

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of)	
)	
ENTERGY NUCLEAR OPERATIONS, INC.,)	
ENTERGY NUCLEAR GENERATION)	
COMPANY, AND HOLTEC)	Docket Nos. 50-293 & 72-1044
DECOMMISSIONING INTERNATIONAL,)	
LLC; CONSIDERATION OF APPROVAL OF)	
TRANSFER OF LICENSE AND)	
CONFORMING AMENDMENT)	
)	
(Pilgrim Nuclear Power Station))	

**MOTION OF THE COMMONWEALTH OF MASSACHUSETTS TO
STAY PROCEEDING TO COMPLETE SETTLEMENT NEGOTIATIONS**

Petitioner, the Commonwealth of Massachusetts (Commonwealth or Massachusetts), respectfully requests that the Nuclear Regulatory Commission (NRC or Commission) stay all activities in the above captioned proceeding for 90 days to permit the Commonwealth, Entergy Corporation (Entergy), and Holtec International (Holtec) (collectively, Negotiating Parties) to complete settlement negotiations. The Negotiating Parties have been engaged in settlement discussions regarding the Commonwealth’s Petition for Leave to Intervene and Hearing Request, Docket Nos. 50-293 & 72-1044, filed on February 20, 2019 (Petition). *See* Letter from Pamela Cowan to Attorney General Maura Healey, copying Margaret Doane, Executive Director of Operations, NRC (Jul. 17, 2019), attached hereto as Exhibit 1. The resolution of the settlement negotiations could resolve the Commonwealth’s Petition and prove valuable to the NRC’s own decision-making process. To preserve the current positions of the parties and in light of the benefits to the NRC if the Negotiating Parties are able to reach an agreement, we ask that the NRC take no action on any of the pending requests for 90 days, or until the Negotiating Parties

jointly inform the NRC either that they have reached a settlement and the Commonwealth is withdrawing its Petition or that an agreement cannot be reached and the Commission should proceed to rule on the Commonwealth's Petition, whichever occurs sooner.

The NRC's longstanding policy favors settlement rather than litigating adjudicatory proceedings. *Sequoyah Fuels Corporation and General Atomics* (Gore, Oklahoma Site Decontamination and Decommissioning Funding), ASLBP No. 94-684-01-EA, Dkt. No. 40-8027-EA, at 7 (Nov. 13, 1995) (ADAMS Accession No. ML13109A473). Consistent with Holtec's July 17 representation to the Commonwealth and the NRC, the Negotiating Parties are undertaking good faith discussions to finalize a resolution. Exhibit 1. Preliminary discussions between the Negotiating Parties began in late 2018, and a larger in-person meeting was held in late February 2019. Numerous phone calls and email exchanges transpired in the following months, culminating in an initial draft settlement provided by the Commonwealth to Entergy and Holtec, covering a broad range of issues, in mid-June 2019. As Holtec stated in its July 17 letter, it is still working on its response to the initial draft settlement, and is "prepared to undertake good faith discussions to finalize a comprehensive agreement that will provide assurances to the citizens of the Commonwealth and associated stakeholders." Exhibit 1. A stay of the proceeding to complete settlement negotiations is consistent with this commitment. While "settlement negotiation" is not a "magic phrase the invocation of which must bring the proceeding to a complete halt[,]" *Sequoyah Falls*, at 7, it is the Commonwealth's hope that upon receipt of Holtec's response, an agreement can be reached in the near term.

A stay of the proceeding will not prejudice the current decommissioning effort at Pilgrim. Entergy is the current license holder and operator and will remain as such during the pendency of the stay. Further, Entergy recently received an exemption from the NRC to use the Pilgrim

Decommissioning Trust Fund for certain non-decommissioning activities. *Pilgrim Nuclear Power Station – Request for Exemption from 10 C.F.R. 50.82(a)(8)(i)(A)*, Dkt. No. 50-293 (Jul. 22, 2019) (ADAMS Accession No. ML 19162A334). Thus, Entergy is responsible for, and capable of, maintaining decommissioning efforts during the pendency of the proceeding, and a temporary, time-limited stay will not affect that. Indeed, allowing a stay may provide a quicker resolution to the proceeding and be more administratively efficient. Should one or more of the Commonwealth's Contentions set forth in its Petition be granted, then a fully adjudicated proceeding will result with full discovery opportunities and evidentiary hearings, requiring valuable time and attention from both the parties and the NRC. However, if the Negotiating Parties are permitted to finalize a settlement agreement, then this would resolve the Commonwealth's issues in a timelier fashion and prevent the expending of the parties' and NRC's resources. Thus, any minor prejudice caused by a stay is far outweighed by the benefit of reaching a comprehensive settlement.

The Commonwealth conferred with Entergy and Holtec regarding this Motion on August 1, 2019. Counsel for Entergy and Holtec indicated that they oppose this Motion. The Commonwealth also conferred with Petitioner Pilgrim Watch regarding this Motion on July 31, 2019. A representative of Pilgrim Watch indicated that Pilgrim Watch does not object to this Motion.

For the foregoing reasons, and for good cause shown, the Commonwealth requests that the Commission grant this Motion and take no action on any of the pending requests for 90 days, or until a settlement is reached and the Commonwealth withdraws its Petition or the parties notify the NRC that an agreement cannot be reached, whichever occurs sooner.

Respectfully submitted this 1st day of August, 2019,

COMMONWEALTH OF MASSACHUSETTS

By their attorneys,

MAURA HEALEY
ATTORNEY GENERAL

Signed (electronically) by _____

SETH SCHOFIELD

Senior Appellate Counsel

JOSEPH DORFLER

Assistant Attorney General

Energy and Environment Bureau

One Ashburton Place, 18th Floor

Boston, Massachusetts 02108

617-963-2000

seth.schofield@mass.gov

joseph.dorfler@mass.gov

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.,)
ENTERGY NUCLEAR GENERATION)
COMPANY, AND HOLTEC) Docket Nos. 50-293 & 72-1044
DECOMMISSIONING INTERNATIONAL,)
LLC; CONSIDERATION OF APPROVAL OF)
TRANSFER OF LICENSE AND)
CONFORMING AMENDMENT)
)
(Pilgrim Nuclear Power Station))

CERTIFICATION OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that copies of the Commonwealth of Massachusetts's Motion to Stay Proceeding to Complete Settlement Negotiations have been served upon the Electronic Information Exchange, the NRC's e-filing system, in the above-captioned proceeding this 1st day of August 2019.

Signed (electronically) by _____
Joseph Dorfler
Assistant Attorney General
Energy & Telecommunications Division
One Ashburton Place, 18th Floor
Boston, Massachusetts 02108
617-963-2086
Joseph.Dorfler@mass.gov

Dated: August 1, 2019

EXHIBIT 1

July 17, 2019

The Honorable Maura Healey
Attorney General
20th Floor
One Ashburton Place
Boston, MA 02108-1598

Re: Decommissioning the Pilgrim Nuclear Power Station – Settlement Agreement

Dear Ms. Healey:

We received your proposed draft Settlement Agreement related to decommissioning Pilgrim. This letter is to confirm that we are working diligently to respond to each of the wide-ranging requests therein and will provide a detailed response once fully vetted. Following your receipt of our response, we are prepared to undertake good faith discussions to finalize a comprehensive agreement that will provide assurances to the citizens of the Commonwealth and associated stakeholders.

Please know that we are committed to completing the decommissioning with the utmost protection for public health and safety and the environment. We look forward to continuing to work with the Commonwealth of Massachusetts and local officials throughout the project and continued amicable dialogue with your office to ensure the interests of the community are well served. Ultimately, Holtec's acquisition and cleanup of Pilgrim, in lieu of guardianship of a defunct plant, will create opportunities for reuse and is in the best interest of the Commonwealth and its local communities.

Sincerely,

HOLTEC DECOMMISSIONING INTERNATIONAL, LLC



Pamela B. Cowan
Senior Vice President & Chief Operating Officer



Cc: Margaret Doane
Executive Director of
Operations
U.S. Nuclear Regulatory
Commission
Washington, DC 20555-
0001

Seth Schofield
Senior Appellate Counsel
Assistant Attorney General
Energy and Environment
Bureau
Office of the Attorney
General
One Ashburton Place
Boston, MA 02108-1598
seth.schofield@state.ma.us

Susan H. Raimo
Assistant General Counsel
Entergy Services, LLC
101 Constitution Ave., NW, Suite
200 East
Washington, DC 20001
sraimo@entergy.com

Andrew Ryan
General Counsel
Holtec International
1 Holtec Blvd.
Camden, NJ 08104
A.Ryan@holtec.com