

**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))	

**COMMONWEALTH OF MASSACHUSETTS’ REPLY IN SUPPORT OF
MOTION TO SUPPLEMENT ITS PETITION WITH NEW INFORMATION**

Petitioner, the Commonwealth of Massachusetts (Commonwealth or Massachusetts), submits this Reply to the Applicants’ ten-page Answer to the Commonwealth’s five-page Motion to Supplement its Petition with New Information—the Applicants’ *own* joint press release published on April 16, 2019.¹ In short, the Applicants’ objection to including their own joint press release speaks volumes and reinforces the basis for the Commonwealth’s Motion, so that the Nuclear Regulatory Commission (NRC or Commission) may benefit from having all relevant facts before it as it considers the pending matters. Indeed, the Commonwealth is simply seeking to provide the NRC with new information that supports the Commonwealth’s existing contentions. The Commission is surely capable of itself affording that new information the weight it merits at this contention admissibility stage. The Commission should thus deny the

¹ As noted in the Commonwealth’s Motion, it is unclear that 10 C.F.R. § 2.309(c) specifically applies in this instance, but the Commonwealth explained why its Motion satisfies 10 C.F.R. § 2.309(c) regardless. Motion at 1, fn. 1. Accordingly, and because Applicants are treating this Motion as one under § 2.309(c), the Commonwealth is submitting this Reply in further support.

Applicants' opposition to the Commonwealth's Motion because the new information evidences a material change that is relevant to, and within the bounds of, the Commonwealth's existing contentions.

First, the Applicants' argument that this new information is immaterial because the Applicants included a general reference in their application to Holtec's *desire* to decommission other sites is misplaced. Answer 4-5. The fact that Holtec may have conveyed a general intent to decommission other sites at some point in the future is not the same as the new information at issue here—namely, that Holtec has now entered into agreements to decommission additional reactors during the same period in which it will be decommissioning Pilgrim. Holtec's recent commitments to decommission multiple nuclear reactors during the same period may have significantly adverse financial implications for its ability to successfully decommission and restore Pilgrim and manage its spent nuclear fuel on-site for decades. Petition 23-24; Reply 19-20. The Applicants' attempt to discredit the materiality of this new information to the Commonwealth's Petition is further belied by the fact that they themselves thought this information was material enough to warrant a joint press release publicly touting the agreement, and its significance. The Commonwealth agrees—increasing Holtec's fleet by three additional reactors is a significant change in Holtec's ownership of, and financial responsibility for, decommissioning and restoring nuclear reactors and managing their spent nuclear fuel. If this new information was material enough to justify the press release, then it surely is material enough to justify the Commission's consideration of it at this preliminary contention admissibility phase.

Second, the Applicants' argument that this additional information does not meet the contention admissibility requirements in 10 C.F.R. § 2.309(f)(1) is misdirected, Answer 6-10,

because the Commonwealth is not seeking to add a new contention or amend an existing contention—a point the Applicants’ concede, Answer 2, but then ignore, *id.* at 6-10.² Indeed, the Commonwealth’s Motion, by its own terms, does not seek to amend or add new contentions to the two set forth in its Petition, instead it simply seeks to provide the Commission with new, material information that further supports the concerns the Commonwealth expressed in its existing contentions. Motion 4.³ Defensively, the Applicants also mount an extensive retort in attempt to rebut the significance of the new information, Answer 6-10, but, as the Commonwealth previously explained, the question before the Commission at this stage is merely whether the Commonwealth has satisfied its “minimal showing that material facts are in dispute, thereby demonstrating that an inquiry in depth is appropriate.” *Gulf States Utils. Co., et al.* (River Bend Station, Unit 1), 40 N.R.C. 43, 51 (Aug. 23, 1994).⁴ This is not, in other words, the time or the place for resolution of material, disputed facts, like this. *See Pa’ina Hawaii, LLC*, LBP-06-04, 63 N.R.C. 99, 111 (Jan. 24, 2006). The Applicants’ contention admissibility-related

² The admissibility of the Commonwealth’s original contentions is set forth in detail in its Petition for Leave to Intervene and Hearing Request, Docket Nos. 50-293 & 72-1044, filed on February 20, 2019 (Petition) and Reply in Support of Petition for Leave to Intervene and Hearing Request, Docket Nos. 50-293 & 72-1044, filed on April 1, 2019 (Reply), which speak for themselves and will not be reargued again here.

³ The Applicants’ assert that the Commonwealth’s argument that decommissioning multiple sites “will potentially draw upon its parent company’s resources and detract from the attention needed at Pilgrim” is irrelevant, but that simply restates their prior arguments. Answer 5 n. 6. And, contrary to the Applicants’ assertions, the Commonwealth did link the financial issues to decommissioning multiple reactors at the same time. *See* Petition 23-24; Reply 19-20.

⁴ For example, the Applicants tout their “affiliation with both SNC Lavalin and Holtec International” (Answer 8) to dispute the Commonwealth’s assertion that Holtec’s acquisition of Indian Point “will further draw the resources of SNC-Lavalin and CDI away from Pilgrim,” Answer 8 (quoting Motion 4), but SNC-Lavalin is “ponder[ing] a Plan B that could see the company break up ahead of a potential criminal conviction.” *SNC-Lavalin Executives Ponder Company Break-Up at Private Shareholder Luncheon*, Financial Post, May 8, 2019, <https://tinyurl.com/y4ztda52>.

arguments are thus as misplaced as they are irrelevant, and, accordingly, the Commission should reject them.

For the foregoing reasons, and for good cause shown, the Commonwealth requests that the Commission grant its Motion and consider this new information in connection with the Commission's consideration of the Commonwealth's pending Petition and Reply.

Respectfully submitted this 9th day of May, 2019,

COMMONWEALTH OF MASSACHUSETTS

By their attorneys,

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Signed (electronically) by _____

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CERTIFICATION OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that copies of the Commonwealth of Massachusetts's Reply in Support of its Motion to Supplement its Petition with New Information have been served upon the Electronic Information Exchange, the NRC's e-filing system, in the above-captioned proceeding this 9th day of May 2019.

Signed (electronically) by _____
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Dated: May 9, 2019