

RAS 15112

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com

Kathryn M. Sutton
Partner
202.739.5738
ksutton@morganlewis.com

Paul M. Bessette
Partner
202.739.5796
pbessette@morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

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February 26, 2008 (3:30pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

February 19, 2008

Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Kaye D. Lathrop
Administrative Judge
Atomic Safety and Licensing Board Panel
190 Cedar Lane E.
Ridgway, CO 81432

Dr. Richard E. Wardwell
Administrative Judge
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

In the Matter of
Entergy Nuclear Operations, Inc.
(Indian Point Nuclear Generating Units 2 and 3)
Docket Nos. 50-247-LR/50-286-LR

Dear Judges:

By Order (Preliminary Notification Regarding The Scheduling of Oral Argument), dated January 24, 2008, the Atomic Safety and Licensing Board ("Licensing Board") informed the participants of its intention to hold oral argument on the admissibility of contentions and other appropriate matters during the week of March 10, 2008. It indicated that counsel for the Applicant and the NRC Staff would need to "be available during all business hours (9:00 am until 6:00 pm) throughout that week," and that others "need only be present when contentions, or other matters which they presented, are being discussed." The Licensing Board asked the participants to advise it of any anticipated conflicts. Entergy confirmed its availability by letter to the Licensing Board dated February 4, 2008.

As the Licensing Board itself recognized in its January 24th Order, this proceeding involves a sizeable number of petitioners and a large number of proposed contentions, and that some time will be needed to address all matters at a prehearing conference. Entergy also appreciates that the Licensing Board's January 24th Order was "Preliminary" and, consequently, Entergy anticipates that the Licensing Board will issue another order addressing its expectations for the upcoming prehearing conference. Nonetheless, in the interest of affording all participants as much advance notice as possible regarding both logistics and substantive matters, Entergy respectfully requests that the Licensing Board, in addition to confirming the dates for the oral argument, provide further direction regarding the scope of matters to be addressed during such arguments. In support of such guidance, Entergy respectfully offers the following suggestions for the Licensing Board's consideration:

- It is Entergy's view that there is little in dispute regarding standing, and, therefore, that matter can be resolved on the basis of the pleadings submitted without the need for any argument. In the event, however, that the Licensing Board believes that argument on standing should be had, Entergy asks that the Licensing Board indicate whether it intends to address the standing of each petitioner as a preliminary matter, before any argument with respect to contentions, or if both standing and contentions be addressed for each petitioner at the same time?
- It is Entergy's position that, in light of the similarity in many of the proposed contentions, and the petitioners' professed interest in adopting the respective contentions of other petitioners,¹ there would be substantial efficiencies gained in grouping like contentions together into subject matter topics (e.g. emergency planning, terrorism, etc.) rather than addressing similar contentions individually. Should the Licensing Board determine that grouping like contentions would be beneficial, Entergy suggests that the petitioners be directed to confer before the prehearing conference for the purpose of designating a single representative to present a consolidated argument on such common proposed contentions. This would, in our view, substantially improve the efficiency of the prehearing conference by avoiding duplicative argument, and, in the long run, facilitate the Licensing Board's ability to rule on the petitions in a timely manner. In light of their geographic proximity to one another as evidenced by their representations on standing, this should not present an undue hardship.
- Also in regard to contentions, it is Entergy's position that argument is not needed on many contentions proffered by the petitioners in that their admissibility can be readily determined on the basis of the pleadings already filed. Accordingly, specification of those contentions on which argument is determined by the Licensing Board to be needed

¹ In making this suggestion, Entergy, for reasons more fully stated in its answers to the respective petitions to intervene, does not concede that any petitioner should be permitted to adopt the contentions of another.

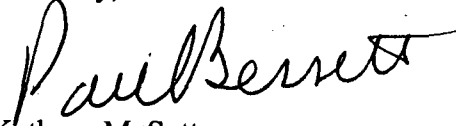
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COUNSELORS AT LAW

would be helpful to all participants and would expedite and improve the effectiveness of the presentations at the prehearing conference. The foregoing are also in keeping with 10 C.F.R. §§ 2.309(f)(3), 2.316, 2.319 and 2.329.

- Finally, it is Entergy's expectation that the Licensing Board will identify any other matters it specifically wishes to have addressed at the prehearing conference, so that the participants have ample opportunity to adequately prepare for this argument. *See, e.g.*, 10 C.F.R. § 2.329.

Sincerely,



Kathryn M. Sutton
Paul M. Bessette
Martin J. O'Neill
Counsel for Entergy Nuclear Operations, Inc.

cc: Service List
William Dennis, Assistant General Counsel
Entergy Nuclear Operations, Inc.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

Before Administrative Judges:
Lawrence G. McDade, Chair
Dr. Richard E. Wardwell
Dr. Kaye D. Lathrop

In the Matter of)	Docket Nos. 50-247-LR and 50-286-LR
)	
ENTERGY NUCLEAR OPERATIONS, INC.)	ASLBP No. 07-858-03-LR-BD01
)	
(Indian Point Nuclear Generating Units 2 and 3))	February 19, 2008
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of a letter from counsel for Entergy Nuclear Operations, Inc. to the Atomic Safety and Licensing Board, dated February 19, 2008 were served this 19th day of February 2008 upon the persons listed below, by first class mail and e-mail as shown below.

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16G4
Washington, DC 20555-0001
(E-mail: ocaamail@nrc.gov)

Administrative Judge
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: lgm1@nrc.gov)

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: rew@nrc.gov)

Administrative Judge
Kaye D. Lathrop
Atomic Safety and Licensing Board Panel
190 Cedar Lane E.
Ridgway, CO 81432
(E-mail: kdl2@nrc.gov)

Office of the Secretary *
Attn: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: hearingdocket@nrc.gov)

Sherwin E. Turk, Esq.
Lloyd B. Subin, Esq.
Beth N. Mizuno, Esq.
Kimberly A. Sexton, Esq.
Christopher C. Chandler, Esq.
David E. Roth
Office of the General Counsel
Mail Stop: O-15 D21

Zachary S. Kahn
Law Clerk
Atomic Safety and Licensing Board Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: zxk1@nrc.gov)

Manna Jo Greene
Environmental Director
Hudson River Sloop Clearwater, Inc.
112 Little Market Street
Poughkeepsie, NY 12601
(E-mail: mannajo@clearwater.org)

Stephen C. Filler, Board Member
Hudson River Sloop Clearwater, Inc.
303 South Broadway, Suite 222
Tarrytown, NY 10591
(E-mail: sfiller@nylawline.com)

Phillip Musegaas, Esq.
Victor M. Tafur, Esq.
Riverkeeper, Inc.
828 South Broadway
Tarrytown, NY 10591
(E-mail: phillip@riverkeeper.org)
(E-mail: vtafur@riverkeeper.org)

Robert D. Snook, Esq.
Office of the Attorney General
State of Connecticut
Assistant Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
(E-mail: Robert.Snook@po.state.ct.us)

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: set@nrc.gov)
(E-mail: lbs3@nrc.gov)
(E-mail: bnm1@nrc.gov)
(E-mail: kimberly.sexton@nrc.gov)
(E-mail: christopher.chandler@nrc.gov)
(E-mail: David.Roth@nrc.gov)

Nancy Burton
147 Cross Highway
Redding Ridge, CT 06876
(E-mail: NancyBurtonCT@aol.com)

Justin D. Pruyne, Esq.
Assistant County Attorney, Litigation Bureau
of Counsel to Charlene M. Indelicato, Esq.
Westchester County Attorney
148 Martine Avenue, 6th Floor
White Plains, NY 10601
(E-mail: jdp3@westchestergov.com)

Diane Curran, Esq.
Harmon, Curran, Spielberg, & Eisenberg,
L.L.P.
1726 M Street N.W., Suite 600
Washington, D.C. 20036
(E-mail: dcurran@harmoncurran.com)

Thomas F. Wood, Esq.
Daniel Riesel, Esq.
Ms. Jessica Steinberg, J.D.
Sive, Paget & Riesel, P.C.
460 Park Avenue
New York, NY 10022
(E-mail: driesel@sprlaw.com)
(E-mail: jsteinberg@sprlaw.com)
Susan H. Shapiro, Esq.
21 Perlman Drive
Spring Valley, NY 10977
(E-mail: Palisadesart@aol.com)
mbs@ourrocklandoffice.com)

Andrew M. Cuomo, Esq.
Attorney General of the State of New York
John J. Sipos, Esq.
Charlie Donanldson Esq.
Assistants Attorney General
The Capitol
Albany, NY 12224-0341
(E-mail: john.sipos@oag.state.ny.us)

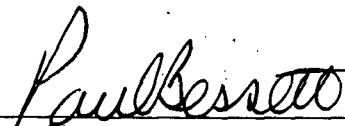
Richard L. Brodsky
5 West Main St.
Elmsford, NY 10523
(E-mail: brodskr@assembly.state.ny.us
richardbrodsky@msn.com)

Joan Leary Matthews, Esq.
Senior Attorney for Special Projects
Office of the General Counsel
New York State Department of
Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12207
(E-mail: jlmатhe@gw.dec.state.ny.us)

Janice A. Dean
Office of the Attorney General
of the State of New York
Assistant Attorney General
120 Broadway, 26th Floor
New York, New York 10271
(E-mail: Janice.Dean@oag.state.ny.us)

Sarah L. Wagner, Esq.
Legislative Office Building, Room 422
Albany, New York 12248
(E-mail: sarahwagneresq@gmail.com)

* Original and 2 copies


Paul M. Bessette

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