

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PARENTS CONCERNED ABOUT INDIAN POINT

Petitioner,

v.

U.S. NUCLEAR REGULATORY COMMISSION
and the UNITED STATES OF AMERICA

Respondents.

No. 02-4243

**RESPONDENTS' MOTION TO SUSPEND BRIEFING SCHEDULE
FOR CONSIDERATION OF MOTION TO DISMISS**

The U.S. Nuclear Regulatory Commission ("NRC" or "Commission") and the United States of America, respondents in this case, move this Court to suspend the briefing schedule entered on August 7, 2002, to allow this Court time to consider the dispositive motion that accompanies this Motion. After reviewing applicable Supreme Court precedent, respondents reasonably believe that this Court lacks subject matter jurisdiction over this case. Accordingly, we have prepared the Motion to Dismiss which we are filing today.

Neither this Court's Local Rules nor the Docketing Statement issued by the Clerk's Office contains a schedule for filing dispositive motions. The NRC was preparing a Motion to Dismiss when it received the Court's Order of August 7 establishing a briefing schedule. The respondents respectfully ask this Court to suspend the briefing schedule, file the accompanying Motion to Dismiss, and calendar the Motion to Dismiss for oral argument on September 24, 2002. If this Court grants the Motion to Dismiss, the parties will avoid the task of preparing full briefs on this case. If this Court denies the Motion, the Court may then re-issue a briefing schedule and the case may proceed with the jurisdictional issue having been resolved.

We are unable to contact the petitioner to obtain its views on this Motion.

CONCLUSION

For the foregoing reasons, this Court should suspend the briefing schedule issued on August 7, 2002, and entertain the accompanying Motion to Dismiss.

Respectfully submitted,


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