

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

**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 MEMORANDUM IN OPPOSITION TO MOTION TO  
EXCLUDE SURREBUTTAL TESTIMONY OF RAYMOND SHADIS AND ARNOLD  
GUNDERSEN**

**INTRODUCTION**

The New England Coalition (NEC) submits this Memorandum in opposition to Joint Petitioners' Objection to the Admission of Certain Prefiled Surrebuttal Testimony and Exhibits and Motion to Exclude. Joint Petitioners argue that Mr. Shadis should not be allowed to refer to a paper submitted by Michael Meisner, a fellow presenter at an international conference on nuclear decommissioning, and that Mr. Gundersen should not be allowed to refer to statements made by ZionSolutions General Manager and Executive Vice President of Decommissioning Operations for Energy Solutions John Sauger at the annual *Nuclear Decommissioning and Used Fuel Summit* sponsored by Nuclear Energy Insider.

**MEMORANDUM**

As the Commission is aware, experts are allowed to rely on evidence which otherwise is inadmissible if it is of the type reasonably relied on by experts in that area, and to share this information with the trier of fact (the Commission) under V.R.E. 703.

Joint Petitioners' motion assumes that neither Mr. Shadis nor Mr. Gundersen are experts within the meaning of Vermont Rules of Evidence 702-703 -- the motion does not mention V.R.E. 702 or V.R.E. 703.

Mr. Gundersen's resume leaves no room for doubt that he is a highly qualified expert in the areas of his testimony. He has extraordinary qualifications. The attached affidavit states that Mr. Gundersen reasonably relied on the objected-to information. It is appropriate for Mr. Gundersen to share Mr. Sauger's statements because its "probative value substantially outweighs any prejudicial effect." V.R.E. 703 (third sentence). The information is from a reliable source -- the person responsible for decommissioning the Zion facility. The information has no prejudicial effect, since it comes from reliable source and merely serves to confirm Mr. Gundersen's initial prefiled testimony about the difference between Boiling Water Reactors and Pressurized Water Reactors (see Mr. Gundersen's initial prefiled testimony, at pp. 13 and 19). Joint Petitioners have been given ample opportunity to rebut Mr. Gundersen's testimony about this distinction and they will have ample opportunity to cross-examine Mr. Gundersen about this distinction. The motion to exclude the statements by Mr. Sauger should be denied.

As for Mr. Shadis' reference to Mr. Meisner's paper, the same principles apply. He qualifies as an expert under Vermont Rule of Evidence 702. In their response to the prior motion of Joint Petitioners to exclude testimony, NEC summarized Mr. Shadis' expertise.<sup>1</sup> With apologies for repetition, so that the record is clear NEC must reiterate some of that summary here. Mr. Shadis' experience includes: 38 years of study of nuclear operations, nuclear safety and nuclear decommissioning, including attendance at American Nuclear Society technical conferences on

---

<sup>1</sup> Mr. Shadis has submitted his resume as Exhibit 1 to his prefiled testimony, supplemented by pages 2-4 of his prefiled testimony and then an affidavit.

decommissioning; participation in an Oak Ridge Associated Universities Manager's Training Course in the Multi-Agency Radiation and Site Survey Investigation Manual (MARSSIM); testimony on nuclear operation, safety and decommissioning in proceedings of the Maine Public Utilities Commission, the Maine Board of Environmental Protection, the Connecticut Department of Public Utility Control, the Nuclear Regulatory Commission, the Federal Energy Regulatory Commission and this Commission; participation by invitation of the State Department, the Nuclear Regulatory Commission, and various public utilities in national and international proceedings including invitation by the NRC to participate in development of an NRC Staff technical report (NUREG-1738) on spent fuel pool accident risk in decommissioning nuclear power plants, NRC reactor oversight proceedings, and NRC proceedings on reactor safety and spent fuel pool accident risk); and receipt of paid invitations and foundation awards to present at international conferences on the effects of the Chernobyl nuclear accident in Kiev, and, most recently, at the International Conference on Decommissioning 2017, in St. Petersburg.

Mr. Shadis has been employed as Technical Advisor to the New England Coalition for 19 years; 1979 to 2006 as Staff Technical Advisor, and 2006 to the present as Consulting Technical Advisor. As stated in his prefiled testimony and affidavit, his duties have included tracking and reading nuclear power plant operational and compliance documents, regulatory issuances, and power industry journals. It was his responsibility to then make any new information accessible to the NEC Board of Trustees and to initiate an advocacy response to any safety, environmental, citizen rights, or regulatory issues that were identified. While in performance of these duties, nuclear safety issues which he isolated and identified were granted relief in two 10C.F.R.2.206 Enforcement Requests. In all, more than six of his Enforcement Requests were accepted by NRC Staff as having sufficient technical basis for review. He conducted extensive review of both the

Seabrook and Vermont Yankee Environmental Impact Statements, as issued for license renewal. As part of his job, he also performed in-depth review of the Maine Yankee, Yankee Rowe, and Connecticut Yankee License Termination Plans, as well as the Yucca Mountain Environmental Impact Statement.

Mr. Shadis has gained widely recognized experience and expertise pertaining to nuclear plant decommissioning. He served on the Maine Yankee Community Advisory Panel on Decommissioning from 1997 through 2005; he is intimately knowledgeable of the details of the decommissioning of the Maine Yankee plant, from start to finish. During the Maine Yankee decommissioning, Mr. Shadis participated in more than forty Maine Yankee technical working group meetings that helped design, execute, and oversee the dismantlement and decontamination of the Maine Yankee facility.

In the exercise of his expert judgment, Mr. Shadis finds that Mr. Meisner's presentation is useful to rely upon. See Mr. Shadis' affidavit. The probative value of Mr. Meisner's paper substantially outweighs any prejudicial effect. V.R.E. 703 (third sentence). The information has no prejudicial effect for two reasons – the *subject* of Mr Meisner's comments and the fact that Mr. Meisner is quoted to reinforce and build upon a commitment that *Mr. State has already made* in his testimony. The subject is not a technical one. Mr. Meisner is not quoted to confirm Mr. Shadis' opinions about the proper level of residual radiation, for example. He is quoted to confirm Mr. Shadis' testimony that meaningful community participation in the process results in a better outcome. In Maine, decommissioning occurred on time and on budget (see Mr. Shadis' initial prefiled testimony, at pp.6-7). This is a public policy issue that hardly requires cross-examination and presents little or no potential for prejudice. And Mr. State's own rebuttal testimony essentially agrees – he commits to dialogue with the Abenaki community during decommissioning and to

hiring of a credentialed advisor. Mr. Shadis makes the more general point, backed by Mr. Meisner, that involvement of *all* of the stakeholders, not just the industry and the government, leads to better outcomes. The motion to exclude Mr. Meisner's report should be denied.

**CONCLUSION**

The motion to exclude should be denied.

Dated at Bristol, Vermont this 12th day of January, 2018.

BY: /s/ James A. Dumont  
James A. Dumont, Esq.  
Law Office of James A. Dumont P.C.  
15 Main Street  
P.O. Box 229  
Bristol, VT 05443  
(802) 453-7011  
dumont@gmavt.net  
ecabinet registration: jdumont