

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 8880

**Joint Petition of NorthStar Decommissioning Holdings, LLC)
NorthStar Nuclear Decommissioning Company, LLC, NorthStar)
Group Serviced, Inc., LVI Parent Corporation, NorthStar Group)
Holdings, LLC, Entergy Nuclear Vermont Investment Company)
LLC and Entergy Nuclear Operation, Inc., and any other)
necessary affiliated entities to transfer ownership of Entergy)
Nuclear Vermont Yankee, LLC, and for certain ancillary)
approvals, pursuant to 30 V.S.A. secs. 107, 231, and 232)**

**NEW ENGLAND COALITION SUR-REPLY TO NORTHSTAR REPLY re: SPECIAL
PROTOCOL**

The New England Coalition submits this sur-reply to NorthStar’s May 25, 2017, Reply to the New England Coalition’s Opposition to North’s Petition for a Special Protocol.

NORTHSTAR’S CLAIM THAT MR. STATE’S AFFIDAVIT ADDRESSED EACH OF THE CRITERIA

NorthStar’s reply asserts for the first time that Mr. State’s affidavit addresses the factors set forth in *In re Investigation into General Order 45 Notice*, Docket No. 6545, Protective Order, November 9, 2001, and *Investigation of Petition of Vermont Gas Systems, Inc., for a Change of Rates*, Docket No. 8710, Protective Order, May 26, 2016. NorthStar’s explanation of how Mr. State’s Affidavit addresses the criteria falls far short with regard to three of the criteria.

The amount of effort or money used to develop the information. The Reply asserts that this factor was addressed by stating that the “substantial effort and resources” were expended. This did not suffice. Did Mr. State personally expend several days developing the information, or did a team of a dozen individuals spend months developing the information? What was the payroll cost of Mr. State’s time, or of the time of however many individuals participated?

The ease or difficulty of others in acquiring or duplicating the information. The Reply asserts that this factor also was satisfied by the allegation in the affidavit that “substantial effort and resources” were expended, and by the statement that competitors have not yet done so. This, too, did not suffice. The Affidavit states there are “three or four” companies that could perform this work, and that employees move back and forth among these companies in an “incestuous” manner. Could these three or four companies, once they read the prefiled testimony in this matter and NorthStar’s filings with the Nuclear Regulatory Commission, duplicate NorthStar’s effort more quickly and at less cost than NorthStar’s as-yet unspecified time and expense? Could a competitor with greater resources or greater experience than NorthStar arrive at similar conclusions at a fraction of the (as-yet unstated) time and expense incurred by NorthStar?

Justification of the period during which the submitting party asserts that material should not be available for public disclosure. NorthStar’s Reply asserts that the affidavit claimed that confidentiality is needed “as long as NorthStar and its competitors compete for projects involving decommissioning and site restoration of commercial nuclear plants in the United States.” The Board has now been informed, for the first time, that these materials must remain under seal indefinitely.

The Reply cites paragraph #4 of Mr. State’s affidavit for this assertion. Paragraph 4, however, says only that this competition will occur “soon.”

Contracts will have to be advertised and entered into. Decommissioning and restoration will have to occur, in substantial respects, out in the open, subject to observation from the perimeter of the site. The industry is “incestuous.”

There is no basis in the affidavit for justifying any particular time period, or the indefinite time period asserted in the Reply. Because NorthStar is requesting that the documents remain under

seal for an indefinite period of time, it is particularly important that the public's denial of access be supported.

THE ASSERTION THAT NEC'S COUNSEL MAY HAVE DISCLOSED CONFIDENTIAL INFORMATION

NorthStar alleges that the Board's records show that the undersigned may have disclosed confidential information in the past in Docket 6545 (Reply p.6).

In fact, the Board's records show that the undersigned did not do so. Entergy charged the undersigned with doing so, and then, as the hearing date approached, dropped its charges in exchange for agreement that the undersigned counsel acknowledge that he should have been more careful in explaining to the press that the information he had provided had all been part of the public record, as it all was. See the Board order dated October 28, 2002 in Docket 6545.

In the interests of complete disclosure of this history, the undersigned submits an affidavit. The affidavit states that after Entergy dropped its charges and the Board dismissed the complaint, the reporter who had written the erroneous statement that the undersigned had disclosed confidential information called the undersigned on the telephone. He apologized for the error. He referred to it as "an editing error."

CONCLUSION

NorthStar has failed to provide sufficient justification for its proposed Special Protocol.

Dated at Bristol, Vermont this 6th day of June, 2017.

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