March 29, 2013

Mrs. Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT 05620-2701

Re: Docket No. 7862: Amended Petition of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., for amendment of their Certificate of Public Good and other approvals required under 30 V.S.A. § 231(a) for authority to continue after March 21, 2012, operation of the Vermont Yankee Nuclear Power Station, including the storage of spent-nuclear fuel

Dear Mrs. Hudson:

On behalf of Entergy Nuclear Vermont Yankee, LLC (“ENVY”), and Entergy Nuclear Operations, Inc. (together, “Entergy VY”), this letter responds to the following record requests and follow-up commitments made during the February technical hearings in Docket No. 7862:

1. **Record Request:** On February 11, 2013, Mr. Young asked Mr. Potkin whether a requirement in power-purchase agreements (“PPAs”) is that each side must obtain all appropriate regulatory approvals, and he testified that some PPAs have such a requirement and some do not. Mr. Young then asked whether such a requirement was considered in Entergy VY’s negotiations with the distribution utilities, and Mr. Potkin responded that he would have to research the issue but then testified that the final draft of the PPA had such a provision. Tr. 2/11/13 Vol. 2 at 172-73.

**Response:** A draft PPA for power from the Vermont Yankee Nuclear Power Station (the “VY Station”) carried over the following language from the old PPA with Vermont Yankee Nuclear Power Corporation:

> It shall be the responsibility of Seller to take all necessary actions to satisfy any regulatory requirements that may be imposed on Seller by any statute, rule or regulation or FERC-accepted regional agreement concerning the sale of Facility Product to Buyers hereunder. Buyers shall cooperate with Seller and provide information or such other assistance, without cost to Buyers, as may be reasonably necessary for Seller to satisfy regulatory

BY FEDERAL EXPRESS AND EMAIL
requirements relating specifically and only to the sale of Facility Product. Seller shall cooperate with **Buyers and provide** information or such other assistance, without cost to Seller, as may be reasonably necessary for Buyers to satisfy regulatory requirements relating specifically and only to the purchase of Facility Product.

2. **Record Request:** On February 12, 2013, Mr. Cloutier testified that he could not recall whether the full name of his employer was Entergy Nuclear Operations or Entergy Nuclear, and Mr. Marshall represented that Entergy VY would confirm that Entergy Nuclear Operations, Inc., is a different company from Entergy Nuclear. Tr. 2/12/13, Vol. 1 at 40-41.

**Response:** TLG Services, Inc. ("TLG"), is a wholly-owned subsidiary of Entergy Nuclear, Inc., which is a subsidiary of Entergy Corporation. TLG is staffed by Mr. Cloutier and other employees of Entergy Nuclear Operations, Inc., which is an indirect subsidiary of Entergy Corporation. "Entergy Nuclear" is an internal organizational unit within Entergy Corporation and not a legal entity.

3. **Record Request:** On February 12, 2013, Mr. Coen made a record request for the individual who provided the information to Mr. Cloutier that the rate of return on the VY Station's decommissioning-trust funds was approximately 5.42 percent for the period from 2000 to 2012. Mr. Marshall stated that he thought the individual was Pam Pecquet but indicated that the individual's name would be confirmed. The return information in Mr. Cloutier's testimony was for the period between July 31, 2002, and April 30, 2012. Tr. 2/12/13 Vol. 1 at 48-49.

**Response:** Mr. Marshall subsequently identified a discovery response that indicated that Ms. Pam Pecquet supplied the information to Mr. Cloutier. That discovery response was admitted as PSB Record Request-1. See Tr. 2/12/13 Vol. 1 at 66; Cloutier pf. at 12.

4. **Record Request:** On February 12, 2013, Mr. Burke stated regarding Exhibit PSD-Cross-14 that Mr. Cloutier could not give an opinion as to any excess above $1.011 billion without doing any further analysis. Mr. Burke asked Mr. Cloutier to perform further analysis and inform the Board what the analysis indicated based on the projections that Mr. Cloutier used. Tr. 2/12/13 Vol. 1 at 88.

**Response:** The schedule of expenditures shown in Exhibit PSD-Cross-14 is for a 2013 shutdown scenario, which assumes that the VY Station is placed into safe storage for approximately 53 years prior to commencing decommissioning operations. Mr. Cloutier analyzed the rate of return required so that the fund balance net of projected cash expenditures never dropped below zero until the end of the project, consistent with the method described in his initial prefiled testimony. An annual rate of return of approximately 2.45% is required to fund the $1.011 billion (2011 dollars) associated with License Termination, Spent Fuel Management and Site Restoration for the VY Station, assuming no reimbursement of spent-fuel-management expenses. An annual rate of return of approximately 0.67% is required to fund License Termination and Site Restoration costs under a scenario where spent-fuel-management costs are wholly reimbursed by the Department of Energy. An excess above the $1.011 billion would result if the actual rate of return were higher than these figures.
5. **Record Request:** In an exchange regarding the estimated costs for SAFSTOR in 2007 and 2012 shown in the TLG analysis, Ms. Levine asked whether Mr. Cloutier agreed that the rate of increase for those estimates was higher than the rate of inflation between the two time periods. Mr. Cloutier testified that he believed that was correct without doing the calculation. Ms. Levine asked, subject to check, whether Mr. Cloutier would agree that it is about twice the rate of inflation. Mr. Cloutier agreed to that, subject to check. Tr. 2/12/13 Vol. 1 at 92-93.

**Response:** Mr. Cloutier has confirmed that the total cost for 2011 SAFSTOR Scenarios 1 and 5, as compared to the total cost for the similar 2006 SAFSTOR scenarios, increased at more than twice the rate of inflation (as measured by the Consumer Price Index (“CPI”)); however, the 2011 scenarios included a longer storage period (24 and 29 years, respectively) than the 2006 scenarios. There was no change in the storage duration for Scenario 2 (2011) as compared to its 2006 counterpart. The annual rate of increase for the total cost in this scenario was approximately 3.2% as compared to a CPI increase of 2.4% over the same period. It is therefore likely that the larger increase seen in Scenarios 1 and 5 is due to the additional years of safe storage, rather than inflation.

6. **Record Request:** On February 12, 2013, Mr. Buchanan asked whether TLG’s decommissioning-cost analysis included amounts for reimbursement of Department of Public Service (“PSD”) expenses permitted under 30 V.S.A. Sections 20 and 21. Mr. Cloutier testified that he did not think that the budget included such expenses and stated that he would have to check his records to determine whether they had that information. Tr. 2/12/13 Vol. 2 at 12.

**Response:** Attachment PSB:EN.RR-6 to this letter—a worksheet titled “Site Overhead Costs associated with State of Vermont”—identifies the costs that were specifically included in the decommissioning estimates that pertain to the State of Vermont. TLG has not been able to identify a line item specifically pertaining to the reimbursement of PSD expenses related to oversight of the VY Station’s decommissioning.

7. **Record Request:** On February 12, 2013, Mr. Dudley asked Mr. Cloutier what company currently acts as the trustee and investment manager for the decommissioning-trust funds, and Mr. Cloutier testified that he believed it was Mellon but would have to check. Tr. 2/12/13 Vol. 2 at 37.

**Response:** During the proceedings, Mr. Marshall informed the Board that Entergy VY’s response to Q.DPS:EN.2-59 identified the trustee as the Bank of New York Mellon (“Mellon Trust”) and also listed the investment managers and provided (as attachments) information on how the funds were managed. Tr. 2/12/13 Vol. 2 at 74.

8. **Record Request:** On February 12, 2013, Mr. Dudley asked Mr. Cloutier about the asset composition within the investment portfolio of the decommissioning-trust funds. Mr. Cloutier stated that he did not know this information, and he did not know who at Entergy would have that information. Mr. Marshall stated that the information was provided in a discovery response and that he would follow up to specify the discovery response. Tr. 2/12/13, Vol. 2 at 38-39.

**Response:** During the proceedings, Mr. Marshall informed the Board that there was a summary showing the investment allocation of the decommissioning-trust funds from 2002-2011 in A.DPS:EN.2-57. Tr.
2/12/13 Vol. 2 at 74. Please note that by separate filing of even date, Entergy VY is supplementing A.DPS:EN.2-57 to provide trust-fund information for 2012.

9. **Record Request:** On February 12, 2013, Mr. Dudley asked about the effect of parental guarantees if ENVY is goes bankrupt. Mr. Cloutier testified that he did not know the legal ramifications. Mr. Dudley asked whether Ms. Pecquet would have that information. Mr. Marshall stated his belief that the brief Entergy VY submitted in Docket No. 7440 addressed the issue. Tr. 2/12/13, Vol. 2 at 40-41.

**Response:** Entergy VY refers the Board to pages 83 through 87 of Entergy VY’s initial brief in Docket No. 7440.

10. **Record Request:** On February 12, 2013, Mr. Burke asked Mr. Cloutier, with respect to a presentation he gave to Mellon Trust on decommissioning issues, what his ultimate conclusion was with regard to the “end game” referenced in the presentation’s title itself. Mr. Cloutier indicated that the presentation was a tutorial and that he would provide the presentation to the Board. Tr. 2/12/13 Vol. 2 at 42-43.

**Response:** Attachment PSB:EN.RR-10 to this letter provides a copy of the presentation that Mr. Cloutier gave on decommissioning (titled “Decommissioning: Preparing for the End Game”) for Mellon Trust.

11. **Record Request:** On February 13, 2013, Mr. Coen asked whether Entergy VY would be producing an expert witness for the Board to question regarding the VY Station’s thermal discharge. Tr. 2/13/13, Vol. 2, at 42. Ms. Malmquist responded that she would need to discuss this matter with Entergy VY.

**Response:** Mr. Craig Swanson has addressed the VY Station’s thermal discharge in rebuttal testimony prefilled on March 15, 2013.

12. **Record Request:** On February 13, 2013, Ms. Tierney requested “record of violations is, if any found, your record of compliance with [the NPDES] permit,” for the VY Station. See Tr. 2/13/13, Vol. 2, at 106.

**Response:** The VY Station’s NPDES permit includes a requirement that the plant submit monthly reports, known as Discharge Monitoring Reports (“DMRs”), to the Agency of Natural Resources (“ANR”) confirming compliance with the enumerated NPDES-permit limits. Amended Permit No. 3-1199, Part L.D.2, p. 10 (March 30, 2006) (“The permittee is required to submit monitoring results as specified on a Discharge Monitoring Report (Form WR-43). Reports are due on the 15th day of each month, beginning with the month following the effective date of this permit.”). To the extent required by its NPDES permit, these DMRs reflect the VY Station’s self-identified instances of noncompliance, often with explanations regarding the event in question. See Attachment PSB:EN.RR-12 produces all DMRs
since ENVY acquired the VY Station in July 2002 through February 2013. Instances of reported exceedances, which are rare and negligible, and other instances of note are tabbed for convenience.

In addition, while not required to be included in DMRs, the VY Station annually conducts a biological-monitoring program, the scope of which is specified in Section IV of the VY Station's NPDES permit. See Amended Permit No. 3-1199, Part IV, pp. 19-25 (March 30, 2006). From time to time, all samples contemplated by the biological-monitoring program are not obtained or collected, e.g., because high flow events interrupt electrofishing or owing to vandalism of collection systems, respectively. These sampling limitations are reported in the annual monitoring report for that year. The VY Station's annual reports already have been made available to the Board. See Exhibits EN-CROSS-037, 302-305, and 151-155.

ANR has not initiated enforcement action, eg, through a Notice of Violation, against the VY Station since Entergy VY's acquisition of the VY Station.

13. **Record Request:** On February 13, 2013, counsel for the PSD asked Mr. Twomey to confirm that Mr. Kansler was the Senior Vice President and Chief Operating Officer of ENVY and ENO in 2002. Mr. Twomey stated that subject to review, that sounded reasonable. Tr. 2/13/13 Vol. 2 at 123-124.

**Response:** During the same exchange, Mr. Kirsch pointed Mr. Twomey to the prefiled testimony of Mr. Kansler admitted in Docket No. 6545, and Mr. Twomey confirmed that Mr. Kansler's title was Senior Vice President and Chief Operating Officer of ENVY and ENO. Tr. 2/13/13 Vol. 2 at 124.

14. **Record Request:** On February 15, 2013, Chairman Volz asked about commitments Entergy VY had made regarding funding to address post-operating conditions at the site. Tr. 2/15/13 Vol. 2 at 94. Counsel for the PSD asked a follow-up question about which Entergy entities made those commitments. Mr. Twomey responded that he would have to go back and look at the documents. Tr. 2/15/13 Vol. 2 at 95.

**Response:** Entergy VY has addressed this request in Mr. Twomey's rebuttal testimony prefiled in this docket on March 15, 2013.

15. **Record Request:** On February 19, 2013, Mr. Twomey testified that he thought, but was not certain, that the ownership structure for Entergy VY is the same as it was when the company applied for and received the original approval from the Board to purchase the plant back in 2002. Tr. 2/19/13 Vol. 1 at 52-53.

**Response:** The ownership structure is the same as to which Mr. Kansler testified in Docket No. 6545, except that Entergy Nuclear Investment Company was changed in 2004 from a corporation to a limited-liability company.
16. **Record Request:** On February 19, 2013, Mr. Coen asked whether Entergy VY had made any investments in the VY Station since receiving the NRC license. Mr. Twomey testified that he was sure the company had made some investments, but he did not know what the amount of the investment was and offered to provide that information to the Board. Mr. Coen asked whether there would be a witness who could testify on his question. Mr. Twomey indicated that John Herron may be able to answer the question. Mr. Coen noted he would ask further questions of Mr. Herron. Tr. 2/19/13 Vol. 2 at 14.

**Response:** On February 21, 2013, Mr. Herron responded to Mr. Coen’s questions with respect to investments. Tr. 2/21/13 Vol. 1 at 86-90.

17. **Record Request:** On February 19, 2013, Mr. Young asked Mr. Twomey whether the payments under the MOU entered in Docket No. 6812 had stopped. Mr. Twomey testified that the company was still making escrow payments, but he did not know if those payments concerned both the MOU in Docket No. 6812 and the MOU in Docket No. 7082, or only one. Mr. Twomey offered to provide this information to the Board. Tr. 2/19/13 Vol. 2 at 21.

**Response:** Entergy VY has addressed this question in Mr. Twomey’s rebuttal testimony prefiled in this docket on March 15, 2013.

18. **Record Request:** On February 19, 2013, Mr. Twomey testified that it was his understanding that the company was using some version of the verification procedure that was used in Docket No. 7440, but he clarified that he did not have all of the details. Mr. Twomey indicated that either Mr. Thomas or Mr. Buteau could know the answer to the question. Tr. 2/19/13 Vol. 2 at 69-70.

**Response:** Mr. Thomas will be available to address this issue during the technical hearings to be held in the rebuttal phase of this docket.

19. **Record Request:** On February 20, 2013, counsel for Entergy VY attempted to use the transcripts of Mr. Yoder in the cross-examination of Mr. Deen. Counsel for Vermont Natural Resources Council and the Connecticut River Watershed Council stated that the statements of Mr. Yoder in the deposition had not been verified or corrected. Counsel for Entergy VY stated that he would have to check whether the company requested that Mr. Yoder verify or correct the transcript of the deposition. Tr. 2/20/13 Vol. 1 at 49-51.

**Response:** On February 25, 2013, Entergy VY submitted a filing that contained the errata pages of the depositions for Messrs. Yoder and Shanahan.

20. **Record Request:** On February 21, 2013, Mr. Herron testified that he did not personally meet with the Board, the PSD, the ANR and other parties in Docket No. 7862. He testified that he did not
know whether Mr. Hebert met with these parties. Ms. Tierney made a record request for this information. Tr. 2/21/13 Vol. 1 at 20-21.

Response: Attachment PSB:EN.RR-20 to this letter identifies the stakeholders that Entergy VY has been able to determine met with Mr. Hebert. The PSD was the only party in Docket No. 7862 that appears on the list.

21. Record Request: On February 21, 2013, Ms. Tierney asked whether there were three investigations regarding the statements Mr. Thayer made during the Docket No. 7440 hearings. In particular, she asked whether there was an internal Entergy investigation in addition to the Attorney General’s investigation and the Morgan Lewis investigation. Mr. Herron testified that he was aware of the Attorney General’s investigation as well as the Morgan Lewis investigation, but he stated that he was not familiar with an internal investigation. Ms. Tierney made a record request for information regarding when that investigation was undertaken, if in fact there was an internal investigation, when it was concluded, and what the results were. Tr. 2/21/13 Vol. 1 at 24-25.

Response: Mr. Hebert has advised Entergy VY’s counsel that the investigation to which his memorandum referred was a due diligence inquiry undertaken by Mr. Hebert and his direct reports—Arthur Wiese, then Vice President for Corporate Communications, and George O’Connor, then Vice President for Federal Governmental Affairs—to obtain a better understanding of the nuclear culture within the company and why there was such distrust of it in Vermont. Mr. Hebert said that the results of this investigation were communicated by Mr. Hebert orally, by email and by writings such as a memorandum to Mr. Wayne Leonard, Entergy’s Chief Executive Officer. Attachment PSB:EN.RR-21 to this letter, which were among the documents collected and preserved in connection with the Attorney General’s investigation, appear to reflect Mr. Hebert’s communication of the results of this investigation to Mr. Leonard.

22. Record Request: On February 21, 2013, Ms. Tierney asked Mr. Herron how many of the employees who were involved in the event chronicled in the Morgan Lewis report and the Attorney General’s report, and possibly an internal investigation, remain employed by the company at the VY Station site today. Mr. Herron testified that he could not give an exact number. Ms. Tierney made a record request for this information. Tr. 2/21/13 Vol. 1 at 28.

Response: Assuming that the “individuals who were involved in the events chronicled in the Morgan Lewis report and the Attorney General report” refers to the eleven disciplined employees, five remain employed at the site (one other is employed at the White Plains office but often works out of Entergy VY’s Brattleboro office). If the request refers to the thirty individuals listed in Exhibit G to the Morgan Lewis report (not all of whom worked at the plant), twelve remain employed at the site (again, one other employee is employed at the White Plains office but often works out of Entergy VY’s Brattleboro office).
23. **Record Request:** On February 21, 2013, Chairman Volz requested that Entergy VY’s lawyers provide written information about what disciplinary action, if any, was taken with respect to the two witnesses whose testimony in Docket No. 7440 gave rise to the underground-piping issue. Tr. 2/21/13 Vol. 1 at 91.

**Response:** Attachment PSB:EN.RR-23, provided to the Board and the PSD under seal pursuant to the Protective Agreement, dated September 14, 2012, as amended on January 14, 2013, and subject to the Protective Order in this docket, dated September 27, 2012, and the Protective Order Re Amended Protective Agreement, dated March 6, 2013, provides the information requested by the Board concerning witnesses Thayer and Colomb.

24. **Record Request:** On February 21, 2013, counsel for the PSD made a record request for any documents that were part of the training program reflected in EN-LI-106 as it pertains to the VY Station, in advance of Mr. Buteau’s testimony. Tr. 2/21/13 Vol. 1 at 119-120.

**Response:** Entergy VY provided in advance of Mr. Buteau’s testimony a document that was marked and admitted as Exhibit EN Redirect-Herron-3 (AP 00138). See also Attachment PSB:EN.RR.24 (AP 000138 Rev. 1). In response to another Record Request, Entergy VY is also providing an earlier version of this procedure as Attachment PSB:EN.RR-27.

25. **Record Request:** On February 21, 2013, counsel for the PSD requested the forms that “would apply to people who are in the category of those who would give information to stakeholders, and we would like representative samples of forms showing attributes for people who are not in that category for the period from 2009 to the present.” Tr. 2/21/13 Vol. 1 at 126-27.

**Response:** Attachment PSB:EN.RR-25 provides examples of the online, performance-review forms that are used annually to evaluate the performance of Entergy employees. The forms include a rating for “ethics and values” (“Adheres to Entergy’s core values”) with an area for comments. The forms also allow the employee or supervisor to add individual goals, self-elected competencies and functional knowledge.

26. **Record Request:** On February 26, 2013, Ms. Tierney asked Mr. Buteau about whether any bi-weekly reports regarding groundwater-monitoring well GZ-24 at the VY Station had been filed since September 29, 2011. Ms. Tierney testified that his recollection was that Entergy VY had generated a final closure letter because the incident had been addressed and no further updates were required. Ms. Tierney made a record request for an affidavit by a person (not an attorney) knowledgeable as to why the company elected not to file any further reports after September 29, 2011. Tr. 2/26/13, Vol. 1 at 39-40, 42-43.

**Response:** Entergy VY will respond by supplementing this filing with the affidavit of Mr. Jeffery A. Hardy.

**Response:** Attachment PSB:EN.RR-27 provides the March 11, 2010, version of AP-00138.

Very truly yours,

DOWNNS RACHLIN MARTIN PLLC
Attorneys for Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc.

By: ________________

John H. Marshall
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Enclosures

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