

1 MR. THAYER: For the record my name is Jay
2 Thayer. I'm the Vice President of Operations for Entergy
3 Nuclear. You've asked me here today to summarize
4 discussion of decommissioning of Entergy Nuclear Vermont
5 Yankee.

6 Just to be upfront Entergy Vermont Yankee
7 opposes the bill before this Committee. Entergy VY's
8 committed to Vermont and to continuing to provide low cost
9 base load energy to Vermont and the region to 2012 and
10 beyond. This bill, however, is unnecessary and will
11 create a financial burden on Entergy VY that could well
12 require it to shut down -- the plant to shut down before
13 2012.

14 In addition, the bill would alter the
15 agreement reached with and their Certificate of Public
16 Good issued by the State of Vermont in 2002 when Entergy
17 VY purchased the VY station.

18 First, I would like to give you some
19 background on federal regulations as they pertain to
20 decommissioning and then I'll talk specifically about this
21 bill and then I'll summarize for you. Thank you.

22 For some background NRC federal regulations
23 provide five significant points related to decommissioning
24 of a nuclear power plant. These are captured in federal
25 law. I'll give you these citations after I finish up, but

1 I pulled these out because I think it's important to
2 understand how far the federal government goes in
3 codifying the decommissioning requirements for the hundred
4 or so nuclear plants that operate in 39 states in the
5 United States.

6 First point. Each power radioactive licensee
7 is required to provide reasonable assurance to the NRC
8 that funds will be available for the decommissioning
9 process. It's pretty general, but it is pretty clear
10 also. NRC requires that each licensee provide
11 certification that a calculated minimum amount is
12 available to be used for decommissioning. This is
13 required every two years, and in fact every year when a
14 plant is within five years of its license expiring like
15 Vermont Yankee is. That's a point I wanted to make. Each
16 and every year now Vermont Yankee has to certify to the
17 NRC that we have the funds available to be used for
18 decommissioning and it's calculated against a minimum
19 amount. There's a formula to calculate this minimum
20 amount and the NRC wants to make sure each licensee has
21 access to at least that amount.

22 UNKNOWN FEMALE: Can I ask a question?

23 (Inaudible)

24 MR. THAYER: A third point at least this
25 minimum amount must be funded by one of several mechanisms

1 including quote unquote an external sinking fund
2 segregated and outside of the control of the licensee.
3 This is also important because when we talk about these
4 funds and where they are the idea of a decommissioning
5 trust fund, the idea that I wanted to leave you with here
6 is that the decommissioning trust fund is very separate
7 from the company, the company's operations, other sources
8 for the company. By federal law it is very well
9 segregated and managed and directed by people other than
10 the company. It's very much isolated from day-to-day
11 business operations of the company.

12 At or about the five-year period, five-year
13 point prior to the projected end of operation licensees
14 must submit a preliminary cost estimate for the cost to
15 decommission the plant and that's a requirement.

16 Now in the State of Vermont in the dry fuel
17 storage docket that happened back in 2005 the Public
18 Service Board also said they wanted to see that detailed
19 decommissioning cost estimate and that was submitted I
20 believe it was the beginning of 2007. I can provide the
21 Committee with a copy of that estimate if you would like.
22 It's a pretty thick document, but it goes through kind of
23 the industry standard for a complete decommissioning cost
24 estimate because the NRC wants to make sure that the
25 company understand how much it's going to take to

1 decommission the plant. That has been done. That
2 document was provided to House Natural Resources and I
3 would be happy to provide that to this Committee as well.

4 The last point in federal regulations I would
5 like to make is licensees must submit five years before
6 the expiration of their operating license a spent fuel
7 management and funding program. That's also been done by
8 the company because there is -- this wasn't originally
9 contemplated by NRC decommissioning rules, but since the
10 Department of Energy has not delivered on their contracted
11 commitment to remove spent fuel from nuclear plants we've
12 had some nuclear plants shut down now and still have fuel
13 on site with no projected or no firm date for when the
14 Department of Energy is going to deliver on its contracted
15 commitment. That question has gone to court. It's been
16 argued up through the court system right up to the court
17 of appeals at the federal level, and it's been decided by
18 the courts that the Department of Energy is indeed
19 responsible for the full cost of spent fuel storage
20 management because they did not deliver on the contract to
21 start removing fuel from the nuclear plant sites in
22 January of 1998. So that's been decided in court.

23 Now the reason I emphasize that point when we
24 went through the case with the Public Service Board in
25 2005 on dry fuel storage, who is responsible and how were

1 the costs being collected, that point was not quite as
2 clear as it is today. Today the courts have decided
3 there's plenty of precedent. The Department of Energy has
4 started paying some companies damage claims for their cost
5 of storing fuel. So the point I want to make here is
6 during the remaining operation of Vermont Yankee for
7 however long that may be we are -- I fully intend to
8 recover the cost of fuel storage from the Department of
9 Energy because they failed to perform.

10 After the plant shuts down, whenever that may
11 be, we also fully intend to collect those costs from the
12 Department of Energy. So those costs will not be taken
13 from -- will not be removed from the decommissioning fund.
14 Okay. That's a point that's been in some question over
15 the last few weeks.

16 In summary, I would like to make it perfectly
17 clear to your Committee, as I have others, Entergy Vermont
18 Yankee has been and will continue to be responsible for
19 the cost of decommissioning the VY plant. The NRC will
20 make sure of this. It is clear under federal law and we
21 will certainly do what is required by NRC and federal law.
22 Thus, this bill is not necessary to ensure that the VY
23 station is safely and completely decommissioned.

24 Now I want to remind people of some of the
25 discussions at the state level about decommissioning that

1 happened back at the sale in 2002. The Public Service
2 Board was very explicit on this issue and they stated
3 during the sale that the sale of Vermont Yankee to Entergy
4 would relieve Vermont ratepayers from the financial risks
5 associated with decommissioning. The Board order states,
6 and I quote, increases in contributions needed to ensure
7 decommissioning upon shut down will not be passed on to
8 Vermont consumers. That's a direct quote right out of the
9 order.

10 Another quote that I would like you to listen
11 to is they also stated, and I quote, the ENVY will
12 demonstrate that it possesses funding sufficient to
13 accomplish decommissioning and furthermore to complete
14 site restoration, which I'll talk about in a minute, and
15 spent fuel management. Further, signatories to the MOU at
16 that time agree that such demonstration may include the
17 implementation of SAFSTOR or other forms of delayed
18 decommissioning. This is right out of the order that was
19 issued in 2002.

20 Additionally the Board stated, and this is
21 another quote of interest so I'll read the whole quote,
22 critically the proposal before us now presents committed
23 funds that are at least as significant as the available
24 liquidity of companies such as Green Mountain and Central
25 Vermont, and even more importantly are adequate when

1 measured against funds necessary to ensure safe
2 maintenance and shut down of the plant in the event it
3 ceases to produce power.

4 In other words, the financial assurances that
5 Entergy has agreed to provide ENVY will be sufficient to
6 ensure that ENVY has the resources it needs to operate and
7 to eventually close and decommission Vermont Yankee. In
8 addition, commitments and obligation from Entergy's parent
9 corporation now back the most important commitments
10 proposed for its proposed Vermont subsidiaries.

11 UNKNOWN FEMALE: Okay, but one of the
12 concerns that's come up is I understand that the Exenus
13 spinoff corporation is in process.

14 MR. THAYER: Correct.

15 UNKNOWN FEMALE: Okay. When that
16 spinoff happens Entergy is no longer the parent corp., the
17 spinoff is, and it has no money and I think that's part of
18 the concern.

19 MR. THAYER: Let me try to clarify that
20 because this is a question we've talked about here before.
21 The reason I started federal laws upfront is because there
22 is no question in my mind anyway that the NRC issues the
23 operating license and the operating license -- to an
24 owner, to an operator of the plant. That operating
25 license is in force through the period of operation until

1 the NRC clears the site. When all the radiological
2 material is removed. Okay. So they are in charge of that
3 operating license.

4 They have through regulations, and I'll give
5 you those regulations, they have reason to assure
6 themselves that whoever holds that license is financially
7 capable of executing either operating the plant,
8 decommissioning the plant, or cleaning it up at the end.
9 Okay. So they know who is responsible. They go through a
10 financial qualification review. They did this for Enexus
11 last year to see if Enexus had the financial
12 qualifications to act as a nuclear operating company
13 operating multiple plants in this country, and they
14 concluded that it did.

15 Now let me just boil it all down and be real
16 simple about this. Okay. Under the scenario where we get
17 to the end of operation for Vermont Yankee ENVY, and I
18 know you've asked the question before, ENVY ceases
19 operation, they don't have any more funds. ENVY has
20 access to funds.

21 First, let's assume now we're in 2012 just to
22 make it simple. ENVY would have access to funds from its
23 parent assuming that the Enexus transaction goes through.
24 Enexus Nuclear. Okay. That's a company that has been
25 reviewed by the NRC. It's been reviewed by the FERC.

1 It's been reviewed by the SEC. All have concluded that
2 that's a company that can perform the operation to operate
3 multiple nuclear plants, get access to capital, get access
4 to funds to be able to do this.

5 Now ENVY goes to Enexus Nuclear. If for some
6 reason -- and I'll just take this through speculation --
7 Enexus Nuclear doesn't have those funds, it's clear in NRC
8 regulation that the next place they go would be to
9 Entergy. Okay. Now that's because Entergy was the
10 previous holder of the license. Okay. So I just want to
11 make sure that everybody knows that trail from ENVY to
12 Enexus.

13 Now let's assume Enexus is not there.
14 What I just read you is Entergy is currently giving those
15 parent guarantees, is currently giving those assurances.
16 NRC knows where the trail would lead if ENVY LLC doesn't
17 have enough money. They know who backs that up and they
18 know who assures that -- those license obligations. Today
19 that's Entergy. Tomorrow it may be Enexus, but I can tell
20 you NRC would not stop if Enexus didn't have the money.
21 They would continue the trail back to the previous license
22 holder which would be Entergy.

23 I've done some research on that with my
24 company in the last few weeks. I didn't have a final
25 answer on that when I talked to you the other day, but I

1 can be assured -- I'm sure about what I'm talking about
2 today about how this trail would work and how NRC through
3 its federal regulations would assure that there was a
4 trail to make sure that there was adequate funding of
5 decommissioning and spent fuel storage.

6 UNKNOWN FEMALE: Okay. So then asking
7 for documents and parent guarantee shouldn't be a problem
8 for us. I think that's been the issue in this. Given
9 that somebody goes belly up in this process, you know, our
10 concern, and I think the other one is the time span.

11 MR. THAYER: I'm going to talk about
12 that in a minute.

13 UNKNOWN FEMALE: Okay. You know, how
14 can we work a deal that allows us surety that if you don't
15 get relicensed or if you do and something goes wrong and
16 somebody goes belly up that, you know, we have some
17 recourse that's a little better than having this lukewarm
18 slightly hot box sitting on our shores for 60 years.

19 MR. THAYER: I think in summary, Madam
20 Chairman, with all due respect I think the point that I'm
21 trying to make is that the State of Vermont, Vermont
22 residents, Vermont ratepayers, Vermont consumers are
23 adequately covered by federal regulation when it comes to
24 the question of who is financially responsible for the
25 decommissioning of a nuclear plant sitting in the confines

1 of your state.

2 UNKNOWN MALE: This might help to
3 understand the rationale for the reorganization as to
4 what's the purpose of it other than protection of the
5 parent.

6 MR. THAYER: It's some -- I didn't come
7 fully prepared to talk about that today, but just very
8 simply taking these five nuclear plants, actually six
9 units, five nuclear sites, and putting them into a new
10 company Enexus really has more to do with the nature of
11 the company, the risk profile of the company, the
12 attributes of that company from the standpoint of who
13 wants to own that stock than it does protecting any entity
14 from risk or isolating anybody from risk.

15 It really -- if you look at the way this
16 company Entergy Nuclear grew up and now potentially Enexus
17 Nuclear, it's very different than Entergy. Entergy is a
18 collection of regulated utilities in the middle south
19 fully vertically integrated utilities. In other words,
20 from the generation source all the way to the customer's
21 doorstep, whether that be a residential or commercial
22 customer, regulated in the states that they operated in
23 versus this nuclear organization that we've got and these
24 assets that we purchased in the northeast and Michigan
25 which are non-regulated, non-state regulated for the most

1 part, and operate independent from fully integrated
2 utilities and sell strictly into the wholesale electricity
3 market.

4 That's a very different profile of a company
5 from the conventional Entergy and, therefore, you get a
6 very different -- you get a different risk profile, you
7 get a different rating from rating agencies such as
8 Standard & Poor's and Fitch, and, consequently, you get a
9 different kind of a shareholder that wants to own that
10 stock, and what we've been hearing over the last few years
11 and one of the drivers for this separation was you've
12 grown up into two very different companies. You should
13 acknowledge that and split those companies apart so that
14 you would be -- your identities would be more clear and
15 that's not -- that's not a bad thing to do that. It's not
16 a good thing to do. It's strictly a this is the profile
17 of a company that started by buying one nuclear plant.
18 All of a sudden there's six nuclear plants and it's almost
19 as big as its parent.

20 So it's really a reality of what this business
21 has done since we started it in 1999, where it is today,
22 and then how that compares to a traditional rate regulated
23 cost of service utility which is more like the companies
24 that we operate in the rest of the mid south.

25 UNKNOWN MALE: I think last year we

1 asked for an organization chart.

2 MR. THAYER: Yes.

3 UNKNOWN MALE: And we got one that I
4 thought was way oversimplified and had some work done and
5 it was a lot more complicated than what we had seen.

6 MR. THAYER: Whatever way you slice it
7 it's pretty complicated.

8 UNKNOWN MALE: No, I understand that,
9 but I think the simplification probably didn't make clear
10 some of the concerns we had.

11 MR. THAYER: Okay.

12 UNKNOWN MALE: Clarify one thing. Did
13 you get an answer to your question about the parental
14 guarantee?

15 UNKNOWN FEMALE: I did not.

16 MR. THAYER: I'm sorry.

17 UNKNOWN FEMALE: Part of what we asked
18 for last year in the bill that talked about, you know,
19 before a spinoff and I believe part of what was in this
20 bill is some form of guarantee that Entergy is still
21 responsible at some level. There's still some recourse to
22 Entergy if, you know, if something happens to either VY or
23 Enexus, you know, that there is some parental guarantee,
24 and just wondering if you don't have the answer today it
25 would be helpful to get it why, you know, getting that

1 should be an issue if your statement is that Entergy
2 understands that by federal regulation they are on the
3 hook if all else fails.

4 MR. THAYER: So let me just repeat this
5 so I understand clearly because I missed it the first
6 time. I'm sorry.

7 What you're looking for is -- basically I've
8 told you that federal regulations guarantee this. What
9 you're looking for is will the parent state that in a form
10 of a guarantee to --

11 UNKNOWN FEMALE: Or writing.

12 MR. THAYER: Or writing to the State of
13 Vermont?

14 UNKNOWN FEMALE: Yes.

15 MR. THAYER: I'm not prepared to answer
16 that question this afternoon, but I think I understand it
17 to the point now where I can answer it.

18 UNKNOWN FEMALE: I think that's what we
19 asked for last year was some guarantee that when VY is
20 owned by another firm which is highly leveraged it may or
21 may not, depending on the markets and everything else,
22 have the money to do the decommissioning, and I think --
23 and I don't think anyone's disputing that at this point
24 the fund, the fund is not adequate to decommission within
25 anything less than 60 years is what I'm hearing.

1 MR. THAYER: No. That's not -- I'll get
2 into that in a minute.

3 UNKNOWN FEMALE: Okay. Why don't we let
4 you finish your statement and we can get there.

5 MR. THAYER: Okay. I guess the point I
6 would like to make, going back to the quotes that I made
7 from the Public Service Board order, the point I would
8 like to leave you with is that when Entergy bought the
9 plant in 2002 the idea of putting the plant into SAFSTOR
10 for some period of time was thoroughly discussed with the
11 parties involved in the process. Now you may not like
12 that, but that is -- it's well documented. It's in the
13 history. It's in the record and it's in the order.

14 We did not envision, I want to be plain here,
15 we did not envision at any time during those discussions
16 that we would use the full 60 years allowed by law in the
17 SAFSTOR period. We still don't. We still don't.

18 If the plant were to close in 2012, the plant
19 would remain in SAFSTOR for a period of time. Most
20 likely, most likely in the 15 to 20-year time frame. Now
21 we did some work with earnings on the fund, fund growth
22 under realistic scenarios, fund growth under bad
23 scenarios, and they all come out in a time frame in the 10
24 to 15 to 20-year period. They do not extend for 60 years.
25 Okay.

1 Now I was -- I tried to make some charts on
2 this. I was not successful. For that I apologize, but
3 what I can tell you is that the bottom line answer is that
4 it's -- it's fully reasonable to assume that under --
5 under market conditions that have prevailed over the last
6 hundred years on average that those funds would produce a
7 favorable result growing that decommissioning fund such
8 that we would be able to take that plant apart in the 10
9 to 20-year period.

10 Now to illustrate that unfortunately we're
11 sitting here talking in a period of financial upheaval
12 where we've seen the fund lose some 90 million dollars
13 over the last 7 or 8 months. Now the month of March
14 conversely was a very good month. Markets gained about 8
15 percent. The decommissioning fund for Vermont Yankee
16 gained back 12 million dollars. Okay. I can't make any
17 predictions about April or May or any other month between
18 now and 2012, but what I can tell you is that our
19 financial analysis, financial analysis by our independent
20 advisors say that this market that we've seen for the last
21 seven months as far as earnings, especially earnings that
22 are conservatively invested the way decommissioning funds
23 are, is truly an abnormality and we should get back to
24 fund growth in these types of investments in the 7 to 8
25 percent range because that historically, and there's an

1 index, there's a -- there's an indicator that people
2 watch. I believe it goes back to 1927 and depending on
3 the fund mix that you have, how conservative that is, how
4 much in bonds, equities, government securities, this -- my
5 number 7 or 8 percent would say that whether it's over the
6 last 100 years, whether it's over the last 20 years, last
7 10 years it would bear that out. If you ask --

8 UNKNOWN MALE: (Inaudible) The
9 inflationary cost of decommissioning over 20 year or 40
10 year?

11 MR. THAYER: Typically the
12 decommissioning costs have inflated in the 3 to 3 and a
13 half percent range.

14 UNKNOWN FEMALE: So how did you go from
15 the sale in 2002 when the bulk of the discussion was
16 around the surplus to being what it's estimated we need
17 today? What -- I mean I assume these same markets were
18 there and I'll go pre-October last year. What changed in
19 those numbers that well we sold the plant in 2002,
20 everyone said oh there's going to be an excess, you know,
21 in 2012, who got the excess, and now we're in a deficit
22 and what happened? I mean were the numbers wrong? Has
23 there been a sudden inflation in -- what happened? Why
24 were the numbers so off?

25 MR. THAYER: I think if you look at

1 recently as 2006, 2007 I would have probably sat here and
2 told you there's going to be excess funds in the
3 decommissioning fund because the earnings over that time
4 were in that 6, 7, 8 percent range.

5 UNKNOWN MALE: If we're looking at being
6 conservatively invested and you're talking 2, 3 percent as
7 return the inflation for decommissioning, is 3 to 3 and a
8 half percent, isn't that what you --

9 MR. THAYER: No. What I said was if you
10 take -- let's say -- let's say the fund on average let's
11 say it earned 7 percent and inflation takes away three and
12 a half percent. So you've got 3 or 3 and a half percent
13 real growth in the fund over that period, and if you
14 compound that out over the next 10, 15, 20 years, you'll
15 see that that fund comes right back to what is needed for
16 decommissioning and greenfielding of the site.

17 Now we filed a lot of detailed information
18 across the street with the Public Service Board on those
19 cases on why we believe that to be true. Now that case is
20 all around 2032, but I can tell you that all of our cases
21 -- most of our cases for earnings between now and 2032
22 show that we'll be able to go right into decommissioning
23 in 2032 because there will be adequate money in the fund
24 even under a modest earning -- earnings scenarios. We've
25 shown that in great detail.

1 I didn't want to complicate the case over here
2 because we're talking over here 2012, but I just wanted to
3 make that distinction that over the long term these funds
4 will grow and will be adequate.

5 Now from a full disclosure standpoint, not to
6 complicate the situation here, is one of the things that's
7 been in question about, and I talked about this a minute
8 ago, spent fuel storage, the cost of spent fuel storage,
9 after the plant shuts down the cost to -- one of the
10 things that you do is you put all the fuel that's in the
11 pool into these dry storage containers and to get the
12 plant -- get the fuel out of the plant. That's one of the
13 first activities in the decommissioning. That takes the
14 first five to seven years to do that because you've got to
15 wait five years before you do -- before you can put the
16 fuel -- the newest fuel into those containers. That costs
17 anywhere between 200 and 250 million dollars.

18 Now the question previously has been is that
19 -- are we going to have to collect that much more in the
20 decommissioning fund, and what we've decided to do as this
21 court case that I described to you a minute ago, the cases
22 that we filed with the Public Service Board we have made a
23 decision that we're not going to collect that in the
24 decommissioning fund. We're going to take that as a --
25 we're going to collect that from the Department of Energy

1 because of this court case that I described to you before
2 and the precedent for the Department of Energy paying
3 those as damages in a breach of contract to Entergy
4 Nuclear Vermont Yankee.

5 So rather than collect an additional 200
6 million dollars we're going to say well as we incur those
7 costs we'll bill the Department of Energy and receive
8 those funds back so that that's not another strain on the
9 decommissioning fund.

10 I think some of the previous cases and some of
11 the cases that were done by your consultants indicated
12 that all that money had to be in there. That's why we got
13 up to 900 million, a billion dollars for decommissioning
14 and spent fuel storage and greenfielding because those
15 costs were assumed to be a liability of Entergy Nuclear
16 Vermont Yankee when in fact the courts have decided those
17 costs are a liability of the Department of Energy. That's
18 --

19 UNKNOWN FEMALE: Has anyone gotten any
20 money from the Department of Energy?

21 MR. THAYER: Yes, they have.

22 UNKNOWN FEMALE: They have. There was
23 testimony here the other day, or maybe it was just
24 editorializing, but no one has gotten anything.

25 MR. THAYER: They have. Entergy Vermont

1 Yankee has not. We haven't made a claim yet, but we
2 intend to make a claim because the court case was decided
3 within the last year.

4 UNKNOWN MALE: Do we have a breakdown
5 between what you're explaining is SAFSTOR dollars the Feds
6 will owe us versus what the actual decommissioning would
7 cost?

8 MR. THAYER: If you took the spent fuel
9 costs out of that?

10 UNKNOWN MALE: Yeah, and I guess also
11 would you be able to, so to speak, return everything to
12 greenfield except for the dry casks?

13 MR. THAYER: That's -- that's always an
14 assumption that the -- which will finish first, the
15 decommissioning or the removal of the spent fuel, and I
16 think that unfortunately we have several sites in New
17 England today where the plant has been decommissioned,
18 it's been cleaned up, the license has been released by the
19 federal government, grass has been planted, and the fuel
20 is still stored on the site. So that's -- that is one
21 scenario. I can separate those costs out for you and get
22 that to you.

23 UNKNOWN FEMALE: Yeah. The other thing
24 that might be helpful is the folks that have gotten money
25 has that been dollar for dollar of the cost or has that

1 been a percentage negotiated?

2 MR. THAYER: No. It's been dollar by
3 dollar. The claims are made based on the actual costs
4 incurred. You can't make this claim until you've actually
5 spent the money and then you have your actual receipts and
6 invoices and you can prove to the Department of Energy
7 this money was actually spent and they are reimbursing
8 that money.

9 UNKNOWN FEMALE: Okay.

10 UNKNOWN MALE: When did this taxpayer
11 bailout for failure to remove fuel begin? When was it
12 first started?

13 MR. THAYER: I'm sorry.

14 UNKNOWN MALE: The taxpayer bailout that
15 you've just referred to --

16 MR. THAYER: Why do you refer to it as a
17 taxpayer bailout?

18 UNKNOWN MALE: Because the NRC is paying
19 for it.

20 MR. THAYER: The NRC is not paying for
21 it. The Department of Energy -- in 1983 all the nuclear
22 plants in the country started paying into a National Waste
23 Fund. Okay. A tenth of a cent per kilowatthour, one mil
24 per kilowatthour, one thousandths of a dollar per
25 kilowatthour was collected by the old Vermont Yankee

1 Nuclear Power Corp. and has subsequently been collected by
2 Entergy paid into the National Waste Fund as has every
3 other plant for fuel, all the fuel that was used and all
4 the fuel that will be used.

5 In exchange the Department of Energy
6 contracted with each of those owners and said when you --
7 in 1998, no later than January 31, 1998 we will, in return
8 for that payment, we will take your fuel. We will take
9 possession of it. We will take title to it and we will
10 take it away. That was the bargain under that contract.
11 They failed to execute on that contract even though they
12 kept the money and went to -- what the courts found is
13 that you took the money from the companies you owe the
14 company something for that. You haven't delivered on it
15 so you're going to make them whole for their damages that
16 they had to spend because you didn't come in 1998. Is
17 that -- does that make sense now?

18 UNKNOWN MALE: It does which goes back
19 to the taxpayer bailout question because that money was
20 set aside for depository for nuclear fuel, and if you're
21 successful in taking the money from the depository to be
22 used instead to maintain storage of the fuel throughout
23 the United States, then the fund that was going to build
24 the nuclear depository is empty and sooner or later you
25 got to send it somewhere, and it's -- we've been asked I

1 think very persuasively by Mr. Thayer to accept their
2 funds that in 15 or 20 years SAFSTOR will be dealt with.
3 If Entergy has faith in those numbers, and I assume that
4 it is willing to give the state a guarantee that if what
5 they have told us today does not come to pass, they
6 Entergy will pack it up and not 15 or 20 years from now, I
7 apologize for the miscalculation, and once again have you
8 the taxpayers or ratepayers or someone else have to pick
9 up the tab.

10 UNKNOWN FEMALE: Is that a question?

11 UNKNOWN MALE: Yes. I eagerly await the
12 guarantee, the estimates so passionately argued here today
13 that they will come true that that bet is covered by the
14 folks making the bet not the citizenry.

15 UNKNOWN FEMALE: I gather your concern
16 is the money that was set aside was for nuclear
17 depository, and I remember I thought it was 25 million
18 dollars in that first meeting of Joint Fiscal that the
19 State of Vermont paid in and it was part of ongoing
20 payments. If we use up that fund paying for onsite
21 storage, then there will never be offsite storage because
22 there will be no money.

23 MR. THAYER: Actually the way I
24 understand it, Madam Chair, and I can get some
25 clarification on this, the money that's been paid into the

1 National Waste Fund is in excess of 25 billion dollars.
2 Now, unfortunately, and this is -- I'm not here to make an
3 excuse for this, is that money has -- was not set aside.
4 That money was not parked in a fund. It was not off
5 balance sheet by the federal government so that money has
6 been spent. Okay.

7 Now Entergy and every other nuclear company in
8 the United States continue to pay into that fund at the
9 one mil per kilowatthour every year and I believe
10 approximately 2 billion dollars is collected every year.
11 I can get a firm number on that.

12 UNKNOWN FEMALE: Okay.

13 MR. THAYER: So there's money going in
14 there. The State of Vermont in -- through what Vermont
15 Yankee Nuclear Power Corp. paid and what Entergy has paid
16 since 2002 has paid in just under 100 million dollars into
17 that fund. Now the Department of Energy has to calculate
18 interest on that 100 million dollars, and I think what you
19 see, and I get -- I think Joint Fiscal Office I gave them
20 these numbers, but I think total with interest the State
21 of Vermont has paid in about 148 million dollars including
22 interest. Okay. What I'm talking about recovering for
23 the onsite storage is a small fraction of that. It's a
24 small fraction of that, and I don't think under any
25 scenario we would use the whole 148 million dollars.

1 Okay. So that's -- that's first of all.

2 Second of all, the 25 billion dollars does not
3 sit with the federal government in a trust fund to be used
4 for fuel storage. That's another problem. That's a big
5 problem.

6 UNKNOWN FEMALE: There may not be money
7 there.

8 MR. THAYER: We have -- well we have
9 tried -- we have tried to pass legislation. The industry
10 has pushed legislation to push the nuclear waste fund off
11 balance sheet to make -- to put it into a fund so it would
12 be there for the companies and the states to have some
13 assurance that this would be there in the future. That
14 has not been successful.

15 UNKNOWN FEMALE: Okay.

16 MR. THAYER: Okay.

17 UNKNOWN MALE: When is the current
18 decommissioning fund (inaudible.)

19 MR. THAYER: The federal law that was
20 passed, I believe it was passed in 1983, and I think it
21 required either in '83 or '84 for people to start
22 collecting decommissioning funds and put them into a trust
23 fund, and I'm not sure if the old Vermont Yankee Nuclear
24 Power Corp. was collecting funds on their own before that,
25 but that's when it became law. 25 years ago.

1 UNKNOWN MALE: 25 years ago.

2 UNKNOWN MALE: I'm trying to understand
3 why I would expect 15 years from now this fund would be
4 adequate (inaudible). If I understood correctly, we're
5 saying that the math, the market predictions and so forth
6 to fund this decommissioning fund adequately 15 to 20
7 years out decommission (inaudible) I'm trying to figure
8 out how that would be given the 25-year history of this
9 fund which is the condition it's in now which is grossly
10 inadequate. What's so different about the next 15 years
11 as opposed to the last 25?

12 MR. THAYER: Well, first of all, when we
13 bought the plant in 2002 it was about 310 million dollars
14 in the fund. That's what transferred over in the sale;
15 310, grew to 440, moved back to 370 or something. Okay.
16 So the fund, as with any funds, the more you have in
17 there, the more that's in the base fund the more small
18 changes in interest rate growth influence that fund, and
19 if you look at these models that I talked about that we
20 submitted to the Public Service Board, you can see that
21 once you get into the 3, 4, 500 million dollars range a
22 small change in interest makes that fund grow fairly
23 rapidly, and I think between 199 -- 1983 and 2002 the
24 companies were contributing such that there wasn't -- in
25 the early years there wasn't very much money in there. So

1 if you don't have much money in there you don't get much
2 benefit from interest groups, but in the later years when
3 there was a lot of money in there you're very sensitive to
4 the interest group. That's the -- I'm not a financial
5 person, but that's my basic understanding.

6 UNKNOWN FEMALE: Okay.

7 UNKNOWN MALE: I have not a doubt in the
8 world that as long as you have control over this you'll
9 make (inaudible) okay, but we're going beyond yours and my
10 lifetimes, and I think earlier we did a bill, this is an
11 analogy, we did a bill dealing with tenants and landlords,
12 and I was reminded about the time about 40 years ago
13 living a daring bohemian life, I went to my landlord who
14 was the kind of guy you would see on the Sopranos and I
15 explained two things. I explained why it wasn't my fault
16 that I didn't have the rent, and, secondly, I explained my
17 plan by which I would have the rent in about three weeks,
18 and what he said to me was, Rich, you can only pay your
19 rent with money. You cannot pay your rent with a speech.

20 Okay. With all due respect I have
21 perfect confidence in you. You're not going to be here.
22 You're going to be, if you're lucky, living in Florida,
23 but probably not on this planet when the bill comes due,
24 and so good explanation why it's not your company's fault,
25 good explanation of the plan, but as my landlord said

1 money talks, and I'll spare you the rest of that
2 expression.

3 MR. THAYER: I guess with all due
4 respect, Senator, one of the reasons that I started out
5 the way I did was to let you know that this isn't Jay
6 Thayer's promise. This isn't anybody sitting in this
7 room's promise to the State of Vermont. This is grounded
8 in federal law. It's grounded in Public Service Board
9 orders. It's grounded in legal documents, and all I'm
10 doing is interpreting or reading to you from those
11 documents so you can see what exists that codified into
12 laws and orders and things that we operate by already
13 without the benefit of this bill, and that's what I tried
14 to leave you with. It's not -- it's not my, you know,
15 interpretation of what's on paper. It's what exists.

16 UNKNOWN MALE: I think 25 years ago most
17 people determined federal law guarantees that money would
18 be in there now and it's not.

19 UNKNOWN MALE: That's right.

20 UNKNOWN FEMALE: Okay. I want to let
21 Mr. Thayer finish his testimony. Then -- I think we've
22 kind of broken his chain of thought.

23 MR. THAYER: I can wrap up.

24 UNKNOWN FEMALE: Okay.

25 MR. THAYER: I guess we talked a lot

1 about the current House bill. It is Entergy's position,
2 I'll say it again, this bill would violate the terms of
3 the Certificate of Public Good for the sale of Vermont
4 Yankee issued by the Public Service Board in 2002.

5 I have to also tell you that that CPG
6 carefully weighed the benefits to Entergy, to the Vermont
7 utilities, to the Vermont ratepayers, and struck a balance
8 between low electricity rates to Vermont consumers for 10
9 years, 2002 to 2012, and the need to contribute money to
10 the decommissioning fund versus letting it grow through
11 interest and earnings.

12 A new requirement for ENVY to contribute over
13 229 million dollars to the fund prior to 2012 is clearly
14 in violation of the terms of the Public Service Board
15 order under which we operate here in Vermont. As I
16 mentioned before when I testified in front of the
17 Committee, the company will have no other choice than to
18 seek a legal remedy if this bill were to pass. I don't
19 want this to sound like a threat because it is not, but
20 Vermont Yankee does not make the type of revenue that
21 would allow it to pay this type of payment and, therefore,
22 we would not agree to such terms.

23 In our view this bill could well force Entergy
24 VY to close the plant before its current license expires
25 in 2012.

1 UNKNOWN FEMALE: If we can find a
2 different payment schedule is that -- just you don't have
3 to answer, but just is the number the problem or the fact
4 that the payment at all, and, you know, I know you may not
5 have --

6 MR. THAYER: The simple answer is the
7 fact that a payment is being required at this point in the
8 contract with Vermont Yankee is what we object to. Now
9 I've said this many times before and I think you heard
10 this from Attorney Hofmann. We're across the street
11 talking about what's next for Vermont Yankee. I know you
12 people will ultimately deliberate what's next for Vermont
13 Yankee, and what I'm here to tell you there's a lot of
14 energy going into the tiered 2012 to 2032 how is
15 decommissioning going to be handled, what assurances are
16 going to be given, how is that going to be backed up so
17 that we'll know when 2032 comes from Vermont Yankee will
18 be rapidly decommissioned and the site returned to a
19 greenfield.

20 There's a lot of energy going into that
21 process to investigate, explore, provide testimony,
22 rebuttal testimony. There will eventually be live
23 hearings on that across the street at which time all the
24 parties will be allowed to cross examine and explore each
25 other's ideas, and I just that is -- that is when this

1 type of an answer, which has such a significant impact on
2 the company, needs to be answered.

3 UNKNOWN FEMALE: Okay.

4 UNKNOWN MALE: That's where we were 20
5 years ago, Madam Chair. That was all debated. It was all
6 discussed. Guarantees were made. Promises and assurances
7 were given. The federal government was there to back them
8 up. The fund was established, and here we are today and
9 it has not come to pass and they are saying I'm going to
10 start all over again from scratch and there are two issues
11 we have. One that's before us and the other is the waste
12 that has been generated and will be generated up until
13 2012 has been handled in a way that no one expected and
14 contrary to the promises that were given, and this
15 Legislature is going to have to make a decision whether
16 it's going to give permission to start a whole new pile of
17 waste that hasn't been started yet based on assurances and
18 promises by the same people that made those assurances and
19 promises 20 years ago that haven't come to pass.

20 MR. THAYER: I know that the Department
21 of Public Service provided some testimony last week
22 indicating the potential impact to ratepayers if an early
23 closure of Vermont Yankee were to happen so I don't want
24 to go into that.

25 One thing I don't believe the Department

1 mentioned was the Clean Energy Development Fund.
2 Currently we contribute approximately 3 to 4 million
3 dollars a year to that fund from the revenues received --
4 we receive from power, uprate power. If we were to be
5 forced to close early, that would significantly reduce
6 future contributions that would be available to fund
7 projects from that fund.

8 Additionally, the immediate impact, economic
9 impact, of an early plant closure cannot be overlooked.
10 The 55 million dollar payroll would be drastically reduced
11 in the first year, as well as reductions in local and
12 state taxes and goods and services purchased in that area.
13 There have been several detailed economic studies
14 performed on this by Entergy, by others, and by the
15 Department, and all the -- all those studies have been
16 large and pretty much point to the same consequence.

17 In summary, under federal law NRC regulates
18 decommissioning issues including financial assurances and
19 adequacy of decommissioning funds to accomplish complete
20 plant decommissioning, including storage of spent nuclear
21 fuel. Entergy is meeting all of its federal regulatory
22 requirements today. We have been, we continue to, and we
23 intend to in the future.

24 We're also committed and bound by federal law
25 to ensure that the Vermont Yankee plant is safely

1 maintained and monitored after its shut down until
2 radiological decommissioning is completed. Entergy
3 Vermont Yankee is also committed to returning Vermont
4 Yankee plant site to a greenfield, a condition following
5 radiological decommissioning and termination of the NRC
6 license. That's unique. That's not required by federal
7 law, but I want to make sure I say that because it is a
8 commitment we have made in Vermont and that is
9 memorialized in the Public Service Board order in 2002 for
10 that greenfield or technical term site restoration.

11 Entergy Vermont Yankee is committed to
12 ensuring that the funding of these activities is assured
13 without impact on the ratepayers or the taxpayers of the
14 State of Vermont. Entergy Vermont Yankee entered into an
15 agreement with the State of Vermont when it purchased the
16 plant in 2002 in which it assumed all the risk of
17 operation and decommissioning while the Vermont utilities
18 recovered all their sunk costs in the purchase price, as
19 well as received a below market PPA saving Vermont
20 ratepayers to date 324 million dollars. Entergy has lived
21 up to its part of the agreement and would expect the state
22 to live up to its end of the agreement as well.

23 Entergy Vermont Yankee would also like to
24 operate the station for an additional 20 years continuing
25 to supply Vermont and the region with safe, reliable,

1 economical base load power, and we have taken action with
2 the Legislature and with the Public Service Board to
3 achieve that objective. If the plant is licensed to
4 operate until 2032, the plant will be decommissioned
5 immediately which could end up being sooner than if the
6 plant were to be closed in 2012.

7 That concludes my -- my formal prepared
8 remarks. I would like to make one -- one correction to a
9 discussion, that exchange with Senator MacDonald.

10 We were -- I think a minute ago we were
11 confusing the decommissioning responsibility and the
12 decommissioning funding with the spent fuel responsibility
13 and the spent fuel fund and the National Waste Fund. I
14 was -- okay, maybe I was the one being confused, but the
15 National Waste Fund at one point it was said, I think I
16 said this, it was that the claims that are being made
17 currently to pay off the fact that the government has not
18 delivered on its contract. Those claims are not coming
19 out of the National Waste Fund. Those claims are coming
20 out of a damage fund -- damages fund which the government
21 handles its damage claims separately from the original
22 fund. So that original fund is not being used to pay
23 those damages. That's just the way the federal government
24 operates. I was reminded by Mr. Dave McElwee who sits
25 with me in the room today that that's -- and I believe

1 it's called the damages fund. There's a technical term
2 for it, but it's not the National Waste Fund. So the
3 National Waste Fund remains. Money is paid in by Vermont
4 remains, and if damages are claimed by Entergy that will
5 not come out of the waste fund.

6 UNKNOWN MALE: Federal fund. Thank you
7 very much.

8 UNKNOWN FEMALE: Okay.

9 UNKNOWN MALE: I would like to commend
10 you for your forthright presentation. I would like to
11 second Senator MacCormick's question to you, but I'm
12 wondering if you haven't come bearing a burden bigger than
13 you can carry to satisfy this table. You are part of the
14 situation. I keep looking for somebody to come in from
15 over there on a silver horse and back you up. I think in
16 this room there are more people wanting to refute maybe
17 what you say than -- than back up what you want to say and
18 nobody is here telling me a very important thing and that
19 is how detrimental passing this bill will be, and you're
20 part of a company. Somebody from the industry has been
21 through this problem before except for the uniqueness of
22 Vermont where the Legislature has stepped in to the
23 process. Nobody's waving their finger at us the way I
24 would feel more comfortable. Madam Chair.

25 UNKNOWN FEMALE: Yes.

1 UNKNOWN MALE: Am I making any sense?

2 UNKNOWN MALE: Yes.

3 UNKNOWN MALE: I've sat here listening
4 very carefully and that's what I think.

5 UNKNOWN FEMALE: Okay.

6 UNKNOWN MALE: Is there -- there an
7 answer?

8 UNKNOWN FEMALE: I would ask Mr. Thayer.

9 UNKNOWN MALE: Is there somebody else
10 who could come in from another nuclear plant that's been
11 through the same kind of process that you have and -- and
12 would look at us and point out how devastating to our
13 economy or whatever passage of the decommissioning bill
14 would be?

15 MR. THAYER: I guess I'm not sure how to
16 answer that question, and I think one of the things that
17 we try to do in assembling this testimony was give you the
18 facts, and one of the reasons I said before is I started
19 with the federal government and then I went very specific
20 to Vermont. That's one of things about somebody else from
21 another company coming in here telling you how
22 decommissioning is done in Illinois or Louisiana. It's
23 not Vermont. The Public Service Board has placed some
24 restrictions, some conditions in their orders that are
25 unique to Vermont. So I wanted to talk about a Vermont

1 case as opposed to a generic case.

2 UNKNOWN MALE: I'm not criticizing
3 anything.

4 MR. THAYER: I'm just trying to tell you
5 why I've kind of zeroed in on the Vermont specific case
6 because there are some unique features to the Vermont case
7 that I wanted to talk to you about and the assurances that
8 you have both at the federal level and at the state level
9 that have been well documented that are unique in the
10 nuclear industry.

11 UNKNOWN FEMALE: I think your testimony
12 has been that you oppose the bill primarily because it is
13 an alternative to an existing contract and the added cost
14 could force closure before 2012, and that you feel that if
15 something happened either before 2012 when, you know,
16 another cycle will start, another set of negotiations
17 could start, that there is adequate federal oversight and
18 funding to cover decommissioning in a reasonable amount of
19 time, something closer to 20 than 60 years, and that one
20 other thing, and that in the event of a spinoff company
21 that eventually Entergy would have corrected its
22 responsibility if all else failed?

23 UNKNOWN MALE: I mean you led me right
24 into this question. What would happen if the NRC -- have
25 a yes or no -- if Entergy was to sell off the spinoff at

1 some point to another company?

2 MR. THAYER: Absolutely because in those
3 cases the license transfers -- right now Entergy company
4 holds the license for Vermont Yankee. Entergy Nuclear
5 Vermont Yankee and Entergy Nuclear Operations hold that
6 license. In order to change that you have to make
7 application to the NRC, you have to show them your
8 financial qualifications, you have to prove to them that
9 you're qualified to do this.

10 UNKNOWN MALE: Who owns the license?

11 MR. THAYER: Today?

12 UNKNOWN MALE: Well in the new
13 structure.

14 MR. THAYER: Enexus Nuclear and Entergy
15 or Enexus Nuclear Vermont Yankee LLC. The two can still
16 be jointly held.

17 UNKNOWN MALE: But where is Entergy the
18 parent in this?

19 MR. THAYER: Not in as a license holder.

20 UNKNOWN MALE: So if Entergy decided to
21 sell its share in the two --

22 MR. THAYER: They wouldn't have a share
23 in the two. If -- if the transaction were completed --

24 UNKNOWN MALE: And if the transaction's
25 completed and they have no share in the two, then isn't

1 part of the transaction a fairly heavily leveraged Yankee
2 and better balance sheet on Entergy?

3 MR. THAYER: That's a complicated
4 question and I don't feel adequately qualified to answer
5 it, but what I can tell you is that it has been looked at.
6 This transfer has been looked at. I know it's been
7 described as a heavily leveraged transaction. I don't
8 believe that it is. I believe that there's -- there's six
9 nuclear units. There's five nuclear sites involved in
10 this. These are high performing assets. Most of them
11 have long term power contracts so they are very secure
12 assets from the standpoint of financial risk. So --

13 UNKNOWN MALE: If they keep performing
14 you mean?

15 MR. THAYER: Yeah, and I think, you
16 know, we have had -- these units are not spotty
17 performers.

18 UNKNOWN MALE: This is not a -- this is
19 more of a, you know, if something happens so -- and not
20 necessarily in Vermont, one of them's not relicensed then
21 all of a sudden you've got that whole new company
22 underwater fairly significantly.

23 MR. THAYER: It's actually not because
24 it's, as I said, it's spread over six units, five sites,
25 and it's the -- when you look at the power contracts, the

1 cash flows, the access to capital of this new entity, we
2 go through scenarios and we look at what if one of those
3 plants were to shut down. What if it were to shut down
4 for six months? What if it were to shut down for two
5 years? And we do those scenarios to prove to ourselves --
6 to prove to ourselves we can still meet our obligations,
7 make our payments and not be financially threatened.

8 UNKNOWN MALE: You could lose 20 percent
9 of your revenue.

10 MR. THAYER: We go through loss of
11 plant, we go through power markets decline, some level, we
12 don't get as much money for our power, we go through
13 scenario planning to make sure that we can meet the
14 obligations of this new company, and as -- I would argue
15 with you on heavily leveraged, but I can tell you that the
16 company is very -- will be -- is very sound financially to
17 be able to meet its obligations to be able to take care of
18 contingencies like shutdowns, and without bankrupting the
19 company and I think --

20 UNKNOWN MALE: You're essentially
21 talking if it was one plant down you would lose 20 percent
22 of your revenues.

23 MR. THAYER: No because -- well depends
24 on which plant because these are different.

25 UNKNOWN MALE: Just approximately.

1 MR. THAYER: Approximately, sure.

2 UNKNOWN MALE: And that seems for a
3 prolonged period of time or permanently like that pretty
4 much neutralizes any value on the company.

5 MR. THAYER: I can't give you a
6 quantitative answer to that, but I can tell you that that
7 would not bankrupt the company.

8 UNKNOWN FEMALE: Senator Hartwell.

9 UNKNOWN MALE: Given your statements
10 about testimony about the 15 years (inaudible) analysis
11 that have been done of the decommissioning fund which is
12 properly funded, I would assume from that -- that even if
13 this bill -- the first two payments came immediately after
14 the March 21, 2012 would you still have a problem with the
15 bill? (inaudible).

16 MR. THAYER: Yes because I think -- I
17 think the bill carves out a very critical, very important
18 question. I'm not arguing the importance of the issue,
19 but what I'm saying it's probably premature because of the
20 activity and energy that's going into answering this
21 question across the street at the Public Service Board in
22 which a lot of parties participate, a lot of analysis is
23 on the table and being poked at. I would say to just come
24 up with, you know, two payments on a payment stream that
25 makes people feel better about the money and

1 decommissioning is out of process. It's an arbitrary and
2 random answer.

3 UNKNOWN MALE: (inaudible) what's going
4 on across the street what's going on in here.

5 MR. THAYER: With all due respect,
6 Senator, I would just say I would make the distinction
7 between that in that what's going on across the street is
8 we have filed thousands of pages of testimony on the
9 license, the continued operations case, and that testimony
10 it is allowed to be discovery performed, it's allowed to
11 be rebutted by all the parties. As I said, this is all
12 done under oath and we'll eventually have live hearings
13 where people can be cross examined, and I would just
14 submit to you, and not in disrespect for this process,
15 that is a better way to answer such a difficult and
16 lasting question as a company paying hundreds of millions
17 of dollars into a fund to solve a problem that may not be
18 problem, and I would just submit to you -- I would just
19 respectfully submit that the investigation process by the
20 Public Service Board, as I described was used during the
21 sale, is in my mind a very thorough, high integrity
22 process that gives a huge amount of protection to the
23 State of Vermont.

24 UNKNOWN MALE: Yes, we still seem to
25 circle back to a parental guarantee that is right there in

1 front of everybody, and we've also been dealing with more
2 complexity than I can fathom scientifically and everything
3 else, and in the end to me it's real simple. It's coming
4 down to trust, and like Senator MacDonald said, you know,
5 we trust each other there's no problem. I have all the
6 faith in the world in you. I worry a little bit about New
7 Orleans. How do we -- the impasse I see is a simple
8 guarantee would cross all those bridges and probably make
9 it -- a lot of headway. I think a lot of us get real
10 suspicious the more complex you get in this day and age.

11 MR. THAYER: I agree.

12 UNKNOWN MALE: And the more entities
13 that are involved and not that I don't have faith in the
14 Public Service Board or faith in the utilities. It's just
15 we keep digging this hole so deep and so complex that we
16 need to keep -- back up and solve the trust issue which
17 seems to be something as simple as a guarantee.

18 MR. THAYER: I took that as a question
19 which I'm going to act on from the Chair quite a few
20 minutes ago now and I will -- I will provide an answer to
21 this Committee.

22 UNKNOWN FEMALE: Okay. I think that
23 would be helpful. Any other questions? Okay. Thank you.

24 MR. THAYER: Thank you very much.

25 (End of discussion.)

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