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October 28, 2008

Catherine E. Stetson
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BY FEDERAL EXPRESS

Honorable Catherine O'Hagan Wolfe
Clerk of Court
United States Court of Appeals
for the Second Circuit
The Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: The State of New York v. United States Nuclear Regulatory Commission and the United States of America, Case No. 08-3903-ag

Dear Ms. Wolfe:

On behalf of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee LLC, and Entergy Nuclear Generation Company (hereinafter and collectively "Entergy"), please find enclosed for filing in the above-referenced appeal an original and three copies of the following:

1. Entergy's Motion for Leave to Intervene;
2. Entergy's Motion to Permit Intervention Out of Time;
3. Entergy's Corporate Disclosure Statement;
4. Appearance Form for Catherine E. Stetson; and
5. Certificate of Service.

Also enclosed are additional copies of the above documents to be date stamped and returned in the enclosed, self addressed, stamped envelope provided for your convenience.

Honorable Catherine O'Hagan Wolfe
October 28, 2008
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As indicated on the Certificates of Service, copies of the Motions for Leave to Intervene, Corporate Disclosure Statement, and Appearance Forms were served on all parties pursuant to F.R.A.P. 15(d).

Sincerely,

Catherine E Stetson *CES*

Catherine E. Stetson

Enclosures

cc: All Counsel

THE STATE OF NEW YORK,
Petitioner,
v.
UNITED STATES NUCLEAR
REGULATORY COMMISSION and
the UNITED STATES OF AMERICA,
Respondents.

Pursuant to 28 U.S.C. § 2348 and Rule 15(d) of the Federal Rules of

Appellate Procedure, Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear FitzPatrick, LLC, (collectively, “Entergy”) hereby move to intervene in the above-captioned action as a respondent in support of the agency decision identified in the Petition for Review filed by the State of New York. In support of its motion, Entergy states the following:

¹ Entergy is filing its motion to intervene contemporaneous with this motion to permit intervention out of time.

1. On August 8, 2008, the Nuclear Regulatory Commission ("NRC") published its decision in PRM 51-10 and PRM 51-12, NRC Denial of Petitions for Rulemaking Concerning Environmental Review of Impacts of High Density Storage of Spent Radioactive Fuel in Large Water Pools Under the National Environmental Policy Act. 73 Fed. Reg. 46,204 (2008). Three petitions for review of this NRC action have been filed.

2. The State of New York sought review of the NRC's action in this Court on August 8, 2008—the same day that the NRC published its decision. See 2d Cir. Case No. 08-3903-ag.

3. The Commonwealth of Massachusetts sought review of the NRC's action in the United States Court of Appeals for the First Circuit on September 29, 2008 (1st Cir. Case No. 08-2267). Entergy filed a timely motion to intervene on October 28, 2008.

4. The State of Connecticut filed a petition for review of the same NRC action in this Court on October 1, 2008 (2d Cir. Case No. 08-4833-ag). Entergy filed a timely motion to intervene on October 28, 2008.

5. The NRC has requested that the First Circuit transfer the Commonwealth of Massachusetts' petition for review to this Court, where all three cases will likely be consolidated.

6. Pursuant to FRAP 26(b), Entergy respectfully requests permission to intervene out of time in No. 08-3903-ag. Granting this Motion will not prejudice any party in this case. The telephonic pre-argument conference has not yet occurred, nor has any briefing in the case occurred. Entergy has timely intervened in the other two petitions for review arising out of the same NRC decision, and permitting intervention in this third related case will ensure consistent participation by the interested parties across the board.

7. Counsel for Entergy has been authorized by John Sipos, counsel for New York, and James Adler, counsel for the NRC, to represent that they consent to Entergy's intervention in this action.

Respectfully submitted,

Catherine E. Stetson *CE*

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Jessica L. Ellsworth
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Of Counsel:
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2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

Dated: October 28, 2008

Counsel for Intervenors

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

THE STATE OF NEW YORK,

Petitioner,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION and
the UNITED STATES OF AMERICA,

Respondents.

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) No. 08-3903-ag
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**CORPORATE DISCLOSURE STATEMENT FOR ENTERGY NUCLEAR
OPERATIONS, INC., ENTERGY NUCLEAR VERMONT YANKEE, LLC,
ENTERGY NUCLEAR GENERATION COMPANY, ENTERGY NUCLEAR
INDIAN POINT 2, LLC, ENTERGY NUCLEAR INDIAN POINT 3, LLC,
AND ENTERGY NUCLEAR FITZPATRICK, LLC**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear FitzPatrick, LLC, submit this Corporate Disclosure Statement.

Entergy Nuclear Operations, Inc. is incorporated in Delaware and is a direct wholly owned subsidiary of Entergy Nuclear Holding Company #2 and an indirect wholly owned subsidiary of Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Operations, Inc.

Entergy Nuclear Vermont Yankee, LLC, is incorporated in Delaware and is a direct wholly owned subsidiary of Entergy Nuclear Vermont Investment Company, LLC, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #3, Entergy Nuclear Holding Company, and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Vermont Yankee, LLC.

Entergy Nuclear Generation Company is incorporated in Delaware and is a direct wholly owned subsidiary of Entergy Nuclear Holding Co. #1 and an indirect wholly owned subsidiary of Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Generation Company.

Entergy Nuclear Indian Point 2, LLC, is incorporated in Delaware and is a direct wholly owned subsidiary of Entergy Nuclear Holding Company # 3, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Indian Point 2, LLC.

Entergy Nuclear Indian Point 3, LLC, is incorporated in Delaware and is a wholly owned subsidiary of Entergy Nuclear New York Investment Company I, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #1 and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Indian Point 3, LLC.

Entergy Nuclear FitzPatrick, LLC, is incorporated in Delaware and is a wholly owned subsidiary of Entergy Nuclear New York Investment Company I, and an indirect wholly owned subsidiary of Entergy Nuclear Holding Company #1 and Entergy Corporation. No other publicly held company has 10 percent or more equity interest in Entergy Nuclear Indian Point 3, LLC.

Respectfully submitted,

Catherine E. Stetson/gjc

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Washington, D.C. 20037
(202) 663-8000

Dated: October 28, 2008

Counsel for Intervenors

CERTIFICATE OF SERVICE

I, Catherine E. Stetson, hereby certify that on October 28, 2008, copies of (1) the Motion to Permit Intervention Out of Time of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear FitzPatrick, LLC; (2) the Motion of Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear FitzPatrick, LLC, for Leave to Intervene; (3) the Corporate Disclosure Statement; and (4) the Appearance Form for Catherine E. Stetson were served on the following parties by United States first class mail, postage prepaid:

John J. Sipos
Assistant Attorney General
Office of the Attorney General
State of New York
The Capitol
Albany, NY 12224

James Adler
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

John F. Cordes
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop 0-15021
Washington, D.C. 20555

Honorable Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

John E. Arbab
U.S. Department of Justice
Environment & Natural Resources
P.O. Box 23795
Washington, D.C. 20026

Catherine E. Stetson *CES*
Catherine E. Stetson

Second Circuit Miscellaneous Forms
Notice of Appearance

Short Title: New York v. U.S. Nuclear Regulatory Comm'n

Docket No. 08-3903-ag

NOTICE OF APPEARANCE

Appearance for (provide name of party): Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, etc.

Status of Party:

- ☐ Appellant/Petitioner ☐ Cross-Appellee/Cross Respondent
☐ Appellee/Respondent ☒ Intervenor
☐ Cross-Appellant/Cross-Petitioner ☐ Amicus Curiae
☐ Other (Specify): _____

☒ An attorney will argue this appeal.

- Name of attorney who will argue appeal, if other than counsel of record: _____
- Date of arguing attorney's admission to this Court (month, day, year): September 21, 2005
- Other Federal/State Bar admissions: (month, day, year): _____

☐ I am a *pro se* litigant who is not an attorney.

☐ I am an incarcerated *pro se* litigant.

TIME REQUEST

- ☐ Oral argument is not desired.
☒ Oral argument is desired. Party requests 5 minutes or multi-co-parties request a total of _____ minutes to be apportioned as follows:

If more than 20 minutes per side is requested, set forth reasons: _____

AVAILABILITY OF COUNSEL/PRO SE LITIGANT

I understand that the person who will argue the appeal must be ready at any time during or after the week of argument which appears on the scheduling order.

- ☒ I know of no dates which would be inconvenient.
☐ I request that the argument of this appeal not be calendared for the following dates, which are inconvenient. I have included religious holidays.

COUNSEL OR PRO SE LITIGANT MUST ADVISE THE COURT IN WRITING OF ANY CHANGE IN AVAILABILITY. FAILURE TO DO SO MAY BE CONSIDERED BY THE COURT IN DECIDING MOTIONS FOR ADJOURNMENT BASED ON UNAVAILABILITY.

RELATED CASES

- ☒ This case has not been before this Court previously.
☐ This case has been before this Court previously. The short title, docket number and citation are: _____

- ☐ Matters related to this appeal or involving the same issue have been or presently are before this Court. The short titles, docket numbers and citations are: _____

Signature of counsel of record or *pro se* litigant:

Catherine E. Stetson
Type or Print Name Catherine E. Stetson

Name of Firm: Hogan & Hartson LLP

Address: 555 13th St. NW, Washington, DC 20004

Telephone: 202-637-5491

Date October 28, 2008

Signature of counsel who will argue the appeal, if different:

Type or Print Name

Date: