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January 6, 2014

Mr. David J. Wrona, Chief  
Environmental Review and Guidance Update Branch  
Division of License Renewal  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Consistency of the Indian Point Nuclear Generating Unit Nos. 2  
and 3, License Renewal Application with the New York State  
Coastal Management Program NRC Docket Nos. 50-247 and 50-286

Dear Mr. Wrona:

We are in receipt of your letter dated December 6, 2013 requesting consultation pursuant to 15 C.F.R. § 930.51 with the New York State Department of State (DOS) regarding the federal consistency review of the license renewal application for Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and IP3). These facilities are owned and operated by Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. (Entergy).

In its June 12, 2013 Order, the Atomic Safety and Licensing Board (ASLB) denied both Entergy's and New York's motions regarding the issue as to whether Entergy had already met its federal consistency obligations and indicated that "no consultation has occurred between the NRC staff, the New York State Department of State, and Entergy pursuant to 15 C.F.R. § 930.51(e)".<sup>1</sup> NRC has submitted six questions seeking clarification regarding whether IP2 and IP3 have already been reviewed for federal consistency (16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. part 930 subpart D). DOS will provide the NRC with a substantive response to its questions.

We note that the NRC indicates that it seeks to engage in a consultation process pursuant to 15 C.F.R. § 930.51(e). Respectfully, that subsection is inapplicable here.<sup>2</sup> Formal consultation conducted pursuant to 15 C.F.R. § 930.51(e) is not required for this license renewal application, since no previous federal consistency review of the original operating licenses, issued in 1973 and 1975, was conducted. (15 C.F.R. § 930.51(b)(1)).<sup>3</sup>

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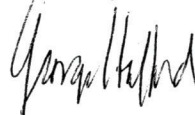
<sup>1</sup> In the Matter of Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), United States of America Nuclear Regulatory Commission, Atomic Safety and Licensing Board Order, June 12, 2013. (Docket Nos. 50-247-LR and 50-286-LR, ASLBP No. 07-858-03-LR-BD01), pp. 4-5.

<sup>2</sup> The consultation process only arises in the context of a federal license renewal when the original license was previously reviewed for federal consistency by the designated State agency and the renewal will cause an effect on any coastal use or resource "substantially different" than those originally reviewed by the State agency. 15 C.F.R. § 930.51(b)(3) and (e).

<sup>3</sup> See August 8, 2102 letter from to then DOS General Counsel Susan L. Watson to Eric Leeds, Nuclear Regulatory Commission setting forth that DOS is the sole designated state agency authorized to conduct consistency reviews of federal agency activities affecting New York's coastal area and it never reviewed the original operating licenses for IP2 LLC and IP3 LLC.

If you have additional questions, please contact DOS General Counsel, Linda Baldwin, at (518) 474-6740.

Sincerely,



George R. Stafford  
Deputy Secretary of State

c: Lawrence G. McDade  
Dr. Michael F. Kennedy  
Dr. Richard E. Wardwell  
John Sipos  
Chris Hogan  
Sherwin Turk