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May 3, 2018

VIA ePUC

Ms. Judith C. Whitney
Clerk
Vermont Public Utility Commission
Peoples United Bank Building
112 State Street
Montpelier, VT 05620-2701

Re: Docket 8880: Joint Petition of 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. 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

Dear Ms. Whitney:

I write on behalf of Joint Petitioners in the above-captioned case to bring to the attention of the Public Utility Commission (“PUC”) and the parties a recent development concerning a condition of closing of the transaction proposed in this case. Such developments occasionally arise in complicated transactions like this one after PUC approval and before closing, and are resolved before closing. In this case, the timing is different, in that the issue has arisen shortly before the PUC’s evidentiary hearing. Joint Petitioners commit that any resolution of the issue will not remove or reduce any of the financial assurances in place under the March 2, 2018 memorandum of understanding (“MOU”); nonetheless, Joint Petitioners believe that the issue must be brought to the PUC’s and the parties’ attention now.

The closing condition, which has not been a focus of the Commission or any party in this case, is set forth in Section 8.1(d) of the Membership Interest Purchase and Sale Agreement (“MIPA”) (Attachment A.DPS.JP.1-12.1). Section 8.1(d) makes “[t]he receipt of a favorable Private Letter Ruling [from the Internal Revenue Service (‘IRS’)] in a form reasonably satisfactory to each of seller and purchaser” a condition of closing. A Private Letter Ruling would provide NorthStar certainty that, among other things, the transfer of indirect control of the Nuclear Decommissioning Trust (“NDT”) and the receipt of money damages from the Department of

Energy (“DOE”) for the Round Three Claim will not be treated as taxable income to NorthStar. Although NorthStar sought a Private Letter Ruling in October 2017, the IRS informed NorthStar by telephone on approximately April 11, 2018 that no ruling will be forthcoming, as the IRS now considers this a “no ruling” area. Since learning of this change in IRS ruling policy, Joint Petitioners have been diligently evaluating potential approaches to satisfy the intent of this closing condition in a manner that would allow them to proceed with the transaction closing. Joint Petitioners have identified and are currently focused on implementing an alternative potential approach that would provide NorthStar equivalent protection to that which would have been provided by a Private Letter Ruling.

This alternative approach, if implemented, would not reduce or remove any of the financial assurances required by the MOU. Moreover, this approach is not expected to require any change to the MOU or to the testimony prefiled by Joint Petitioners in this Docket. Instead, it would require only minor modifications to the MIPA and/or creation of a side agreement to the MIPA. Joint Petitioners will disclose and explain any such modifications as soon as they are determined and will respond promptly to questions (if any) about the modifications.

Joint Petitioners believe that it is most efficient to proceed with the evidentiary hearings as currently scheduled, with additional process to follow later, if necessary. That course is efficient because the parties and Commission have already prepared for the evidentiary hearings, and the unresolved issue is not expected to alter the MOU, and in any event, will not reduce or remove any of the financial assurances required by the MOU. The Commission’s review of the new modifications to the MIPA (and/or new side agreement) thus can occur, if necessary, in the context of a supplemental evidentiary hearing, and the Commission can withhold its final order in this Docket until after that supplemental evidentiary hearing. There is precedent for this procedure. *See, e.g., Petition of Vermont Gas Sys., Inc. for A Certificate of Pub. Good, Pursuant to 30 V.S.A. s 248, Authorizing the Constr. of the “Addison Natural Gas Project,”* Docket No. 7970, Procedural Order re: Supplemental Evidentiary Hearing, 2015 WL 7075350 (Vt. P.S.B. Nov. 2, 2015); *cf. Amended Petition of Entergy Nuclear Vermont Yankee, LLC, & Entergy Nuclear Operations, Inc., for Amendment of Their Certificate of Pub. Good & Other Approvals Required under 30 V.S.A. s 231(a) for Auth. to Continue After Mar. 12, 2012, Operation of the Vermont Yankee Nuclear Power Station, Including the Storage of Spent Nuclear Fuel,* Docket 7862, Order re: Reconsideration of Scheduling Order, 2012 WL 2946054 (Vt. P.S.B. July 13, 2012) (declining to reconsider order bifurcating evidentiary hearing).

Joint Petitioners respectfully suggest that the Commission may wish to hold a telephonic status conference at its earliest convenience so that all parties may be heard on the scheduling issue in advance of the commencement of the evidentiary hearing on May 10, 2018.

Respectfully submitted,



Sanford I. Weisburst

cc: Counsel of record (via ePUC)