

**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 REPLY TO JOINT PETITIONERS’
OPPOSITION TO CLF’S OBJECTIONS TO THE ADMISSION OF CERTAIN SECOND
SUPPLEMENTAL PREFILED TESTIMONY & EXHIBITS AND MOTION TO
EXCLUDE OR REQUEST TO PROVIDE LIVE SURREBUTTAL TESTIMONY IN
RESPONSE**

Conservation Law Foundation (CLF) offers the following reply to Joint Petitioners’ opposition to CLF’s objection to certain supplemental prefiled testimony and exhibits submitted by Joint Petitioners on March 9, 2018 and request to exclude portions of the testimony or to be offered the opportunity to respond to it by providing limited live surrebuttal testimony at the technical hearings.

1. Conservation Law Foundation filed the objection within the time required by VT PUC Rule 2.216.

2. Conservation Law Foundation identified in its objection why the testimony should be excluded.

3. The Public Utilities Commission has in the past excluded as untimely testimony offered by CLF (and other parties) that could have been previously submitted. *In re VT Elec. Power Co. Inc, et al (NRP)*, Docket 6860, Order re Motion to Strike Testimony of Robert Blohm at 3 & fn.3, Docket 6860 (Oct 8, 2004).

4. CLF did not seek an extension of any deadline.

5. CLF requested as a “preferable” remedy to allow CLF to respond to the untimely testimony of Joint Petitioners through very limited live surrebuttal during the hearings. This was requested as an accommodation and as a practical and efficient remedy that recognizes the Commission may wish to admit and consider the Joint Petitioners’ untimely testimony.

6. The Commission on occasion has allowed live surrebuttal to respond to written testimony as a practical and efficient means to present a limited response. Docket 6812 Prehearing Memorandum (3/7/03); Docket 7156, Prehearing Memorandum (4/13/06); Docket 7594 Prehearing Memorandum (2/23/10); Docket 7535 Prehearing Memorandum (8/11/09); Docket 7250 Prehearing Memorandum (9/20/07); Dockets 7270 & 7540 Procedural Order (10/1/09); Docket 6962 Prehearing Memorandum (6/16/04).

7. Despite Joint Petitioners’ claims, CLF has limited time to prepare its supplemental testimony and is unable to file written testimony by April 20.

8. As noted in CLF’s filing in this case on February 22, 2018 regarding the schedule:

“Based on the original schedule for this proceeding, CLF’s attorney and its witness made travel plans that make us unavailable for significant portions of

March and April. Specifically, CLF's attorney or its witness are not available on the following days:

March 14 – April 2

April 16 – May 2”

Docket 8880, CLF Response to Proposed Schedule, (2/22/18).

9. With limited time to respond, CLF's written testimony focused on the substance of the MOU and not responding in detail to Joint Petitioners untimely testimony.

10. Given the vastly different resources of the parties, including that Joint Petitioners are represented by seven lawyers, while CLF has only one, and that CLF's expert is working largely on a pro bono basis, allowing CLF to respond to untimely claims through live surrebuttal provides a practical, efficient and fair alternative to simply excluding the testimony.

11. VT PUC rules provide for the Commission to waive its rules to “prevent unnecessary hardship or delay, in order to prevent injustice, or for other good cause...” VT PUC Rule 2.107.

12. CLF's request was timely and provided the stated remedy of exclusion with a practical alternative of allowing limited live surrebuttal as a means to accommodate schedule needs, recognize the unequal burdens placed on the parties, and move the case forward without delay.

The Commission should reject Joint Petitioners' opposition and the identified testimony and exhibits should be excluded from the record in this proceeding or as a preferable alternative, Conservation Law Foundation should be permitted to respond to it by providing limited live surrebuttal testimony at the technical hearings.

Dated at Montpelier, Vermont, this 11th day of April, 2018.

CONSERVATION LAW FOUNDATION

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