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February 20, 2008

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Re: License Renewal Application submitted by
Entergy Indian Point Unit 2, LLC,
Entergy Indian Point Unit 3, LLC, and
Entergy Nuclear Operations, Inc.
for Indian Point Nuclear Generating Station, Unit 2 and Unit 3
Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Administrative Judges:

The State of New York submits this letter in response to Entergy's letter filed February 19, 2008 concerning the oral argument scheduled for the week of March 10, 2008, in the above-referenced proceeding.

The State of New York does not object to Entergy's suggestion that the Board consider the issue of standing based solely on the pleadings – especially since standing does not appear to be an issue affecting private or public petitioners. New York also would not oppose grouping of contentions for the purpose of assisting the Board's consideration of related issues on the same day. To the extent Entergy suggests that oral argument is not warranted for certain unspecified contentions, New York State opposes this request; the State of New York will be prepared to respond to the Board's questions concerning any of its 32 proposed contentions.

Template Sec 037

Sec 02

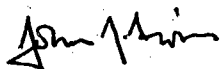
The State of New York strenuously opposes Entergy's request for designation of a single representative to present a "consolidated argument" on grouped contentions. The several petitioners in this proceeding have proposed independent, detailed, and nuanced contentions, and rightfully should not be expected to address the issues raised by one another, nor should they be permitted to make representations which could bind other petitioners. To the extent Entergy intended to assert that one representative should speak on specific contentions which may be adopted or co-sponsored by other petitioners, the State of New York agrees that one petitioner-representative should take the lead at oral argument. As for all other contentions, however, it is inappropriately early in the proceeding for Entergy to suggest consolidation of what are currently many varied contentions by several petitioners representing different interests. Entergy clearly would object if a petitioner suggested that only Staff (and not Entergy) be permitted to speak about a contention during the upcoming oral argument. Accordingly, with respect to non-co-sponsored contentions, each petitioner should have an opportunity to present its argument and respond to the Board's questions.

Moreover, it is inappropriate to limit the State's special right to fully participate in the oral argument. The NRC previously has recognized that the interests of governments and private petitioners may differ. In *West Valley*, the Commission reversed the decision of an ALAB which declined to attach any importance to the distinction between private and public petitioners. "We share the view of the dissenting member of the Appeal Board that the private intervenors herein advancing contentions substantially identical to those of the County may not effectively represent the County's presumably broader interests." *Nuclear Fuel Services, Inc.* (West Valley Reprocessing Plant), 1 N.R.C. 275 (1975); *accord Public Service Co. of Indiana, Inc.*, (Marble Hill Generating Stations, Units 1 and 2), CLI-75-4, 4 N.R.C. 20, 24 (ALAB 1976). The State of New York cannot allow another entity to speak for it on the contentions it has propounded, and it would be likewise inappropriate for the State of New York to speak for non-governmental entities who have their own constituencies and areas of concern.

The State of New York respectfully asks the Board to deny Entergy's request for the designation of a single representative to present a consolidated argument on behalf of several petitioners on similar contentions.

The State further notes that informal letter proposals such as Entergy's should more appropriately be filed as formal motions with the opportunity for other petitioners and parties to confer before being forced to address an issue for the first time in response to a letter to the Board.

Respectfully submitted,



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