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June 1, 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. On May 3, 2018, Joint Petitioners submitted a letter explaining that a development had arisen concerning a condition of closing of the transaction in this case, namely the Internal Revenue Service's ("IRS") issuance of a satisfactory private letter ruling ("PLR") to NorthStar concerning the tax treatment of the transaction and the project. Specifically, the IRS notified NorthStar in mid-April 2018 that the IRS would not issue the requested PLR. Joint Petitioners' May 3 letter explained that Joint Petitioners were working on an alternative approach that would provide NorthStar the comfort to waive this closing condition. The letter explained that the alternative approach would, if successfully negotiated, leave intact the March 2, 2018, memorandum of understanding ("MOU") and all financial assurances required by the MOU, and was not expected to require changes to any prefiled or hearing testimony in this docket. Subsequently, during a May 7, 2018, telephonic status conference, Joint Petitioners stated that their goal was to disclose the alternative approach by June 4, 2018, in time for the parties to address the issue in their post-hearing briefs due June 11, 2018, or to request any additional process a party may believe is warranted.

Joint Petitioners now provide this update to the PUC and the parties: Joint Petitioners are approaching finality, demonstrated by the near-final draft documents attached hereto, on the alternative approach that would allow NorthStar to waive the closing condition of receiving a satisfactory PLR. The remainder of the letter describes the alternative approach and those documents.

By way of background, the purpose of NorthStar's request to the IRS for a PLR was to assure NorthStar concerning certain tax issues presented by the transaction and NorthStar's post-transaction activities. Those issues included: (1) confirmation that NorthStar Decommissioning Holdings, LLC's ("NDH") acquisition of indirect ownership of the Nuclear Decommissioning Trust ("NDT") will not be treated as income to NDH, triggering income tax liability; and (2) confirmation that NorthStar Vermont Yankee, LLC's ("NorthStar VY") receipt of damages from the Round Three claim against the U.S. Department of Energy to recover spent-fuel-related expenses will not be treated as taxable income to NorthStar since the majority of those funds is expected ultimately to be transferred to Entergy.

Whereas a PLR from the IRS would have assured the NorthStar petitioners that no such taxes would be due, the Joint Petitioners' alternative approach would provide the NorthStar petitioners equivalent comfort by promising that, if such taxes are due, Entergy Nuclear Vermont Investment Company, LLC ("ENVIC") will indemnify the NorthStar petitioners against them (that is, ENVIC will pay for them). ENVIC's indemnification obligation will be guaranteed by Entergy Corporation. The specific terms of the Joint Petitioners' alternative approach are set forth in the draft Indemnity Agreement, which the parties expect to sign at or before closing. (A redacted copy of the draft Indemnity Agreement is attached hereto as Exhibit A.) This alternative approach does not alter the MOU, any of the financial assurances required by the MOU, or any of the pre-filed or hearing testimony in this docket.[1]

Beyond the signing of the Indemnity Agreement, the alternative approach contemplates the following: (1) revision of the Membership Interest Purchase and Sale Agreement ("MIPA") Section 1.3's provision that the transaction shall be treated for tax purposes as "a sale and purchase of all the assets, and an assumption of all the liabilities, of ENVY [*i.e.*, Entergy Nuclear Vermont Yankee, LLC]," Attachment A.DPS.JP-1.12 at EN-VYNDC 0002142; and (2) ENVY's transfer of certain excluded assets, such as the Governor Hunt House, to an Entergy affiliate earlier (*i.e.*, in June 2018) than ENVY had originally contemplated (*i.e.*, within twenty four hours of closing).

Joint Petitioners intend to modify MIPA Section 1.3's provision that the transaction shall be treated for tax purposes as a sale of assets. (A copy of a marked-up Section 1.3, and a corresponding deletion of the defined term "Allocation" from Section 1.11(12), is attached hereto as Exhibit B.) This change has no impact on the MOU, the financial assurances required by the MOU, or the prefiled or hearing testimony in this docket.

[1] Paragraph 1.a of the Indemnity Agreement refers to the "Qualified" tax status of the NDT. Generally, Joint Petitioners are evaluating whether it would be more advantageous to the decommissioning project to change the tax status of the NDT before closing. Such a change in tax status would not affect the MOU or any of the financial assurances required by the MOU.

Similarly, ENVY's transfer of the excluded assets to its affiliate earlier than originally contemplated has no impact on the MOU, the financial assurances required by the MOU, or the prefiled or hearing testimony in this docket.[2]

Thank you for your attention to this matter.

Respectfully submitted,

Sanford I. Weisburst

cc: Counsel of record (via ePUC)

[2] ENVY intends to make this transfer before the Public Utility Commission ("PUC") or the U.S. Nuclear Regulatory Commission approves the transaction. Joint Petitioners do not believe that there is any requirement for PUC approval of the transfer of the excluded assets from ENVY to an Entergy affiliate. 30 V.S.A. § 109(a) and (b) apply only to sales or leases, respectively, of "property actually used in or required for public service operations" and sales of "real property or transmission facilities located at that plant that are required or may be required to generate electricity, interconnect generation facilities with electric transmission facilities, or transmit electricity from the plant." Because the Vermont Yankee Nuclear Power Station ceased operations in 2014, these provisions do not apply, and accordingly Joint Petitioners did not seek any Section 109 approval in their Joint Petition in this docket.

EXHIBIT A

TAX INDEMNITY AGREEMENT

THIS TAX INDEMNITY AGREEMENT (this **"Agreement"**) is made and entered into as of this __th day of _____, 2018 (**"Effective Date"**), by and between ENTERGY CORPORATION (**"Entergy Corp."**), a Delaware Corporation, ENTERGY NUCLEAR VERMONT INVESTMENT COMPANY, LLC, a Delaware limited liability company (**"Seller**"), and ENTERGY NUCLEAR VERMONT YANKEE, LLC, a Delaware limited liability company (**"Target"**), NORTHSTAR DECOMMISSIONING HOLDINGS, LLC, a Delaware limited liability company (**"Purchaser"**), and NORTHSTAR GROUP HOLDINGS, LLC, a Delaware limited liability company (**"Parent 1"**) and _____(**"Parent 2"**)(Parent 1 and Parent 2 are collectively referred to as **"Parents"**). Entergy Corp., Seller, Target, Purchaser and Parents are referred to in this Agreement collectively as the **"Parties."** All terms not explicitly defined in this Indemnity Agreement have the same meaning as in the MEMBERSHIP INTEREST PURCHASE AND SALE AGREEMENT (**"MIPA"**), dated as of November 7, 2016 (including amendments and modifications thereto).

W I T N E S S E T H

WHEREAS, Parties entered into a MIPA, whereby Purchaser agreed to acquire 100% of the membership interests of Target from Seller (the **"Purchase Transaction").**

WHEREAS, Parties determined that certain tax issues resulting from the Purchased Transaction may not be resolved prior to the Closing Date.

****

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Indemnities.

a. Seller shall indemnify and hold harmless the Purchaser Indemnified Parties as well as the Target and the QDF after the Closing (collectively, the "**Indemnified Parties**") for any and all Taxes suffered, incurred, or sustained by the relevant Indemnified Party resulting from, arising out of or due to any of the following items (collectively, the **"Indemnified Items"**):

i. [redacted]

ii. All Taxes imposed on the Indemnified Parties resulting from a Final Determination that Target must recognize income when and if Target recovers any awards or damages in connection with the Third Round DOE Claim;

1. For purposes of calculating the Tax on this Indemnified Item, Target will take into account any existing tax basis in the Third Round DOE Claim and reduce the Tax by the effect of any corresponding allowable deduction relating to the payment of the Third Round DOE Claim to Seller.

iii. All Taxes imposed on Target resulting from a Final Determination that the Qualified Decommissioning Fund (**"QDF"**) is disqualified, in whole or in part, from application of section 468A of the Code by reason of and attributable to Purchaser's acquisition of all of the membership interests in Target.

iv. All Taxes imposed on the QDF resulting from the recognition of gain imposed on the QDF resulting from a Final Determination that Purchaser's acquisition of all of the membership interests in Target caused the QDF to recognize such gain.

v. All Taxes imposed on the QDF resulting from a change in the tax basis to the assets of the QDF resulting from a Final Determination that

Purchaser's acquisition of all of the membership interests in Target caused a reduction in the QDF's tax basis in its assets.

vi. All Taxes imposed on Target resulting from a Final Determination that any QDF distribution for ISFSI-related expenditures such as ISFSI operations and maintenance costs following the acquisition of the membership interests in Target, and any payments made by Target for interest incurred as a result of a transaction document following the acquisition, do not constitute "nuclear decommissioning costs" within the meaning of Treas. Reg. section 1.468A-1(b)(6).

vii. All Taxes imposed on Target resulting from a Final Determination that any withdrawals made from the QDF to reimburse for decommissioning costs (as that term is defined in Treas. Reg. section 1.468A-1(b)(6)) or to fund interest payments on the VYNPS ISFSI Note following the acquisition of the membership interests in Target constitute self-dealing within the meaning of sections 4951 and 468A(e)(5) of the Code. The Seller's obligations under this subparagraph vii. are contingent on the finalization of proposed regulations under section 468A of the Code (as published in Federal Register Vol. 81, No. 250, December 29, 2016) (as finalized the "**Final Revised 468A Regs.**") that Seller reasonably believes would not cause the withdrawals referenced in this paragraph (vii.) to constitute acts of self-dealing within the meaning of sections 468A or 4951 of the Code, such affirmative belief of no self-dealing to be certified in writing by Seller (the "**Seller Reg. Certification**") and provided to Purchaser prior to Closing as a condition to Purchaser's obligation to Close. For avoidance of doubt, amounts determined by a Final Determination to be "excessive" under section 4951(d)(2)(C) of the Code are not subject to this Indemnification Agreement. For the avoidance of doubt it is also understood that the Parties shall be under no affirmative obligation to proceed to Closing should Seller be unable to issue the Seller Reg. Certification, *provided, however,* that the Parties shall work together in good faith to agree to, and pursue, the QDF Termination as a path to

Closing should it appear that the Seller Reg. Certification cannot be provided by January 1, 2019.

2. Conditions to Obligations of Seller.

   a. [redacted]

   b. Seller shall have adequate time to review the pertinent parts of Indemnified Parties' tax returns, which will be redacted as reasonably necessary to protect Indemnified Party confidential information, prior to any filings with tax authorities. Purchaser will provide Seller notice of at least 45 days prior to filing any and all tax returns and shall provide Seller reasonable access to pertinent books, records, and personnel.

      Subject to the foregoing, neither Party (or its affiliates) shall be required to disclose to the other or to any agent or representative of the other Party (or its affiliates) any information if doing so could violate any contract to which the Party is a party, which such Party believes in good faith could result in the loss of the ability to assert a claim of privilege (including, without limitation, the attorney-client privilege or work product doctrine). Notwithstanding anything to the contrary set forth in this Tax Indemnity Agreement, neither Party (nor its affiliates) shall be required to disclose to the other or to any agent of representative of the other Party (or its affiliates) any information if doing so could violate any law to which the Party is subject. Neither Party shall use any information obtained pursuant to this Tax Indemnity Agreement for any purpose unrelated to this Tax Indemnity Agreement.

   c. Indemnified Parties will provide copies to Seller within five business days of communications from the IRS regarding any Indemnified Item.

   d. Seller, in its sole discretion, shall control all communications with the IRS regarding any and all Indemnified Items in a manner consistent with the Intended Tax Reporting Positions provided that Target shall be given copies of all such communications. All communication, if any, inconsistent with the Intended Tax Reporting Positions shall be prepared by mutual agreement of Seller and Target (Target's consent to not be unreasonably withheld).

e. Seller, in its sole discretion, shall control all settlements and litigation to the extent relating to Indemnified Items, but shall allow Parents to participate in all such proceedings (with the understanding that Parents shall be responsible for their own costs). Seller shall have the right to determine the venue for any and all proceedings involving an Indemnified Item, even if the proceeding includes items that are not Indemnified Items.

   i. Seller will be liable for all settlement and litigation costs related to the Indemnified Items.

   ii. Indemnified Parties shall give a power of attorney to the appropriate representatives of the Seller, as provided on IRS Form 2848, to effectuate the purposes of this condition.

3. Operating Terms.

   a. [redacted]

      i. [redacted]

      ii. [redacted]

   b. In no event shall any Indemnified Party be required to execute any affidavit or filing, or otherwise act, at the direction of Seller under penalties of perjury if Target provides an opinion of nationally recognized legal counsel that there is a substantial likelihood that the relevant Indemnified Party would be subject to criminal charges as a result of such cooperation.

   c. All payments under this Indemnity Agreement will be on a Net-Tax basis. The term **"Net-Tax Basis"** means that, in determining the amount of the payment

necessary to indemnify the Purchaser, (i) such amount will be increased by Taxes arising from the inclusion of all or any portion of the indemnification payment in taxable income of the Purchaser, and (ii) such amount will be reduced to the extent the Purchaser's Taxes are reduced on account of the Indemnified Item listed in Section 1.a. hereof, in the same tax year for which the subject indemnification payment relates. The timing of the payments with respect to this Section 3.c. shall be determined pursuant to Section 3.g. hereof.

d. To the extent there is a reduction in Purchaser's Taxes relating to an item for which an indemnification payment was made with respect to a prior tax year, and such reduction was not previously taken into account under paragraph 3.c., then Purchaser shall pay to Seller such reduction in accordance with paragraph 3.g. It is understood that the collective intent of paragraph 3.c., paragraph 3g., and this paragraph 3.d. is to address Purchaser's liquidity needs should there by an adverse Final Determination relating to any and all Indemnified Item, and to recognize that any corresponding tax benefit arising on a deferred basis as to such adverse Final Determination shall be paid as an offset to the prior indemnity payment by Purchaser to Seller only as, if, and when actually enjoyed.

e. Notices. Any notice or other communication provided for herein or given hereunder to a Party must be in writing and sent by (a) facsimile transmission, (b) electronic mail, (c) delivery in person, (d) first class mail, registered or certified, with postage prepaid or (e) Federal Express, UPS or other overnight courier of national reputation, addressed as follows: (a) if to Seller: [provide ETR's name, name of contact person, fax number and email address and a cc if ETR wishes a cc to go to anyone], and (b) if to Purchaser [same information as for ETR], or in either case to such other address with respect to a Party as such Party notifies the other in writing as above provided. Each such notice or communication will be effective (x) if given by facsimile, when the successful transmission of the facsimile is electronically confirmed, (y) if given by electronic mail, when electronic evidence of receipt is received, or (z) if given by any other means specified in the preceding sentence, upon delivery or refusal of delivery at the address specified in ____.

f. All amounts required to be paid hereunder shall be paid by wire transfer of United States dollars in immediately available funds (i) to Purchaser's account as specified by Purchaser in writing no later than at least three business days prior to the Closing Date, or (ii) to Seller's account as specified by Seller in writing no later than at least three business days prior to the Closing Date.

g. In the event payments are required hereunder, payments shall be made so that

   i. Seller timely pays to Purchaser all amounts described in paragraph 3.c., and

   ii. Purchaser timely pays to Seller all amounts described in paragraph 3.d., provided, however, that the total amount payable under this subparagraph 3.g.ii. shall not exceed amounts paid pursuant to subparagraph 3.g.i.

4. Guaranty.

   a. Entergy Corp. unconditionally, absolutely and irrevocably guarantees to Purchaser the prompt payment, in full, when due, of any payment obligations of Seller under this Agreement.

5. Waiver by Purchaser of Private Letter Ruling.

   a. [redacted]

6. Effectiveness; Governing Law.

   a. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

   b. Each of the Parties irrevocably and unconditionally agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by the other Party hereto or its successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, if the Delaware Court of Chancery

declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware).

c. Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the Contemplated Transactions in any court other than the aforesaid courts.

d. Each of the Parties hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (a) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this paragraph 4, (b) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) to the fullest extent permitted by the applicable Law, any claim that (i) the suit, action or proceeding in such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

e. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE CONTEMPLATED TRANSACTIONS.

7. Assignment.

a. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

8. Integration.

a. This Agreement contains the understanding of the Parties, and works in conjunction with the MIPA and other related agreements

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first set forth above.

Entergy Nuclear Vermont Investment Company, LLC

By: _____

Name: _____

Title: _____

Entergy Nuclear Vermont Yankee, LLC

By: _____

Name: _____

Title: _____

Entergy Corporation

By: _____

Name: _____

Title: _____

Northstar Decommissioning Holdings, LLC

By: _____

Name: _____

Title: _____

Northstar Group Holdings, LLC

By: _____

Name: _____

Title: _____

Northstar Parent 2

By: _____

Name: _____

Title: _____

EXHIBIT B

Section 1.3 Tax Treatment of Contemplated Transactions~~; Allocation of Purchase Price~~.

(a) The Parties agree that, for Income Tax purposes, the sale of the Membership Interests by Seller to Purchaser will be treated as a sale and purchase of all the equity of ENVY in the form of ~~said~~the Membership Interests~~assets, and an assumption of all the liabilities, of ENVY~~.

~~(b) Purchaser and Seller shall use their reasonable best efforts to jointly agree within one hundred eighty (180) days after the Closing Date to an allocation of the Purchase Price and the liabilities of ENVY deemed assumed by Purchaser for Income Tax purposes among the assets of ENVY that is consistent with the allocation methodology provided by section 1060 of the Code and the regulations promulgated thereunder (the "Allocation"). Notwithstanding the foregoing, in the event Purchaser and Seller cannot agree as to the Allocation, each Party shall be entitled to take its own position in any Tax Return, Tax proceeding or audit.~~

~~(c)~~(b) Purchaser and Seller shall treat the transaction contemplated by this Agreement as the acquisition by Purchaser of stock of a corporation~~assets~~ for Income Tax purposes and agree that no portion of the consideration shall be treated in whole or in part as the payment for services or future services.

~~(d)~~(c) Notwithstanding anything to the contrary herein, the Parties and each of their respective Affiliates shall be entitled to take all actions required to comply with a Final Determination applicable to the Income Tax treatment of the transactions contemplated by this Agreement even if inconsistent with the Income Tax treatment described in this Section 1.3.

ARTICLE 2

THE CLOSING

Section 2.1 Closing. The closing of the purchase and sale of the Membership Interests (the "Closing") shall take place (a) at the offices of Skadden, Arps, Slate, Meagher & Flom LLP at 1440 New York Avenue, N.W., Washington, D.C. at 10:00 a.m. (local time) no later than the twentieth (20th) Business Day following the satisfaction or waiver of the conditions set forth in Article 8 (other than the conditions in Section 8.2(f), and Section 8.3(d), and those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions on or before the Closing Date) or (b) at such other place, date and time as the Parties may agree in writing (the day on which the Closing takes place being, the "Closing Date"). For purposes of this Agreement, the effective time of the Closing shall be deemed to be 12:01 a.m. Eastern time on the Closing Date.

Section 2.2 Closing Deliveries by Seller to Purchaser. At the Closing, Seller will deliver, or cause to be delivered, the following to Purchaser:

(a) All Transaction Documents duly executed by ENVY, Seller or Affiliate of Seller, as applicable;

(5) "Adjustment Payment" has the meaning set forth in Section 6.8(g)(iii).

(6) "Adjustment Statement" has the meaning set forth in Section 6.8(g)(i).

(7) "Adjustment Valuation Report has the meaning set forth in Section 6.8(g)(i).

(8) "Adverse Development" has the meaning set forth in Section 6.15(a).

(9) "Affiliate" has the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Exchange Act.

(10) "Affiliate Agreements" has the meaning set forth in Section 6.11(a).

(11) "Agreement" has the meaning set forth in the preamble.

(12) ~~"Allocation" has the meaning set forth in Section 1.3(b).~~

(13) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended.

(14) "Bankruptcy and Equity Exception" has the meaning set forth in Section 3.3.

(15) "Beneficial Interest" has the meaning set forth in Section 6.6(a).

(16) "Benefit Plan" has the meaning set forth in Section 4.15(a).

(17) "Business Day" means any day other than Saturday, Sunday and any day on which banking institutions in the State of New York are authorized by Law or other Governmental Order to close.

(18) "Byproduct Material" means any radioactive material (except Special Nuclear Material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing Special Nuclear Material.

(19) "Cap" has the meaning set forth in Section 9.3(b).

(20) "Cause" means (i) the willful and continuing failure by a Transferred Employee to substantially perform his or her duties (other than such failure resulting from the Transferred Employee's incapacity due to physical or mental illness); provided that any such failure has not been cured by the Transferred Employee within thirty (30) days after a written demand for substantial performance is delivered to the Transferred Employee by Purchaser, which demand specifically identifies the manner in which the Purchaser believes that the Transferred Employee has not substantially performed; (ii) the willful engaging by the Transferred Employee in conduct which is demonstrably and materially injurious to any Purchaser Party, monetarily or otherwise; (iii) a Transferred Employee's conviction of or entrance of a plea of guilty or nolo contendere to a felony or other crime which has or may have a material adverse effect on the Transferred Employee's ability to carry out his or her duties or