

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case 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. §§ 107, 231, and 232	
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Order entered: 05/09/2018

**ORDER ON OBJECTIONS AND MOTION TO EXCLUDE**

An April 27, 2018, NorthStar Decommissioning Holdings, LLC, NorthStar Nuclear Decommissioning Company, LLC, NorthStar Group Services, Inc., LVI Parent Corp., NorthStar Group Holdings, LLC, Entergy Nuclear Vermont Investment Company, LLC, and Entergy Nuclear Operations, Inc. (collectively “Joint Petitioners”) filed with the Vermont Public Utility Commission (the “Commission”) an objection and motion to exclude certain prefiled testimony from the Conservation Law Foundation (“CLF”) and requesting a ruling *in limine* directed to the testimony of CLF’s witness, Michael Hill. In this order, we deny the relief requested by the Joint Petitioners.

**I. PROCEDURAL HISTORY**

On March 2, 2018, the parties to this proceeding except for CLF (the “MOU Parties”) filed a Memorandum of Understanding (“MOU”) with the Commission.

On March 9, 2018, the MOU Parties submitted supplemental prefiled testimony addressing the MOU and prefiled testimony that was previously filed with the Commission.

On April 10, 2018, CLF submitted prefiled surrebuttal testimony responding to the MOU Parties’ March 9 supplemental testimony.

On April 27, 2018, the Joint Petitioners filed objections and a motion to exclude certain prefiled supplemental surrebuttal testimony of Mr. Hill. CLF's response is due on May 11, 2018.

## **II. DISCUSSION AND CONCLUSIONS**

The Joint Petitioners raise two main arguments in their motion. First, the Joint Petitioners argue that Mr. Hill is attempting to rely on deposition questions that the Commission previously determined were inadmissible on relevance grounds.<sup>1</sup> We disagree with the Joint Petitioners' assertion. While Mr. Hill mentions the word "deposition," he does not rely on any questions asked during his examination. The Joint Petitioners identify a total of six lines, none of which present deposition questions as evidence. Instead, Mr. Hill discusses the Joint Petitioners' written responses to discovery requests and documents used as exhibits by the Joint Petitioners during Mr. Hill's deposition. Therefore, the Joint Petitioners' objection to Mr. Hill's testimony at lines 4:11-13 and 5:18-20 is overruled.

The Joint Petitioners' second argument is that the Commission should exclude portions of Mr. Hill's prefiled testimony and rule *in limine* that Mr. Hill cannot testify about topics beyond his expertise or subjects that he has not already addressed in his MOU prefiled testimony. The Joint Petitioners' second argument consists of 3 separate objections, which we address in order.

The Joint Petitioners' first objection is that Mr. Hill's prefiled testimony at lines 6:5-16 and 9:1-15 exceeds the scope of his expertise because Mr. Hill admitted that he is not an expert in liability transfers in the context of nuclear decommissioning projects. As the Joint Petitioners recognize, however, Mr. Hill has explained that he has experience in liability transfers for environmental cleanups in non-radiological contexts and offers his expertise in that capacity. Mr. Hill explains that his testimony addresses how liability transfers are structured in non-radiological contexts to provide examples of "lessons learned" that may apply to nuclear decommissioning projects. We find Mr. Hill's testimony at lines 6:5-16 and 9:1-15 relevant, useful, and within the scope of his expertise. Therefore, the Joint Petitioners' objection to these passages is overruled.

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<sup>1</sup> Order of 3/8/18 at 15.

The Joint Petitioners' second objection asks the Commission to restrict Mr. Hill's testimony to aspects of the proposed transaction that he addressed in his MOU testimony.<sup>2</sup> As the Joint Petitioners recognize, PUC Rule 2.213 and the March 7, 2018, Procedural Order in this case require direct and rebuttal testimony to be prefiled in written format. Our recent order required the same with respect to the supplemental rebuttal testimony requested by CLF.<sup>3</sup> Because no party has been granted permission to provide live direct or rebuttal testimony, the scope of Mr. Hill's testimony is already limited by what is or will be prefiled, making any further order from the Commission seem unnecessary. To the extent that the Joint Petitioners cross-examine Mr. Hill on any of the topics that the Joint Petitioners have identified as beyond the scope of Mr. Hill's prefiled testimony, however, Mr. Hill will be permitted to respond during his re-direct examination.

The Joint Petitioners' final objection is to Mr. Hill offering opinions on any confidential documents that he did not review. The Joint Petitioners' objection does not identify any specific opinion offered by Mr. Hill in the passages that they identify (lines 10:3-13:2 and 13:3-19), but refers only to the headings of those passages and asserts that Mr. Hill employed an unreliable methodology in his discussion. A review of the identified passages of Mr. Hill's testimony shows that they largely mirror portions of Mr. Hill's pre-MOU testimony with some additional discussion based on information that he learned from testimony provided by State witnesses. Mr. Hill explains that his testimony is based on his experience with non-radiological liability transfers for environmental cleanups and information about the proposed transaction that he learned from the testimony of State witnesses.<sup>4</sup> Compared with his pre-MOU testimony, to which the Joint Petitioners did not object, the underlying bases for Mr. Hill's opinions are only improved by Mr. Hill's reliance on the testimony of the State witnesses and we see no reason to exclude them as speculative now. The Joint Petitioners can explore any perceived deficiencies in Mr. Hill's testimony on cross-examination.

**SO ORDERED.**


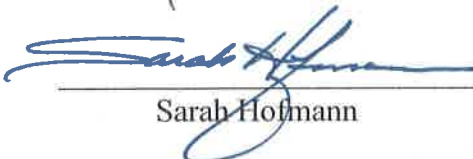
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<sup>2</sup> The Joint Petitioners' objection asks us to limit Mr. Hill to testimony in his "MOU PFT." The Commission does not understand the Joint Petitioners to be asking to exclude the entirety of Mr. Hill's pre-MOU prefiled testimony and would reject such a request.

<sup>3</sup> Order of 4/24/18 at 1-2.

<sup>4</sup> Hill pf. at 11:14-20.

Dated at Montpelier, Vermont, this 9th day of May, 2018.

	)	
	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	OF VERMONT
	)	
Sarah Hofmann	)	

OFFICE OF THE CLERK

Filed: May 9, 2018

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*

PUC Case No. 8880 - SERVICE LIST

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