

June 26, 2001

Mr. Michael R. Kansler  
Senior Vice President and  
Chief Operating Officer  
Entergy Nuclear Indian Point 2, LLC,  
and Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE, INDIAN POINT NUCLEAR GENERATING UNIT NOS. 1 AND 2  
(TAC NOS. MB0743 AND MB0744)

Dear Mr. Kansler:

In an application dated December 12, 2000, Consolidated Edison Company of New York, Inc. (Con Edison) submitted an application to transfer the Facility Operating Licenses for Indian Point Nuclear Generating Unit Nos. 1 and 2 (IP1 and 2) to Entergy Nuclear Indian Point 2, LLC (Entergy Nuclear IP2), and Entergy Nuclear Operations, Inc. (ENO). During its review of this application, the U.S. Nuclear Regulatory Commission (NRC) informed Con Edison in a letter dated March 1, 2001, that additional information was needed to complete its review. In this regard, on April 16, 2001, you provided information in response, in part, to several of the questions raised by the NRC staff. On the basis of the information provided in your April 16 letter, the NRC staff issued a supplement to the request for additional information to Entergy Nuclear IP2 and ENO on May 4, 2001. In a letter dated May 24, 2001, you provided information in response to the latest request. However, on the basis of discussions with the NRC staff regarding the information in the May 24 letter, you submitted a letter on June 8, 2001, that in part, revised or added information provided in the May 24 letter.

Your May 24 and June 8 letters also included affidavits dated May 24 and June 8, 2001, executed by you, requesting that certain information in Exhibits 1, [1A,] 2, and 3 to the letters containing commercial and financial information be withheld from public disclosure pursuant to 10 CFR 2.790. A nonproprietary copy (redacted version) of your May 24 and June 8 letters have been placed in the NRC public document room and added to the Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

Entergy Nuclear IP2 and ENO are providing information in response to a May 4, 2001, Supplement to Request for Additional Information in connection with the proposed license transfer and conforming amendments (IP1 Docket No. 50-003

and IP2 Docket No. 50-247). The information being provided in Exhibits 1, [1A,] 2, and 3 to the Response contain Entergy Nuclear IP2 and ENO's financial projections related to the operation of IP2 and the commercial terms of a unique transaction. These documents constitute proprietary commercial and financial information that should be held in confidence by the NRC pursuant to 10 CFR 9.17(a)(4) and the policy reflected in 10 CFR 2.790, because:

- a. This information is and has been held in confidence by Entergy Nuclear IP2 and ENO.
- b. This information is of a type that is held in confidence by Entergy Nuclear IP2 and ENO and there is a rational basis for doing so because the information contains sensitive financial information concerning Entergy Nuclear IP2 and ENO's projected revenues and operating expenses.
- c. This information is not available in public sources and could not be gathered readily from other publicly available information.
- d. Public disclosure of this information would create substantial harm to the competitive position of Entergy Nuclear IP2 and ENO by disclosing Entergy Nuclear IP2 and ENO's internal financial projections and the commercial terms of a unique transaction to other parties whose commercial interests may be adverse to those of Entergy Nuclear IP2 and ENO.

We have reviewed your May 24 and June 8 letters and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of the statements by you, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the version of the submitted information marked as proprietary (non-redacted version) will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

M. Kansler

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If you have any questions regarding this matter, I may be reached at 301-415-1457.

Sincerely,

***/RA/***

Patrick D. Milano, Senior Project Manager, Section 1  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-003 and 50-247

cc: See next page

M. Kansler

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**/RA/**

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Docket Nos. 50-003 and 50-247

cc: See next page

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Units 1 and 2

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