RAS 3383

September 7, 2001

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judge:

Ann Marshall Young,
Presiding Officer

DOCKETED
USNRC

September 12, 2001 (1:42PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:	)	
	)	
Consolidated Edison Company	)	
of New York, Inc.,	)	Docket Nos. 50-003-LT
Entergy Nuclear Indian Point 2, LLC,	)	50-247-LT
and Entergy Nuclear Operations, Inc.	)	(consolidated)
	)	
(Indian Point Nuclear Generating	)	
Units 1 and 2)	)	

ENTERGY COMPANIES' STATUS REPORT ON SETTLEMENT AND CONFIDENTIALITY AGREEMENT DISCUSSIONS

Pursuant to the Presiding Officer's Memorandum and Order (Setting Preliminary Procedural Guidelines) dated August 30, 2001 ("Order"), Entergy Nuclear Indian Point 2, LLC ("ENIP2") and Entergy Nuclear Operations, Inc. ("ENO") (collectively, "Entergy Companies") submit their report on the status of settlement, confidentiality agreements, and other procedural matters.

Settlement. The Entergy Companies, the Town of Cortlandt and the Hendrick Hudson School District have reached a settlement pursuant to which the Town of Cortlandt and the Hendrick Hudson School District have agreed to withdraw from this proceeding and have filed a

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SECY-02

Notice of Withdrawal with the Presiding Officer withdrawing with prejudice their Request for Hearing and Petition for Leave to Intervene and the issues raised by them in this proceeding. We understand that such a Notice of Withdrawal was filed on or about August 31, 2001.

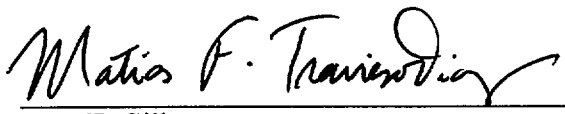
Pursuant to the Order, Jay E. Silberg, Esq., counsel for the Entergy Companies, contacted Timothy L. Judson, representative of Petitioner Central New York - Citizens Awareness Network ("CAN") on September 4, 2001 in an attempt to reach an amicable settlement of the matters which are the subject of this proceeding and discuss the terms of a confidentiality agreement with regard to confidential financial information of the Entergy Companies. Mr. Judson advised Mr. Silberg that CAN did not wish to continue participating in this proceeding and would file a notice to that effect within the next day or so. We received this afternoon by electronic mail a copy of a letter to the Commission from CAN declining to participate in a hearing on this proceeding. A copy of that letter is attached.

Joint Status Report Preparation. The undersigned attempted this morning to contact Mr. Judson for the purpose of preparing the joint status report to be filed with the Presiding Officer under the terms of the Order. There was no answer to a message left at CAN's telephone number, nor was there a reply to a fax message containing a draft of this report and an electronic message with a copy of the same. Accordingly, the Entergy Companies have been unable to conduct additional discussions with CAN or to prepare a joint report on settlement or on a confidentiality agreement.

Other Matters. The Entergy Companies also wish to advise the Presiding Officer that the transfer of the interests in Indian Point 1 and 2 from Consolidated Edison Company of New York, Inc. to the Entergy Companies was completed on September 6, 2001.

September 7, 2001

Respectfully submitted,



Jay E. Silberg
Matias F. Travieso-Diaz
SHAW PITTMAN LLC
2300 N Street, N.W.
Washington, DC 20037-1128
phone: (202) 663-8063
fax: (202) 663-8007
e-mail: jay.silberg@shawpittman.com

Douglas E. Levanway
WISE, CARTER, CHILD and CARAWAY
P.O. Box 651
Jackson, MS 39205-0651
Tel: (601) 968-5524
Fax: (601) 968-5519
email: del@wisecarter.com

Counsel for Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Operations, Inc.

Main Office/MA: Box 83 Shelburne Falls, MA 01370 P/F: 413-339-5781/8768
CT: 54 Old Turnpike Road, Haddam, CT 06438 P/F: 860-345-8431
VT: Box 402, East Dummerston, VT 05346 P/F: 802-387-4050
NH: 9 Evens Road Madbury, NH 03820 P: 603-742-4261
CNY: 140 Bassett Street Syracuse, NY 13210 P: 315-425-0430
WesCAN: 2A Adrian Court, Cortland Manor, NY 10567 P: 914-739-6164
NYCAN: 144 North 11th St, Brooklyn, NY 11211P/F: 718-963-9105

CITIZENS AWARENESS NETWORK

September 7, 2001

U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Commissioners,

The Citizens Awareness Network declines to participate in a hearing on the license transfer of Indian Point Nuclear Generating Units 1 and 2, offered by Commission Memorandum and Order CLI-01-19. Your rejection of the systemic safety problems at Indian Point 2 as outside the scope of this license transfer hearing makes our participation in the process meaningless.

By offering the public an informal hearing that precludes addressing the nuclear safety issues at IP2 which affect them and their children, you are abdicating your responsibility to protect the public health and safety in favor of promoting nuclear power. We are aware that you have proposed changing your rules under 10 CFR Part 2 to make formal hearings on all matters under your jurisdiction discretionary. Under the proposed rule change, hearings on nuclear safety matters from licensing new reactors and dump sites to decommissioning and license termination would be informal, as license transfers are under Subpart M. CAN will not suggest that this process is legitimate through our participation.

Your actions protecting nuclear corporations from accountability violate your mandates under the Atomic Energy Act – both in terms of nuclear safety and hearing rights. Your directives to NRC staff to ease the licensing process for new reactor designs, construction of new reactors, and license extensions for old reactors to comply with the industry's timelines exemplify your attempt to promote nuclear power by abdicating responsibility to protect worker and public health and safety and the environment. COMJSM–00–0003 ("Staff Readiness for New Nuclear Plant Construction and the Pebble Bed Reactor"), COMSECY–00–0026 (REVISED FY 2000–2005 STRATEGIC PLAN).

Your agency's actions make the IP2 debacle a case study in how far the NRC is willing to go to rescue the nuclear industry from its well-earned demise. The Petition Review Board has also used the IP2 license transfer proceeding to justify curtailing an investigation into the safety problems at the reactor by refusing to review a set of internal documents submitted by a whistleblower. Apparently the NRC is afraid of what the public has known to be true: that if the regulations were enforced and the industry were held accountable to the letter of the law, nuclear reactors would have been shuttered to protect the public health and safety.

The industry has lobbied the NRC to eliminate formal adjudicatory hearings in order to promote consolidation of existing reactors and construction of new reactors. However, the NRC has to legitimate such a radical violation of the Atomic Energy Act. While the NRC is violating the Atomic Energy Act, it is holding a handful of *pro forma* hearings to give the appearance of public participation. Your offer of a hearing in which questions of nuclear safety are outside the scope of the proceeding is arbitrary, capricious, and utterly irrational. We will not elevate form over substance by joining you in this proceeding.

Sincerely,

[Original signed by Deborah Katz, CAN]

Deborah Katz, Executive Director
Citizens Awareness Network

Frederick Katz, President
Citizens Awareness Network

[Original signed by Timothy L. Judson, CNY-CAN]

Timothy L. Judson
Central New York-Citizens Awareness Network

Margo Schepart
Westchester-Citizens Awareness Network

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE ADMINISTRATIVE JUDGE ANN MARSHALL YOUNG
PRESIDING OFFICER

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of New York, Inc.,	)	Docket Nos. 50-003-LT
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and Entergy Nuclear Operations, Inc.	)	(consolidated)
	)	
(Indian Point Nuclear Generating	)	
Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Entergy Companies' Status Report on Settlement and Confidentiality Agreement Discussions" in the above captioned proceeding have been served as shown below by electronic mail, the 7th day of September 2001. Additional service by deposit in the United States mail, first class, has also been made this same day as shown below.

Administrative Judge Ann Marshall Young
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop T3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(email: amy@nrc.gov)

The General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(email: ogclt@nrc.gov)

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Rulemakings and Adjudications Staff
(original + two copies)
(email: secy@nrc.gov)

Steven R. Hom
Counsel for NRC Staff
Office of the General Counsel, O-15D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(email: srh@NRC.gov)

Antonio Fernandez
Counsel for NRC Staff
Office of the General Counsel O-15D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(email: axf2@nrc.gov)

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

David A. Repka
Mark J. Wetterhahn
WINSTON & STRAWN
1400 L Street, N.W.
Washington, DC 20005-3502
(email: drepka@winston.com)

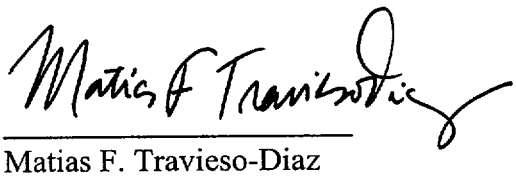
Brent L. Brandenburg
CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.
4 Irving Place - Suite 1830
New York, NY 10003
(email: brandenburgb@coned.com)

Timothy L. Judson
Mark Jacobs
Deborah B. Katz
Citizens Awareness Network, Inc.
Central New York
162 Cambridge Street
Syracuse, NY 13210
(email: cnycan@rootmedia.org)

Douglas E. Levanway
Wise, Carter, Child and Caraway
P.O. Box 651
Jackson, MS 39205-0651
(email: del@wisecarter.com)

John Fulton
ENTERGY NUCLEAR
GENERATION CO.
600 Rocky Hill Road
Plymouth, MA 02360
(email: jfulto1@entergy.com)

Paul V. Nolan
5515 North 17th Street
Arlington, VA 22205-2207
(email: pvnpvn@aol.com)



Matias F. Travieso-Diaz

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