STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Joint Petition of NorthStar Decommissioning)	Docket No. 8880
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., 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)	

NORTHSTAR'S LIMITED OBJECTION TO THE PUBLIC UTILITY COMMISSION'S PROPOSED RETENTION OF A CONSULTANT

NorthStar Decommissioning Holdings, LLC, NorthStar Nuclear Decommissioning Company, LLC, NorthStar Group Services, Inc., LVI Parent Corp., and NorthStar Group Holdings, LLC,. (together, "NorthStar") respectfully submit this limited objection to the Public Utility Commission's ("Commission") proposed retention of a consultant in this Docket. The Commission's October 30, 2017, Letter Regarding Retention of Consultant to Advise the Commission requires the Joint Petitioners to notify the Commission by November 9, 2017 "of any objection to such allocation of costs" for a consultant to assist the Commission with this Docket. Any allocation of costs incurred by a Commission consultant should occur after the Special Protocol vetting process and confirmation that the consultant will follow the protocols as set forth below. If these procedures are in place, NorthStar would have no objection.

NorthStar learned the proposed Consultant's identity the afternoon of November 8, 2017. Before the Commission retains a consultant, the Commission should first apply the protocols set forth in the Procedural Order On Motion For Special Confidentiality Protocols dated June 15, 2017

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("Protocol Order"). Specifically, if we applied the Protocol Order to the PUC consultant,

NorthStar would have 10 days to assess whether the prospective consultant's ability to access

NorthStar's highly confidential material (namely, the approximately 900-item pay item

disbursement schedule that the Commission has already approved for special treatment in this

Docket) will pose a risk of competitive harm to NorthStar or present bias:

To the extent that NorthStar believes access to the Disbursement Schedule by any expert or consulting expert should be precluded, NorthStar may, within 10 days of the filing of any such list, file an objection stating reasons why such expert or consulting expert should not have access to the Disbursement Schedule.

Protocol Order at 3. Upon making such a determination, NorthStar would submit an objection to

the Commission within the 10-day period if necessary. As NorthStar has explained, the

disbursement schedule document is particularly sensitive because it contains NorthStar's

proprietary approach to performing decommissioning and site restoration of a commercial nuclear

power plant; if disclosed to NorthStar's competitors in the industry, it would remove NorthStar's

competitive advantage

Any hired PUC consultant should also be required to follow the protocols as approved by

the PUC in its June 30, 2017 Procedural Order Re: Special Protocol For Protection of

Disbursement Schedule and Other Matters in terms of the procedures for maintaining the

confidentiality of the disbursement schedule ("Special Protocols").

The Vermont Supreme Court has described as "universally recognized" the principle that

"a person is entitled to a full and impartial hearing before a court that is not biased or prejudiced

against him." Emerson v. Hughes, 117 Vt. 270, 279 (1952). "This rule applies to an administrative

officer exercising quasi-judicial functions." Id. This principle applies with special force in the

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context of selecting a court- or agency-appointed non-testifying consultant or advisor. "[E]xperts

in the relevant field, particularly if it is a narrow and highly-specialized one, may be aligned with

one of the parties; therefore, the district court must make every effort to ensure the technical

advisor's neutrality, lest the advisor develop into, or give the appearance of being, an advocate for

one side." Association of Mexican-American Educators, 231 F.3d at 611 (Tashima, J., dissenting);

see also, e.g., Federal Trade Comm'n v. Enforma Natural Prods., Inc., 362 F.3d 1204, 1214 (9th

Cir. 2004) (adopting Judge Tashima's recommendation that process for retaining a non-testifying

consultant should include "address[ing] any allegations of bias, partiality, or lack of

qualification").

In sum, NorthStar respectfully requests the Commission to implement the Protocol Order

process before allocating any costs to Petitioners and executing a contract with a consultant, and

require any consultant to follow the requirements regarding confidentiality in the Special

Protocols.

DATED in Montpelier, Vermont, November 9, 2017

This document has been filed EPUC

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