

**STATE OF VERMONT  
PUBLIC UTILITIES COMMISSION**

**Docket No. 8880**

**Joint petition of NorthStar Decommissioning )  
Holdings, LLC, NorthStar Nuclear )  
Decommissioning Company, LLC, NorthStar )  
Group Services, Inc., LVI Parent Corporation, )  
NorthStar Group Holdings, LLC, Entergy )  
Nuclear Vermont Investment Company, LLC )  
And Entergy Nuclear Operations, 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. sec. 107, 231, )  
and 232 )**

**CONSERVATION LAW FOUNDATION’S RESPONSE TO ENTERGY NUCLEAR’S  
OBJECTION TO THE PUBLIC UTILITIES COMMISSION’S RETENTION OF A  
CONSULTANT**

Conservation Law Foundation (CLF), pursuant to the Vermont Public Utilities Commission’s Order of November 9, 2017 in this proceeding provides the following response to the objection of Entergy Nuclear Vermont Investment Company, LLC and Entergy Nuclear Operations, Inc.’s objection to the Commission’s retention of a consultant in this proceeding.

Conservation Law Foundation supports the retention of a consultant by the Public Utilities Commission. Title 30 V.S.A. sec. 20(a)(1) provides for the retention of expert consultants. It provides that the Commission may retain “... expert witnesses, advisors, temporary employees, and other research, scientific or engineering services.” 30 V.S.A. sec.

20(a)(1). The consultant services sought fall within this broad scope that includes “expert witnesses” and “advisors.” *Id.*

As set forth in *In re Petition of Twenty-Four Vermont Utilities*, 159 Vt. 339, 349-51 (1992) the Commission must not rely on “data and programs not in evidence.” Title 3 V.S.A. sec. 809 requires that decisions in a contested case be based “exclusively on the evidence and on the matters officially noticed.” 3 V.S.A. sec. 809(g). The *Twenty-Four Utilities* case makes clear that if the Commission is to rely on information or analysis provided by the consultant or advisor, it must provide that information to the parties and afford them an opportunity to address “the weight, accuracy and reliability” of the information. *Twenty-Four Vermont Utilities*, 159 Vt. at 351.

The requirements of *Twenty-Four Vermont Utilities* do not preclude the hiring of a consultant to advise the Commission. It does require providing the parties an opportunity to respond to any analysis or information that the Commission will rely on. Consistent with *Twenty-Four Vermont Utilities* and 3 V.S.A. sec. 809, Conservation Law Foundation expects that the Commission would provide the parties with any information or analysis that the consultant produces upon which the Commission would rely. The mere hiring of the consultant does not trigger that requirement, as no analysis yet has been undertaken.

As a practical matter, and to avoid any possible conflict, the Commission can provide the parties with the identity and background of the consult, and as NorthStar has requested, require the consultant to follow the special protocol if the consultant is to review any of the information subject to that protocol. If the Commission later chooses to rely on any analysis or information produced by the consultant, at that time, the information can be provided to the parties, who can be afforded an opportunity to address it.

Dated at Montpelier, Vermont, this 16<sup>th</sup> day of November, 2017.

CONSERVATION LAW FOUNDATION

By: s/ Sandra Levine

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