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OFFICE OF  
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**UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION**

**In the Matter of**

**Power Authority of the State of New York ,  
Entergy Nuclear Indian Point 3, LLC, and  
Entergy Nuclear Operations, Inc.**

**Docket No. 50-286**

**Indian Point 3 Nuclear Power Plant**

**License No. DPR-64**

**Transfer of Facility Operating License and  
Proposed License Amendment**

**PETITION FOR EXTENSION OF TIME FOR  
LEAVE TO INTERVENE AND REQUEST FOR HEARING  
IN THE CONSIDERATION OF APPROVAL OF PROPOSED  
LICENSE AMENDMENT AND TRANSFER OF  
INDIAN POINT 3 NUCLEAR POWER PLANT OPERATING LICENSE  
TO ENTERGY NUCLEAR INDIAN POINT 3, LLC, AND  
ENTERGY NUCLEAR OPERATIONS, INC.**

By separate public notices issued in the Federal Register on June 28, 2000, the Commission gave notice of two separate applications for the transfer of and proposed amendment to the operating licenses held by the Power Authority of the State of New York ("PASNY") for its Indian Point 3 Nuclear Plant ("IP3"), Docket No. 50-286, License No. DPR-64, and James A. FitzPatrick Nuclear Plant ("JAF"), Docket No. 50-333, License No. DPR-59. The transferees for IP3 are Entergy Nuclear Indian Point 3, LLC, ("ENIP") and Entergy Nuclear Operations, Inc. ("ENO"). The transferees for JAF are Entergy Nuclear FitzPatrick3, LLC, ("ENF") and ENO. Both notices established the dates of July 18, 2000, and July 28, 2000, as the deadlines for the submission of petitions

for interventions and hearing requests, and the submission of comments, respectively.

The Town of Cortlandt, New York, and the Hendrick Hudson School District ("Petitioners") respectfully submit, pursuant to 10 CFR §§2.1312, 2.1325, and 2.711 (2000), this joint pleading requesting additional time to file a petition for leave to intervene and a request for a hearing in the above captioned proceeding for the transfer of and the proposed amendment to the operating license for the Indian Point 3 Nuclear Power Plant. Thus, Petitioners request that the current deadline of July 18, 2000, established by the Commission's Federal Register notice of June 28, 2000, be extended to July 31, 2000. Furthermore, in light of similar requests filed, or expected to be filed, by several governmental entities and other stakeholders, such as the County of Westchester, New York ("Westchester"), and the Citizen Awareness Network ("CAN"), Petitioners request that the Commission extend both deadlines to July 31, 2000 for the general public.

As part of this pleading, Petitioners have provided a petition to intervene and request for hearing. However, for the reasons noted herein additional time is necessary to complete a thorough review of the documents submitted in the separate applications for transfer of IP3 and JAF and to prepare additional comments, supporting affidavits and other materials that may be required to supplement the Petitioners's petition for intervention and hearing.

Petitioners also request that the Commission extend the July 28, 2000 deadline for the submission of comments, under 10 CFR §2.1305, to July 31, 2000. This extension is appropriate because several of the issues that Petitioners will seek a hearing of by the Commission might subsequently be deemed by the Commission to merit treatment only as comments. Thus, in an effort to avoid any inadvertent procedural "Catch-22" with

regard to their submission, Petitioners believe that the public interest in a complete record is best served by having the same deadlines for intervention, hearing requests and comments.

By letter dated July 6, 2000 CAN requested, an extension of time until July 31, 2000. By order docketed July 10, 2000, the Secretary granted CAN its requested extension of time. Copies of the CAN July 6 and the July 10 Order are attached. By letter dated July 17, 2000, Westchester requested an extension of time for intervention and requesting a hearing until July 31, 2000. A copy of Westchester's extension request, as received by e-mail, is also attached hereto. The extension of time requests of CAN and Westchester both enumerated several reasons demonstrating good cause for the granting of their respective requests. Hence, granting petitioners requested relief for additional time will not delay or burden unduly, if at all, the processing of the application for IP3.

Petitioners have reviewed the requests of CAN and Westchester and respectfully submit that they too have incurred similar, if not identical, difficulties in obtaining complete copies of the applications for IP3 and JAF. Therefore, Petitioners, incorporate by reference herein as part of their showing of good cause the submissions of CAN and Westchester. Moreover, as noted in Westchester's request, despite the joint efforts of counsel for Petitioners and Westchester, there has been, and continues to be, significant difficulty in obtaining from the Commission copies of the applications.

Petitioners note that despite the courtesies and best efforts of the Commission's personal in the Office of Public Information, these difficulties were exacerbated by recurring problems with the Commission's Document Access System, e.g., ADAM. In light there of, Petitioners respectfully submit that the Commission should consider the advisability of breaking up large filings such as the IP3 and JAF transfer applications into

groupings of smaller files in order to facilitate downloading, as numerous delays and problems were incurred due to file size.

Petitioners also submit that their difficulties in reviewing the IP3 application within the period afforded by the Commission was compounded by the fact that the applications, and especially numerous agreements therein, are interrelated with the application for JAF. This has necessitated the review of a separate docket with regard to the instant proceeding concerning IP3. This interrelationship is amply demonstrated by the Commission's June 14, 2000, "consolidated" request for additional information with regard to both applications.<sup>1</sup> A copy is attached hereto.

With regard to the material requested by the Commission, despite their diligent efforts to obtain it, Petitioners expect to receive this material by late this afternoon by courier. Review of this material prior to the submission of a hearing request and/or comments is necessary for several of the items of addition information, e.g., letters of credit and decommissioning agreements, are germane to the ability of ENIP and ENO to hold an operating license and to carry out their responsibilities thereunder to the public.

### **PETITION FOR INTERVENTION**

Petitioners respectfully submit herein their petition to intervene and reserve the right to supplement it within the additional time period requested. In support thereof, the names and addresses of the persons authorized to receive notices and communications,

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<sup>1</sup> Petitioners are not aware of these separate proceedings, involving two distinct and separate legal entities (ENIP and ENF) having been consolidated by the commission. See 10 CFR §2.716 (2000). Nor do Petitioners intimate herein that such a consolidation would be appropriate. Indeed, the issuance of separate orders on the individual merits of the applications would be in the public interest as that would facilitate any subsequent review thereof or action thereupon.

pursuant to 10 CFR §2.708(e) and §2.1306(b)(1), are as follows:

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**Hendrick Hudson School District:**

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IP3 is located within portions of the Town of Cortlandt and the Hendrick Hudson School District. The operating licenses presently held by PASNY, unless extended or renewed, expire in 2014 for JAF and 2015 for IP3. With respect to IP3, it is the understanding of Petitioners that the decommissioning plan's goal is for the site to be returned to Greenfield status with unrestricted use thereof. This understanding includes an expectation that dry-cask storage on-site will be of limited duration, and that the entire IP3 facilities will be dismantled and removed off-site.

There is the possibility that prior to or subsequent to the acquisition of IP3 by

ENO and ENIP that one of them, or one or more affiliates of either entity, or both, also will acquire or incur additional interests in or obligations regarding other nuclear generating plants including those already identified in the application for JAF as well as, but not limited to, the Nine Mile Point I and II and Indian Point 2 nuclear plants, all of which are referenced in one or more of the agreements comprising the application for IP3. Furthermore, several of the agreements would render ENIP liable for the obligations incurred by ENF with regard to certain joint and several clauses contained therein. Thus, the safe operation of IP3 by ENIP and ENO, as well as its eventual decommissioning, is of paramount concern to the safety and long term economic well being of Petitioners, and will have a direct impact upon the characteristics of the local communities encompassed by Petitioners. Hence, the financial ability of ENO and ENIP to safely operate, maintain, and decommission IP3 involve interests of the Petitioners that will be affected directly by this proceeding.<sup>2</sup>

### **REQUEST FOR HEARING**

Petitioners respectfully request hearing of the following issues and reserve their right to supplement this request within the time period sought by their extension request.

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<sup>2</sup> Petitioners respectfully submit that their status as interested entities, which are to be afforded a reasonable opportunity to participate in the nuclear license transfer proceeding for IP3 supports their intervention petition and request for additional time submitted herein. See 10 C.F.R. §2.715(c)(2000).

**Financial Ability -- Joint and Several Liability of ENIP and ENF.**      Whether ENIP

and/or ENO are qualified to hold the requested license in light of uncertainties caused by its obligations to be liable for agreements entered into by ENF. See e.g., \$586,005,000 Facilities payment Note, Exhibit A to IP3 Application. See also, \$170,835,000 Fuel Payment Note, Exhibit B to IP3 Application.<sup>3</sup> The joint and several liability of ENIP with respect to JAF related agreements, as well as the expansive and overlapping obligations of ENO as operator, certainly call into question and give rise to the need for an assessment of whether there are reasonable assurances that the activities authorized by the proposed license transfer can be conducted without endangering the health and safety of the public. Clearly, the proposed \$50,000,000 letter of credit devise, already the subject of the Commission's June 14 request for additional information, requires extensive examination as part of the inquiry of ENIP's financial capability.

Because of the joint and several liability obligations of ENIP, an accident at either IP3 or JAF or default by ENF, could leave ENIP with insufficient funds; thus, causing IP3 to be left in an unsafe condition. This would expose Petitioners and other members of the public to health risks. It could also cause serious harm to the environment.

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<sup>3</sup> Petitioners also note there appear to be several other agreements contained in the application that are not completely draft and that appear to call for execution by both ENIP and ENF. See e.g., Post-Closing Services Agreement, Exhibit J to IP3 Application.

**Decommission Fund Levels and Responsibilities.** Whether the decommissioning fund is adequate, i.e., is funded at appropriate levels, and whether sufficient controls exist regarding the management of the decommissioning fund are issues that require a hearing. There is insufficient information available at present to ensure that the decommission fund is sufficient to ensure that the IP3 site will be decommissioned timely, completely, and expeditiously upon expiration of the current operating license's term or any extension of renewal thereof. The proposed transfer will remove the plant's operation from a public entity, a municipal corporation, that was formed for the public benefit, and put it in the hands of a for profit limited liability corporation(s).<sup>4</sup>

In this regard, Petitioners ask the Commission to take notice of the fact that Entergy Nuclear has recently formed with Framatome Technologies an enterprise to offer operating license renewal services. See attached press release dated June 22, 2000. Moreover, as the Commission is well aware, Entergy is already pursuing license renewal with regard to its Arkansas nuclear plant(s). Hence, it is more than likely that ENIP and

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<sup>4</sup> The Indian Point facility was acquired by PASNY pursuant to the authority of § 1001-a of the Public Authorities Law ("PAL"), "Emergency Provisions for the Metropolitan Area of the City of New York," which was enacted pursuant to § 2 of chapter 369 of the Laws of 1974. The legislative authorization to purchase "not more than one...generating facility in each of New York City and Westchester County..." (Amendment to §1005, PAL, L.1974, c.370, §1) was to fulfill the legislative declaration "that there is a shortage of dependable power capacity in the southeastern part of the state and that the public interest requires that the authority assist in alleviating such shortage by providing such base load generating facilities as may be necessary..." (language added to PAL §1001 by L.1972, c.489).



ENO will seriously considered in pursuit of their for profit interests the extension or renewal of the operating license for IP3. Either outcome will have serious implications for the future decommissioning fund's levels and plans, and will have significant impacts upon the character of Petitioners's communities and interests.

The decommissioning agreements are also fraught with ill defined and uncertain liabilities for Petitioners. Any additional liabilities or costs incurred by PASNY must be absorbed by either PASNY customers, which include large industrial employers in the State of New York, who's economic interests are vital to the state, or New York tax payers. The feasibility of defining the decommission fund's liabilities and transferring all risks upon the for profit entities involved in the transfer needs to be explored in a hearing. Similarly, the present and future decommissioning plans need to be review and the costs thereof reassess in a hearing.

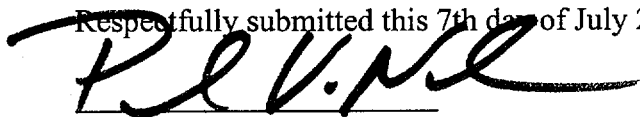
The Atomic Energy Act protects public health and safety from radiologically-caused injury, and thereby requires that licensees demonstrate financial qualifications to afford this protection. See 10 CFR §50.80(b). Thus, the issues raised herein by Petitioners are within the scope of the IP3 transfer proceeding, as required by 10 CFR §50.80(b). The issue of financial qualification is relevant and material to the findings necessary to grant the license transfer. A genuine dispute exists in that the use, and

sufficiency of, a \$50,000,000 letter of credit, together with numerous joint and several liability clauses and the issues of decommissioning levels and plans, present and future, so impair the ability of ENIP and ENO that the transfer application should be denied.

### CONCLUSION

For the foregoing reasons, the Petitioners request that the Commission extend the deadlines for the submission of petitions to intervene, to request a hearing, and to file comments until July 31, 2000 so that Petitioners may supplement their petition for intervention and request for hearing with an affidavit(s) and additional comments and issues upon having additional time to review the complete application and submission of additional information for IP3 as well as that for JAF.

Respectfully submitted this 7th day of July 2000.

A handwritten signature in black ink, appearing to read 'P.V. Nolan', written over a horizontal line.

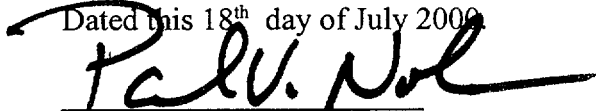
Paul V. Nolan, Esq.

Counsel to the Town of Cortlandt, New York and the  
Hendrick Hudson School District

CERTIFICATE OF SERVICE

I, Paul V. Nolan, Esq., Counsel to the Town of Cortlandt, New York and the Hendrick Hudson School District, hereby certifies that on the 18<sup>th</sup> day of July 2000, service of the foregoing Petition for Additional Time, Leave to Intervene and Request for Hearing; was made by first class mail, with a fax copy provided to the Secretary, on this 18<sup>th</sup> day of July 2000 on the parties noted in the attached service list.

Dated this 18<sup>th</sup> day of July 2000

A handwritten signature in black ink, appearing to read "Paul V. Nolan", written over a horizontal line.

Paul V. Nolan, Esq.

Counsel to the Town of Cortlandt, New York and the  
Hendrick Hudson School District

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The Secretary of the Commission  
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Mr. Michael R. Kansler  
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Citizens Awareness Network  
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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

DOCKETED 07/10/2000

SERVED 07/10/2000

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In the Matter of )

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Power Authority of the State of )  
New York )

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Docket Nos. 50-333-LT, 50-286-LT

)  
(James A. FitzPatrick Nuclear )  
Power Plant and Indian Point )  
Nuclear Generating Unit No. 3) )  
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**ORDER**

On May 11 and 12, 2000, the Power Authority of the State of New York, Entergy Nuclear Operations, Inc., Entergy Nuclear FitzPatrick, LLC, and Entergy Nuclear Indian Point 3, LLC, filed applications seeking the Commission's approval of the transfer of the facility operating licenses for the two above-captioned facilities. On July 6, 2000, the Citizens Awareness Network, Inc. ("CAN") sought an extension of time within which to file its petition to intervene and request for hearing regarding these applications. Pursuant to my authority under 10 C.F.R. § 2.772(b), I extend the time within which CAN may file its petition and request until July 31, 2000.

IT IS SO ORDERED.

For the Commission,

/RA/

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Annette L. Vietti-Cook  
Secretary of the Commission

Dated at Rockville, Maryland  
this 10th day of July, 2000.

## CITIZENS AWARENESS NETWORK

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MA: BOX 83 SHELBURNE FALLS, MA 01370 Phone/Fax: 413-339-5781/8768  
CNY: 162 CAMBRIDGE ST., SYRACUSE, NY 13210 p/f: 315-475-1203  
CT: 54 OLD TURNPIKE RD., HADDAM, CT 06438 p/f: 860-345-8431  
VT: BOX 920 PUTNEY, VT 05346 p/f: 802-387-4050  
WES: 42A ADRIAN COURT CORTLANDT MANOR, NY 10567 p: 914-739-6164

July 6, 2000

Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Request for Extension of Deadline for Hearing Requests and Petitions to Intervene in the Review of the Power Authority of the State of New York's applications for Transfer of Facility Operating Licenses and Proposed License Amendments for James A. FitzPatrick (docket number 50-333) and Indian Point Unit 3 (docket number 50-286) Nuclear Power Plants

To the Secretary,

The Citizens Awareness Network, Inc., hereby requests a motion under 10 CFR § 2.1312 and 2.1325 to extend the deadline for hearing requests and petitions to intervene in the license transfer proceedings pending for the Indian Point Unit 3 (IP3) and James A. FitzPatrick (FitzPatrick) nuclear generating stations (docket numbers 50-286 and 50-333). The Power Authority of the State of New York (NYPA) has applied to transfer the facility operating licenses for IP3 and FitzPatrick to Entergy Nuclear Indian Point Unit 3, LLC and Entergy Nuclear FitzPatrick, LLC for possession and use of the respective facilities, and to Entergy Nuclear Operations, Inc. to possess, use and operate IP3 and FitzPatrick.

The July 18th deadline for hearing requests and petitions to intervene in the review of NYPA's applications poses an excessive and undue burden on CAN. We are therefore seeking an extension of that deadline for the reasons stated below. First, the original July 18th deadline was calculated using the wrong NRC rule, artificially decreasing the public's time to review and respond to the applications. Second, there have been onerous obstacles to access the license transfer applications. This has caused an undue burden on ordinary citizens and environmental groups such as CAN with respect to preparing hearing requests and petitions to intervene. Finally, this is the first opportunity for the public to review the proposed transfers and the complex arrangements (financial and otherwise), and their implications for the people of the United States of America, so there is an even more urgent need for sufficient time for public scrutiny.

In our reading, the NRC seems to have applied an incorrect rule in calculating the July 18 deadline for hearing requests and petitions to intervene in the license transfer proceedings. Under 10 CFR § 2.1306 (c)(1), the public has 20 days after the notice of receipt of applications is published in the Federal Register to file hearing

requests and petitions, *"for those applications published in the Federal Register."* However, because the applications were not published in the Federal Register prior to the June 8 notice of receipt, we do not believe that 2.1306 (c)(1) is applicable, and the applicable rule is 10 CFR § 2.1306 (c)(2). That rule mandates 45 days for timely filing of hearing requests and petitions to intervene "after notice of receipt [of applications] is placed in the Public Document Room."

The date on which the applications were docketed on the NRC's Agency-wide Document Access and Management System (ADAMS) was June 2, 2000. However, due to problems with accessibility to ADAMS, CAN was unable to begin using ADAMS until June 16, 2000 and we are still unable to print documents from the system. Therefore, we were unable to obtain copies of the applications until July 5, 2000, over one month after the documents were supposed to be available to the public through ADAMS. CAN promptly obtained the Federal Register notice on June 28, 2000, the day of publication. However, the notice itself does not contain sufficient information to properly evaluate the license transfer applications, and we sought and obtained the applications directly from NYPA, which took an additional seven days. Therefore, we feel that the 45-day period mandated under 10 CFR § 2.1306 (c)(2) should realistically and fairly be calculated starting from July 5, 2000, the date the application actually became available to CAN.

The Nuclear Regulatory Commission received copies of the applications on May 11, 2000 and May 12, 2000 respectively. The NRC's in-house review continued over a period of more than six weeks, substantially more than the amount of time using 10 CFR § 2.1306 (c)(1) grants to the public. CAN is a grassroots, volunteer organization with limited resources to evaluate the applications and develop a hearing request and petition to intervene. The stipulated July 18 deadline places an undue burden on CAN to responsibly review and respond to the applications, particularly given the aforementioned obstacles to accessing the documents.

Further, the review of these applications will be the public's first, and possibly only, opportunity to review the proposed transfer of NYPA's nuclear generating facilities to Entergy. This is the first proposed multi-unit transfer to actually undergo a full evaluation before the Nuclear Regulatory Commission. In addition, the arrangements set forth in the agreement between NYPA and Entergy are unique. If the transfer is approved, they will set precedent for future sales of nuclear generating facilities. These unprecedented conditions make reviewing and responding to these applications by the stipulated deadline more difficult, thereby increasing the burden on ordinary citizens and environmental groups such as CAN.

In view of the unique, complex, and potentially precedent-setting nature of the proposed transaction, it is the NRC's responsibility to make sure that the public has adequate time to participate in the review of these applications. Therefore, we request a motion that the Secretary, under the Commission's authority granted in 10 CFR § 2.1306 (c)(3), extend the deadline for hearing requests and petitions. In view of these considerations, and if 10 CFR § 2.1306 (c)(1) is still determined to be the applicable rule, we believe it would be appropriate to extend the deadline for hearing requests and petitions to intervene one week (to July 25, 2000), to reflect the date on which the applications actually became available to us. However, if our

reading of the rules is correct and 10 CFR § 2.1306 (c)(2) is the applicable rule, the period for timely filing of hearing requests and petitions to intervene regarding applications which have not been published in the Federal Register is 45 days from the date the applications are made available in the Public Document Room (PDR). Since ADAMS is now the surrogate for the PDR, and since it has well-documented accessibility problems which precluded CAN from obtaining the applications until July 5, we request 45 days from our actual receipt, which is August 19, 2000.

Sincerely,



Tim Judson  
Citizens Awareness Network

Citizens Awareness Network (CAN) is a grassroots, 501(c)(3), non-profit organization. We work out of our homes and are funded by the generous support of concerned citizens and progressive foundations. We work pro-actively to end the cycle of contamination and sacrifice of our environment, our health, and our children's future. We work to support and help communities in their struggles to regain control of their environment and exercise their rights to participate democratically in decisions that affect them and their well-being.

cc: Mr. Douglas Levanway, Wise, Carter, Child, and Caraway  
Mr. Gerald Goldstein, Asst. General Counsel, New York Power Authority  
General Counsel, U. S. Nuclear Regulatory Commission  
Mr. Emile Julian, Office of the Secretary, U.S.N.R.C.



By e-mail: [secy@nrc.gov](mailto:secy@nrc.gov)  
July 17, 2000

Annette L. Vietti-Cook  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Request for Extension of Deadline for Hearing Requests & Petitions  
To Intervene in the Review of the Power Authority of the State of New York's  
Application for Transfer of Facility Operating License and Proposed License  
Amendment for Indian Point Nuclear Generating Unit No. 3 (Docket No. 50-286)

Dear Secretary:

In connection with the application (the "Application") of the Power Authority of the State of New York ("PASNY") to transfer the Facility Operating License and Proposed License Amendment for Indian Point Nuclear Generating Unit No. 3 (Docket No. 50-286), the County of Westchester (the "County" or "Westchester") hereby requests, pursuant to 10 CFR §§2.1312 and 2.1325, that the Nuclear Regulatory Commission (the "Commission") extend the deadline for submission of Hearing Requests and Petitions to Intervene in the above-captioned proceeding from July 18<sup>th</sup> to July 31<sup>st</sup>, a date that is forty-five days after the date of the initial posting of the Application on June 16, 2000, in accordance with the provisions of 10 CFR 2.1306 (c)(2). This is the same date that the Commission granted the Citizens Awareness Network, Inc. when it requested an extension in this proceeding.

Briefly stated, PASNY has applied to transfer the facility operating licenses for Indian Point Nuclear Generating Unit No. 3 ("IP3") and for the James A. FitzPatrick Nuclear Power Plant ("Fitzpatrick"). PASNY seeks to transfer the IP3 Facility Operating License DPR-64 to Entergy Nuclear Indian Point 3, LLC ("Entergy Nuclear IP3") to possess and use, and to Entergy Nuclear Operations, Inc. ("ENO") to possess, use and operate. According to the Federal Register Notice dated June 28, 2000 the current deadline for submission of Hearing Requests and Petitions to Intervene is July 18, 2000.

For the reasons set forth herein, Westchester respectfully submits that it would impose an unacceptable burden on it to require a response in such a short time. First, Westchester has been unable to conduct an adequate review, as the Application that was posted on the NRC website was incomplete. Despite the County's best efforts, it has been unable to obtain a full copy of the

Application thus far. Second, despite repeated assurances to Westchester that it would be included in all stages of this approval process, PASNY failed to provide full and complete disclosure as to the proposed transfer to Entergy. In fact, PASNY failed to advise Westchester that the Application had even been filed with the Commission. Third, the date that is forty-five days from the initial posting appears to be July 31<sup>st</sup> and not July 18<sup>th</sup>. Finally, the applicants will suffer no irreparable harm if the request for an extension is granted.

**1. Despite its best efforts, Westchester has been unable to review the full Application.**

The County first became aware of the Federal Register notice regarding the Application late on July 13<sup>th</sup>. Even when the County became aware of the Application, due to problems with the Commission's Document Access system, it was unable to locate the appropriate filing. The County was forced to request a copy of the Application from PASNY, and was not able to acquire a copy of the Application until mid-day on Saturday, July 15<sup>th</sup>.

The copy of the Application that PASNY provided to the County was incomplete, as it did not include the Exhibits and Schedules that are referenced in the Purchase & Sale Agreement (Enclosure 4). Under a separate request, the County acquired the Exhibits to Enclosure 4, but has not yet been able to acquire the Schedules. In fact, the County has been advised by counsel for PASNY that the Schedules are not finalized and therefore not available. There are at least 39 Schedules that deal with issues such as Emergency Preparedness Agreements, Settlement Agreements, Shared Assets, Nuclear Fuel Contracts, Physical Condition of Improvements, Certain Changes or Events, Environmental, Nuclear Insurance, Known Remediation Concerns. The County, as well as other possible intervenors, should be provided with copies of these Schedules with adequate time to review them in advance of the deadline for submission of Hearing Requests and Petitions to Intervene. Alternatively, if the Commission determines that the deadline should be extended by less than the forty-five days requested, an opportunity should be granted to all intervenors to amend their petitions to include in the hearing the matters contained in these Schedules.

In addition, Enclosure 2 (Entergy Corporation's 10Ks), Enclosure 6 (Proposed Operating Agreement), Enclosure 8 (Credit Agreement), Enclosure 9 (Financial Statements), and Enclosure 10 (Financial Statements for IP3) were not provided by PASNY to the County. While the County has attempted to locate them independently, it has not been able to acquire copies of any of these Enclosures thus far. These Enclosures also were not found by counsel for proposed intervenors Hendrick Hudson School District and the Town of Cortlandt after diligent search. Counsel for PASNY has stated that these Enclosures were not included in its filing but should be found attached to the filing submitted by Entergy. This statement contradicts the prior representation of PASNY Senior Vice President and Chief Nuclear Officer James Knubel in his May 11, 2000 letter in which he stated that Enclosures 6, 8, 9 and 10 were in fact annexed to the Application in a redacted version.

The County's difficulties in locating these Enclosures are further compounded by the NRC website. It is difficult to ascertain whose version of the application (PASNY or Entergy) has been posted to the website. In addition, parts of various Enclosures are separately located at

different locations on the website. The County has expended a significant amount of time trying to download or print out these documents without success.

The County is using all available means to acquire the Enclosures and Schedules and to acquire the other documents referenced in the Federal Register notice, including, the NRC's request for additional information and PASNY's reply. These attempts have met with limited success. As a result of the foregoing, the County will be unable to fully and completely evaluate the Application by July 18<sup>th</sup>.

**2. PASNY has failed to keep its promise to Westchester to keep it apprised of all aspects of the sale of IP3.**

When the issue of the possible sale of IP3 was first circulated, the County requested a meeting with PASNY. At that time, PASNY assured the County and its highest officials that they would be given adequate time to participate in all proceedings and would be informed when PASNY sought any regulatory approvals. Unfortunately, PASNY failed to keep its promise and the County received no such notification from PASNY. The County should not be precluded from participating in this important matter, nor should the County be penalized for PASNY's failure to apprise the County of this proceeding as promised. The County is concerned about the safety of the public that resides around Indian Point 3; it is concerned about the economic viability of the entities that are acquiring title to and will operate this facility; and it is concerned about the future operation of the plant and the eventual decommissioning and restoration of the premises for "unrestricted use". It is in the public's best interest that the County is allowed to intervene in a full and open hearing on all the issues, which cannot be fully identified unless complete information is provided.

**3. The Deadline for Hearing Requests and Petitions to Intervene Should be July 31<sup>st</sup>.**

It appears that the Commission did not post the Application on its website until June 16<sup>th</sup>. One reading of 10 CFR 2.1306 (c)(2) would require potential intervenors to have at least forty-five days, from the date of posting of the Application to the website, to file a petition and notice of intervention. That would result in the requisite Request for Hearing and Petition to Intervene being due no sooner than July 31, 2000. This period should be further extended if what was posted was not the complete Application.

**4. The Applicants will suffer no irreparable injury if the Extension is granted.**

The granting of an extension for a period of forty-five days to July 31<sup>st</sup>, assuming the County is provided with the information outlined above, will not result in any irreparable harm to the applicants. If any such harm were to result it would be due to the actions of the applicants and not the County. A stay would not adversely harm other participants. In fact, it would allow other parties, including the County of Westchester, the County of Putnam, the Town of Cortlandt and the Hendrick Hudson School District, all municipal entities that are directly affected by the proposed action before the Commission, to have an opportunity, however limited, to review the filings and prepare their Petitions.

In addition, the County is in receipt of the Order dated July 10, 2000 granting the Citizens Awareness Network, Inc. an extension of time within which to file its Petition to Intervene and Request for Hearing regarding this Application to July 31, 2000. Since the County is requesting the same extension, the granting of said extension will in no way prejudice the applicants.

In conclusion, it is interesting to note that the Commission required over six weeks to complete its review of the IP3 Application. Westchester, which has neither the resources nor staff with the same specialized experience in this field as the Commission, should not be required to undertake in three (3) days what took the Commission over six (6) weeks to accomplish. The July 18<sup>th</sup> deadline places an obviously undue burden on the County to review and respond to the Application in order to intervene in any hearing.

In view of the complex and potentially precedential nature of the proposed transaction, it is the obligation of the Commission to assure that the public is adequately represented at these proceedings. It is equally important that the public's representatives have sufficient time to review the material and submit their concerns. Even an extension to July 31<sup>st</sup> is putting undue pressure on the County to review and analyze the material. The County can only meet this deadline if PASNY and Entergy provide all outstanding information to the County in a timely manner, and certainly no later than Thursday, July 20th.

Therefore, I respectfully request, on behalf of the County of Westchester and the residents of Westchester, that under the authority granted to you pursuant to 10 CFR §2.1306 (c)(3), the Commission extend the deadline for the filing of Motions to Intervene and Hearing Requests to July 31, 2000.

Very truly yours,

Alan D. Scheinkman  
County Attorney

ADS/SMG:me

cc: Gerald C. Goldstein, Asst General Counsel, PASNY (goldstein.g@nypa.gov)  
Douglas Levanway, Wise, Carter, Child & Caraway (del@wisecarter.com)  
Steven Hom, Office of General Counsel, NRC (OGCLT@NRC.GOV)  
Emile Julian, NRC Rulemakings & Adjudications (elj@nrc.gov)

June 14, 2000

Mr. Michael R. Kansler  
Senior Vice President and  
Chief Operating Officer  
Entergy Nuclear Indian Point 3  
123 Main Street  
White Plains, NY 10601

Mr. James Knubel  
Chief Nuclear Officer  
Power Authority of the State  
of New York  
123 Main Street  
White Plains, NY 10601

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION REGARDING LICENSE  
TRANSFER APPLICATION - JAMES A. FITZPATRICK NUCLEAR POWER  
PLANT AND INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 (TAC NOS.  
MA8948 AND MA8949)

Dear Messrs. Kansler and Knubel:

The NRC staff has begun its review of your application dated May 12, 2000, for transfer of the operating licenses for the James A. FitzPatrick Nuclear Power Plant (FitzPatrick) and the Indian Point Nuclear Generating Unit No. 3 (IP3) from the Power Authority of the State of New York to Entergy Nuclear FitzPatrick and Entergy Nuclear IP3, respectively. In order to complete our review, we request that you provide responses to the enclosed questions. These questions were forwarded by email to Mr. John Kelly on June 9, 2000. We understand that you will provide your response by June 16, 2000.

Sincerely,

/RA/

George F. Wunder, Project Manager, Section 1  
Project Directorate 1  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-286

Enclosure: Request for additional information

cc w/encl: See next page

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## REQUEST FOR ADDITIONAL INFORMATION

1. On page 6 of the application you make reference to a letter of credit (LOC) "supported by Entergy Corporation" to provide capital to purchase FitzPatrick; however, there is no exhibit containing this LOC (as opposed to the LOC from Entergy Global Investments for \$20 million to provide working capital). Please provide a copy of this LOC.
2. On page 8 of the application you make reference to a \$50 million line of credit guarantee from Entergy International for other safety expenses. Please provide documentation of this line of credit. Please also provide clarification as to which plants this line of credit applies (i.e., FitzPatrick and IP3, not Pilgrim).
3. On page 14 of the application the stated decommissioning costs derived from § 50.75(c) for FitzPatrick don't agree with the status report you submitted in March 1999. Please provide more detail on the decommissioning cost and funding figures that you have presented, including a current calculation based on the NRC formulas.
4. In the Decommissioning Agreement for FitzPatrick (Exhibit O-1 to the Purchase and Sale Agreement), Section 2.1 states, "Pursuant to Section 2.4(j) of the P&S Agreement and subject to Seller's rights under Section 2.3 and Section 8, Seller has retained the obligation to Decommission JAF, which obligation shall be limited to the lesser of (a) the Inflation Adjusted Cost Amount or (b) the Decommissioning Fund Amount. Seller's obligations under this Section 2.1 shall be deemed satisfied if Seller expends in the aggregate the lesser of the following amounts for such Decommissioning: (a) the Inflation Adjusted Cost Amount or (b) the decommissioning Fund Amount."

In Section 2.3(e) of the Purchase and Sale Agreement, you state that the Buyer will assume and satisfy or perform any of the following liabilities which are not specifically Related to JAF or IP3 "... except to the extent excluded pursuant to Section 2.4(j), all liabilities of Seller in respect of (i) the Decommissioning of the Facilities following permanent cessation of operations..."

Similar language appears in the IP3 application.

- (a) To what extent will Entergy Nuclear-FitzPatrick and Entergy Nuclear-Indian Point 3 assume the financial and technical responsibility for decommissioning the plants? Under the proposed transfers when will the financial and technical responsibility for decommissioning be transferred from PASNY to Entergy Nuclear-FitzPatrick and Entergy Nuclear-Indian Point 3? Will the Buyers have exclusive authority and responsibility for selecting any contractors to perform decommissioning? When would they assume such authority and responsibility?
- (b) Following the proposed transfers will PASNY have responsibility for anything other than holding and disbursing funds in the decommissioning trust? Will PASNY in any way have responsibility or authority for performing and completing decommissioning work or for selecting other parties to do such work following the proposed transfers? If so, when?

Enclosure

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## News



Date: June 22, 2000

For Release: Immediate

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### **Entergy and Framatome Technologies Will Team To Provide License-Renewal Services**

Entergy Nuclear and Framatome Technologies have signed a Memorandum of Understanding to offer operating license-renewal services to nuclear power plants in the United States.

"This is an outstanding combination for nuclear power plant owners who need expert assistance in license renewal," said Randy Hutchinson, senior vice president of business development, Entergy Nuclear. "We will be offering Entergy's extensive knowledge as the second largest nuclear operator in the country along with Framatome's proven expertise, especially in pressurized water reactor (PWR) technology."

Ed Kane, Chief Engineer at Framatome Technologies, said, "The Entergy – Framatome Technologies team will add value at other plants through their depth of technical expertise, extensive experience, and dedication of resources."

Framatome Technologies has or is providing license-renewal services and engineering to a number of other nuclear utilities including all PWR types in the United States.

The nuclear businesses of Entergy Corporation are headquartered in Jackson, MS. Entergy, a global energy company based in New Orleans, is the third largest power generator in the nation with more than 30,000 megawatts of generating capacity, about \$11 billion in revenue and over 2.5 million customers. Entergy's nuclear businesses encompass five power reactors at four locations in AR, MS and LA under regulatory jurisdictions, and the Corporation is expanding into the competitive power market nationally by purchasing additional nuclear plants. Entergy purchased the Pilgrim Station, Plymouth, MA, in 1999, the first nuclear plant sale in a competitive bidding process, and has agreed to purchase the Indian Point 3, Westchester County, NY and FitzPatrick, Oswego County, NY, plants from the New York Power Authority in 2000. Entergy is also managing decommissioning activities at Maine Yankee, Wiscasset, ME, and Millstone Unit 1, Waterford, CT.

Framatome Technologies Group is a leading provider of products and services to U.S. commercial nuclear utilities, the Department of Energy, and other industries. The company offers a variety of advanced engineering, inspection, diagnostic and repair, and chemical and waste processing services, as well as advanced robotics, I&C systems, nuclear fuel services and nuclear-qualified spare parts.