

E-mail from Raphael Philip Kuyler to John J. Sipos

and Paul M. Bessette

September 3, 2015, 8:55 AM

ATTACHMENT 15

to NYS DECLARATION

Mihir Desai

From: Kuyler, Raphael Philip <rkuyler@morganlewis.com>
Sent: Thursday, September 03, 2015 8:55 AM
To: John J. Sipos; Bessette, Paul M.
Cc: Lisa M. Burianek; Brian Lusignan; Mihir Desai; Teresa Manzi; 'dbrancato@riverkeeper.org'; Sutton, Kathryn M.; Turk, Sherwin; O'Neill, Martin
Subject: RE: Entergy's August Non-Public Filings

Thank you for this e-mail, John. Entergy does not agree that the Protective Order requires redacted filings, but in the ongoing spirit of cooperation, we will endeavor to prepare redacted versions of our August 10 testimony and statements of position within two weeks.

Regards,
Ray

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From: John J. Sipos [<mailto:John.Sipos@ag.ny.gov>]
Sent: Monday, August 31, 2015 6:31 PM
To: Bessette, Paul M.; Kuyler, Raphael Philip
Cc: Lisa M. Burianek; Brian Lusignan; Mihir Desai; Teresa Manzi; 'dbrancato@riverkeeper.org'
Subject: Entergy's August Non-Public Filings

Hello Paul and Ray:

In reviewing the August 10 submissions by Entergy, the State has noticed that Entergy did not file public redacted versions of its pre-filed testimony or statements of position. The State believes that this across-the-board designation is contrary to the Atomic Safety and Licensing Board's September 2009 Protective Order, which provides for partial redaction of documents that contain both public (*i.e.*, non-proprietary) information as well as information that the Initial Holder asserts is proprietary. Instead of filing partially-redacted filings, Entergy has filed only proprietary versions of its testimony which, in effect, renders the entire document non-public. Entergy has thus transformed information that is not protected by the Order (*i.e.*, public information) into information that is included within the scope of the Protective Order.

The State is concerned that Entergy's across-the-board designation negatively impacts the proceeding and ultimate evidentiary hearing in several ways. First, at present, the public has no ability to review the substantial amount of public information that is contained in Entergy's testimony. Second, given the broad use of proprietary designations that encompasses non-proprietary and public information, the State is not clear how any meaningful public hearing can be held on the Track 2 contentions. Third, the across-the-board designation of all of Entergy's testimony as constituting proprietary information, impedes the State's preparation of responsive

submissions in accordance with the Protective Order and could cause an unnecessary expansion of redactions in the State's upcoming filings. Such an unnecessary "spill over" effect would also impede the public's ability to review the State's filings.

In the hopes of resolving this issue and in facilitating an open and public hearing on non-proprietary matters, the State asks that Entergy prepare and file redacted, public versions of its and pre-filed testimony and statements. Please let us know Entergy's response. Thank you.

Best regards,

John

John Sipos
Assistant Attorney General
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