



Entergy Nuclear Operations, Inc.
1340 Echelon Parkway
Jackson, MS 39213
Tel: (601)368-5000

Mandy K. Halter
Director, Nuclear Licensing

BVY 18-044

December 7, 2018

Mr. Ho Nieh, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Notification of Amendment to Decommissioning Trust Agreement
Vermont Yankee Nuclear Power Station
Docket No. 50-271 & 72-59
License No. DPR-28

REFERENCES:

1. Letter, Entergy Nuclear Operations, Inc. to USNRC, "Application for Order Consenting to Direct and Indirect Transfers of Control of Licenses and Approving Conforming License Amendment and Notification of Amendment to Decommissioning Trust Agreement," BVY 17-005, dated February 9, 2017 (ML17045A140)
2. Settlement Agreement between Entergy Nuclear Vermont Yankee, LLC; Entergy Nuclear Vermont Investment Company, LLC; Entergy Nuclear Operations, Inc.; NorthStar Decommissioning Holdings, LLC; NorthStar Group Holdings, LLC; NorthStar Nuclear Decommissioning Company, LLC; NorthStar Group Services, Inc.; LVI Parent Corp.; the Vermont Department of Public Service; the Vermont Agency of Natural Resources; the Vermont Department of Health; the Elnu Abenaki Tribe; the Abenaki Nation of Missisquoi; Windham Regional Commission; the New England Coalition on Nuclear Pollution, Inc.; and the Town of Vernon Planning and Economic Development Commission, and as to certain provisions, the Vermont Attorney General's Office, dated March 2, 2018 (ML18066A735).
3. Letter, USNRC to Entergy Nuclear Operations, Inc., "Order Approving Transfer of the License for the Vermont Yankee Nuclear Power Station and Conforming License Amendment (EPID# L-2017-LLM-0002)", dated October 11, 2018 (package at ML18242A638)

4. Vermont Public Utility Commission, "Order Approving Acquisition of Entergy Nuclear Vermont Yankee, Inc. by NorthStar Decommissioning Holdings, LLC and Granting Other Requests Subject to Memorandum of Understanding," dated December 6, 2018 (available at https://puc.vermont.gov/sites/psbnew/files/doc_library/8880%20Final%20Order.pdf)

Dear Mr. Nieh:

Vermont Yankee Nuclear Power Station (VYNPS) Renewed Facility License Condition 3.J.a.(iv) requires that the VYNPS decommissioning trust agreement provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation (NRR). In accordance with Condition 3.J.a.(iv), Section 9.05(d) of the Master Decommissioning Trust Agreement by and between Entergy Nuclear Vermont Yankee, LLC (ENVY) and The Bank of New York Mellon, successor by operation of law to Mellon Bank, N.A. as Trustee, states:

Notwithstanding anything in this Section 9.05 to the contrary, this Agreement cannot be amended in any material respect without (30) days' prior written notice to the NRR Director; provided, however, that if the Company receives prior written notice of objection from either the NRR Director or the Nuclear Safety Director, as appropriate, no such material amendment, modification or alteration shall be made.

By letter dated February 9, 2017, Entergy Nuclear Operations, Inc. (ENOI), on behalf of itself, ENVY (to be known as "NorthStar Vermont Yankee, LLC"), and NorthStar Nuclear Decommissioning Company, LLC (together, "Applicants"), submitted an application requesting that the U.S. Nuclear Regulatory Commission (NRC) consent to direct and indirect transfers of control of ENOI's and ENVY's Renewed Facility Operating License No. DPR-28 for VYNPS, as well as the general license for the VYNPS Independent Spent Fuel Storage Installation ("Application") (Reference 1). In connection with the proposed license transfers, the Applicants also proposed certain amendments to the VYNPS Master Decommissioning Trust Agreement. The proposed form of those amendments was included as Enclosure 5 to the Application, and the February 9, 2017 letter provided the NRR Director with the notification required by License Condition 3.J.a.(iv) and Section 9.05(d) of the Master Decommissioning Trust Agreement.

On March 2, 2018, the Applicants entered into a Settlement Agreement with the majority of the parties to the proceeding in Docket No. 8880 before the Vermont Public Utility Commission (PUC) (Reference 2). Pursuant to Paragraph 6 of the Settlement Agreement, the Applicants agreed that, if the PUC issued an order approving the proposed transaction and permitting the contribution of the VYNPS Site Restoration Trust assets into a segregated sub-account of the decommissioning trust, the site restoration sub-account would be subject to certain restrictions. For example, the Applicants agreed that the State of Vermont would be designated as a material beneficiary of the site restoration sub-account and that the Vermont Department of Public Service would have a period of 30 calendar days to review and object to any requests for disbursement from the sub-account.

On October 11, 2018, the NRC issued an Order approving the Application and conforming license amendment and a Safety Evaluation related to the Application (Reference 3).

On December 6, 2018, the PUC issued an order that, among other things, approves the proposed acquisition of ENVY by NorthStar Decommissioning Holdings, LLC and permits the contribution of the VYNPS Site Restoration Trust assets into a segregated sub-account of the decommissioning trust

(Reference 4). In accordance with, and to implement the commitments made in, Paragraph 6 of the Settlement Agreement, the Applicants are proposing additional amendments to the Master Decommissioning Trust Agreement. Pursuant to License Condition 3.J.a.(iv) and Section 9.05(d) of the Master Decommissioning Trust Agreement, this letter provides notification of these additional proposed amendments. The proposed form of the amendment is provided as Attachment 1 to this letter. A marked version of the proposed form of amendment, which shows the additional proposed changes against the proposed amendment provided as Enclosure 5 to the Application, is provided as Attachment 2 to this letter.

Should you have any questions concerning this letter or require additional information, please contact Mr. Tom Silko at (802) 451-3166.

Sincerely,



MKH/shr

- Attachments: 1. Amendment to Master Decommissioning Trust Agreement
2. Amendment to Master Decommissioning Trust Agreement (Markup)

cc:

Mr. David C. Lew
Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
2100 Renaissance Blvd, Suite 100
King of Prussia, PA 19406-2713

Mr. Jack D. Parrott, Sr. Project Manager
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Mail Stop T-5A10
Washington, DC 20555

Ms. June Tierney, Commissioner
Vermont Department of Public Service
112 State Street – Drawer 20
Montpelier, Vermont 05602-2601

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Attachment 1

Vermont Yankee Nuclear Power Station
Amendment to Master Decommissioning Trust Agreement

FIRST AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT

FIRST AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT dated as of _____, 2018 (“First Amendment”) by and between ENTERGY NUCLEAR VERMONT YANKEE, LLC, a Delaware limited liability company (the “Company”), and THE BANK OF NEW YORK MELLON, a national banking association having trust powers, as Trustee (the “Trustee”).

WHEREAS, with respect to the Decommissioning of the Vermont Yankee Nuclear Power Station (NRC Operating License No. DPR-28) (the “Station”), the Company has a beneficial interest in the Master Decommissioning Trust (the “Master Trust”) operating under the Master Decommissioning Trust Agreement dated July 31, 2002 between the Company and the Trustee (the “Master Trust Agreement”);

WHEREAS, pursuant to a Site Restoration Trust Agreement dated April 24, 2014 between the Company and the Trustee (“Site Restoration Trust Agreement”), the Company established a Trust for the purposes of Site Restoration of the Station’s Site for purposes of creating and maintaining a potential source of funding to provide for the costs associated with Site Restoration at the Site as required by a final order of the Vermont Public Service Board (“PSB”) issued in Docket No. 7862;

WHEREAS, Section 4.05 of the Site Restoration Trust Agreement provides that the Company may request disbursements from Trust established by the Site Restoration Trust Agreement other than for payment of Site Restoration Costs, Administrative Expenses, Fees or Termination, provided that “in such other case the Company shall have received the approval for such disbursement or payment from the PSB . . . and the Trustee shall have received a copy of such approval prior to initiating disbursement”;

WHEREAS, the Company has sought and obtained the approval of the PSB to disburse all of the remaining liquidated assets of the Trust established by the Site Restoration Trust Agreement to the Company, provided that the Company contributes those funds pursuant to Section 3.01 of the Master Trust Agreement to segregated subaccounts within the Qualified Fund and/or the Nonqualified Fund in the Master Trust, subject to the additional terms of the Master Trust Agreement provided for here;

WHEREAS, the Company has provided a copy of such PSB approval to the Trustee;

WHEREAS, Section 2.05 of the Master Trust Agreement provides that the Master Trust shall be divided into the Qualified Fund and the Nonqualified Fund for the Station and each Fund may have subaccounts as the Company from time to time shall specify;

WHEREAS, the Company desires to designate segregated subaccounts within the Qualified Fund and Nonqualified Fund for Site Restoration pursuant to the additional terms of the Master Trust provided for herein;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Master Trust Agreement may be amended, modified or altered for any purpose requested by the Company so long as such amendment, modification or alteration does not affect the use of the assets of any Funds to pay the costs of Decommissioning;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that any alteration, amendment or modification of the Master Trust Agreement or an exhibit thereto must be in writing and signed by the Company and the Trustee;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Trustee shall execute such alteration, modification or amendment required to be executed by it but shall have no duty to inquire or make any investigation as to whether any amendment, modification or alteration is consistent with said Section 9.05; and

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Master Trust Agreement may not be amended in any material respect without thirty (30) days' prior written notice to the NRR Director of the NRC; provided, however, that if the Company receives prior written notice of objection from either the NRR Director or Nuclear Safety Director, as appropriate, no such material amendment, modification or alternation shall be made;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and the Trustee hereby agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Master Trust Agreement. Capitalized terms not defined in the Master Trust Agreement shall have the meanings ascribed to them in the Site Restoration Trust Agreement.
2. The Master Trust Agreement is amended as follows:
 - (a) Section 2.02(b) is amended by adding the following at the end of the clause:

“and establishes the Site Restoration Subaccount Q within the Qualified Fund and the Site Restoration Subaccount NQ within the Nonqualified Fund”
 - (b) Section 3.01 is hereby amended by adding the following sentence at the end of the section:

“The Company may designate that any Contributions or part thereof are to be credited to a specified Fund or specified subaccount within a specified Fund.”
 - (c) Section 4.01 is hereby amended by designating the existing terms of Section 4.01 as subsection “(a),” substituting “Except as provided in subsection (b) and in” for “In” at the beginning of subsection “(a),” and adding a subsection “(b)” as follows:

“(b) With respect to the Site Restoration Subaccount Q and Site Restoration Subaccount NQ, the Company shall initiate disbursements from the Trust for incurred costs, liabilities and expenses of Site Restoration by presenting to the Trustee a Site Restoration Certificate (in the form attached hereto as Exhibit B). For the initial Site Restoration Certificate requesting the initial disbursement from the Trust, and for every Site Restoration Certificate requesting a disbursement from the Trust where the Company is the payee, the Company shall first present the Site Restoration Certificate to the Vermont Public Service Department (“PSD”) which shall have a period of thirty (30) calendar days from receipt of the Site Restoration Certificate to object to the requested disbursement in writing pursuant to the notice provisions in Section 9.04. If no such written objection is made, after expiration of the 30-day waiting period, the Company shall present the Trustee with the Site Restoration Certificate and the Trustee shall make payment out of the Trust for the requested disbursement. Such notice to, and opportunity to object by, the PSD shall not be required for subsequent Site Restoration Certificates other than Site Restoration Certificates where the Company is the payee. For disbursements requiring notice to the PSD, the Site Restoration Certificate shall include the following paragraph, as the second paragraph: “The undersigned Authorized Representative further certifies that a copy of this Certificate and reasonably requested supporting documentation and information were provided to the Vermont Public Service Department (“PSD”) at least thirty (30) days before this Certificate was provided to the Trustee, and the Authorized Representative is aware of no objection by the PSD to the payment requested herein.” The Trustee shall make payments from the Trust (i) for administrative expenses related to services authorized by the Company with respect to the Site Restoration Subaccount Q and Site Restoration Subaccount NQ, or for a proportionate share of the general administrative expenses of the Master Trust, pursuant to Section 4.02, or (ii) upon receipt of a Site Restoration Certificate in accordance with this paragraph. If the assets of any subaccount are insufficient to permit the payment in full of amounts to be paid pursuant to a Site Restoration Certificate, the Trustee shall have no liability with respect to such insufficiency and no obligation to use its own funds to pay the same. The State of Vermont shall be, and hereby, is designated as a material beneficiary of the Site Restoration Subaccount Q and Site Restoration Subaccount NQ until Site Restoration is completed.”

(d) Section 4.06 is hereby amended by adding the following sentence at the end of the Section:

“In addition, the Trustee shall have received a copy of such approval prior to initiating disbursement or payment from the Trust.”

3. This First Amendment shall bind and inure to the benefit of the Company and the Trustee and their assigns, transferees and successors.

4. This First Amendment and all questions pertaining to its validity, construction and administration shall be determined in accordance with the internal substantive laws (and not the choice of law rules) of the Commonwealth of Pennsylvania to the extent not superseded by Federal law.

5. This First Amendment may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument. The Company and the Trustee hereby represent and warrant to the other that it has full authority to enter into this First Amendment on the terms and conditions hereof and that the individual executing this First Amendment on its behalf has the requisite authority to bind such party.

IN WITNESS WHEREOF, the Company and the Trustee have set their hands and seals to this First Amendment as of the day and year first above written.

ENTERGY NUCLEAR VERMONT
YANKEE, LLC

By: _____

BANK OF NEW YORK MELLON,
as Trustee

By: _____

Attachment 2

Vermont Yankee Nuclear Power Station

Amendment to Master Decommissioning Trust Agreement (Markup)

FIRST AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT

FIRST AMENDMENT TO MASTER DECOMMISSIONING TRUST AGREEMENT dated as of _____, [~~201~~]2018 (“First Amendment”) by and between ENTERGY NUCLEAR VERMONT YANKEE, LLC, a Delaware limited liability company (the “Company”), and THE BANK OF NEW YORK MELLON, a national banking association having trust powers, as Trustee (the “Trustee”).

WHEREAS, with respect to the Decommissioning of the Vermont Yankee Nuclear Power Station (NRC Operating License No. DPR-28) (the “Station”), the Company has a beneficial interest in the Master Decommissioning Trust (the “Master Trust”) operating under the Master Decommissioning Trust Agreement dated July 31, 2002 between the Company and the Trustee (the “Master Trust Agreement”);

WHEREAS, pursuant to a Site Restoration Trust Agreement dated April 24, 2014 between the Company and the Trustee (“Site Restoration Trust Agreement”), the Company established a Trust for the purposes of Site Restoration of the Station’s Site for purposes of creating and maintaining a potential source of funding to provide for the costs associated with Site Restoration at the Site as required by a final order of the Vermont Public Service Board (“PSB”) issued in Docket No. 7862;

WHEREAS, Section 4.05 of the Site Restoration Trust Agreement provides that the Company may request disbursements from Trust established by the Site Restoration Trust Agreement other than for payment of Site Restoration Costs, Administrative Expenses, Fees or Termination, provided that “in such other case the Company shall have received the approval for such disbursement or payment from the PSB . . . and the Trustee shall have received a copy of such approval prior to initiating disbursement”;

WHEREAS, the Company has sought and obtained the approval of the PSB to disburse all of the remaining liquidated assets of the Trust established by the Site Restoration Trust Agreement to the Company, provided that the Company contributes those funds pursuant to Section 3.01 of the Master Trust Agreement to segregated subaccounts within the Qualified Fund and/or the Nonqualified Fund in the Master Trust, subject to the additional terms of the Master Trust Agreement provided for here;

WHEREAS, the Company has provided a copy of such PSB approval to the Trustee;

WHEREAS, Section 2.05 of the Master Trust Agreement provides that the Master Trust shall be divided into the Qualified Fund and the Nonqualified Fund for the Station and each Fund may have subaccounts as the Company from time to time shall specify;

WHEREAS, the Company desires to designate segregated subaccounts within the Qualified Fund and Nonqualified Fund for Site Restoration pursuant to the additional terms of the Master Trust provided for herein;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Master Trust Agreement may be amended, modified or altered for any purpose requested by the Company so long as such amendment, modification or alteration does not affect the use of the assets of any Funds to pay the costs of Decommissioning;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that any alteration, amendment or modification of the Master Trust Agreement or an exhibit thereto must be in writing and signed by the Company and the Trustee;

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Trustee shall execute such alteration, modification or amendment required to be executed by it but shall have no duty to inquire or make any investigation as to whether any amendment, modification or alteration is consistent with said Section 9.05; and

WHEREAS, Section 9.05 of the Master Trust Agreement provides that the Master Trust Agreement may not be amended in any material respect without thirty (30) days' prior written notice to the NRR Director of the NRC; provided, however, that if the Company receives prior written notice of objection from either the NRR Director or Nuclear Safety Director, as appropriate, no such material amendment, modification or alternation shall be made;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and the Trustee hereby agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Master Trust Agreement. Capitalized terms not defined in the Master Trust Agreement shall have the meanings ascribed to them in the Site Restoration Trust Agreement.

2. The Master Trust Agreement is amended as follows:

(a) Section 2.02(b) is amended by adding the following at the end of the clause:

“and establishes the Site Restoration Subaccount Q within the Qualified Fund and the Site Restoration Subaccount NQ within the Nonqualified Fund”

(b) Section 3.01 is hereby amended by adding the following sentence at the end of the section:

“The Company may designate that any Contributions or part thereof are to be credited to a specified Fund or specified subaccount within a specified Fund.”

(c) Section 4.01 is hereby amended by designating the existing terms of Section 4.01 as subsection “(a),” substituting “Except as provided in subsection (b) and in” for “In” at the beginning of subsection “(a),” and adding a subsection “(b)” as follows:

“(b) With respect to the Site Restoration Subaccount Q and Site Restoration Subaccount NQ, the Company shall initiate disbursements from the Trust for incurred costs, liabilities and expenses of Site Restoration by presenting to the Trustee a Site Restoration Certificate (in the form attached hereto as Exhibit B). For the initial Site Restoration Certificate requesting the initial disbursement from the Trust, and for every Site Restoration Certificate requesting a disbursement from the Trust where the Company is the payee, the Company shall first present the Site Restoration Certificate to the Vermont Public Service Department (“PSD”) which shall have a period of [~~14~~]thirty (30) calendar days from receipt of the Site Restoration Certificate to object to the requested disbursement in writing pursuant to the notice provisions in Section 9.04. If no such written objection is made, after expiration of the [~~14~~]30-day waiting period, the Company shall present the Trustee with the Site Restoration Certificate and the Trustee shall make payment out of the Trust for the requested disbursement. Such notice to, and opportunity to object by, the PSD shall not be required for subsequent Site Restoration Certificates other than Site Restoration Certificates where the Company is the payee. For disbursements requiring notice to the PSD, the Site Restoration Certificate shall include the following paragraph, as the second paragraph: “The undersigned Authorized Representative further certifies that a copy of this Certificate and reasonably requested supporting documentation and information were provided to the Vermont Public Service Department (“PSD”) at least [~~fourteen~~]thirty (~~14~~]30) days before this Certificate was provided to the Trustee, and the Authorized Representative is aware of no objection by the PSD to the payment requested herein.” The Trustee shall make payments from the Trust (i) for administrative expenses related to services authorized by the Company with respect to the Site Restoration Subaccount Q and Site Restoration Subaccount NQ, or for a proportionate share of the general administrative expenses of the Master Trust, pursuant to Section 4.02, or (ii) upon receipt of a Site Restoration Certificate in accordance with this paragraph. If the assets of any subaccount are insufficient to permit the payment in full of amounts to be paid pursuant to a Site Restoration Certificate, the Trustee shall have no liability with respect to such insufficiency and no obligation to use its own funds to pay the same. The State of Vermont shall be, and hereby, is designated as a material beneficiary of the Site Restoration Subaccount Q and Site Restoration Subaccount NQ until Site Restoration is completed.”

(d) Section 4.06 is hereby amended by adding the following sentence at the end of the Section:

“In addition, the Trustee shall have received a copy of such approval prior to initiating disbursement or payment from the Trust.”

3. This First Amendment shall bind and inure to the benefit of the Company and the Trustee and their assigns, transferees and successors.
4. This First Amendment and all questions pertaining to its validity, construction and administration shall be determined in accordance with the internal substantive laws (and not the choice of law rules) of the Commonwealth of Pennsylvania to the extent not superseded by Federal law.

5. This First Amendment may be executed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument. The Company and the Trustee hereby represent and warrant to the other that it has full authority to enter into this First Amendment on the terms and conditions hereof and that the individual executing this First Amendment on its behalf has the requisite authority to bind such party.

IN WITNESS WHEREOF, the Company and the Trustee have set their hands and seals to this First Amendment as of the day and year first above written.

ENTERGY NUCLEAR VERMONT
YANKEE, LLC

By: _____

BANK OF NEW YORK
MELLON[~~BANK, N.A.~~], as Trustee

By: _____