

June 8, 2007

The Honorable Hillary Rodham Clinton  
United States Senate  
Washington, D.C. 20510

Dear Senator Clinton:

On behalf of the Commission, I am responding to your May 16, 2007 letter to Mr. Samuel Collins, the U.S. Nuclear Regulatory Commission's (NRC's) Region I Regional Administrator. Your letter related to the May 14, 2007 letter from the Westchester County Department of Emergency Services, which requested that proposed civil penalty funds related to Entergy Nuclear Operations, Inc.'s (Entergy's) non-compliance with a Commission order be distributed to the counties surrounding the Indian Point Nuclear Generating Station (Indian Point Plant), for use in local emergency planning activities.

On April 23, 2007, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty - \$130,000 (NOV) against Entergy, the operator of the Indian Point Plant. The NRC issued the civil penalty for Entergy's failure to install, by April 15, 2007, an operational backup power supply for the Emergency Notification System for the Indian Point Plant. The new backup power requirements were mandated by the Energy Policy Act of 2005 and were implemented through the NRC's January 13, 2006 Confirmatory Order to Entergy.

Westchester County requested that the NRC redirect the funds from the proposed civil penalty to the four counties in the 10-mile radius of the Indian Point Plant. By a letter from the Director of NRC's Office of Enforcement to Commissioner Sutton, Westchester County (copy enclosed), the NRC is informing Westchester County of the statutory restrictions that prevent the NRC from meeting the County's request.

The NRC shares your goal of enhancing safety for residents of the counties in the vicinity of the Indian Point Plant and works diligently to achieve that goal within its regulatory regime and legal constraints. This is not the first time a proposal similar to Westchester County's has been received. Most recently, a similar request was received from Congresswoman Marcy Kaptur relating to redirecting funds involving a civil penalty imposed on First Energy Nuclear Operating Company regarding the Davis Besse Facility. As we noted in our response to Congresswoman Kaptur (copy enclosed), and as explained in more detail in the letter to Westchester County, once NRC receives a civil penalty payment, it is mandated to deposit the funds in the Treasury. The Government Accountability Office has made it clear that NRC cannot redirect the civil penalty payments it receives and has also identified significant statutory impediments to the granting of proposals to direct licensees to make payment to third parties in lieu of a civil penalty.

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The Commission appreciates your interest in emergency preparedness at the Indian Point Plant. We will continue to monitor Entergy's progress closely to comply with the new emergency notification requirements and will take appropriate action as deemed necessary.

Sincerely,

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Dale E. Klein

Enclosures: As stated

Identical letter sent to:

The Honorable Hillary Rodham Clinton  
United States Senate  
Washington, D.C. 20510

The Honorable Nita M. Lowey  
United States House of Representatives  
Washington, D.C. 20515