



OFFICE OF THE  
GENERAL COUNSEL

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

August 28, 2009

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

Dear Administrative Judges:

The NRC Staff has received a copy of a letter to the Board, from Janice Dean, Esq., counsel for the State of New York ("New York"), dated August 26, 2009, in which New York indicates that it does not object to the Staff's suggested modifications of the proposed protective order, filed on August 24, 2009.<sup>1</sup>

The Staff appreciates New York's acceptance of the Staff's proposed modifications. We note, however, that a statement in New York's letter requires clarification, insofar as New York incorrectly states that the "Staff does not view itself as bound by this proposed Protective Order."<sup>2</sup> To the contrary, as explicitly stated in the proposed order, the Staff recognizes that Staff personnel would be bound by the order, but need not sign nondisclosure agreements:

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<sup>1</sup> The Staff notes that Entergy Nuclear Operations, Inc. and Riverkeeper, Inc. have also indicated that they do not oppose the Staff's proposed changes to the parties' proposed Protective Order. See (1) "Reply of Entergy Nuclear Operations, Inc. to NRC Staff's Answer to Joint Motion for Entry of Protective Order," filed August 28, 2009, and (2) letter from Deborah Brancato, Esq., Counsel for Riverkeeper, Inc., dated August 26, 2009.

<sup>2</sup> A similar statement appears in Riverkeeper's letter to the Board dated August 26, 2009.

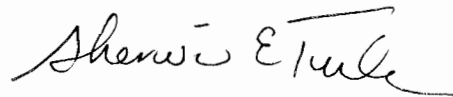
The provisions of this Protective Order apply to NRC counsel, witnesses, employees, consultants, and others representing the NRC Staff with respect to documents containing protected material that NRC receives solely pursuant to 10 C.F.R. § 2.336 and this Protective Order, except that such persons are not required to execute a Nondisclosure Agreement and Acknowledgement form.

Proposed Order at 1 n.1 (underlining in Staff's August 24 filing). Further, the proposed order provides that proprietary documents which the NRC Staff "has received or may receive apart from its role as a litigant in this proceeding" are not covered by the protective order, but documents which the Staff receives "solely pursuant to 10 C.F.R. § 2.336 and this Protective Order" are governed by the terms of the Order. *Id.*

I hope the foregoing information helps to clarify this matter.

Thank you for your consideration.

Respectfully submitted,



Sherwin E. Turk  
Counsel for NRC Staff

cc: Service List