RESPONSE OF ENTERGY NUCLEAR VERMONT YANKEE, LLC, AND ENTERGY NUCLEAR OPERATIONS, INC., TO THE WINDHAM REGIONAL COMMISSION’S REBUTTAL DISCOVERY REQUESTS

This is the response of Entergy Nuclear Vermont Yankee, LLC (“ENVY”), and Entergy Nuclear Operations, Inc. (“ENO”), (ENVY and ENO will be referred to collectively as “Entergy VY”) to the Windham Regional Commission’s (“WRC”) Third Set of Information Requests. Entergy VY is filing one complete copy of their responses with the Board, with two copies served on WRC (plus an electronic copy) and one copy served on each other party of record.

GENERAL OBJECTIONS:

1. Entergy VY objects to any request for information or production of documents that is or are subject to the attorney-client privilege, constitute work product, are protected under state or federal law, are proprietary or confidential, constitute draft and/or non final documents and/or constitute communications containing or concerning same. Consistent with the foregoing, Entergy VY has not provided any such documents, including, without limitation, documents from inside or outside counsels’ files.

2. Entergy VY objects to requests that seek information concerning matters of plant operation and/or radiological safety matters subject to regulation by the NRC that, due to federal preemption, are not subject to regulation by the State of Vermont. A fuller description of the reasons and bases for this objection is contained in Entergy VY’s Motion for a Declaratory Ruling Prescribing Scope of Proceeding, filed June 21, 2012 (and Entergy VY’s Reply Brief filed on August 6, 2012) and in Entergy VY’s Objection to Admission of Prefiled Direct Testimony and Exhibits Submitted on Behalf of the Department of Public Service, Conservation Law Foundation, and New England Coalition, filed on November 21, 2012 (and Entergy VY’s Reply Brief filed on January 4, 2013).

3. Entergy VY objects to requests that are overbroad or unduly burdensome to the extent that they (a) are cumulative; (b) call for the production of documents not in the possession, custody or control of Entergy VY or their expert witnesses; (c) call for the review, compilation or production of publicly-available documents that could be obtained by the requesting party in a less burdensome manner, including on a public website; or (d) call for the review, compilation
and/or production of documents already in WRC’s possession, custody or control; or (e) call for the review, compilation and/or production of a voluminous number of documents, e.g., of questionable relevance and/or at a significant expense. Consistent with the foregoing, Entergy VY shall not undertake to produce any such documents unless expressly stated to the contrary.

4. Entergy VY objects to any requests for documents or information beyond the scope of this tribunal’s jurisdiction, including without limitation to the extent that (a) primary jurisdiction rests more properly with, and/or actually has been exercised by, another agency or tribunal; or (b) the document, legal issue or factual information in question has been otherwise determined by another agency or tribunal of competent jurisdiction.

5. Each of these General Objections shall be incorporated by reference into the below-referenced objections and responses as if expressly restated therein. Entergy VY does not hereby waive any objections and reserves the right to later raise any additional, available objection.
Q.WRC:EN.3-1: Mr. Perito stated that he is the Senior Vice President and Chief Operating Officer for Entergy Nuclear Operations, Inc. (Rebuttal Testimony, March 15, 2013, page 1, answer 2).

a. Please identify all the officers of Entergy Nuclear Operations.

b. Please list any other Entergy entities in which the individuals identified above hold a position as an officer.

A.WRC:EN.3-1: Objection. Entergy VY objects to the extent this request asks for information concerning the relationships of these individuals to other Entergy subsidiaries on the grounds that the request is vague and ambiguous. Entergy VY further objects to this request to the extent that it seeks information for Entergy subsidiaries that are not Entergy Nuclear Vermont Yankee, LLC, or the direct or indirect parents of Entergy Nuclear Operations, Inc., or Entergy Nuclear Vermont Yankee, LLC, on the grounds that the information is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving any objection, Entergy VY responds: The officers of Entergy Nuclear Operations, Inc. are as follows:

Jeffrey S. Forbes, President and Chief Executive Officer
Michael A. Balduzzi, Senior Vice President, Nuclear Technical Services
Marcus V. Brown, Senior Vice President and General Counsel
Timothy G. Mitchell, Senior Vice President and Chief Operating Officer
Michael Perito, Senior Vice President and Chief Operating Officer
Stephen J. Bethay, Vice President, Oversight
Michael J. Colomb, Vice President, Operations-FitzPatrick
Wanda C. Curry, Vice President, Chief Financial Officer-Nuclear Operations
Fred R. Dacimo, Vice President-License Renewal
James R. Douet, Vice President, Business Development
Clifford Eubanks, Vice President-Project Management
Oscar Limpia, Vice President, Operations-Cooper
William F. McGuire, Vice President, Operations Support
John F. McCann, Vice President, Nuclear Safety, Emergency Planning & Licensing
Steven C. McNeal, Vice President and Treasurer
Joseph E. Pollock, Vice President, Operations
Robert G. Smith, Vice President, Operations-Pilgrim
Jay K. Thayer, Vice President, Engineering
Kenneth Theobalds, Vice President, Governmental Affairs
T. Michael Twomey, Vice President, External Affairs
John A. Ventosa, Vice President, Operations-Indian Point Energy Center
Anthony J. Vitale, Vice President Operations-Palisades
Christopher J. Wamser, Vice President Operations-Vermont Yankee
Daniel T. Falstad, Secretary
Joseph A. Aluise, Assistant Secretary
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<th>Name</th>
<th>Entergy Subsidiary and Position Held</th>
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<tr>
<td>Jeffrey S. Forbes</td>
<td>Entergy Nuclear Vermont Yankee, LLC</td>
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<td>T. Michael Twomey</td>
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<td>• Vice President, External Affairs</td>
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<td>Christopher J. Wamser</td>
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<td>Paul J. Wichers, Jr.</td>
<td>Entergy Nuclear Vermont Yankee, LLC</td>
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Person Responsible for Response:  T. Michael Twomey  
Title:  Vice President, External Affairs  
Date:  April 10, 2013
Q.WRC:EN.3-2: Mr. Perito stated that “There have been some nuclear plants in the United States that resumed operation after extended shutdowns, but their circumstances are quite different from the situation for the VY Station. For example, the Brunswick 1 & 2 nuclear facilities and the Davis Beese facilities restarted after lengthy shutdowns, but those facilities were owned and operated by regulated utilities that had other sources of revenue to sustain them economically during the shutdowns. The Browns Ferry nuclear facility also restarted after a lengthy shutdown, but it was owned and operated by the Tennessee Valley Authority, a U.S. government owned agency that has unique borrowing capabilities because of the government’s perceived financial backing of it. Unlike those nuclear facilities, the VY Station is a merchant generator that during its operating life is economically dependent upon the revenues from the sale of its power.” (Rebuttal Testimony, March 15, 2013, page 9, answer 14).

a. What were the lengths of the extended shutdowns at each of the named plants, and what was the cause of each?

A.WRC:EN.3-2: Objection to the extent this request seeks publicly-available information that is as equally accessible to WRC as it is to Entergy VY. Without waiving any objection, Entergy VY responds: According to published information, these units were shut down for the following period and for the following reasons:

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<th>Plant</th>
<th>Dates of Shutdown</th>
<th>Reasons</th>
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<tr>
<td>Brunswick Unit 1</td>
<td>Apr 21, 1992 – Feb 11, 1994</td>
<td>A special NRC inspection discovered irregularities in the construction of the building housing the emergency diesel generators which the licensee had known about but not corrected for several years; Brunswick was placed on the NRC watch list due to inadequate management involvement, lack of leadership, poor communication of management expectations and standards, and weak self assessment and corrective action programs</td>
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<td>Brunswick Unit 2</td>
<td>Apr 21, 1992 – May 15, 1994</td>
<td>Same reasons as for the Brunswick Unit 1 shutdown</td>
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<td>Davis Besse</td>
<td>Feb 16, 2002 – Mar 16, 2004</td>
<td>During a refueling outage, cracks in the control rod drive mechanism nozzles and significant corrosion of the reactor head were discovered; the NRC issued a Confirmatory Action Letter requiring the licensee to determine the root cause of the reactor head corrosion and other safety system issues, and to obtain the NRC’s approval for repair of the reactor head and for restarting the reactor</td>
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<td>Browns Ferry</td>
<td>Units 1, 2 and 3 shut down in 1985; Unit 2 restarted 1991; Unit 3 restarted 1995; Unit 1 restarted 2007</td>
<td>Inspections discovered numerous equipment, management, maintenance and quality assurance deficiencies that had persisted for many years without correction; resolution of these issues required a lengthy corrective action process and a demonstration of programmatic improvements before the NRC allowed first Unit 2 and several years later Unit 3 to restart; Unit 1’s restart in 2007 followed from TVA’s decision in 2002 to restart the idled unit</td>
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Person Responsible for Response: Michael Perito  
Title: Senior Vice President and Chief Operating Officer  
Date: April 10, 2013
Q.WRC:EN.3-3: Mr. Perito stated that, “Entergy VY would suffer huge financial losses if the VY Station were shut down and kept in shutdown mode for an extended period of time. During that time, Entergy VY would not have any revenues, but would continue to incur substantial costs, including the approximately $66 million in annual salaries paid to its employees, property taxes, insurance, and the cost of purchasing the off-site power needed to keep the plant’s safety and other necessary systems in operation while it remained in shutdown mode.” (Rebuttal testimony, March 15, 2013, page 5, answer 10).

a. Please identify the calculated value of the annual property taxes that would add to the “substantial costs” during the period of an extended shut down lasting one year or longer.

b. Could an unforeseen mechanical problem lead to an extended shut down of the Vermont Yankee Station lasting one year or longer?

c. Does Entergy VY agree with the statement on page 35 of the report of the Public Oversight Panel dated March, 2009 that says, “About half (46.7 percent) of the boiling water reactors licensed to operate in the U.S. have had one or more year-plus outages?”

d. Please identify any reserve fund or loan fund that is sufficient to support the VY Station through a period of extended shut down lasting one year or longer.

e. In Docket 7440 Entergy VY witness Michael Colomb stated, “Our ongoing monitor of the condition of the condenser tells us that it would not be reliable through the 20-year license extension period, therefore, we would have to replace it sometime in that period” (Docket 7440 transcript, May 26, 2009, page 115, line 16). Has the replacement of the condenser been accomplished? If the condenser has not been replaced, does this impact the reliability of the plant for the entire 20 year period of the proposed amended CPG? If it does impact the reliability of the plant over the 20 year period of the CPG, what are those impacts and what are the implications of those impacts?

f. Could a sudden failure of the condenser lead the VY Station into an extended period of shutdown lasting one year or longer?

A.WRC:EN.3-3:

a. Objection. Entergy VY objects to the request on the grounds that the terms “calculated value” and “property taxes” are vague and ambiguous. Entergy VY further objects to the extent the request seeks an analysis that Entergy VY has not performed. Without waiving any objection, Entergy VY responds: The VY Station has been paying local property taxes in excess of $1.3 million per year. See Attachment A.DPS:EN.2-25. In addition, the VY Station paid an “Electrical Generating Plant Education Property Tax” pursuant to 32 V.S.A. § 5402a that
approximated $2 million per year until June 30, 2012, when it was replaced by a new tax levy imposed by Act 143. The new tax levy is based on the number of kilowatt-hours of energy generated so no tax would be due for any period during which the plant was shut down.

b. An unforeseen mechanical problem potentially could shut down any nuclear plant, including the VY Station, although Mr. Perito believes there are very few such problems that on their own would require a shutdown of one year or longer to repair. Neither the VY Station under Entergy’s ownership and operation (or prior ownership), nor any of the other nuclear plants under Entergy’s ownership and operation, have suffered such a shutdown.

c. Objection. Entergy VY objects to the request on the grounds that it is vague and ambiguous. The quoted statement lacks any citation or other reference so Entergy VY is unable to determine what it is based upon and is unable to agree or disagree with the statement.

d. The VY Station does not have access to any reserve or loan fund that would be sufficient to support the plant through an extended shutdown of one year or longer. The VY Station is covered by a NEIL Accidental Outage Insurance Policy, but that policy is limited to outages “resulting from Accidental Property Damage” and specifically excludes outages resulting from “any governmental act, decree, order, regulation, statute or law prohibiting or preventing, directly or indirectly, … continuation of any operations at the Unit…” See Attachment A.CLF:EN.1-11e.

e. Objection. Entergy VY objects that the request seeks information concerning matters of plant operation and/or radiological safety subject to regulation by the NRC that, due to federal preemption, are not subject to regulation by the State of Vermont. Entergy VY further objects to the extent that the request seeks information concerning matters of plant reliability that are beyond the scope and not relevant to this proceeding because Entergy VY is a merchant wholesale generator. A fuller description of the reasons and bases for these objections is contained in Entergy VY’s Motion for a Declaratory Ruling Prescribing Scope of Proceeding, filed June 21, 2012 (and Entergy VY’s Reply Brief filed on August 6, 2012) and in Entergy VY’s Objection to Admission of Prefiled Direct Testimony and Exhibits Submitted on Behalf of the Department of Public Service, Conservation Law Foundation, and New England Coalition, filed on November 21, 2012 (and Entergy VY’s Reply Brief filed on January 4, 2013). To the extent Entergy VY offered evidence on this topic, it did so in the alternative. This area is preempted. Without waiving any objection, Entergy VY responds: The condenser at the VY Station has not been replaced, but a plan for such replacement has been developed. See A.NEC:EN.1-7 and the attachments to that response. Degraded condenser performance could affect the efficiency and capacity factor of the VY Station, and therefore its reliability as measured by capacity factor.

1 See Vermont Legislative Joint Fiscal Office, Issue Brief, Vermont Yankee Nuclear Power Facility: Taxation and Other Fees and Payments to the State (updated February 2011).
f. A condenser failure is more likely to result in a reduction in generation output than an extended shutdown of the plant. Replacement of the tubing in the condenser would not require a shutdown of one year or longer.

Person Responsible for Response: Michael Perito  
Title: Senior Vice President and Chief Operating Officer  
Date: April 10, 2013
Q.WRC:EN.3-4: Mr. Cloutier addresses a demolition criterion at Maine Yankee, Yankee Rowe, and Connecticut Yankee and stated that the opinion of Mr. Maret regarding removal of structures, “is not substantiated by experience at Maine Yankee, Yankee Rowe or Connecticut Yankee where a demolition criterion similar to that contemplated by TLG’s decommissioning-cost analysis was used.” (Rebuttal Testimony, March 15, 2013, page 3, answer 7).

a. Please identify any Memoranda of Understanding, contracts, or similar agreements at any of the three identified locations that pre-defined site restoration in such a way as to limit removal of structures in a manner contemplated by the TLG analysis for Vermont Yankee.

b. Please describe any commercial redevelopment that has occurred on any of the above listed sites.

c. If redevelopment has occurred, please identify how the developers handled abandoned underground structures.

d. Could NRC requirements for the removal of structures be influenced by the mandatory public hearings following submittal of the Post-Shutdown Decommissioning Activities report (PSDAR) and the License Termination Plan (LTP)?

A.WRC:EN.3-4:

a. Objection to the extent the request seeks confidential and/or proprietary business information, disclosure of which would provide competitors with a business advantage. Without waiving any objection, Entergy VY responds: Mr. Cloutier is not aware of any Memoranda of Understanding, contracts, or similar agreements that pre-defined site-restoration, i.e., related to the removal of structures, at the three sites.

b. Mr. Cloutier has not monitored activities at the three sites since the conclusion of decommissioning and site restoration and is therefore not aware of any commercial redevelopment of these sites.

c. See A.WRC:EN.3-4(b).

d. Objection to the extent the request calls for a legal conclusion or speculation. Without waiving any objection, Entergy VY responds: The NRC does not have specific requirements for the removal of structures once the operating license has been terminated.

Person Responsible for Response: William A. Cloutier, Jr.
Title: Manager, Decommissioning Services
Date: April 10, 2013
Mr. Cloutier stated that “TLG’s experience as a contractor, responsible for the removal of plant systems (exclusive of the reactor vessel) at the Shippingport Atomic Power Station, demonstrated that local labor could be trained to perform most of the physical dismantling activities.” (Rebuttal Testimony, March 15, 2013, page 4, answer 8)

a. Does Entergy VY commit to the use of local labor for most of the physical dismantling activities at Vermont Yankee?

A.WRC:EN.3-5:

a. Objection. It is improper in discovery to ask Entergy Corporation to make a commitment under oath. In any event, Entergy Corporation cannot make a decision whether to commit to any particular request until it knows all of the commitments that it is being asked to make in order for Entergy VY to receive a CPG to operate the VY Station until 2032. Without waiving any objection, Entergy VY responds: Entergy VY has not evaluated the potential benefits and drawbacks to physical dismantlement of the VY Station, an evaluation that will not take place until many years into the future.
Q.WRC:EN.3-6: Mr. Cloutier discusses the use of the decommissioning trust fund to provide for radiological remediation, spent fuel management, and restoration of the VY Station site (Rebuttal testimony, March 15, 2013, page 12, answer 24).

a. Is it possible for Entergy VY to establish separate funds for radiological remediation, spent fuel management and site restoration?

b. Why has Entergy VY maintained a single cominged fund?

c. Would the establishment of a separate fund that ensures site restoration to Vermont standards be in the best interest of the State of Vermont?

d. Does the proximity of the current ISFSI to the plant buildings present any problem for the eventual dismantlement of those buildings?

A.WRC:EN.3-6:

a. Objection to the extent the request calls for a legal conclusion. Without waiving any objection, Entergy VY responds: Yes. Under NRC regulations, it is possible for Entergy VY to establish separate funds for radiological decommissioning, spent-fuel management and site restoration. Entergy VY believes that the NRC would view any transfers from the existing decommissioning trust to any separate funds for spent-fuel management or site restoration as withdrawals from the decommissioning fund subject to NRC regulations regarding such withdrawals, including a requirement for an exemption pursuant to 10 CFR §50.12.

b. Entergy VY acquired the decommissioning-trust funds previously maintained by Vermont Yankee Nuclear Power Corporation (“VYNPC”) pursuant to section 2.1(k) of the Purchase and Sale Agreement dated August 15, 2001, in the form in which they were held by VYNPC. The Vermont Public Service Board considered the transfer of the decommissioning-trust funds in Docket No. 6545, and apart from ordering that certain excess decommissioning trust-fund sharing arrangements be altered, did not impose any requirements regarding the form in which the decommissioning-trust funds were held. As noted in A.WRC:EN.3-6a, Entergy VY believes that any changes, as suggested in this question, would require application for an NRC approval of an exemption to NRC regulatory requirements. Entergy VY further notes that multiplication of the number of decommissioning trusts would increase administrative costs.

c. Objection to the extent the request calls for a legal conclusion. Entergy VY further objects to the request as vague and ambiguous because the phrase “best interest” is not defined. Without waiving any objection, Entergy VY responds: Entergy VY is not aware of any benefits to the State of Vermont from creation of a separate fund for site restoration from the existing trust funds. Please also see A.WRC:EN.3-6a and A.WRC:EN.3-6b.
d. Mr. Cloutier did not analyze a scenario where spent fuel would be on the current ISFSI during building dismantling, *i.e.*, for estimating purposes, the fuel was either relocated to a second pad or removed from the site prior to site restoration.
Q.WRC:EN.3-7: When discussing the differences between the Decommissioning Cost Analyses prepared in 2001 and 2011, Mr. Cloutier stated that property tax, “*had a different cost basis in 2001*” (Rebuttal Testimony, March 15, 2013, page 13, answer 26).

a. Please explain each cost basis and identify how property taxes were calculated in the Analyses dated 2001, 2007, and 2012 (WRC is referencing the Decommissioning Cost Analyses with cover dates of September 2001, January 2007, and February 2012).

b. Please explain why property taxes in the 2012 Analysis were calculated based on the site being assessed as “vacant land.”

A.WRC:EN.3-7:

a. The 2001 analysis assumed that the Vermont Yankee Nuclear Power Corporation (“VYNPC”) would continue to pay property taxes throughout decommissioning. Schedules were provided by VYNPC and based on a phase-down of assessed value.

The 2007 analysis assumed that local property taxes are paid in accordance with a Tax Stabilization Agreement with the Town of Vernon. The agreement is only valid during the operating life of the plant. Once shut down, local property taxes would most likely be assessed at the fair market value of the property under normal property-tax rules. However, there is unlikely to be sales or assessments of comparable properties for determining the value of a shutdown unit (and significant remediation project). As such, the decommissioning estimates did not include an allowance for post-operation tax payments.

The 2012 analysis assumed that property taxes would continue throughout decommissioning at a level based upon the value of vacant land.

b. During the SAFSTOR period, the property would not be used for any income producing activity so it would effectively have the same economic status as vacant land.

Title: Manager, Decommissioning Services
Date: April 10, 2013

Person Responsible for Response: L. Jager Smith, for Answer b.
Title: Entergy VY Legal Counsel
Date: April 10, 2013
Q.WRC:EN.3-8: Mr. Cloutier stated that, “The 2020 start date [for removal of spent nuclear fuel] was, at the time the estimates were prepared in 2011, the date that was relied upon by the Department of Energy (or “DOE”) in both its planning and litigation.” (Rebuttal Testimony, March 15, 2013, page 5, answer 9).

a. Has Entergy VY considered an earlier start date for the removal of spent fuel?

b. Has Entergy VY considered the possibility of the removal of the SNF to an alternative site that is already licensed to store spent nuclear fuel?

c. Please identify any and all contractual, statutory or other legal restrictions that prohibit each nuclear site owned or operated by an Entergy subsidiary from storing spent nuclear fuel from Vermont Yankee.

d. Is it possible for Entergy VY, or the owners of another nuclear plant, to apply for an NRC license to receive and store spent nuclear fuel from Vermont Yankee?

e. Has Entergy VY made an application to the NRC for authorization to store spent nuclear fuel from the VY Station at any other location?

f. Has used nuclear fuel ever been moved from one commercial reactor site to another commercial reactor site?

g. Is it possible to apply to the NRC for authorization to transport spent fuel from the VY Station to another location that is already licensed to store spent nuclear fuel?

h. Has Entergy VY made an application to the NRC for authorization to transport spent nuclear fuel from the VY Station to any other location?

i. When Entergy VY has engaged in negotiations with DOE regarding breach of contract for removal of spent nuclear fuel, has Entergy VY attempted to negotiate reduced financial compensation in exchange for the expedited removal of SNF from the Vermont Yankee Station?

j. Please describe any negotiations with DOE that have taken place that would have traded reduced compensation, for the expedited removal of SNF. If Entergy VY has not negotiated with DOE for the expedited removal of SNF from the Vermont Yankee Station in exchange for reduced compensation, please state that this is the case.

k. Is it possible that DOE will favor the removal of Spent Fuel from nuclear stations with shutdown reactors prior to removing fuel from operating nuclear stations?

A.WRC:EN.3-8:

a. The start date for the removal of SNF is dictated by the date when DOE will be in a position to remove SNF. Entergy VY does not consider it realistic to assume an earlier start date than the one used by DOE.

b. Entergy VY is not aware of any site other than the VY Station site that is currently licensed to store SNF from the VY Station.

c. Objection to the extent the request calls for a legal conclusion or seeks confidential and/or proprietary business information, disclosure of which would provide competitors with a business advantage. Without waiving any objection, Entergy VY responds: See A.WRC:EN.2-6.

d. Objection to the extent the request calls for a legal conclusion. Without waiving any objection, Entergy VY responds: It is possible for the licensees of other Entergy nuclear facilities to apply to the NRC for a license to receive and store SNF from the VY Station, although it is not clear on what basis the NRC could approve such a request absent the support of the state in which the transfeeree facility is located.

e. No.

f. Objection to the extent the request seeks an analysis or research that Entergy VY has not performed. Without waiving of any objection, Entergy VY responds: Yes. Progress Energy has shipped spent fuel from its Robinson and Brunswick nuclear plants to its Shearon Harris nuclear unit. Fuel was shipped from the Shoreham nuclear unit to Limerick. In the past, several generators have also shipped their spent fuel to the Western New York Nuclear Service Center for reprocessing or to the GE Morris Illinois Spent Fuel Storage Facility for storage.

g. Objection to the extent the request calls for a legal conclusion. Without waiving any objection, Entergy VY responds: It is possible for Entergy VY to apply to the NRC for authorization to transport SNF to another location that is authorized to store its own SNF, although it is not clear on what basis the NRC could approve such a request absent a corresponding application by the facility at the other location to receive and store SNF from the VY Station.

h. No. Entergy VY is not aware of any facility at another location that is willing and able to accept SNF from the VY Station.

i. Objection to the extent the request seeks confidential and/or proprietary business information, disclosure of which would provide competitors with a business advantage. Without waiving any objection, Entergy VY responds: Entergy VY’s negotiations with DOE have not involved the issue of expedited removal of SNF from the VY Station because DOE does not
currently have the capability to accept SNF. The negotiations have been limited to possible ways to resolve Entergy VY’s claims without the burden and expense of litigation.

j. Objection to the extent the request seeks confidential and/or proprietary business information, disclosure of which would provide competitors with a business advantage. Without waiving any objection, Entergy VY responds: Entergy VY has not negotiated with DOE for the expedited removal of SNF from the VY Station because DOE does not currently have the capability to accept SNF.

k. Objection to the extent the request calls for a legal conclusion or speculation. Without waiving any objection, Entergy VY responds: Yes, it is possible. DOE might conceivably favor the removal of SNF from shutdown reactors ahead of operating reactors, but DOE’s preference may not be determinative; SNF removal from commercial reactor sites, including potentially the order in which SNF is removed, is an issue of national concern that is likely to involve not only DOE, but also Congress.

According to the “Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste,” issued by the DOE in January 2013:

With the appropriate authorizations from Congress, the Administration currently plans to implement a program over the next 10 years that:

- Sites, designs and licenses, constructs and begins operations of a pilot interim storage facility by 2021 with an initial focus on accepting used nuclear fuel from shut-down reactor sites...

Q.WRC:EN.3-9: Mr. Buteau testified on February 26, 2013 in response to a question from Mr. Young that he has a matrix that lists the conditions from the MOU in docket 7082 (Transcript, February 26, 2013, Volume 1, page 22, line 15), and he subsequently stated that the matrix includes requirements from other dockets.

a. Does the matrix include paragraph 8 of the docket 7082 MOU, dated June 21, 2005 which states that, “The Company will use its commercial best efforts to ensure that high-level SNF stored at the station is removed from the site in a reasonable manner and as quickly as possible to an interim or permanent location outside of Vermont?”

b. If paragraph 8 of the docket 7082 MOU is tracked by the matrix, please provide the page(s) related to this item.

c. Does the matrix include paragraph 11 of the docket 6545 MOU dated March 4, 2002 which states, “ENVY agrees that it must use its commercial best efforts to assure that the spent fuel is removed from VYNPS site in a reasonable manner and as quickly as possible rather than stored at VYNPS. ENVY shall allow the Department to participate in the discussions with DOE that involve VYNPS and to participate in the decision whether to pursue the discussions or to litigate.”

d. If paragraph 11 of the docket 6545 MOU is tracked by the matrix, please provide the page(s) related to this item.

e. Please identify each effort made by Entergy VY to hasten the removal of SNF from Vermont.

f. Please identify each effort Entergy VY has made to buy, sell, or trade the position of Vermont Yankee spent fuel within the DOE queue.

A.WRC:EN.3-9:

a. Yes, the matrix does include paragraph 8 of the Docket 7082 MOU.

b. The matrix item for this commitment reads:

“Entergy will use its commercial best efforts to ensure that high level SNF spent fuel stored at the station is removed from site in a reasonable manner and as quickly as possible to an interim or permanent location outside of Vermont. 6/21/05 MOU.¶ 8”

c. Yes, the matrix includes paragraph 11 of the Docket 6545 MOU.

d. The matrix item for this commitment reads:
“ENVY agrees that it must use its commercial best efforts to assure that the spent fuel is removed from VYNPS site in a reasonable manner and as quickly as possible rather than stored at VYNPS. ENVY shall allow the Department to participate in the discussions with DOE that involve VYNPS and to participate in the decision whether to pursue the discussions or to litigate. (MOU at ¶ 11.)”

e. See A.WRC:EN.1-WC-7.

f. Entergy VY has not at this time engaged in efforts to buy, sell or trade its position in the DOE queue. Because of DOE’s failure to develop any plan for movement of fuel, there exists no market for exchanges within the DOE queue.

Person Responsible for Response: Bernard Buteau, for Answers a., b., c., & d.
Title: State Liaison Engineer
Date: April 10, 2013

Person Responsible for Response: L. Jager Smith for Answers e. & f.
Title: Entergy VY Legal Counsel
Date: April 10, 2013
Q.WRC:EN.3-10: Mr. Buteau testified on February 26, 2013 in response to a question from Mr. Burke that he told Mr. Dodson “we had enough space to run to 2032 with the thirty-six casks on the current cask pad and filling up the spent fuel pool” (Transcript, February 26, 2013, Volume 1, page 47, line 19).

a. Did Mr. Buteau’s projection give consideration to reducing the density of the elevated spent fuel pool as defined in the Board Order in docket 7082, and the associated increase in the number of required casks to satisfy a reduction in density? (Docket 7082 Board Order dated April 26, 2006, pages 80—82)

b. If the Public Service Board, The NRC, or another entity were to require the reduction of density of the spent fuel pool, or if Entergy VY were to reduce the density on its own accord, would an additional ISFSI be required?

c. Did Mr. Dodson consider the potential for a second ISFSI to be constructed during the period of continued operations, before 2032?

d. Has Entergy VY identified and confirmed a location for a second ISFSI?

A.WRC:EN.3-10:

a. No, it did not.

b. Objection to the extent the request calls for speculation. Without waiving any objection, Entergy VY responds: The answer would depend on when such a hypothetical order was made as well as the nature of the order. The same would apply to any hypothetical Entergy VY decision.

c. Based on Mr. Buteau’s statement, quoted in Q.WRC:EN.3-9, Mr. Dodson did not consider the potential of a second ISFSI.

d. No.

Person Responsible for Response: Harry L. Dodson, for Answer c.
Title: Principal
Date: April 10, 2013

Person Responsible for Response: Bernard Buteau, for Answers a, b. & d.
Title: State Liaison Engineer
Date: April 10, 2013
Q.WRC:EN.3-11: Mr. Herron testified that “on January 2 of this year, I transferred my duties and responsibilities to Jeff Forbes, who has taken over for me as the Chief Nuclear Officer for Entergy Nuclear. Prior to that from December -- approximately December of '09 to January 2 of '13 I was the President, the CEO and the Chief Nuclear Officer for Entergy Nuclear.” (Transcript, February 21, 2013, Volume 1, page 11, line 16).

a. Please list all the officers of Entergy Nuclear.

b. Please list any other Entergy entities in which each of the above named holds a position as an officer.

A.WRC:EN.3-11:

a. “Entergy Nuclear” is an internal Entergy organizational group and not a legal entity. It therefore does not have any officers as such. Mr. Herron apparently was referring to his position with the various Entergy subsidiaries that are responsible for the ownership and operation of Entergy’s nuclear facilities. Over the period to which he referred in his testimony on February 21, 2013, Mr. Herron was the President, Chief Executive Officer and Chief Nuclear Officer of, among other companies, Entergy Nuclear Vermont Yankee, LLC, Entergy Nuclear Operations, Inc., Entergy Nuclear Holding Company #2, LLC, Entergy Nuclear Holding Company #3, LLC and Entergy Nuclear Vermont Investment Company, LLC. See A.WRC:EN.1-MT-2, A.WRC:EN.1-MT-5 and A.WRC:EN.3-1.

b. See A.WRC:EN.3-11(a).

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs
Date: April 10, 2013
Q.WRC:EN.3-12: Mr. Herron testified regarding a media request by Turning Tide Productions (Transcript, February 21, 2013, Volume 1, page 37, line 24), and various meetings with “stakeholders.”

a. Did Turning Tide Productions attend a stakeholder meeting and facility tour at the Governor Hunt House and the VY Station on or about June 22, 2010?

b. Did Entergy VY document the above mentioned stakeholder meeting with film, video, or audio recording devices?

c. Please provide a transcript (if possible) or audio or video record of the presentation at this event, if such a record exists.

d. Please provide a list of invited stakeholders, if such a list exists.

e. Please provide a list of attendees, if such a list exists.

A.WRC:EN.3-12:

a. As best Entergy VY can determine at this time, there was no facility tour of the VY Station on June 22, 2010. It appears that there was such a site visit, on April 29, 2010, that a Turning Tide Productions representative attended. See Order re Postponement of Public Hearing and Site Visit, Docket No. 7600, Order of 4/23/2010.

b. No.

c. Entergy VY is unable to locate any transcript or audio or video record of a June 22, 2010, tour.

d. Entergy VY is unable to locate any list of stakeholders invited to the facility tour.

e. Entergy VY is unable to locate any list of attendees of the tour.

Person Responsible for Response: Timothy A. Ngau
Title: Entergy VY Legal Counsel
Date: April 10, 2013
Q.WRC:EN.3-13: Ms. Wells testified that in 2002 her position was “Senior Manager for Business Development Nuclear” (Transcript, February 22, 2013, Volume 1, page 12, line 6).

a. Please identify each Entergy subsidiary or corporate entity in which Ms. Wells was employed, or for which she served as an officer, in 2002.

b. Please identify any entity owned in whole or in part by any Entergy affiliated business that employed Ms. Wells in January 2001 when Entergy Nuclear Corporation filed a request to the Board in Docket 6300 seeking the dismissal of the AmerGen petition in docket 6300.

c. Please provide the date of incorporation of Entergy Nuclear Vermont Yankee LLC, and identify each officer on the date of incorporation.

A.WRC:EN.3-13:

a. Entergy Nuclear Operations, Inc.

b. None.

c. Entergy Nuclear Vermont Yankee, LLC, was formed as a limited liability company, not a corporation, on January 11, 2001. At the time of formation, Entergy Nuclear Vermont Yankee, LLC, had a single manager, Donald C. Hintz. Officers of the company were appointed at a later time.

Person Responsible for Response: T. Michael Twomey
Title: Vice President, External Affairs
Date: April 10, 2013
Q.WRC:EN.3-14: Mr. Twomey testified with regard to a docket 6545 MOU requirement for the “removal of all structures” and stated that “TLG Services’ assumption is consistent with the commitment Entergy VY made in the Docket No. 6545 MOU,” and then made reference to the September 2001 decommissioning study and the docket 7440 reply brief of the Public Service Department (Rebuttal Testimony, March 15, 2013, page 6, answer 8).

a. Please state why Mr. Twomey believes the short 59 word passage he cites from the decommissioning study dated September 2001 was not used to define site restoration in the subsequently prepared docket 6545 MOU.

b. Please state whether Entergy VY agrees that paragraph 6.19 of the sale contract between VYNPC as seller, and ENVY as buyer, and Entergy Corporation as guarantor, dated August 15, 2001, would compel Entergy VY to remove all structures regardless of depth, if so directed by the Public Service Board, the Vermont Legislature, or the NRC.

A.WRC:EN.3-14:

a. Mr. Twomey believes that the length to which the parties addressed a particular issue in the 6545 MOU likely depended upon their perception of the importance of the issue and/or the extent of their disputes requiring clarification. The issue of site restoration apparently was not one that the parties believed required lengthy clarification. As shown by TLG’s 2001 decommissioning analysis and other evidence (see A.WRC:EN.2-10), industry decommissioning practice was and is to remove structures to a depth of three feet (or less) below grade, and, as shown by the Department of Public Service’s statement in its 2009 brief in Docket 7440, the parties evidently agreed that Entergy VY was only required to remove structures to a depth of at least three feet below grade.

b. Mr. Twomey does not agree that paragraph 6.19 of the August 15, 2001 VY Station sale contract gives unlimited authority to the Public Service Board, the Vermont legislature, or the NRC to impose new and different decommissioning requirements. That provision, like any contractual provision, must be given a reasonable interpretation in light of all of the surrounding circumstances. In the case of the sale contract, Entergy proceeded to invest approximately $180 million to purchase the VY Station based on certain expectations created by, among other things, the Board’s June 13, 2002 order approving the sale. In that order, the Board cited and relied upon, without any expressed disagreement by the Board or any other party or commenter, TLG’s September 2001 decommissioning analysis that assumed the removal of structures to a depth of three feet below grade. If the Board or another party wanted to impose a significantly obligation upon Entergy, such as one at variance from industry practice that would raise the decommissioning cost by orders of magnitude, it was incumbent upon the Board or a party to provide notice of that obligation before Entergy decided to proceed with acquiring the VY Station.
Q.WRC:EN.3-15: Mr. Dodson testified that subsequent to the technical hearings he spoke with Patricia O’Donnell, Chair of the Vernon Selectboard, regarding the Town Plan and Draft updates prepared in consultation with WRC. (Rebuttal testimony dated March 15, 2013, page 1, question and answer 4)

a. Has Mr. Dodson spoken with anybody from the WRC regarding the updates prepared in consultation with WRC?

A.WRC:EN.3-15:

a. In testimony given on February 25, 2013 (Tr. 2/25/13 at 111 (Garson)), Mr. Garson stated that the Town of Vernon had approved the January 2012 Land Use Plan. To determine the accuracy of this statement, Mr. Dodson called Patricia O’Donnell, the Vernon Selectboard Chair. She told Mr. Dodson that the Town of Vernon had not approved the draft 2012 plan and that the Vernon Planning Commission had voted to reject the plan. Since the purpose of Mr. Dodson’s call was to determine if the Town of Vernon had adopted the plan, he did not feel it necessary to contact the WRC.
As to objections where responsive information was provided over stated objections:

DATED at St. Johnsbury, Vermont, this 10th day of April, 2013.

Respectfully submitted,
ENTE RGY NUCLEAR VER MONT
YANK EE, LLC, AND EN TERGY
NUCLEAR OPERATIONS, INC.

By their attorneys

[Signature]

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