would make their attendance at the hearing significantly more difficult.

For these reasons, NYPA/Entergy Companies respectfully submit that the hearing should be held at NRC headquarters, as required by CLI-00-22. It may also be the case that, even if the Presiding Officer favored a different hearing locale, such a change could only be made by the Commission itself. While 10 C.F.R. § 2,1325(c) authorizes the Presiding Officer to entertain motions for extensions of time and changes in schedule, there does not appear to be comparable authority for the Presiding Officer to change a hearing location specified by the Commission.

Regardless of the question of the Presiding Officer's authority, however, NYPA/Entergy Companies oppose CAN's motion to change the hearing location.

December 15, 2000

Respectfully submitted,



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NUCLEAR OPERATIONS, INC.)	
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(James A. FitzPatrick Nuclear Power)	
Plant and Indian Point Nuclear)	
Generating Unit No. 3))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NYPA/Entergy Companies Response to Citizens Awareness Network, Inc.'s Motion for Schedule Change and Motion for Change of Hearing Location" were served on the persons listed below by electronic mail, with conforming copies by U.S. mail, first class, postage prepaid, this 15th day of December, 2000.

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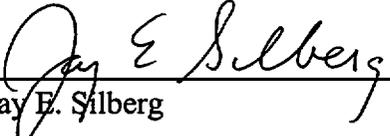
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