



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

September 24, 2015

Lawrence G. McDade, Chair
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Dr. Michael F. Kennedy
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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Re: Indian Point Nuclear Generating Station, Unit 2 and Unit 3
Docket Nos. 50-247-LR/50-286-LR; ASLBP No. 07-858-03-LR-BD01

Dear Administrative Judges:

We write in response to the September 18, 2015 letter to the Atomic Safety and Licensing Board (“Board”) from counsel for Entergy Nuclear Operations, Inc. (“Entergy”). Through its letter, Entergy filed public, redacted versions of its August 10, 2015 statements of position and pre-filed testimony on the Track 2 safety contentions. As the Board is aware, Entergy originally designated these documents as proprietary, in their entirety, and served them via NRC’s Electronic Information Exchange non-public submission portal, to the limited persons authorized to view such information pursuant to the September 4, 2009 Protective Order in these proceedings.

The State appreciates counsel’s collegial approach throughout the course of this matter, and Entergy’s filing of public, redacted versions of these documents on September 18. Entergy, however, has previously, and as a matter of course, claimed entire documents to be “proprietary,” despite many such documents containing only small amounts of information that is arguably proprietary. Entergy’s approach has the effect of converting information that is clearly non-proprietary into information that is wholly unavailable for public review. This is contrary to the NRC’s stated goals of transparency and public involvement in its regulatory processes, and is, in the State’s view, contrary to the Board’s Protective Order in this proceeding.

By way of example, Entergy originally claimed the entire 153 pages of Testimony of Entergy Witnesses Azeveo, Dolansky, Cox, Strosnieder, Griesbach, Lott and Gray Regarding Contention NYS-25 (Embrittlement), dated August 10, 2015, to be proprietary and protected

from public disclosure under the Board's October 7, 2011 Protective Order. However, in Entergy's public, redacted version, submitted on September 18, approximately two (2) of 153 pages of the document text were actually redacted as representing proprietary information.

In light of Entergy's filing of public, redacted versions of these documents, the State is considering whether the State's redactions to its own submissions in this proceeding can be narrowed. In addition, on September 17, 2015, the State notified Entergy of its objections to Entergy's proprietary designations for other Entergy submissions and pre-filed exhibits. The State anticipates that the parties will discuss this issue further in the coming weeks.

Throughout the course of this proceeding, and in particular with regard to the Track 2 issues, New York has sought reasonable redaction of documents to protect truly proprietary information while also fostering public participation in the license renewal process, to the extent possible. Recognizing that the issues related to proprietary information and the conduct of the Track 2 hearing will ultimately be the province of the Board, the State has been consistent in encouraging the parties and the Board to maximize the extent of public involvement in this important matter, and will continue to do so.

Respectfully submitted,

Signed (electronically) by

John J. Sipos
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Assistant Attorneys General

cc: All individuals, parties, or NRC offices on the Service List

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

ATOMIC SAFETY AND LICENSING BOARD

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In re: Docket Nos. 50-247-LR and 50-286-LR

License Renewal Application Submitted by ASLBP No. 07-858-03-LR-BD01

Entergy Nuclear Indian Point 2, LLC, DPR-26, DPR-64
Entergy Nuclear Indian Point 3, LLC, and
Entergy Nuclear Operations, Inc. September 24, 2015
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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2015, copies of the State of New York's letter to the Atomic Safety and Licensing Board were served electronically via the Electronic Information Exchange on the following recipients:

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Signed (electronically) by

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Dated at Albany, New York
this 24th day of September 2015