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March 4, 2004

Steven Crockett, Esq.  
Office of General Counsel  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

RE: *Citizens Awareness Network, Inc., Petitioner, United States Nuclear Regulatory Commission,  
Respondents, No. 04-1145*

Dear Steven:

Enclosed please find a copy of the Petitioner's Reply To Respondents' "Response To Motions To Intervene" and Certificate of Service for same in the above referenced matter.

Respectfully,



Jonathan M. Block  
Counsel for Petitioner

Enc./as described herein above

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Hon. Richard Cushing Donovan, Clerk of Court  
United States Court of Appeals for the First Circuit  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2500  
Boston, MA 02210  
ATT: Clerk

RE: *Citizens Awareness Network, Inc. v. United States Nuclear Regulatory Commission*  
No. 04-1145

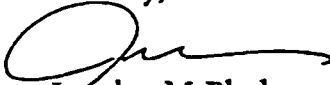
Dear Mr. Donovan:

Enclosed please find a certificate of service and the original and three copies of Petitioner's Reply To Respondents' "Response To Motions To Intervene" for filing.

I have also enclosed herein a stamped, preaddressed envelope and an additional copy of this letter. By stamping it in and returning it to me you are acknowledging that you have received and filed the above described materials with the Court.

Thank you for your kind cooperation in this matter.

Sincerely,



Jonathan M. Block  
Attorney for Petitioner  
Court of Appeals Bar Number 30343

Enc./ As listed herein above  
cc: Service List

Before the  
UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

CITIZENS AWARENESS NETWORK, INC.,  
*Petitioner,*

v.

No. 04-1145

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

PETITIONER'S REPLY TO RESPONDENTS'  
"RESPONSE TO MOTIONS TO INTERVENE"

On March 2, 2004, Respondents U.S. Nuclear Regulatory Commission [NRC] and United States Department of Justice [DOJ] filed a pleading entitled "Response to Motions to Intervene" [Response] in the above captioned matter. Respondents state therein that they do not object to the motions to intervene filed in this case by the Nuclear Energy Institute [NEI] and jointly for National Whistleblower Center (NWC) and the Committee for Safety at Plant Zion (CSPZ).

Petitioner also has no objection to either motion to intervene and urges the Court to grant them. Petitioner, however, asks that this Court, in the interest of efficient case management, refrain from ruling at this time on the other matters in the Response. Petitioner also requests that the Court set a reasonable time—after all potential parties to this matter are before the Court—in which petitioner(s) and interveners may file replies to those other matters. In support of this request, petitioner sets forth as follows.

Respondents in their filing asked the Court to make two immediate directives to petitioner and interveners. First, respondents ask the Court to direct petitioners and interveners

to address in their briefs the issue of standing. Second, respondents ask the Court to take a position on the issue of the scope of briefing that they admit this Court has never previously taken. At the same time, respondents brought to the Court's attention that a Petition requesting (and awaiting) transfer to this Court was jointly filed in the D.C. Circuit by Public Citizen and Nuclear Information and Resource Service.<sup>1</sup>

The case before this Court arises from a final agency rule issued by publication in the Federal Register on January 14, 2004, a copy of which was attached as "Exhibit 'A'" to the Petition for Review filed with the Court on January 27, 2004. The "Hobbs Act", pursuant to which jurisdiction is established in this proceeding, provides a 60-day window in which would-be petitioners (who participated in the rule-making process below) may file a petition for review. 28 U.S.C. §2344 (any aggrieved party may file a petition for review within 60 days of the order being appealed).

Until March 15, 2004, would-be petitioners from other circuits may file Petitions for Review in the United States Circuit Court of Appeals located in the circuit where they reside or have a principal place of business. *Id.* see also 28 U.S.C. §2343 (venue in the circuit in which petitioner resides or has principal place of business). Such petitions should be transferred to this Court for adjudication. See generally 28 U.S.C. §2112. At this time, the Court cannot know precisely when such petition(s) will be transferred to this Court's jurisdiction.

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<sup>1</sup> *Public Citizen Critical Mass Energy and Environment Program, and Nuclear Information and Resource Service v. NRC*, No. 04-\_\_\_\_ (D.C. Cir., filed Feb. 20. 2004).

Therefore, in the interest of economy and efficiency, it would be reasonable to set a period of time sufficiently after March 15, 2004, at which time petitioners and interveners would be expected to file replies on the scope of briefing and whether standing should be addressed in briefs. Such a schedule would allow all parties to be present before the Court and reply to the issues of scope, standing and scheduling of the case at one and the same time. Moreover, given that there is a potential for at least four briefs on the issue of standing, it would be more efficient to take up the matter on motion prior to briefing the case. In that way all parties' briefs could be exclusively devoted to the substantive issues this Court must address in this case.

### CONCLUSION

For the reasons stated herein above, petitioner Citizens Awareness Network asks the Court to grant the motions to intervene, rule that the other issues raised in respondents' motion are premature, and issue a directive to the parties that after all of the parties are before the Court, a reasonable opportunity will be provided for replies to the issues of scope and standing that respondents have raised. National Whistleblower Center and the Committee for Safety at Plant Zion have stated that they support this reply and the relief requested herein.

Respectfully submitted:



Jonathan M. Block dated 3/4/2004

Attorney for C.A.N.

First Circuit Bar Number 30343

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