RAS E-19

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

RICHARD L. BRODSKY
Assemblyman 92ND District

Westchester County

CHAIRMAN
Committee on
Corporations, Authorities
and Commissions

March 3, 2008

DOCKETED
USNRC

March 6, 2008 (10:19am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Office of the Secretary
U.S. Nuclear Regulatory Committee
Sixteenth Floor
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852

Re: Indian Point License Renewal, Docket No. 50-247/286-LR

To Whom It May Concern:

Enclosed please find the original and two copies of Petitioners Westchester Citizen's Awareness Network (WestCAN), Rockland County Conservation Association, Inc. (RCCA), Public Health and Sustainable Energy (PHASE), Sierra Club - Atlantic Chapter (Sierra Club), and New York State Assemblyman Richard L. Brodsky reply to applicant's motion to strike.

Sincerely,

Sarah L. Wagner

cc: service list

TEMPLATE = SECY-041

SECY-02

❑ ALBANY OFFICE: Room 422, Legislative Office Building, Albany, New York 12248, (518) 455-5753
❑ DISTRICT OFFICE: 5 West Main Street, Suite 205, Elmsford, New York 10523, (914) 345-0432

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative

Judges: Lawrence G. McDade, Chairman
Dr. Kaye D. Lathrop
Dr. Richard E. Wardwell

In the Matter of	)	Docket Nos. 50-247 and
	)	59-286-LR
ENTERGY NUCLEAR	)	
OPERATIONS, INC	)	
	)	
(Indian Point Nuclear Generating	)	
Units 2 and 3)	)	March 3, 2008

ANSWER TO APPLICAN'T MOTION TO STRIKE PETITIONERS'REPLY BRIEF

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

SARAH L. WAGNER, being duly sworn, deposes and says:

1. I am legal co-counsel for Westchester Citizen's Awareness Network (WestCAN), Rockland County Conservation Association, Inc. (RCCA), Public Health and Sustainable Energy (PHASE), Sierra Club - Atlantic Chapter (Sierra Club), and New York State Assemblyman Richard L. Brodsky (hereinafter "Petitioners"). I am familiar with the facts contained herein.

2. On Friday, February 22, 2008 at approximately 2 p.m. I telephoned Raymond Kuyler, Esq. of Morgan Lewis & Bockius, LLP to confirm receipt of the email I sent earlier that day to Attorney Kuyler. The email addressed questions he had about the exhibits served with Petitioners' Reply Brief.

3. Attorney Kuyler stated he did receive the email but had not reviewed it.

4. Attorney Kuyler stated that under §2.323(b) he was required to inform Petitioners that Entergy was making a Motion to Strike Petitioners' Reply Brief and exhibits.

5. I asked Attorney Kuyler on what grounds Entergy was moving to strike the Petitioners' Reply Brief. Mr. Kuyler did not make any effort during this conversation to resolve the issues presented in the motion to strike. For instance, I informed Attorney Kuyler that I had receipts from delivering the Reply Brief. After Attorney Kuyler stated his reasons for the Motion to Strike, I expressed that that I would oppose the motion.

6. Entergy's Motion to Strike was electronically submitted approximately three hours after my telephone conversation with Attorney Kuyler at approximately 5:45 p.m. on Friday, February 22, 2008.

Dated: March 3, 2008

Respectfully submitted,

Sarah L. Wagner
Co-counsel for Petitioner WestCAN et. al

Sworn before me this 3rd day
of March, 2008

Notary Public
Debra A. Sanders
Notary Public, State of NY
Qualified in Albany Co.
01SA4780578-Comm. Expires: 7/31/09

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

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

In the Matter of	)	Docket Nos.
	)	50-247 and 59-286-LR
ENTERGY NUCLEAR OPERATIONS, INC	)	
	)	ASLB No. 07-858-03-LR-BD01
(Indian Point Nuclear Generating Units 2 and 3)	)	

REPLY TO MOTION TO STRIKE OF PETITIONERS WESTCHESTER CITIZEN'S AWARENESS NETWORK (WESTCAN), ROCKLAND COUNTY CONSERVATION ASSOCIATION, INC. (RCCA), PUBLIC HEALTH AND SUSTAINABLE ENERGY (PHASE), SIERRA CLUB - ATLANTIC CHAPTER (SIERRA CLUB), AND NEW YORK STATE ASSEMBLYMAN RICHARD L. BRODSKY

PRELIMINARY STATEMENT

Petitioners submit this reply in response to the Motion to Strike submitted by Entergy Nuclear Operations, Inc. served on February 22, 2008. Petitioners oppose the motion in all respects.

BRIEF PROCEDURAL HISTORY

On April 23, 2007, and supplemented on May 3, 2007 and June 21, 2007, Entergy Nuclear Operations, Inc. (hereinafter "Entergy" or "Applicant") filed an application to renew its operating license for an additional twenty year period for Indian Point Nuclear Generating Units 1 and 2. On December 10, 2007, Petitioners Westchester Citizen's Awareness Network (WestCAN), Rockland County Conservation Association, Inc. (RCCA), Public Health And Sustainable Energy (Phase), Sierra Club - Atlantic Chapter (Sierra Club), and New York State Assemblyman Richard L. Brodsky (hereinafter "Petitioners") electronically by email served a Petition for Leave to Intervene with Contentions and a Request for a Hearing. Entergy served an Answer to the Petition electronically by email on January 22, 2008, without the referenced exhibits. Entergy mailed its exhibits, without a table of contents, which arrived six days later. Petitioners filed a Reply Brief on February 15, 2008. On February 22, 2008, Entergy electronically served a Motion to Strike Petitioners Reply Brief.

ARGUMENT

Entergy alleges that Petitioners' Reply Brief was not properly served, raised new arguments, and contained offensive statements. Petitioners Reply Brief respond to the legal, or logical, or factual arguments raised in Entergy's Answer

and thus are appropriate. Petitioners' Reply Brief responded to arguments made by Entergy or the NRC Staff and elaborated upon statements made in its' Petition to Intervene. NRC precedent clearly states that a reply brief "may respond to and focus on any legal, logical, or factual arguments presented in the answers," *Entergy Nuclear Generation Co.* (Pilgrim Power Station), LBP-06-23, 64 N.R.C. 257, 359 (2006), and the "amplification of statements provided in an initial petition is legitimate and permissible." *Entergy Nuclear Vermont Yankee, LLC* (Vermont Yankee Nuclear Power Station), 64 N.R.C. 131, 152 (2006). "The strict contention admissibility requirements for a sufficient factual basis do not shift the ultimate burden of proof from the applicant to the petitioner." *In the Matter of Entergy Nuclear Generation Company, and Entergy Nuclear Operations, Inc. (Pilgram Nuclear Power Station),* 64 NRC 257 (2006).

Petitioners Reply Brief and exhibits were properly served in the same manner as Entergy and there is no requirement that electronic submissions contain the exhibits. Entergy did not make a good faith effort to resolve any alleged issues before involving the Atomic Safety and Licensing Board. Petitioners' Reply Brief is within the bounds; Petitioners expanded upon their petition in response to arguments raised in Entergy's and the NRC Staff's Answers and no new arguments were made. Petitioners Reply Brief focused on issues previously raised in the Petition, and therefore Petitioners Reply Brief cannot have prejudiced or unfairly

surprised Entergy. Petitioners further submit that based on the table of contents and the revised table of contents in the errata documents, no ambiguity exists.

Entergy's motion is an attempt to address the ASLB after the Reply Brief has been submitted and attempts to suppress party participation. Entergy's motion to strike is incomplete as to the facts.

I. Petitioners' Reply Brief was timely served on February 15, 2008.

Section 2.305(c) of the Code of the Federal Register, provides that service must be made electronically to the E-Filing system. Upon an order from the Commission or presiding officer permitting alternative filing methods under § 2.302(g)(4), service may be made by personal delivery, courier, expedited delivery service, or by first-class, express, certified or registered mail. As to each participant that cannot serve electronically, the Commission or presiding officer shall require service by the most expeditious means permitted under this paragraph that are available to the participant, unless the Commission or presiding officer finds that this requirement would impose undue burden or expense on the participant.

NRC rules states that service is complete upon deposit with a courier service and does not require postmark, or courier proof, of the service date, only proof of service acceptance date. Section 2.302(d)(1) & (3) states that "filing is considered complete: by electronic transmission when the filer performs the last

act that it must perform to transmit a document, in its entirety, electronically; ...[b]y courier, express mail, or expedited delivery service upon depositing the document with the provider of the service." Petitioners sent their Reply Brief and exhibits, as per the ASLB Orders, by overnight service.

As the movant, Entergy has the burden of establishing that Petitioners service was untimely, pursuant to 10 C.F.R. 2.325. Entergy has failed to establish that Petitioners' Reply Brief was served other than on February 15, 2008. Petitioners placed the Reply Brief in a DHL pick up box on Friday February 15, 2008. Conforming with §2.302, "the post mark does not establish filing date, but in fact, the filing date is established by when the document was placed in possession of U.S mail or the courier..." (See Exhibit A, attached receipts). Petitioners placed its Reply Brief with exhibits in a DHL box on Friday, February 15, 2008 and therefore the Reply Brief with exhibits was timely. (Exhibit A). Petitioners mailed its Reply Brief on Friday February 15, 2008 for next day delivery; since Monday, February 18, 2008 was a Federal Holiday, the Reply Brief was received on Tuesday, the 19th of February.

Petitioners were made aware of electronic delivery problems to the NRC earlier on the 15th day of February 2008. Petitioners exchanged email correspondence and engaged in telephone conversations with NRC Hearing Docket staff regarding the NRC's inability to receive documents over 10 megabits. (See Exhibit B, Email

correspondence with NRC Hearing Docket and Sherwin Turk, Esq. on February 15, 2008).[1]

As provided in Exhibit B, Rebecca Gitter, of the NRC Hearing Docket Department, and Sherwin Turk, Esq. both acknowledged that the NRC was not able to receive documents that exceed 10 megabits. Ms. Gitter instructed Petitioners to make our best efforts in filing, which we did. Based on these conversations, to ensure proper service, Petitioners timely deposited the Reply Brief in a courier service deposit box on Friday, February 15, 2008.

In compliance with the Atomic Safety and Licensing Board's Order of February 1, 2008, Petitioners included a table of contents describing the attachments to the Reply Brief. Moreover, Petitioners went *beyond* the Board's order and sent a CD-ROM to each party that contained hyperlinks in the Reply Brief to the exhibits.[2] Although not all of the hyperlinks worked, Petitioners' table of contents contained the file name and a description of each exhibit.

Finally, Petitioners have filed an errata to Petitioners' Reply Brief on February 27, 2008. In the errata Petitioners submitted a new Certificate of Service. A revised Certificate of Service was filed because the February 15, 2008 Certificate

[1] See email from Sherwin Turk did not receive petitioners papers electronically served 2.11.08.

[2] February 1, 2 008 ASLB Order authorized service by CD-ROM if files are too large for email or paper service on all parties.

of Service was rendered incorrect due to Petitioners inability to electronically submit the document on the 15th of February 2008. However, Petitioners' service of its Reply Brief was timely completed upon deposit in the DHL pick up box on February 15, 2008.

In addition to timely mailing the Reply Brief, Petitioners expedited service by emailing a copy of the Reply Brief to the active party list as soon as practicable. Petitioners were not able to electronically submit their Reply Brief due to email difficulties before midnight on February 15, 2008, but did email their Reply Brief shortly thereafter. Petitioners email was sent at approximately 12:50 a.m. on February 16, 2008. Petitioners submit that 50 minutes is not unreasonable but nevertheless Petitioners rely on their timely service by courier. Due to the unanticipated email delivery problems, Petitioners have submitted a revised Certificate of Service attached as Appendix B to the errata document.

Therefore, Entergy's Motion to Strike should be denied because Petitioners' Reply Brief was timely served and the errata revised to certificate of service to corrected unanticipated email delivery problems.

II. Petitioners Reply Brief responded to the legal, logical, and factual arguments made in the Answers of Entergy and/or the NRC Staff and therefore are appropriate.

Petitioners seeking to intervene in a license renewal proceeding must establish only that it is entitled to cognizable relief; petitioners are not required to withstand a summary disposition motion or to prove its contention at the admissibility stage. *In the Matter of Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation)*, 47 NRC 142, 179 (1988); *In the Matter of Entergy Nuclear Vermont Yankee, L.L.C. and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station),* 50-271-LR, LBP-07-15 (2007). A petitioner is simply required to provide sufficient information to show that a more comprehensive inquiry is warranted. *Id.* NRC regulations also provide that a contention is admissible when a petitioner demonstrates that an applicant has not addressed an issue in its LRA. 10 C.F.R. § 2.309(f)(1)(vi). Based on the arguments raised in the Answers, Petitioners amplified their contentions.

A reply may respond to any legal, logical, or factual arguments presented in an answer. *See Mass v. U.S*, ML ML071560312 at p. 136 (2006). While a petitioner who fails to satisfy the requirements of 10 C.F.R. § 2.309(f)(1) in its initial contention submission may not use its reply brief to rectify those inadequacies or to raise new arguments, a petitioner may use the reply brief to flesh out contentions that have already met the pleading requirements. *Id.*

Entergy's Answer opened the door for Petitioners to refute arguments that the Petition contentions were not particular, or lacked specificity, or was vague, or

lacked factual or expert support, or failed to raise a genuine issue in dispute, or did not provide a concise statement. In 26 of the 50 contentions, either Entergy or the NRC Staff Answers' argued that Petitioners' contentions were not particular, or lacked specificity, or was vague, or lacked factual or expert support, or failed to raise a genuine issue in dispute, or did not provide a concise statement. Petitioners contentions filed on December 10, 2007 reinforced and amplified Petitioners' contentions in response to Entergy and the NRC Staff's Answers.

The NRC regulations "explicitly provide the option for Petitioners to adopt other petitioner's contentions. *Louisiana Energy Services, LP (Nat'l Enrichment Facility*), CLI-04-35, 60 NRC 619, 626 (2004). Petitioners have indicated their willingness to adopt certain contentions of other Petitioners following submission of several Petitions to Intervene. This clearly is not a new argument. Entergy has been given the opportunity to rebut these claims in their Answers to the petitions submitted and thus cannot claim prejudice or unfair surprise. As such, Entergy's claim that adoption of another's contention is a new argument, under contentions 19 and 48, is without merit.

Petitioners statement that we intend to seek a waiver under the NRC regulations is additionally not a new argument. (See Entergy's Motion at pp. 16-18, concerning contentions 16, 42, 47, and 48). Petitioners merely acknowledge that they will file a motion seeking a waiver to re-categorize certain environmental

issues to category 2 environmental issues. Under the language of 10 C.F.R. § 2.206 and/or 2.802 and/ or 2.335(b), as noted by the NRC staff in their reply to CRORIP's waiver motion, only parties are permitted to seek waivers.[3] Once at least one of Petitioners contentions is admitted and thus Petitioners become a party, Petitioners will make a motion as required by the NRC regulation to re-categorize certain environmental issues in order for the contention to be admissible. *Turkey Point*, CLI-01-17, 54 NRC at 12. Thus, statements in contentions 16, 42, 47, and 48, that Petitioners will seek a waiver do not raise new arguments.

Petitioners submission in Exhibit O of the Reply Brief was in response to Entergy's questioning of our expert, Ulrich Witte's credentials. Thus, Exhibit O should be accepted.

Petitioners' Reply Brief focuses on issues raised in the Answers submitted by Entergy and the NRC Staff and cites to additional material to amplify its Reply Brief. Furthermore, the Reply Brief does not prejudice or unfairly surprise Entergy. Therefore, since the Reply Brief does not raise new arguments, and

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[3] NRC Staff's Response To The Petition For Waiver Of Commission Regulations Filed By Connecticut dated 1/22/08, p. 1, FN 1: "10 C.F.R. § 2.335(b) permits a petition for waiver of NRC regulations to be filed by a 'party.' While CRORIP has petitioned to intervene, it has not, as yet, been admitted as a party."

Entergy does not claim prejudice or unfair surprise, the motion to strike should be denied.

III. Petitioners' Reply Brief exhibits should be accepted because they are compliant with the ASLB Order and not ambiguous and therefore should not be struck.

Entergy has raised questions about Petitioners' Reply Brief exhibits G, I, N, S, T, U, V, W, X, DD, EE on February 20, 2008. (See Exhibit C, Email from Attorney Kuyler to Attorney Wagner Feb. 20, 2008). Petitioners' full response was submitted by email and is explained in detail below, although inconspicuously only referenced in a footnote. (See Exhibit C, Email from Attorney Wagner to Attorney Kuyler).

Exhibits G, I, U, V, W, Z, AA, BB, and CC were all submitted as exhibits with Petitioners Petition. Exhibit G attached to the Reply Brief is the same exhibit as Exhibit J, appendix C attached to the Petition. Exhibit I of the Petition was never omitted. Exhibit G attached to the Reply Brief is the same exhibit as Exhibit I attached to the Petition. Exhibit U attached to the Reply Brief is the same exhibit as Exhibit J attached to the Petition. Exhibit V attached to the Reply Brief is the same exhibit as Exhibit K attached to the Petition. Exhibit W attached to the Reply Brief is the same exhibit as Exhibit M attached to the Petition. Exhibit Z attached to the Reply Brief is the same exhibit as Exhibit N attached to the Petition. Exhibit

AA attached to the Reply Brief is the same exhibit as Exhibit P attached to the Petition. Exhibit BB attached to the Reply Brief is the same exhibit as Exhibit R attached to the Petition. Exhibit CC attached to the Reply Brief is the same exhibit as Exhibit W attached to the Petition.

Similarly, Exhibits S and T attached to Petitioners Reply Brief were also attached to Petitioners Petition. Exhibits S and T reference the same document. As noted in the Table of Contents for the Reply Brief, Exhibit S and T are both references to Petitioners Contention 36 as originally stated in the Petition.

None of these exhibits submitted with Petitioners Reply Brief were raised in the ASLB order of February 1, 2008, except Exhibit K. The ASLB decision regarding Exhibit K was made one week after Entergy's submission of its motion to strike. The exhibits struck by the ASLB Order of February 29, 2008 were attached to the Petition- not the Reply Brief- as Exhibits Z, AA, BB, CC. Upon comparison these are not the same exhibits attached to the Reply Brief.

In response to the Entergy's other concerns, Petitioners responds as follows. Exhibits E, N, and EE all refer to the same document- The Office of the Inspector General's Report on License Renewal of September 2007. Exhibits E, N, EE attached to Petitioners Reply Brief refer to the exact same document. Exhibit E has the same title as Exhibits N and EE because it is the same document. The table

of contents points out that Exhibit EE of the Reply Brief is the same as Exhibit N of the Reply Brief.

Similarly, the table of contents states the Exhibit DD is contained under Exhibit N because sections of Exhibit N support the statements proceeding reference to Exhibit DD.

Petitioners intentionally omitted Exhibit X and thus, it does not appear on the table of contents nor was it sent to any party.

On February 20, 2008, Petitioners were contacted by Raymond Kulyer, Esq., attorney for Entergy. Petitioners responded to Entergy's exhibit questions relating to Petitioners Reply Brief, but Petitioners' responses were simply noted in a footnote of Entergy's motion to strike.

Petitioners do not admit to any defects, but responded to Attorney Kuyler's question about the exhibits served with Petitioners Reply Brief. Petitioners' attorney called Attorney Kuyler on Friday February 22, 2008 to confirm that he received Petitioners email in response to his exhibit questions. (See Exhibit D Wagner Aff. dated March 3, 2008). Attorney Kulyer stated he did receive the email but had not reviewed it. (*Id.*) Attorney Kulyer then informed Petitioners' Attorney that under §2.323(b), he was required to inform Petitioners that Entergy was moving to strike Petitioners' Reply Brief. Entergy electronically submitted its motion to strike within three hours of talking to Petitioners' counsel.

Entergy did not make a sincere effort to resolve the issues contained in its motion. Under 10 C.F.R. 2.323(b) a moving party must certify that it made a sincere effort to contact the respondent and resolve, if possible the issue(s) before involving the Atomic and Safety Board. *Entergy Nuclear Vermont Yankee (Vermont Yankee Nuclear Power Station),* 62 NRC 828, 837 (2005). No such certification was made.

Only in a footnote does Entergy state that it attempted to resolve the issues in the motion to strike. (Entergy Motion, p. 1, fn 1). Attorney Kulyer informed Petitioners' counsel at approximately 2:30 p. m. on the same day Entergy moved to strike that it intended to make a motion to strike. Attorney Kuyler stated that he was obligated under § 2.323(b) to inform Petitioners' counsel that it was filing a motion to strike and only upon the request of Petitioners counsel did Attorney Kuyler state the reasons for the motion. (Ex. D, Wagner Aff.). At no time did Attorney Kuyler make any effort during this conversation to resolve the issues in the motion to strike. (See Exhibit D, Wagner Aff.). Entergy's motion to strike was submitted within hours after this conversation and after Petitioners had responded to questions raised by Attorney Kuyler. However, Entergy's motion to strike neglects to include Petitioners' response to Entergy's exhibit questions. This omission evidences Entergy's clear disregard of the purpose of § 2.323(b).

The table of contents, and particularly, Petitioners revised table of contents attached to the errata, identify and describe the exhibits, despite Entergy's exhibit questions.

Entergy again misrepresents the truth in its motion to strike. Petitioners object to Entergy's statement that "...the Board has already admonished WestCAN [Petitioners] for problems in this proceeding on multiple occasion..." On February 1, 2008, the ASBL ordered Petitioners to explain how, when, to whom, the certain exhibits were served. On February 22, 2008, Entergy moved to strike Petitioners Reply Brief. Thus, at the time of the motion to strike, no decision had been made by the ASLB regarding Petitioners exhibits.

Entergy has failed to make a sincere effort to resolve any alleged exhibit issues and misleads the Board by not including Petitioners response. Therefore, Petitioners Reply Brief exhibits should not be excluded as they were clear and properly served.

IV. Petitioners stand behind each statement made in its papers and the movant has failed to demonstrate a lack of decorum by Petitioners.

Petitioners' statements are supported by examples and information in which a person may conclude the truth of Petitioners statements. Entergy's attempt to link Petitioner to FUSE with the Petitioners is incorrect, misleading, and highly prejudicial.

Specifically, Entergy objects to the following statement in Petitioners Reply Brief: "The Applicant, as well the federal agency, willfully and knowingly violated the Administrative Procedures Act, and as a result, now has prostituted the license renewal application for Indian Point Unit 2." Entergy misinterprets the meaning of the sentence. The statement is also supported by 20 pages of explanation, including examples for Petitioners' conclusion. Petitioners did not suggest that the board was prostituting itself. What Petitioners allege is that the parties are prostituting the process. Petitioners argument is supported by numerous examples, including, but not limited to, that omission of exemptions; exemptions granted that violate the regulations and safety of the public; no public hearing when exemptions are granted; GDC's that Entergy falsely described in its UFSAR, omission of several site specific safety issues, contradictions in the LRA and Entergy's Answer.

The nexus between the existing CLB, its documented history record, its current compliance, and its reliance in renewal is clear. If Entergy is not currently compliant with the regulations, it is not possible that it will continue to comply with all Commission regulations if the operating license is renewed.

Moreover, in Contention 16 Petitioner FUSE stated: "Entergy as well as the federal agency willfully and knowingly violated the Administrative Procedures Act, and as a result prostituted the license renewal submittal, content, acceptance and approval for Indian Point." Although Entergy did move to strike based on this

statement, the statement was not one of the grounds relied on by the ASLB is denying FUSE's Petition to Intervene. (See ASLB Order Feb. 1, 2008, ML080320514).

Entergy's argument that referral to "false propaganda" is offensive, is without basis. The use of advertising to support an industry or a corporation while such industry or corporation is receiving government subsidies amounts to the use of such subsides being used to support an advertising or propaganda campaign. If Entergy would like to object to this argument it may do so in oral argument, not by attacking the substance in an improper motion to strike.

Entergy's also alleges offense to statements by Petitioners that concluded that Entergy's conduct is egregious, is misrepresentative and unlawful because it fails to include critical and significant information in its LRA. These conclusions are supported based on facts contained in several contentions such as 1, 2, 3, 8, 9, 11A, 12, 13, 14, 2,0, 22-25, 33, 34, and 44.

The Petitioners expect that the Board will uniformly apply the NRC rules fairly towards all parties. A petition is required to be based upon information available at the time the Petition was filed. 10 C.F.R. § 2.309(f)(2). Entergy's motion is an attempt to circumvent 10 C.F.R. 2.309(h)(3). Pursuant to 10 C.F.R. 2.309(h)(3)- *no other answers or replies are to be entertained* by the Atomic and Safety Board

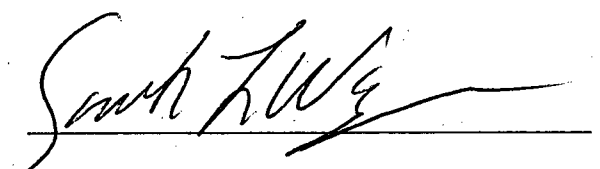
following submission of the reply brief. (emphasis added). Entergy's motion to strike is nothing more than an attempt to submit an answer to Petitioners' Reply Brief. Entergy waited until petitions were filed and then submitted an amendment-reworking the numbers based on information it could have submitted months ago. If Entergy is allowed to amend its application based on the contentions, then the Applicants new material raised for the first time in the answer should also be stricken. Petitioners must be to permitted to adequately respond to an applicants' assertion that the contentions are not specific, not particular, do not raise a genuine issue in dispute, etc., to refute such arguments. Moreover, if Entergy does not make a sincere effort to contact the petitioner and resolve the issue(s) before involving the Board, Entergy's motion to strike should be denied.

CONCLUSION

For the foregoing reasons, Entergy's motion to strike should be denied in entirety.

Dated: March 3, 2008

Respectfully submitted,



Sarah L. Wagner

Co-counsel for Petitioners WestCAN et. al.

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247/286-LR
	)	ASLBP No. 07-853-03-LR-BD01
(Indian Point Nuclear Generating)	)	
Units 2 and 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Reply to the Motion to Strike against Petitioners dated March 3, 2008, have been served upon the following by electronic mail where an email address is provided and first class mail as shown below, this 3rd day of March, 2008:

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460 Park Avenue
New York, NY 10022
E-mail: driesel@sprlaw.com
jsteinberg@sprlaw.com

Elise N. Zoli, Esq.
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, MA 02109
E-mail: ezoli@goodwinprocter.com

Ms. Nancy Burton
147 Cross Highway
Redding Ridge, CT 06876
E-mail: nancyburtonct@aol.com

Counsel for NRC Staff
U.S. Nuclear Regulatory Commission

Janice A. Dean
Assistant Attorney General
Office of the Attorney General

Office of the General Counsel

Washington, D.C. 20555

E-mail: kimberly.sexton@nrc.gov

Sherwin.turk@nrc.gov

christopher.chandler@nrc.gov

120 Broadway, 26th Floor

New York, NY 10271

E-mail: janice.dean@oag.state.ny.us

Office of the Secretary*

U.S. Nuclear Regulatory

Sixteenth Floor

One Flint North

11555 Rockville Pike

Rockville, Maryland 20852

Marcia Carpentier, Law Clerk

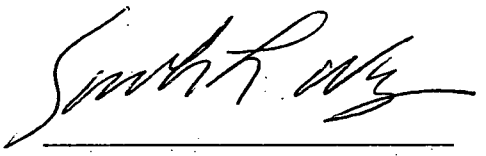
Atomic Safety and Licensing Board

Mail Stop: T-3 E2B

U.S. Nuclear Regulatory Commission

Washington, DC 20555-0001

E-mail: Marcia.Carpentier@nrc.gov



Sarah L. Wagner, Esq.

*Original and two copies

EXHIBIT A

Exhibit A

1 Sender Account Number

Preprint Format No.

FROM (Company) M. SHAPIRO / Sarah Wagner

Street Address

City

State ZIP CODE (Required)

Sent by (Name Dept)

Phone (Required)

3 Payment Sender will be billed unless marked otherwise

Origin

Bill to:

Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on invoice)

5 # of Pkgs 1

6 Weight (LBS) REQUIRED SUBJECT TO CORRECTION

7 Packaging Express Envelope One Express Pack

2 TO (Company) PLEASE PRINT NEATLY Office of the Secretary

Street Address 11545 Rockville Pike

City Rockville

State ZIP CODE (Required) MD 20852

Attention: (Name/Dept) Rulemaking + Adjudication

Phone (Required)

Description Documents

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold

Lab Pack Service

Shipment Valuation

Shipment Value Protection $

Payment Details (Credit Card)

No.

Type Expires

Auth.

Sender's Signature Date 2/13/08

DHL Signature Date

SENDER'S COPY

001 10000000 MAY-11 8/05

1 Sender Account Number

Preprint Format No.

FROM (Company) M. SHAPIRO / Sarah Wagner

Street Address

City

State ZIP CODE (Required)

Sent by (Name/Dept)

Phone (Required)

3 Payment Sender will be billed unless marked otherwise

Origin

Bill to:

Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on Invoice)

5 # of Pkgs 1

6 Weight (LBS) REQUIRED SUBJECT TO CORRECTION

7 Packaging Express Envelope One box Express Pack

2 TO (Company) PLEASE PRINT NEATLY Office of the Secretary

Street Address 11545 Rockville Pike

City Rockville

State ZIP CODE (Required) MD 20852

Attention: (Name/Dept) Rulemaking + Adjudication

Phone (Required)

Description Documents

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold

Lab Pack Service

Shipment Valuation

Shipment Value Protection $

Payment Details (Credit Card)

No.

Type

Sender's Signature Date

DHL Signature

FOR SHIPMENTS WITHIN U.S. ONLY

1 Sender Account Number | Preprint Format No.

FROM (Company) SARAH Wagner

Street

City | State | ZIP CODE (Required)

Sent by (Name/Dept) | Phone (Required)

2 TO (Company) PLEASE PRINT NEATLY

Office of the Secretary

Street Address 11545 Rockville Pike

City Rockville | State MD | ZIP CODE (Required) 20852

Attention: (Name/Dept) Rulemaking + Adjudication | Phone (Required)

Description Documents

Sender's Signature | Date 2/15/03 | DHL Signature | Date

3 Payment Sender will be billed unless marked otherwise | Origin | Waybill Number 5376912094 1

Bill to: Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on invoice)

5 # of Pkgs 1 | 6 Weight (LBS) actual (SUBJECT TO CORRECTION) | 7 Packaging One box must be checked: Express Envelope, Express Pack ☒, Other Packaging

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold at DHL

Lab Pack Service

Shipment Valuation

Shipment Value Protection $ .00

Payment Details (Credit Card)

No.

Type Expires

Auth.

4 Service Type One box must be checked. Assume noon unless noted. 10:30 am Extra charge.

Next Day 10:30

Next Day 12:00

Next Day 3:00

* Service may vary by destination, visit www.dhl-usa.com

ABSENT A HIGHER SHIPMENT VALUATION, CARRIER'S LIABILITY IS LIMITED TO $100 PER SHIPMENT, OR ACTUAL VALUE, WHICHEVER IS LESS. SPECIAL OR CONSEQUENTIAL DAMAGES ARE NOT RECOVERABLE. SEE TERMS AND CONDITIONS ON REVERSE SIDE OF THIS NON-NEGOTIABLE WAYBILL.

DHL EXPRESS

DHL Worldwide Express, Inc., 1200 South Pine Island Road, Plantation, FL 33324

1 800 Call-DHL

SENDER'S COPY

001 1000000 MM-11 B/S

FOR SHIPMENTS WITHIN U.S. ONLY

1 Sender Account Number | Preprint Format No.

FROM (Company) M. SHAPIRO SARAH Wagner

Street Address

City | State | ZIP CODE (Required)

Sent by (Name/Dept) | Phone (Required)

2 TO (Company) PLEASE PRINT NEATLY

K. Sutton / P. Bisetti / M O'Neill

Street Address 1111 Pennsylvania NW

City Washington DC | State DC | ZIP CODE (Required) 20004

Attention: (Name/Dept) | Phone (Required)

Description Documents

Sender's Signature | Date 2/15/03 | DHL Signature | Date

3 Payment Sender will be billed unless marked otherwise | Origin | Waybill Number 5376912144 2

Bill to: Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on invoice)

5 # of Pkgs 1 | 6 Weight (LBS) actual (SUBJECT TO CORRECTION) | 7 Packaging One box must be checked: Express Envelope, Express Pack ☒, Other Packaging

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold at DHL

Lab Pack Service

Shipment Valuation

Shipment Value Protection $ .00

Payment Details (Credit Card)

No.

Type Expires

Auth.

4 Service Type One box must be checked. Assume noon unless noted. 10:30 am Extra charge.

Next Day 10:30

Next Day 12:00

Next Day 3:00

* Service may vary by destination, visit www.dhl-usa.com

ABSENT A HIGHER SHIPMENT VALUATION, CARRIER'S LIABILITY IS LIMITED TO $100 PER SHIPMENT, OR ACTUAL VALUE, WHICHEVER IS LESS. SPECIAL OR CONSEQUENTIAL DAMAGES ARE NOT RECOVERABLE. SEE TERMS AND CONDITIONS ON REVERSE SIDE OF THIS NON-NEGOTIABLE WAYBILL.

DHL EXPRESS

DHL Worldwide Express, Inc., 1200 South Pine Island Road, Plantation, FL 33324

1 800 Call-DHL

SENDER'S COPY

001 1000000 MM-11 B/S

FOR SHIPMENTS WITHIN U.S. ONLY

PLEASE TYPE OR PRINT

1 Sender Account Number | Preprint Format No.

FROM (Company) M. SHAPIRO

Street Address

City State ZIP CODE (Required)

Sent by (Name/Dept) Phone

2 TO (Company) PLEASE PRINT ~~NEATLY~~ SHERWIN TURK

Street Address US NRC

City WASHINGTON DC State DC ZIP CODE (Required) 20555

Attention: (Name/Dept) SHERWIN TURK Phone (Required)

Description Documents

Sender's Signature 2/15/08 Date DHL Signature Date

3 Payment Sender will be billed unless marked otherwise Bill to: Origin Waybill Number 6149177094 4

Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on invoice)

5 # of Pkgs 1 6 Weight (LBS) 7 Packaging One box must be checked Express Envelope Express Pak Other Packaging

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold at DHL

Lab Pack Service

Shipment Valuation

Shipment Value Protection $ .00

Payment Details (Credit Card)

No.

Type Expir

Auth.

4 Service Type (One box must be checked. Assume noon unless noted. 10:30 am Extra charge.) *Next Day 10:30 ✓ *Next Day 12:00 *Next Day 3:00

*Service may vary by destination, visit www.dhl-usa.com

ABSENT A HIGHER SHIPMENT VALUATION, CARRIER'S LIABILITY IS LIMITED TO $100 PER SHIPMENT, OR ACTUAL VALUE, WHICHEVER IS LESS. SPECIAL OR CONSEQUENTIAL DAMAGES ARE NOT RECOVERABLE. SEE TERMS AND CONDITIONS ON REVERSE SIDE OF THIS NON-NEGOTIABLE WAYBILL.

DHL EXPRESS

DHL Worldwide Express, Inc., 1200 South Pine Island Road, Plantation, FL 33324 1 800 Call-DHL

SENDER'S COPY

FOR SHIPMENTS WITHIN U.S. ONLY

1 Sender Account Number | Preprint Format No.

FROM (Company) M SHAPIRO / SARAH WAGNER

Street Address

City State ZIP CODE (Required)

Sender Name/Dept) SARAH Wagner Phone (Required)

2 TO (Company) PLEASE PRINT NEATLY SHERWIN TURK

Street Address US NRC

City WASHINGTON State DC ZIP CODE (Required) 20555

Attention: (Name/Dept) SHERWIN TURK Phone (Required) 3453712100

Description Document

Sender's Signature 2/15/08 Date DHL Signature Date

3 Payment Sender will be billed unless marked otherwise Bill to: Origin Waybill Number 6149177084 2

Receiver 3rd Party

Paid in Advance Check No. Amount

Billing Reference (will appear on invoice)

5 # of Pkgs 1 6 Weight (LBS) 7 Packaging One box must be checked Express Envelope Express Pak Other Packaging

Special Instructions

Saturday Delivery Extra charge Not available for all services and locations.

Hold at DHL

Lab Pack Service

Shipment Valuation

Shipment Value Protection $ .00

Payment Details (Credit Card)

Type Expires

Auth.

4 Service Type (One box must be checked. Assume noon unless noted. 10:30 am Extra charge.) *Next Day 10:30 ✓ *Next Day 12:00 *Next Day 3:00

*Service may vary by destination, visit www.dhl-usa.com

ABSENT A HIGHER SHIPMENT VALUATION, CARRIER'S LIABILITY IS LIMITED TO $100 PER SHIPMENT, OR ACTUAL VALUE, WHICHEVER IS LESS. SPECIAL OR CONSEQUENTIAL DAMAGES ARE NOT RECOVERABLE. SEE TERMS AND CONDITIONS ON REVERSE SIDE OF THIS NON-NEGOTIABLE WAYBILL.

DHL EXPRESS

DHL Worldwide Express, Inc., 1200 South Pine Island Road, Plantation, FL 33324 1 800 Call-DHL

SENDER'S COPY

Windows Live

FW: FW: Proposed Letter re: Proposed Hearing March 10th

From: **Milton B. Shapiro** (mbs@ourrocklandoffice.com)
Sent: Mon 2/25/08 12:21 PM
To: Sarah Wagner (lenasw@hotmail.com)

-----Original Message-----
From: Palisadesart@aol.com [mailto:Palisadesart@aol.com]
Sent: Monday, February 25, 2008 12:08 PM
To: mbs@ourrocklandoffice.com
Subject: Re: FW: Proposed Letter re: Proposed Hearing March 10th

Great chances. This should go out.

Also the correct Turk DHL # IS 61491770841.

I am now leaving the office to pack and will be reachable to cell phone for the rest of the day.

Susan

****
Ideas to please picky eaters. Watch video on AOL Living.
(http://living.aol.com/video/how-to-please-your-picky-eater/rachel-campos-duffy/2050827?NCID=aolcmp00300000002598)

EXHIBIT B

---------- Forwarded message ----------
From: **Sarah Wagner** <sarahwagneresq@gmail.com>
Date: Feb 11, 2008 7:22 PM
Subject: Petitioners WestCAN et. al. Reply to ASLB Order dated 2.1.08
To: Christopher.Chandler@nrc.gov, Beth.Mizuno@nrc.gov, Bo.Pham@nrc.gov, Brian.Newell@nrc.gov, David.Roth@nrc.gov, Kimberly.Sexton@nrc.gov, lbs3@nrc.gov, Sherwin.Turk@nrc.gov, pbessette@morganlewis.com, NancyBurtonCT@aol.com, curran@harmoncurran.com, mdelaney@nycedc.com, wdennis@entergy.com, mannajo@clearwater.org, Hearing.Docket@nrc.gov, KDL2@nrc.gov, kremer@area-alliance.org, ajkremer@rmfpc.com, LGM1@nrc.gov, fuse_usa@yahoo.com, jlmatthe@gw.dec.state.ny.us, phillip@riverkeeper.org, vob@bestweb.net, martin.oneill@morganlewis.com, jdp3@westchestergov.com, REW@nrc.gov, driesel@sprlaw.com, John.Sipos@oag.state.ny.us, jsteinberg@sprlaw.com, ksutton@morganlewis.com, vtafur@riverkeeper.org, Zachary.Kahn@nrc.gov, ezoli@goodwinprocter.com, janice.dean@oag.state.ny.us, OCAAMAIL@nrc.gov
Cc: Richard Brodsky <richardbrodsky@msn.com>, "Palisadesart@aol.com" <Palisadesart@aol.com>, Ulrich Witte <ulrich@ulrichwitte.com>

In the Matter of

ENTERGY NUCLEAR INDIAN POINT 2, LLC,
ENTERGY NUCLEAR INDIAN POINT 3, LLC, and
ENTERGY NUCLEAR OPERATIONS, INC.

Docket Nos.
50-247-LR & 50-286-LR

INDIAN POINT NUCLEAR GENERATING UNTS 2&3

ASLBP No.
07-858-03-LR-BD01

Regarding the Renewal of Facility Operating Licenses
No. DPR-26 and No. DPR-64 for an Additional 20-year Period

Dear Administrative Judges and Parties:

Attached please find the reply papers of Petitioners Westchester Citizen's Awareness Network (WestCAN), Rockland County Conservation Association (RCCA), Promoting Public Health and Sustainable Energy (PHASE), Sierra Club – Atlantic Chapter, and Richard Brodsky in response to the Atomic Safety and Licensing Board Order dated February 1, 2008. Hard copies to follow.

Please contact me if you are unable to open any of the attachments.
Thank you.

Sincerely,

Sarah L. Wagner
Co-counsel for
Petitioners WestCAN et. al.

---------- Forwarded message ----------
From: **Sherwin Turk** <Sherwin.Turk@nrc.gov>
Date: Feb 15, 2008 3:37 PM
Subject: RE: WestCAN et al. Answer served 2.11.08
To: "Palisadesart@aol.com" <Palisadesart@aol.com>, Richard Brodsky <richardbrodsky@msn.com>, Sarah Wagner <sarahwagneresq@gmail.com>
Cc: "pbessette@morganlewis.com" <pbessette@morganlewis.com>, "martin.o'neill@morganlewis.com" <martin.o'neill@morganlewis.com>, "ksutton@morganlewis.com" <ksutton@morganlewis.com>

Ms. Wagner -

This afternoon, we received the paper copy of your February 11 filing. For future reference, I've been informed that the NRC Staff's server can accept incoming messages up to 10 megabytes. Your transmittal of Feb. 11, at 12 megabytes, exceeded that limit, probably because it contained many scanned pages. Please keep this limit in mind when making E-mail transmissions to the NRC in the future.

Also, I received Mr. O'Neill's response to your E-mail message of yesterday afternoon, regarding your interest in an extension of time for filing your reply to Entergy's (and the Staff's) 1/22/08 responses to your petition to intervene. Based on his responses, it appears that the documents listed in your E-mail were either cited in your petition or are publicly available; also, you've already been granted a one-week extension of time to file your replies, and you don't provide any reason to support an extension of time to reply to the staff's response of 1/22/08. I would therefore oppose an extension of time for the filing of your replies.

Sincerely,

Sherwin Turk

From: Palisadesart@aol.com [mailto:Palisadesart@aol.com]
Sent: Friday, February 15, 2008 12:32 PM
To: Sherwin Turk; Sherwin Turk; Christopher Chandler; Beth Mizuno; Bo Pham; Brian Newell; David Roth; Kimberly Sexton; Lloyd Subin; pbessette@morganlewis.com; NancyBurtonCT@aol.com; curran@harmoncurran.com; mdelaney@nycedc.com; wdennis@entergy.com; mannajo@clearwater.org; Hearing Docket; Kaye Lathrop; kremer@areaalliance.org; ajkremer@rmfpc.com; Lawrence McDade; fuse_usa@yahoo.com; jlmatthe@gw.dec.state.ny.us; phillip@riverkeeper.org; vob@bestweb.net; martin.oneill@morganlewis.com; jdp3@westchestergov.com; Richard Wardwell; driesel@sprlaw.com; John.Sipos@oag.state.ny.us; jsteinberg@sprlaw.com; ksutton@morganlewis.com; vtafur@riverkeeper.org; Zachary Kahn; ezoli@goodwinprocter.com; janice.dean@oag.state.ny.us; Palisadesart@aol.com; OCAAMAIL Resource; richardbrodsky@msn.com; ulrich@ulrichwitte.com; sarahwagneresq@gmail.com
Subject: Fwd: WestCAN et al. Answer served 2.11.08

Windows Live™

Fwd: TEST! TEST ! TEST for Rebecca

From: **Palisadesart@aol.com**
Sent: Mon 3/03/08 1:08 PM
To: lenasw@hotmail.com
Attachments: Re TEST! TEST ! TEST for Rebecca (0.0 KB)

Security scan upon download TREND MICRO

****
It's Tax Time! Get tips, forms, and advice on AOL Money & Finance.
(http://money.aol.com/tax?NCID=aolprf00030000000001)

--Forwarded Message Attachment--
From: Palisadesart@aol.com
Date: Fri, 15 Feb 2008 15:07:57 -0500
Subject: Re: TEST! TEST ! TEST for Rebecca
To: Hearing.Docket@nrc.gov

Okay wewill attempt to sent our reply tonight, and will also send backup hard copies and CD Roms. Thank you. Susan Shapiro

****
The year's hottest artists on the red carpet at the Grammy Awards. Go to AOL Music.
(http://music.aol.com/grammys?NCID=aolcmp00300000002565)

CNN.com Recently Published/Updated - Plane scrapes wing during landing in Germany -

Fwd: I reached Rebecca Inbox

"Palisadesart@aol.com" show details 1:09 pm (44 minutes ago) Reply

****
It's Tax Time! Get tips, forms, and advice on AOL Money & Finance.
(http://money.aol.com/tax?NCID=aolprf00030000000001)

--------- Forwarded message ----------
From: Palisadesart@aol.com
To: sarahwagneresq@gmail.com
Date: Fri, 15 Feb 2008 15:23:31 EST
Subject: I reached Rebecca
I reach Rebecca and sent her a test 400 page document which we was able to receive and open. She said that there are no judges today at the ASBL and therefore we cannot ask for any kind of changes for service. She said the clerk said we need to make a good faith effort toprovide email service tonight, and suggested in our cover letter state that we are doing this but due to prior difificutlies with the NRC server we are also serving hard copies and CD Rom copies by overnight service to be recieved on the first buisness day after the national holiday.

I guess I will have to be the one who does the final transmittal, but you will need to put it into adobe pdf format and then send it to me.

Please shoot me the latest draft so I can start putting together the Staff version.
Thanks Susan

****
The year's hottest artists on the red carpet at the Grammy Awards. Go to AOL Music.
(http://music.aol.com/grammys?NCID=aolcmp00300000002565)

Reply Forward Invite Palisadesart@aol.com to Gmail

« Back to Inbox Archive Report Spam Delete More actions...

‹ Newer 4 of 342 Older ›

Get new mail notifications. Download the Gmail Notifier.

---------- Forwarded message ----------
From: **Sarah Wagner** <sarahwagneresq@gmail.com>
Date: Feb 15, 2008 12:28 PM
Subject: Fwd: test
To: Hearing Docket <Hearing.Docket@nrc.gov>

Did you receive the email with the attachment?

---------- Forwarded message ----------
From: **Hearing Docket** <Hearing.Docket@nrc.gov>
Date: Feb 15, 2008 12:15 PM
Subject: RE: test
To: Sarah Wagner <sarahwagneresq@gmail.com>

received. Please send the one with the attachment.

From: Sarah Wagner [mailto:sarahwagneresq@gmail.com]
Sent: Friday, February 15, 2008 12:14 PM
To: Hearing Docket
Subject: test

without attachment

EXHIBIT C

Exhibit C

---------- Forwarded message ----------
From: **Sarah Wagner** <sarahwagneresq@gmail.com>
Date: Feb 22, 2008 2:02 PM
Subject: Re: Request for Clarification of WestCAN et al. Exhibits
To: "rkuyler@morganlewis.com" <rkuyler@morganlewis.com>
Cc: Richard Brodsky <richardbrodsky@msn.com>, "Palisadesart@aol.com" <Palisadesart@aol.com>, Ulrich Witte <ulrich@ulrichwitte.com>, martin.o'neill@morganlewis.com, pbessette@morganlewis.com, ksutton@morganlewis.com

Dear Mr. Kuyler,

Thank you for bringing your questions and concerns about the exhibits delivered in connection to our Reply Brief dated February 15, 2008 to our attention.

1. Exhibit G of the Reply Brief is the same as Exhibit J, Appendix C annexed to the December 10, 2007 Petition. Exhibit J was not omitted from the Petition exhibits.

2. You are correct Exhibit I served with the Reply brief of Feb. 15, 2008 is the same as Exhibit I served with our Petition of Dec. 10, 2007.

3.1 As you correctly noted, Exhibits E, N, & EE all reference the same document. For your reference, on the CD you received, this document is entitled: IG Report of License Renewal.

3.2. Concerning Exhibits S & T, there was an error on the Table of Contents (TOC). Both Exhibits S & T are references to the Order of the ASLB on August 10, 2007 In the Matter of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (Vt. Yankee Power Station).

4.1 Exhibit U of our Reply Brief dated Feb. 15, 2008 can be found as Exhibit J annexed to our Petition of Dec. 10, 2007.

4.2 Exhibit V of our Reply Brief dated Feb. 15, 2008 can be found attached as Exhibit K to our Petition dated Dec. 10, 2007.

4.3 Exhibit W of our Reply Brief served Feb. 15, 2008 is the same exhibit annexed as Exhibit M of our Dec. 10, 2007 Petition.

Compose Mail

Inbox (52)
Starred
Chats
Sent Mail
Drafts (1)
All Mail
Spam (12)
Trash

Contacts

Quick Contacts
Search, add, or invite
Sarah Wagner
Set status here
Rich Paladino
Emma Furman
Debra Bush
ksutton
lenasw
Palisadesart@aol....
Richard Brodsky
Sherwin Turk
soprisk
Ulrich Witte

Labels
Edit labels

Invite a friend Show all
Give Gmail to:
Send Invite 50 left
preview invite

There were no points 5 or 6.

7. Exhibit X was intentionally omitted from the TOC and thus no document was provided as Exhibit X.

8.1 Exhibit Z as part of our Feb. 15, 2008 Reply Brief is the same as Exhibit N annexed to our Dec. 10, 2007 Petition.

8.2 Exhibit AA as part of our Feb. 15, 2008 Reply Brief is the same as Exhibit P attached to our Petition of Dec. 10, 2007.

8.3 Exhibit BB as part of our Feb. 15, 2008 Reply Brief is the same as Exhibit R submitted with our Petition Dec. 10, 2007.

8.4 Exhibit CC as part of our Feb. 15, 2008 Reply Brief is the same as Exhibit W annexed to our Reply Brief dated Feb. 15, 2008.

8.5 To my knowledge the Board has not raised service issues with regards to any exhibits attached to our Reply Brief of Feb. 15, 2008. The ASLB Order has questioned the service of Exhibits Z, AA, BB, CC that were part of our Petition served Dec. 10, 2007. These issues were discussed in our Answer dated Feb. 11, 2008 to the ASLB Order.

9. The substance of Exhibit DD is discussed in Exhibit Q at pp. 4-6. There is not a separate Exhibit DD.

10. As noted above, Exhibits E, N, and EE refer to the same document on the cd entitled IG Report of License Renewal. Exhibit FF, as stated on the table of contents is a reference to LIC 100- this document is contained on the cd you received.

At this time, I am not sending you a second cd with the exhibits referenced above unless you request one because the CD contains all of our exhibits. Please feel free to contact me if you have any further questions.

Sincerely,
Sarah L. Wagner

On 2/20/08, **rkuyler@morganlewis.com** <rkuyler@morganlewis.com> wrote:

> Ms. Wagner,
>
> It was good to speak with you this afternoon regarding the WestCAN et al. Reply, and I appreciate your willingness to assist. As I mentioned, we have a number of questions regarding the exhibits associated with the Reply brief.
>
> 1. In the Table of Contents for the Reply, Exhibit G is listed both as "Updated Final Safety Analysis Report (Reference 3. p.10) [-] Provided in Petition Filed Dec. 10 and as clarified" and as "omitted." The conflicting descriptions require clarification.
>
> 2. Exhibit I appears to be the same document as Exhibit I to the Dec. 10 Petition. Please confirm.
>
> 3. Exhibits N, S and T appear in the Table of Contents, but are missing from the package of documents we received on Tuesday.
>
> 4. In the Table of Contents, Exhibits U, V and W appear to be identified as associated with the Dec. 10 Petition. Please confirm the correct exhibit

Compose Mail

Inbox (52)
Starred
Chats
Sent Mail
Drafts (1)
All Mail
Spam (12)
Trash

Contacts

Quick Contacts
Search, add, or invite
Sarah Wagner
Set status here
Rich Paladino
Emma Furman
Debra Bush
ksutton
lenasw
Palisadesart@aol....
Richard Brodsky
Sherwin Turk
soprisk
Ulrich Witte

Labels
Edit labels

Invite a friend Show all
Give Gmail to:
Send Invite 50 left
preview invite

designations.

7. Exhibit X is missing from the Table of Contents and from the set of documents we received.

8. Exhibits Z, AA, BB, and CC appear to reference exhibits with the same designations that were associated with the Dec. 10 petition. The Board, however, has indicated that it intends to strike these specific exhibits because they were not properly served.

9. The Table of Contents indicates that Exhibit DD is "contained in Exhibit Q"; Exhibit Q does not include any document labeled as Exhibit DD.

10. The Table of Contents states that Exhibit EE is "Provided under Exhibit N." As previously noted, Exhibit N is missing. We did receive a document labeled Exhibit EE, but that document matches the description in the Table of Contents for Exhibit FF. Exhibit E also appears to have the same title as Exhibits N and EE.

Last week we responded promptly to your request for clarification regarding documents cited in Entergy's Answer, so we would very much appreciate a similar prompt response. Thank you.

Regards,

Ray P. Kuyler
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W. | Washington, D.C. 20004
Tel: 202.739.5146 | Fax: 202.739.3001
rkuyler@morganlewis.com | www.morganlewis.com

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Reply Forward

« Back to Search results Report Spam Delete More actions...
« Newer 2 of 7 Older »

Search accurately with operators including **from: to: subject:**.

You are currently using 368 MB (5%) of your 6472 MB.

Gmail view: **standard with chat** | standard without chat | basic HTML
Learn more

©2007 Google - Terms - Gmail Blog - Google Home

EXHIBIT D