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DOCKETED
USNRC

January 13, 2009 (4:30pm)

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January 13, 2008

Lawrence G. McDade, Chairman
Dr. Richard E. Wardwell
Dr. Kaye D. Lathrop
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Docket: *Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Docket Nos. 50-247-LR and 50-286-LR*

RE: Agreement of the Parties Regarding Mandatory Discovery Disclosures

Dear Administrative Judges:

The purpose of this letter is to inform you that the parties to this proceeding have reached the following agreement concerning mandatory disclosures under 10 C.F.R. § 2.336. As used in this agreement, the term "parties" includes Entergy Nuclear Operations, Inc. (applicant in this matter), the U.S. Nuclear Regulatory Commission ("NRC") Staff, and the three admitted intervenors; *i.e.*, New York State, Riverkeeper, Inc., and Hudson River Clearwater Sloop, Inc.

The parties have agreed to the following protocol:

1. The parties may limit the mandatory discovery disclosures to final documents that they develop, and need not include drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents).
2. Documents will be produced in electronic format. If the same document exists in both hard copy and electronic format, a party may produce the electronic copy only.

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Handwritten notes on a final document, however, constitute a separate document, and must be produced as well as the original document.

3. The parties have agreed to waive the requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log for documents asserted to be protected from disclosure under the attorney work product and/or attorney-client privileges. The parties, however, will produce as part of their disclosures lists of any documents withheld as proprietary. The party claiming the right to withhold listed documents as proprietary must describe the basis for the claim; e.g., whether it is based upon an agreement with a third party, and the person or entity to whom the proprietary document belongs or whose privilege is being asserted. In addition, the parties, as applicable, will produce lists identifying any documents that are withheld under the executive or deliberative process privilege.
4. A party need not identify or produce any document that has been served on the other parties to this proceeding.
5. The parties need not produce publicly available documents. Each party, however, will produce as part of its disclosures a log identifying publicly available documents upon which the party may rely and indicating the general location of such documents.
6. The parties need not identify or produce press clippings.
7. In connection with the NRC Staff's submittal of the hearing file, the Staff will identify the documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b) and 2.1203. The parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.
8. The continuing obligation of the parties under 10 C.F.R. § 2.336(d) to update their respective disclosures is modified so that information or documents subsequently developed or obtained must be disclosed within 30 days.

Counsel of record for each of the other parties identified above has authorized counsel for Entergy Nuclear Operations, Inc. to submit this agreement on behalf of the parties.

Respectfully submitted,



Kathryn M. Sutton, Esq.

Paul M. Bessette, Esq.

Counsel for Entergy Nuclear Operations, Inc.

cc: Service List

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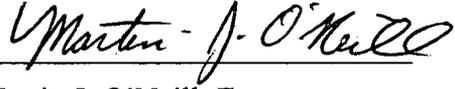
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* The Office of the Secretary receives the original and 2 copies.

A handwritten signature in cursive script that reads "Martin J. O'Neill". The signature is written in dark ink and is positioned above a horizontal line.

Martin J. O'Neill, Esq.
Counsel for Entergy Nuclear Operations, Inc.

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