



OFFICE OF THE  
GENERAL COUNSEL

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 9, 2009

Lawrence G. McDade, Chair  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
Washington, D.C. 20555

Dr. Kaye D. Lathrop  
Administrative Judge  
Atomic Safety and Licensing Board  
190 Cedar Lane E.  
Ridgway, CO 81432

Dr. Richard E. Wardwell  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3 F23  
Washington, D.C. 20555

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

Dear Administrative Judges:

As directed by the Atomic Safety and Licensing Board ("Board") in the Prehearing Conference of January 14, 2009 (Tr. 757-58), and the Board's "Memorandum and Order (Summarizing Pre-Hearing Conference)," of February 4, 2009 ("Order") at 1, the NRC Staff ("Staff") has inquired whether the other parties and participating governmental entities in this proceeding wish to adopt the NRC's electronic filing system in this proceeding or to continue using the current methods of filing. In response to three inquiries transmitted by Staff Counsel (on February 2, February 5, and February 9, 2009), the Staff has been advised as follows:

1. Entergy Nuclear Operations, Inc. Entergy stated that it "can accommodate either approach; i.e., the current paper/e-mail service or the ESI method (also called the Electronic Information Exchange or 'EIE')." Entergy further stated that "Morgan Lewis has used the ESI method in other ongoing NRC proceedings and is familiar with its use and advantages." No preference was expressed by Entergy.

2. State of New York. The State of New York ("NYS") stated that it "has endeavored to understand the consequences and relative merits of switching over to a system that relies solely on NRC's electronic docketing system. Although NYS has not had experience with the automatic uploading function of the docketing system, NYS is willing to try to

accommodate such a change subject to the following caveats: 1) that the change over not take place until digital signatures or authorizations are provided by the NRC system/docket operator; 2) that NYS reserves the right to reconsider its agreement to participate in the electronic docketing system, should technical or IT security issues arise; and 3) that provision is made for the docketing of oversized documents (e.g., maps, diagrams, photographs, demonstrative exhibits);” and NYS noted that the “Federal District Courts usually make provision for the alternative ‘paper filing’ of such documents as part of their Electronic Case Filing (ECF) protocols.”

3. Riverkeeper, Inc. Riverkeeper stated that it “is inclined to switch to the electronic filing system, barring any unforeseen technical difficulties that would prevent otherwise. We anticipate being able to technically proceed with the switch, and would promptly advise of any issues should they arise.”

4. Hudson Sloop Clearwater, Inc. Clearwater stated that it prefers “to switch to the electronic filing system, barring any unforeseen technical difficulties that would prevent otherwise. We anticipate being able to technically proceed with the switch, [and] if a problem arises we will notify you immediately.” Clearwater further requested that searchable PDF format become the standard for electronic filings, particularly for documents that are mainly text, and urged that this issue be discussed next.

5. State of Connecticut. The State of Connecticut stated that it “has no objection to switching to the electronic filing system.” No preference was expressed by the State.

6. Westchester County. To date, Westchester County did not respond to the Staff’s inquiries.

7. Town of Cortlandt. The Town of Cortlandt stated that it “does not object to switching to the electronic filing system in the Indian Point license renewal proceeding.” No preference was expressed by the Town.

8. Village of Buchanan. To date, the Village of Buchanan did not respond to the Staff’s inquiries.

9. New York City Economic Development Corp. (NYCEDC). To date, NYCEDC did not respond to the Staff’s inquiries.

10. NRC Staff. The Staff expresses no preference as to whether to continue using the current filing system (paper and E-mail) or to switch to the electronic filing system in this proceeding.

In sum, it appears that four parties and participating governments (Entergy, NRC Staff, State of Connecticut, and Town of Cortlandt) expressed no preference for either filing system; one party (State of New York ) expressed a willingness to switch to the electronic filing system (without stating a preference for either system), but expressed certain caveats about switching to an

Judge McDade  
Judge Lathrop  
Judge Wardwell

- 3 -

February 9, 2009

electronic filing system; two parties (Clearwater and Riverkeeper) expressed a preference for switching to the electronic filing system, barring any unforeseen technical difficulties; and three governmental participants (Westchester County, New York City, and Village of Buchanan) did not respond to the Staff's inquiries.

Respectfully submitted,



Sherwin E. Turk  
Counsel for NRC Staff

cc: Service List