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January 31, 2017

**VIA EMAIL**

Andrew Averbach, Esq.  
Solicitor  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

RE: United States of America v. EnergySolutions, Inc., et al,  
No. 16-cv-10156-GMS (D. Del.)

Dear Mr. Averbach:

I write on behalf of EnergySolutions, Inc. in response to your letter dated January 30, 2017 concerning Subpoena TR-17-01 (the "Subpoena"). As you know, on January 25, 2017, Anurag Maheshwary agreed to accept service of the Subpoena on behalf of the United States Nuclear Regulatory Commission ("the NRC").

Mr. Maheshwary also represented the NRC in the meet and confer teleconference with us regarding the Subpoena last Thursday. During that meet and confer, Mr. Maheshwary informed us that although the NRC was still reviewing the Subpoena, he was happy to discuss the specific document requests in the Subpoena, and that he and the NRC would work cooperatively with us to produce the documents requested.

Despite Mr. Maheshwary's representations on behalf of the NRC, you state in your letter that the NRC is denying our requests but will entertain future requests that "are submitted in accordance with the agency's designated process." As you know, Plaintiff United States has identified the NRC as a trial witness. As such, Defendants seek document discovery and a deposition from the agency during the fact discovery period, which ends March 2nd. Mr. Maheshwary is aware of this as

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well, as he is a member of Plaintiff's trial team. Presumably, in the meet and confer he assured us of the NRC's cooperation knowing that discovery would be expedited. Your *Touhy* objections are inconsistent with an intention to allow discovery to be completed on a timely basis.

We are preparing a revised Subpoena that addresses any objection you may have under *Touhy*, but, in the interim, please confirm today whether you will work cooperatively with us to move discovery of the NRC forward based on our original request. We are available to meet and confer with you promptly to discuss this matter.

EnergySolutions reserves all rights with respect to the above.

Very truly yours,

*/s/ Joseph O. Larkin*

Joseph O. Larkin

cc: Paul J. Lockwood, Esq.  
Tara L. Reinhart, Esq.  
Joseph Ostoyich, Esq.  
Margaret M. Doane, Esq.  
Anurag Maheshwary, Esq.