

RAS E-151

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

DOCKETED  
USNRC

August 21, 2008 (2:26pm)

Before Administrative Judges

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

In the Matter of	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247- LR and 50-286-LR
(Indian Point Nuclear Generating Units 2 and 3)	)	ASLBP No. 07-858-03-LR-BD01
	)	August 21, 2008

HUDSON RIVER SLOOP CLEARWATER, INC.'S RESPONSE TO THE BOARD'S  
REQUEST CONCERNING DISCOVERY

In its Memorandum and Order Dated July 31, 2008, the Atomic Safety and Licensing Board (the "Board") requested that New York State, Riverkeeper and Clearwater indicate by August 21, 2008, for each admitted contention, whether it wishes to proceed according the procedures of Subpart G or Subpart L of 10 C.F.R §2.310, and why it believes a particular Subpart is more appropriate. This is Clearwater' response.

With regard to Clearwater EC-1, which the Board consolidated with Riverkeeper EC-3, and for which the parties have agreed that Riverkeeper will be lead, Clearwater joins in the response submitted by Riverkeeper to this question and incorporates such response herein by reference in its entirety.

With regard to Clearwater EC-3, 10 C.F.R. 2.310(d) provides in pertinent part:

"In proceedings for the . . . renewal . . . of licenses or permits for nuclear power reactors, where the presiding officer by order finds that resolution of the contention or contested matter necessitates resolution of issues of material fact relating to the occurrence of a past activity, where the credibility of an eyewitness may reasonably be expected to be at issue, and/or issues of motive or intent of the party or eyewitness material to the resolution of the contested matter, the hearing for resolution of that contention or contested matter will be conducted under subpart G of this part."

Because Clearwater has not yet had any discovery, it has not yet identified any witness credibility issues. Therefore, currently, Clearwater believes that the provisions of Subpart L are more appropriate. See 10 C.F.R. 2.310(a). Clearwater, however, reserves the

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right to move, at appropriate time, for implementation of some or all of the provision of Subchapter G if such rules become appropriate in the future. See In the Matter of Entergy Nuclear Vermont Yankee LLC (Vermont Yankee Nuclear Power Station), 2005 NRC LEXIS 52 (2005)

Dated: August 21, 2008  
Poughkeepsie, New York

Respectfully Submitted,

HUDSON RIVER SLOOP CLEARWATER, INC.

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(Indian Point Nuclear Generating ) ASLBP No. 07-858-03-LR-BD01  
Units 2 and 3) )  
\_\_\_\_\_) August 21, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on August 21, 2008 a true copy of the foregoing HUDSON RIVER SLOOP CLEARWATER, INC.'S ANSWER TO ENTERGY'S REQUEST FOR LEAVE TO FILE MOTION FOR RECONSIDERATION OF THE BOARD'S DECISION TO ADMIT CONSOLIDATED CONTENTION RIVERKEEPER EC-3/CLEARWATER EC-1

was served by electronic mail and by first class mail on the following:

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Respectfully Submitted,

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