

DECEMBER 10, 2015

**LETTER FROM L KWONG TO BESSETTE AND
TURK REGARDING PROPOSED REDACTIONS**

ATTACHMENT 3

to NYS DECLARATION



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

December 10, 2015

Via UPS Overnight

Paul M. Bessette, Esq.
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1111 Pennsylvania Avenue, N.W.
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Sherwin E. Turk, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
One White Flint North, Mail Stop: O-15 D21
11555 Rockville Pike
Rockville, MD 20852-2738

Re: Indian Point License Renewal, Docket Nos. 50-247-LR and 50-286-LR
(ASLBP No.07-858-03-LR-BD01)

Dear Paul and Sherwin:

As you know, the State continues to have serious concerns about the over-broad designation by Entergy and Westinghouse of certain documents as containing proprietary and/or confidential business information. In its prior briefing on the issue, and during the hearing, the State raised the use of redaction as a potential means to identify and protect truly proprietary information from disclosure while ensuring public access to information not entitled to protection. In an effort to resolve the State's objection, the Board suggested at the hearing that the State submit proposed redactions for Entergy and Westinghouse's initial consideration, and if the parties could not agree, then to submit the proposed redactions to the Board. *See* Hearing Transcript, November 16, 2015, pages 4999-5001.

Accordingly, the State has prepared the enclosed, password-protected CD containing copies of 20 exhibits individually marked with the State's proposed redactions. The exhibits on the CD are organized in three distinct groupings: (1) four documents subject to the State's March 19, 2015 Objection and April 22, 2015 Motion; (2) ten documents subject to the September 17, 2015 Objection and October 19, 2015 Motion; and (3) six documents subject to the November 12, 2015 Objection.

The State offers the proposed redactions in the spirit of cooperation. As to the documents in the State's first two groupings, as set forth above, the State offers the proposed redactions to reach a mutual resolution among the parties, in accordance with the framework provided by the Board and to avoid further briefing and litigation. As to the documents in the State's third grouping, the State offers the proposed redactions as part of the consultation process and to avoid the need for further briefing and litigation on this issue.

The State's proposed redactions are not in any way an admission as to the scope of its objections to Entergy and Westinghouse's designation of any of these 20 documents, or whether information identified for redaction is proprietary as a matter of law. The State reserves its right to pursue public disclosure of all or parts of each of these 20 documents depending on Entergy, Westinghouse, Staff, and Riverkeeper's position.

We are hopeful that the parties can arrive at a pathway forward to enable public disclosure of vital information while affording proper protection for truly proprietary information. If, however, the parties cannot agree on appropriate redactions, the State intends to pursue its full range of options, including submission of the proposed redactions to the Board for its review.

Thank you for your consideration. I look forward to your response.

Sincerely,

Lisa S. Kwong
Assistant Attorney General
(518) 776-2422

cc: Deborah Brancato, Esq., Riverkeeper