

E-mail from Raphael Philip Kuyler to Lisa S. Kwong

and Paul M. Bessette

October 5, 2015

ATTACHMENT 17

to NYS DECLARATION

Mihir Desai

From: Kuyler, Raphael Philip <rkuyler@morganlewis.com>
Sent: Monday, October 05, 2015 1:34 PM
To: Lisa S. Kwong; Bessette, Paul M.
Cc: Sutton, Kathryn M.; sherwin.turk@nrc.gov; Harris, Brian (Brian.Harris@nrc.gov); Deborah Brancato (DBrancato@riverkeeper.org); Lisa M. Burianek; John J. Sipos; Mihir Desai; Brian Lusignan; Teresa Manzi; O'Neill, Martin
Subject: RE: IP -- Notice of objection to proprietary/confidentiality designation

Lisa, we appreciate the productive discussion between Entergy and NYS on this Notice last week. We understand based on our conversation that given Entergy's filing of and NYS's general concurrence with the redacted versions of Entergy's amended Track 2 Testimony and Statements of Position (the first six documents on the list (ENT000615, ENT000616, ENT000678, ENT000679, ENT000698, and ENT000699)), the State has withdrawn its objections with respect to those documents. We also understand that NYS000366 is identical to one of the documents covered by State's April 9, 2015 motion and the Board's July 20 decision on that motion, so the State has withdrawn its new objection to that document as well.

As for the ten remaining documents and as we discussed during our recent call, they are very similar to the four Westinghouse Calc Notes discussed in the Board's July 20 decision that concluded such documents contain confidential commercial information which is entitled to protection under 10 C.F.R. § 2.390(a)(4). In fact, two of the ten are merely revised versions of the documents at issue in that earlier decision. More generally, all ten documents are Westinghouse fatigue calculations or reports—a type of document that is maintained in confidence by Westinghouse and contains information which, if released, likely would lead to substantial competitive harm to the company, for all of the reasons explained in Entergy's and Westinghouse's filings before the Board and Commission related to the State's April 9th motion. Therefore, it is Westinghouse's and Entergy's position that they are proprietary and should remain subject to the terms of the Protective Order.

Entergy remains open to further discussions and cooperation among the parties regarding the conduct of the upcoming Track 2 hearing, so as to maximize public involvement to the extent practicable, given the proprietary nature of the documents listed in the State's Notice and other proprietary exhibits in the Track 2 hearing record.

Regards,

Ray P. Kuyler

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From: Lisa S. Kwong [<mailto:Lisa.Kwong@ag.ny.gov>]

Sent: Thursday, September 17, 2015 4:39 PM

To: Bessette, Paul M.

Cc: Sutton, Kathryn M.; Kuyler, Raphael Philip; sherwin.turk@nrc.gov; Harris, Brian (Brian.Harris@nrc.gov); Deborah Brancato (DBrancato@riverkeeper.org); Lisa M. Burianek; John J. Sipos; Mihir Desai; Brian Lusignan; Teresa Manzi

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Good afternoon, Paul.

Attached please find the State of New York's Objection to Confidential/Proprietary Designations for Certain Documents Relating to Contentions NYS-25, NYS-26B/RK-TC-1B and NYS-38/RK-TC-5. Feel free to call me at your earliest convenience to discuss. I look forward to speaking with you.

Thanks,

Lisa

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