

From: <RoycePenstinger@aol.com>
To: <kremer@area-alliance.org>, <vob@bestweb.net>, <mannajo@clearwater.org>, <wdennis@entergy.com>, <jlmatt he@gw.dec.state.ny.us>, <dcurran@harmoncurran>, <ksutton@morganlewis.com>, <martin.o'neill@morganlewis.com>, <pbessette@morganlewis.com>, "HearingDocket" <HearingDocket@nrc.gov>, "Zachary Kahn" <ZXK1@nrc.gov>, "Kaye Lathrop" <KDL2@nrc.gov>, "Lawrence McDade" <LGM1@nrc.gov>, "Sherwin Turk" <SET@nrc.gov>, <IPNonPublicHearingFile@nrc.gov>, <OCAAMAIL@nrc.gov>, "Richard Wardwell" <REW@nrc.gov>, <mdelaney@nycedc.com>, <John.Sipos@oag.state.ny.us>, <mbs@ourrockland office.com>, <Robert.Snook@po.state.ct.us>, <ajkremer@rmfpc.com>, <driesel@sprlaw.com>, <jst einberg@sprlaw.com>, <jdp3@westchestergov.com>, <fuse_usa@yahoo.com>
Date: 12/4/2007 11:14:10 AM
Subject: Re: E-mail problems
cc: "Christopher Chandler" <CCC1@nrc.gov>, "Beth Mizuno" <BNM1@nrc.gov>, "Brian Newell" <BPN1@nrc.gov>, "Kimberly Sexton" <KAS2@nrc.gov>, "Lloyd Subin" <LBS3@nrc.gov>, "Bo Pham" <BMP@nrc.gov>, "David Roth" <DER@nrc.gov>, "Edward Williamson" <ELW2@nrc.gov>

For my own purpose of clarity in the record, and for purposes of my appeal I enclose hereto the PRIVATE correspondence I received from Sherwin Turk on November 29th, 2007 as well as my response to Sherwin Turk wherein I expressed

my personal opinions on the board and its actions, that the board has now taken exception to. Said email to me, as well as my response back to Mr. Turk were NOT OFFICIAL BOARD FILINGS. He wrote me as it were OFF LIST...I choose,

erring on the side of precaution to share my response to him with the service list, but said response was not "A FILING IN THE PROCEEDING". The comments in

my email were not ADDRESSED directly to the board.

Mr Turk's email to me:

Subject: E-mail problems Date: 11/29/2007 5:00:21 P.M. Eastern Standard Time From: _SET@nrc.gov_ (mailto:SET@nrc.gov)
Reply To: To: _RoycePenstinger@aol.com_ (mailto:RoycePenstinger@aol.com) , _fuse_usa@yahoo.com_ (mailto:fuse_usa@yahoo.com) CC: _BNM1@nrc.gov_ (mailto:BNM1@nrc.gov) , _LBS3@nrc.gov_ (mailto:LBS3@nrc.gov) BCC: Sent on:
Sent from the Internet _(Details)_ (aolmsg://03f199d8/inethdr/1)

Mr. Martinelli:

I just received, from another party in the Indian Point license renewal proceeding, a copy of the E-mail message you sent to the Licensing

Board's law clerk at 10:24 PM, last night. The E-mail begins, "Find it odd,. . ."

Your E-mail message includes my E-mail address, and the E-mail addresses for Mr. Subin and Ms. Mizuno of my office, as addressees. None of us, however, ever received this E-mail transmission from you.

Please advise me as soon as possible whether you did or did not send your message to us. Also, in light of the difficulties you and Ms. Shapiro seem to have encountered in making proper service of your correspondence and pleadings, and the Licensing Board's Orders in this regard, please be sure to include us (and all other parties) in all future E-mail transmissions and written communications you may make in the Indian Point license renewal proceeding.

I look forward to receiving your prompt reply -- as well as your reply to the E-mail message I sent to you yesterday.
Sherwin Turk

My Reply to Mr Turk's Private OFF LIST letter to me.

Subject: Re: E-mail problems Date: 11/29/2007 11:57:13 P.M. Eastern Standard Time From: _Royce Penstinger_ (mailto:Royce Penstinger)

Reply To: To: _SET@nrc.gov_ (mailto:SET@nrc.gov) ,
_fuse_usa@yahoo.com_ (mailto:fuse_usa@yahoo.com) , _zxc1@nrc.gov_ (mailto:zxc1@nrc.gov) ,
Royce Penstinger (mailto:Royce Penstinger) CC: _BNM1@nrc.gov_ (mailto:BNM1@nrc.gov) , _LBS3@nrc.gov_ (mailto:LBS3@nrc.gov) ,
Palisadesart (mailto:Palisadesart) , _kremer@area-alliance.org_ (mailto:kremer@area-alliance.org) ,
Mannajo@clearwater.org (mailto:Mannajo@clearwater.org) ,
klathrop@independence.net (mailto:klathrop@independence.net) ,
ksutton@morganlewis.com (mailto:ksutton@morganlewis.com) ,
martin.o'neill@morganlewis.com (mailto:martin.o'neill@morganlewis.com) ,
pbessette@morganlewis.com (mailto:pbessette@morganlewis.com) , _LGM1@nrc.gov_ (mailto:LGM1@nrc.gov) ,
REW@nrc.gov (mailto:REW@nrc.gov) , _mdelaney@nycedc.com_ (mailto:mdelaney@nycedc.com) ,
mbs@ourrocklandoffice.com (mailto:mbs@ourrocklandoffice.com) ,
jdp3@westchestergov.com (mailto:jdp3@westchestergov.com)

BNM1@nrc.gov (mailto:BNM1@nrc.gov) , _LBS3@nrc.gov_ (mailto:LBS3@nrc.gov)

, _Palisadesart_ (mailto:Palisadesart) , _kremer@area-alliance.org_ (mailto:kremer@area-alliance.org) , _Mannajo@clearwater.org_ (mailto:Mannajo@clearwater.org) , _klathrop@independence.net_ (mailto:klathrop@independence.net) ,
ksutton@morganlewis.com (mailto:ksutton@morganlewis.com) ,
martin.o'neill@morganlewis.com (mailto:martin.o'neill@morganlewis.com) ,
pbessette@morganlewis.com (mailto:pbessette@morganlewis.com) ,
LGM1@nrc.gov (mailto:LGM1@nrc.gov) ,
REW@nrc.gov (mailto:REW@nrc.gov) , _mdelaney@nycedc.com_ (mailto:mdelaney@nycedc.com) , _mbs@ourrocklandoffice.com_ (mailto:mbs@ourrocklandoffice.com) ,
jdp3@westchestergov.com (mailto:jdp3@westchestergov.com)

Dear Mr. Turk:

Following NORMAL Internet email protocols, I did a reply all, which automatically, includes all parties in the communication. Using this technique, assures me that all those whom the board has deemed as parties are properly being copied any communications I might make. So yes, I did CC you the communication you ask about, and would suggest you check your own Spam Filters, and junk mail files, as I cannot, and do not have any control over how your incoming mail controls are set up. The fact you did not receive the email, or claim to not have received it is out of my hands...I copied you, that is my responsibility, and it was carried out.

As to your rather unnecessary BARB about my and Susan Shapiro's problems with properly filing our docs with the NRC. Unfortunately for myself, and for FUSE USA, I made the wrong assumption that a industry expert in Ulrich Witte, and a licensed attorney would know how to read rules, and follow proper protocols in filing contentions with the NRC, and once they filed on September 19th, and not being aware of the full scope of the litany of mistakes made by Susan Shapiro, I followed her and Ulrich's lead...that was my one mistake.

I do not need your patronizing lectures in this or future emails. Further, as a point of INFORMATION, the NRC staff did not bother to contact me about the filing errors, but instead reached out via phone to Susan Shapiro, and made arrangements with her to correct said filing problems. The first I knew that there were still problems as relates to the Certificate of Service came when I received Entergy's Motion To Strike. Over the course of the next 48 hours, I started receiving all the other orders from the board...so, on some level here, I feel as if the NRC and the board bear their own level of responsibility in the supposed confusion in the docket, but my small organization is paying the price, as all of our printing costs spent on our filings has been

tossed out the window, and unlike Entergy and the NRC we do not have budgets for License Renewal running into the millions of dollars. In short, the board's egregious decision has created a serious duress for our organization, and for the stakeholders, and shows us, that Entergy and the NRC will do anything within their power to thwart public involvement in the License Renewal Process.

What I find disturbing, is that I NEVER received several communications/certificate of service's from Entergy, NY AREA and the New York City Economic Development Corporation, but their filings have been allowed to stand, while mine and FUSE USA's were not. It smacks of a Pro-Industry bias, and a distinct prejudice against those groups and individuals who oppose the license renewal of Indian Point that smells far too much like anti-nuclear bigotry.

I also find it rather disturbing, that the Board apparently failed to READ my response to Entergy's motion to strike wherein it was specifically pointed out and clarified that the November 9th, 2007 filing was a separate and UNIQUE filing not related in any way, shape or form to FUSE USA's original and amended filing...in short, the board decided to be a bunch of pro industry pricks...at least now, I know the lay of the land.

Don't bother telling me here that I am not making any friends with my acerbic and angered tone...I am a big boy, and well aware of that. To be perfectly honest, I don't have any particular desires to befriend people that condone nuclear murder and abortion in the name of Entergy profits. Further, don't bother telling me I should be more respectful of the board...here is a clue, RESPECT IS EARNED, not inherited, nor demanded. They want my respect, they can earn it by setting aside their egos, and pro-industry bias and giving the citizens of our area a fair shake in this process.

They dismissed my and FUSE USA's filings without EVER GIVING ME a chance to resolve the shortcomings, even though the majority of the mistakes were made not by myself, or FUSE USA persay, but by a licensed attorney who should have known better...in fact, as has been stated by the BOARD, even after she left FUSE USA, and started representing a new group of organizations, those same mistakes have followed with her. Penalizing a grassroots organization for the stupidity of a licensed attorney without giving us a chance to correct errors is simply unforgivable. So, from my perspective, the fact that Entergy NEVER reached out to me, even though they were made aware on November 7th that

Susan Shapiro was no longer representing FUSE USA before they filed their Motion To Strike makes them guilty of not trying to resolve the issues by reaching out to the other party...in short, said Motion should have been dismissed, as I was never given a chance to correct the errors. But, their attorneys are Washington BIG WIGS, they get a FREE PASS...whatever!

As for you pushing for a fast reply...out of courtesy, I have provided it to you. However, in the future, please remember to allow adequate time for service and response. I am not a paid employee, nor a paid industry gun, but a volunteer, a concerned citizen, a stakeholder that is NOT AT THE BECK AND CALL OF THE NRC, is not being paid for my efforts. Your agency and the board want to talk about common courtesy, try practicing some of it on your own then. You want to talk about fairness...where is the fairness is the licensee having two years or more to prepare their application, then giving us as stakeholders a few months to adequately reply...there is no fairness in this fight, it amounts to a NRC condoned rape of communities unfortunate enough to find an aging reactor in their midst.

Lastly, your email was sent only to me, and a limited number of parties. I am tempted to follow YOUR LEAD in this, and only include in my response, those people you had in your original correspondence to me. Since, if there is a wrong being perpetrated, it was and is on your end, not mine. However, erring on the side of safety, and not wanting to fall into some twisted sick plot to set our organization up for failure, give you the opportunity of again accusing us of NOT FOLLOWING the rules, I have taken the precautionary step of CCing all other parties.

Sherwood Martinelli
FUSE USA
351 Dyckman Street
Peekskill, New York 10566
www.fuseusa.org (<http://www.fuseusa.org/>)
(914) 293-7458

It is noted here, that NOWHERE in the above letter to Mr. Turk is it intimated that said letter in any fashion is a FILING meant to be heard and or reviewed by the board.

Sherwood Martinelli

*****Check out AOL's list of 2007's hottest
products.
(<http://money.aol.com/special/hot-products-2007?NCID=aoltop00030000000001>)

Hearing Identifier: IndianPointUnits2and3NonPublic
Email Number: 264

Mail Envelope Properties (4772288F.HQGWDO01.OWGWPO04.200.2000001.1.16CE03.1)

Subject: Re: E-mail problems
Creation Date: 12/4/2007 11:14:10 AM
From: <RoycePenstinger@aol.com>

Created By: RoycePenstinger@aol.com

Recipients

"Christopher Chandler" <CCC1@nrc.gov>
"Beth Mizuno" <BNM1@nrc.gov>
"Brian Newell" <BPN1@nrc.gov>
"Kimberly Sexton" <KAS2@nrc.gov>
"Lloyd Subin" <LBS3@nrc.gov>
"Bo Pham" <BMP@nrc.gov>
"David Roth" <DER@nrc.gov>
"Edward Williamson" <ELW2@nrc.gov>
<kremer@area-alliance.org>
<vob@bestweb.net>
<mannajo@clearwater.org>
<wdennis@entergy.com>
<jlmatthe@gw.dec.state.ny.us>
<dcurran@harmoncurran>
<ksutton@morganlewis.com>
<martin.o'neill@morganlewis.com>
<pbessette@morganlewis.com>
"HearingDocket" <HearingDocket@nrc.gov>
"Zachary Kahn" <Z XK1@nrc.gov>
"Kaye Lathrop" <KDL2@nrc.gov>
"Lawrence McDade" <LGM1@nrc.gov>
"Sherwin Turk" <SET@nrc.gov>
<IPNonPublicHearingFile@nrc.gov>
<OCAAMAIL@nrc.gov>
"Richard Wardwell" <REW@nrc.gov>
<mdelaney@nycedc.com>
<John.Sipos@oag.state.ny.us>
<mbs@ourrocklandoffice.com>
<Robert.Snook@po.state.ct.us>
<ajkremer@rmfpc.com>
<driesel@sprlaw.com>
<jsteinberg@sprlaw.com>
<jdp3@westchestergov.com>
<fuse_usa@yahoo.com>

Post Office
OWGWPO04.HQGWDO01

Route
nrc.gov

Files	Size	Date & Time
MESSAGE	11271	12/4/2007 11:14:10 AM
TEXT.htm	18990	12/26/2007 10:10:23 AM
Mime.822	33758	12/26/2007 10:10:23 AM

Options

Priority: Standard
Reply Requested: No
Return Notification: None
None

Concealed Subject: No
Security: Standard

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SubjectE-mail problems

Date: 11/29/2007 5:00:21 P.M. Eastern Standard Time

From: SET@nrc.gov

To: RoycePenstinger@aol.com, fuse_usa@yahoo.com

CC: BNM1@nrc.gov, LBS3@nrc.gov

Sent from the Internet (Details)

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Please advise me as soon as possible whether you did or did not send your message to us. Also, in light of the difficulties you and Ms. Shapiro seem to have encountered in making proper service of your correspondence and pleadings, and the Licensing Board's Orders in this regard, please be sure to include us (and all other parties) in all future E-mail transmissions and written communications you may make in the Indian Point license renewal proceeding.

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To: SET@nrc.gov, fuse_usa@yahoo.com, zxc1@nrc.gov, Royce Penstinger

CC: BNM1@nrc.gov, LBS3@nrc.gov, Palisadesart, kremer@area-alliance.org, Mannajo@clearwater.org, klathrop@independence.net, ksutton@morganlewis.com, martin.o'neill@morganlewis.com, pbessette@morganlewis.com, LGM1@nrc.gov, REW@nrc.gov, mdelaney@nycedc.com, mbs@ourrocklandoffice.com, jdp3@westchestergov.com

BNM1@nrc.gov, LBS3@nrc.gov, Palisadesart, kremer@area-alliance.org, Mannajo@clearwater.org, klathrop@independence.net, ksutton@morganlewis.com, martin.o'neill@morganlewis.com, pbessette@morganlewis.com, LGM1@nrc.gov, REW@nrc.gov, mdelaney@nycedc.com, mbs@ourrocklandoffice.com, jdp3@westchestergov.com

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Sherwood Martinelli
FUSE USA
351 Dyckman Street
Peekskill, New York 10566
www.fuseusa.org
(914) 293-7458

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Sherwood Martinelli

Check out AOL Money & Finance's list of the [hottest products](#) and [top money wasters](#) of 2007.