September 13, 2019

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)		
	)		
Entergy Nuclear Operations, Inc,	)		
Entergy Nuclear Generation Company,	)	Docket Nos.	50-293-LT
Holtec International, and	)		72-1044-LT
Holtec Decommissioning International, LLC	)		
	)		
(Pilgrim Nuclear Power Station)	)		

Applicants' Answer Opposing the Application of the Commonwealth of Massachusetts for a Stay

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.1327(c), Entergy Nuclear Operations, Inc. ("ENOI"), Entergy Nuclear Generation Company (now Holtec Pilgrim, LLC), Holtec International ("Holtec"), and Holtec Decommissioning International, LLC ("HDI"), ("Applicants"), hereby oppose the Application of the Commonwealth of Massachusetts for a Stay of the Effectiveness of the Nuclear Regulatory Commission Staff's Actions Approving the License Transfer Application and Request for an Exemption to Use The Decommissioning Trust Fund for Non-Decommissioning Purposes (Sept. 3, 2019) ("App."). The Commission should deny the stay request because it is unjustified under the governing factors.

II. BACKGROUND

This proceeding involves the application for approval of the transfer of ENOI's authority under the Pilgrim licenses to HDI, and the indirect transfer of control of the Pilgrim licenses to Holtec,[1] following Pilgrim's permanent cessation of operations. The Application included a request for an exemption to allow use of the decommissioning trust fund ("DTF") for spent fuel management and site restoration activities. LTA, Encl. 2. The Commonwealth and Pilgrim Watch each requested a hearing, and their requests are pending before the Commission. The Commonwealth's hearing request seeks a

[1] Application for Order Approving Direct and Indirect Transfers of Control of Licenses and Approving Conforming License Amendment, and Request for Exemption from 10 CFR 50.82(a)(8)(i)(A) (Nov. 16, 2018) (ML18320A031) ("Application" or "LTA").

hearing on two contentions – the first challenging HDI's financial qualifications and the second challenging the NRC's categorical exclusion of license transfer actions from environmental review.[2]

On August 22, 2019, after a nine-month review, the NRC Staff concluded that HDI and Holtec Pilgrim are financially qualified and HDI is technically qualified to hold the Pilgrim licenses.[3] Therefore, the Staff issued its order approving the license transfer, subject to "the Commission's authority to rescind, modify, or condition the approved transfer based on the outcome of any post-effectiveness hearing on the license transfer application,"[4] and issued the associated exemption.[5] Thereafter, on August 26, 2019, the Applicants completed their transaction transferring the licenses.

III. ARGUMENT

Each of the stay factors specified in the NRC rules compels denial of the stay request. The factors governing a stay of the Order are: (1) whether the requestor will be irreparably injured unless a stay is granted; (2) whether the requestor has made a strong showing that it is likely to prevail on the merits; (3) whether the granting of a stay would harm other participants; and (4) where the public interest lies.[6] A stay is "an extraordinary equitable remedy,"[7] and as the proponent, the Commonwealth has the burden of persuasion.[8] The Commonwealth does not meet this burden.

A. The Commonwealth Will Not Be Irreparably Injured

Irreparable injury is "the most crucial factor"[9] – the *sine qua non* of obtaining a stay.[10] A party seeking a stay must show that it faces irreparable injury that is not only "imminent" but also "certain and

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2 Commonwealth of Massachusetts' Petition for Leave to Intervene and Hearing Request (Feb. 20, 2019). Applicants have opposed this hearing request. Applicants' Answer Opposing the Commonwealth of Massachusetts' Petition for Leave to Intervene and Hearing Request (Mar. 18, 2019).

3 Safety Evaluation (ML19234A364) at 15, 24 ("SE").

4 Order Approving Direct and Indirect Transfer of License and Conforming Amendment (Aug. 22, 2019) (ML19234A362) ("Order") at 5-6.

5 Exemption (Aug. 22, 2019) (ML19192A086) ("Exemption").

6 10 C.F.R. § 2.1327(d)(1)-(4).

7 *U.S. Department of Energy* (High-Level Waste Repository), CLI-05-27, 62 N.R.C. 715, 718 (2005).

8 10 C.F.R. § 2.325; *Alabama Power Co.* (Joseph M. Farley Nuclear Plant Units 1 and 2), CLI-81-27, 14 N.R.C. 795, 797 (1981).

9 *Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Power Station), CLI-00-17, 52 N.R.C. 79, 83 (2000).

10 *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237.

great."[11] Unproven speculation does not suffice.[12] Moreover, a claim of irreparable injury based on alleged harm unrelated to the petitioner's underlying contentions will not justify a stay.[13]

The Commonwealth does not demonstrate any injury, let alone one that is irreparable, imminent, certain and great. Citing its declarant, Mr. Brewer,[14] the Commonwealth argues that "Staff's actions are likely to make it impossible to complete decommissioning successfully or lead to irreversible consequences if regulatory or financial concerns . . . require a modified decommissioning approach." App. at 7. Mr. Brewster in turn speculates that "if Holtec . . . is not able to manage and execute six simultaneous decommissioning projects," "it is possible" that the drawdown from the DTF over the first 17 months (2019 and 2020) may leave insufficient funds to permit another vendor to complete the work or switch to SAFSTOR, because the initial work "may have" altered SSCs (e.g. openings in containment). Brewer Decl., ¶ 15. This speculation about what "is possible" 17 months from now does not demonstrate harm that is certain, great, or imminent.

Moreover, the speculative scenario posited by Mr. Brewer is heaped with infirmities. First, the acquisitions of Indian Point and Palisades are expected to occur after the plants cease operation in April 2021 and Spring 2022 respectively.[15] Therefore, decommissioning activities at these plants will not be simultaneous with Pilgrim, will not occur in the next 17 months, and are not imminent. With respect to activities underway at Pilgrim and Oyster Creek, the NRC Staff examined HDI's ability to manage these two projects simultaneously (SE at 20), and the Commonwealth does not challenge this ability. Second, there is no activity before the completion of the transfer of spent fuel to the ISFSI, in mid-2021 at the

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[11] *Southern Nuclear Operating Co.* (Vogtle Elec. Generating Plant, Units 3 and 4), CLI-12-11, 75 N.R.C. 523, 529 (2012); *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237. A party must reasonably demonstrate, and not merely allege, irreparable harm. *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), ALAB-814, 22 N.R.C. 191, 196 (1985) (citing *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), ALAB-794, 20 N.R.C. 1630, 1633-35 (1984)).

[12] *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237.

[13] *Vogtle*, CLI-12-11, 75 N.R.C. at 530-32 ("To qualify as irreparable harm justifying a stay, the asserted harm must be related to the underlying claim. . . . We . . . see no basis for a claim of irreparable harm . . . unrelated to any contention proposed by Petitioners.") (internal quotation marks and citations omitted).

[14] Second Declaration of Warren K. Brewer (Sept. 4, 2019) ("Brewer Decl.").

[15] *See* attached Declaration of Pamela B. Cowan (Sept. 13, 2019), ¶ 5 ("Cowan Decl.").

earliest, that would prevent the plant from being returned to SAFSTOR or require significant additional expenditure to do so. Cowan Decl. ¶ 3. Third, Mr. Brewer's speculation is inconsistent with the NRC rules at 10 C.F.R. § 50.82(a)(8)(i)(B)-(C), which prohibit a DTF drawdown below an amount necessary to place and maintain the reactor in SAFSTOR or inhibiting the funding of any shortfalls needed to ultimately release the site and terminate the license. Fourth, HDI's projected expenditures in 2019-2020 are not markedly different from Entergy's projected SAFSTOR expenditures for this period[16] ($303 million versus $276 million – a difference of only 9 percent) – belying any assertion that the "substantial drawdown" would preclude SAFSTOR at that juncture. Cowan Decl. ¶ 3.

The Commonwealth's claim also ignores the conservatism in the Application's cash flow analysis, which takes no credit for hundreds of millions of dollars from expected recoveries of spent fuel management costs from the Department of Energy ("DOE"). Additionally, the Commonwealth ignores the comprehensive NRC oversight, which includes annual review and adjustment of funding assurance.[17] Consequently, the NRC could direct additional funding assurance at any time, and HDI and Holtec Pilgrim have the means to comply. In short, the Commonwealth's concern about the adequacy of funding and expenditures over the next 17 months does not represent any imminent, certain or irreparable harm.

Finally, the Commonwealth ignores the Commission's ability to require additional assurance if warranted by the outcome of a post-effectiveness hearing.[18] Irreparable harm cannot be found where, as here, it is possible for the Commission to address the Commonwealth's concerns at a later point in time.[19]

The Commonwealth's allegation that "Holtec is technically unsuited to perform the work as

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[16] *See* Request for Exemption from 10 CFR 50.82(a)(8)(i)(A) (Nov. 16, 2018), Att. 1 at 7 (ML18320A037).

[17] *See Entergy Nuclear Vermont Yankee, LLC* (Vermont Yankee Nuclear Power Station), CLI-16-17, 84 N.R.C. 99, 118 (2016).

[18] Applicants who proceed with license transfer before hearings are complete do so at the risk that the subsequent hearing process could result in additional conditions or rescission of the license transfer. *Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-19-08, slip op. at 3 n.6 (Aug. 14, 2019). Indeed, the Order is conditioned on the Commission's authority to address the outcome of the post-effectiveness hearing. Order at 6.

[19] *See Shieldalloy Metallurgical Corp.*, (Decommissioning of the Newfield, N.J. Site), CLI-10-8, 71 N.R.C. 142, 153 n.56 (2010) (quoting *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1959)) ("The possibility that adequate compensatory or other corrective relief will be available at a later date…weighs heavily against a claim of irreparable harm.").

planned," resulting in "local Massachusetts residents [being] exposed to increased safety and health hazards" (App. at 8), also fails to demonstrate irreparable harm. The Commonwealth has raised no contention challenging HDI's technical qualifications, so the Commonwealth cannot claim irreparable injury on this basis. Further, the allegation is unsupported. Paragraph 7 of Mr. Brewer's declaration cited by the Commonwealth (*see id.*) does not address Holtec's technical suitability. While Mr. Brewer states elsewhere that Holtec has not provided information for the NRC to evaluate its ability to decommission six reactors (Brewer Decl. ¶ 12), this statement does not demonstrate that HDI is technically unsuited to decommission Pilgrim; and as discussed previously, there is no imminent overlap in the decommissioning of the six reactors as Mr. Brewer supposes. In any event, irreparable injury is not shown "against something merely feared as liable to incur at some indefinite time in the future."[20]

Likewise, the Commonwealth's claim of harm from shipments of waste, allegedly causing pollution, risk of accidents, and damage to infrastructure (App. at 8), does not constitute irreparable injury. As an initial matter, the Commonwealth raised no such claim in its hearing request. Further, shipments of large volumes of waste will not start prior to the removal of large components, scheduled after all fuel has been moved to the ISFSI (Cowan Decl. ¶ 4), and therefore are not imminent. In addition, such shipments, particularly of operational waste that the Commonwealth believes "will begin . . . immediately" (App. at 8), will occur irrespective of the license transfer, and therefore are not causally related to it. Moreover, shipments of waste occur regularly without any of the alleged irreparable harms to local infrastructure or safety. *See* Cowan Decl. ¶ 4. Merely raising the specter of accidents does not demonstrate irreparable harm,[21] and any possible impact on infrastructure is certainly not irreparable.

Finally, the alleged failure to prepare an environmental impact statement ("EIS") (App. at 8) does not constitute or demonstrate any irreparable injury. As a threshold matter, the assertion that an EIS is necessary impermissibly challenges the categorical exclusion in 10 C.F.R. § 51.22(c)(21). In addition, to

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[20] *Eastern Greyhound Line v. Fusco*, 310 F.2d 632, 634 (6th Cir. 1962) (quoting *Connecticut v. Massachusetts*, 282 U.S. 660, 674 (1931)).

[21] *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237-238 (citing *Massachusetts Coalition of Citizens with Disabilities v. Civil Defense Agency*, 649 F.2d 71, 75 (1st Cir. 1981)).

the extent that this assertion is based on the Commonwealth's new-found concern with the impacts of waste shipments, it is unrelated to the license transfer and instead challenges the post-shutdown decommissioning activities report ("PSDAR"), which is beyond the scope of this proceeding. In any event, the Commission has held "[i]mmediate, irreparable harm is not presumed by a NEPA violation, even assuming such a violation has occurred . . ."[22]

B. The Commonwealth Is Not Likely to Prevail on the Merits.

Given its clear failure to show that it will be irreparably injured unless a stay is granted, the Commonwealth must show that success on the merits is a "virtual certainty to warrant issuance of a stay."[23] It is not enough simply to state confidence or an expectation of success.[24] The Commonwealth makes no showing that it is likely to prevail on its contentions (which to date have not even been admitted), let alone any showing that its likelihood of prevailing is a virtual certainty.

The Commonwealth argues that it is likely to prevail on the merits of its contentions because Holtec's cash flow analysis assumes that spent fuel will be removed by 2062. App. at 3. As the NRC Staff reviewed and accepted this assumption (SE at 13), which is based on the best information available regarding DOE's strategy, it is unclear why the Commonwealth believes its assumption of a 120-year or an indefinite storage period (see App. at 3) has greater merit. In any event, any further delay in DOE acceptance would simply result in further recovery from DOE of the added storage costs.[25]

The Commonwealth argues that Holtec's cash flow analysis does not comply with 10 C.F.R.

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[22] *Crow Butte Resources, Inc.* (In Situ Leach Facility, Crawford, Nebraska), CLI-15-17, 82 N.R.C. 33, 40 (2015). *See also Hydro Resources, Inc.* (2929 Coors Road, Suite 101, Albuquerque, NM 87120) CLI-98-8, 47 N.R.C. 314, 322-23 (1998) (a "holding that a statutory violation equates to a showing of irreparable injury cannot be squared with the current state of the law as reflected in two Supreme Court environmental law decisions, *Weinberger v. Romeo-Berkeley*, 456 U.S. 305 (1982), and *Amoco Prod. Co. v. Village of Gambell*, 480 U.S. 531 (1987).").

[23] *Shieldalloy Metallurgical Corp.,* CLI-10-8, 71 N.R.C. at 154 (2010) (internal quotation marks omitted).

[24] *Philadelphia Elec. Co.* (Limerick Generating Station, Units 1 and 2), ALAB-814, 22 N.R.C. 191, 196 (1985) (*Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit 1), CLI-84-17, 20 N.R.C. 801, 804-05 (1984)).

[25] The Commonwealth and Mr. Brewer point out that the license application for Holtec's Centralized Interim Storage Facility ("CISF") in New Mexico assumes that it might take DOE 120 years to pick up spent fuel. Brewer Decl. ¶ 14; App. at 7. How long waste received from multiple plants might be stored at the CISF before a permanent repository is available says nothing about the length of expected storage at Pilgrim, particularly as the DOE strategy is currently based on moving spent nuclear fuel from reactor sites to an interim storage facility.

§ 50.75(b)(1) because it uses a decommissioning cost estimate ("DCE") that is less than the NRC formula amount. App. at 3. The Commonwealth has not raised this claim as a contention, and therefore cannot claim that it will prevail on it. Further, as Applicants discussed to the apparent satisfaction of the NRC Staff, [26] the formula amount in 10 C.F.R. § 50.75 is a reference level that applies to plants that are operating, while 10 C.F.R. § 50.82 applies after a plant permanently ceases operation and contains no provision requiring that cost estimates remain above the formula amount, and the annual reporting requirements in 10 C.F.R. § 50.82 clearly show that required funding assurance decreases as decommissioning proceeds.

The Commonwealth also argues that the further cash flow analysis provided in the RAI Response, showing that the DTF would be sufficient even if the formula amount applied, is "as misleading as it is wrong" because it treated the 2-percent earnings rate as an after-tax real rate of return rather than a pre-tax rate as was conservatively done in the original analysis. App. at 4; Brewer Decl. ¶ 7. Again, the Commonwealth raised no such claim in its hearing request. In addition, the RAI Response explained this change, so there was nothing misleading about it (RAI Response at E-5); and the after-tax rate used in the RAI response is consistent with the NRC's rules,[27] so there was nothing wrong about it.

In addition, the Commonwealth argues that Holtec did not justify its DCE, because it did not provide detail on the waste disposal costs and or include inventory tables. App. at 4; Brewer Decl. ¶ 9. The Commonwealth, however, could have raised the same allegation regarding HDI's original DCE in its hearing request; having failed to do so, it cannot now claim likelihood of success on the merits based on that allegation. Further, the Commonwealth ignores the NRC Staff's evaluation, which determined the reasonableness of HDI's DCE by comparing it with the site-specific costs of comparable decommissioning projects, as well with NUREG/CR-6174, "Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station." SE at 11; Exemption at 8.

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[26] Response to Request for Additional Information (July 29, 2019), Encl. at E-2 to E-3 (ML19210E470) ("RAI Response").

[27] *See* Regulatory Guide 1.159 at 18 (NRC regulations "allow "a credit for projected earnings of up to a 2-percent annual real rate of return (i.e., nominal rate less inflation *and taxes*) . . ."). Emphasis added.

In any event, the Commonwealth's new-found concerns with the DCE and real rate of return raise no material dispute with the LTA. The Commonwealth has failed to dispute the substantial conservatism in the LTA, in that DOE recoveries will provide hundreds of millions of dollars of additional cash flow over the life of the project and ample means to adjust funding assurance if needed.

The Commonwealth assertion that "Holtec has failed to demonstrate that it has the requisite technical qualifications" based on alleged character concerns (App. at 4) similarly demonstrates no likelihood that the Commonwealth will prevail on the merits of its contentions, because this claim too was not raised in its contentions. Further, the Commonwealth has not connected any allegations to HDI as the licensee, as is required to demonstrate a genuine dispute.[28]

The Commonwealth argues that the NRC violated NEPA's anti-segmentation rules by treating the LTA, Exemption, PSDAR and DCE as discrete actions (App. at 5), but this claim fails because the PSDAR (including the DCE) is not an NRC action as no NRC approval is required. Nor is there merit to the Commonwealth's argument that the categorical exclusion is inapplicable to the deletion of a license condition, imposed when Entergy acquired Pilgrim, relating to $50 million of support provided by an Entergy affiliate. As the license transfer extinguished Entergy's obligations and HDI's financial qualifications do not rely on any parental support, deletion of the condition was clearly an amendment "required to reflect the approval" of the transfer and therefore subject to the categorical exclusion. The assertion that waste shipments may exceed the number evaluated in the Decommissioning GEIS (App. 6) was not raised in the Commonwealth's hearing request, precluding the Commonwealth from prevailing on it, and is also a challenge to the PSDAR, which is beyond the scope of this proceeding.

Last, the Commonwealth argues that because the NRC has never denied an exemption request allowing use of decommissioning funds for non-decommissioning purposes, the exemption is a *de facto* regulation contravening the Administrative Procedure Act. App. at 6. The Commonwealth provides no

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[28] *See Exelon Generation Company, LLC* (Oyster Creek Nuclear Generating Station), CLI-19-06, slip. op. at 14 (June 18, 2019). The Commonwealth incorrectly states that Dr. Singh is on the Board of Directors and is President and Chief Executive Office of HDI. App. at 2. Dr Singh holds no HDI positions. *See* LTA, Encl. 1, Att. C, 5th page.

support for this new argument. The Commonwealth also asserts that the finding of no decrease in safety in the Environmental Assessment supporting that the exemption violates NEPA because there will be no committed funds for spent fuel storage as of 2063. *Id.* at 7. As previously discussed, DOE will be liable for any such spent fuel storage costs. Further, Entergy's spent fuel management plan committed no funds for storage past 2062,[29] so the exemption granted to HDI reflects no change.

In sum, the likelihood that the Commonwealth will prevail on the merits is far from a "virtual certainty." To the contrary, most of the Commonwealth's arguments are based on claims that it has not raised in its hearing request, and all are devoid of merit.

C. A Stay Would Harm Applicants

The Commonwealth observes that a stay is a device to maintain the status quo, but here, the status quo is a completed license transfer. App. at 9. To now stay the transfer would raise numerous commercial, administrative and logistical concerns, particularly if the stay were to require that the license transfer be reversed – in the process reversing a commercial transaction and site transition that was more than a year in the making – and therefore would significantly harm Applicants. Cowan Decl. ¶ 7. The Commonwealth argues that because Applicants promptly closed the deal, any such harm is self-inflicted. App. at 10. The Commonwealth was aware that the Order (served on it) authorized the transfer upon two business-days notice, and Applicants' notice[30] was made publicly available in ADAMS the same day. Further, the Commonwealth knew from Applicants' earlier opposition to the Commonwealth's extension request that Applicants wanted no delay in closing and urged the Commonwealth to file any stay motion as promptly as possible. Despite this awareness, and despite having received the NRC Staff's Notification of Significant Licensing Action on August 13, 2019, providing ample time for preparation of any stay motion, the Commonwealth sought no temporary stay, as it could under the NRC rules and practice (*see* 10 C.F.R. § 2.342(f)). The idea that Applicants manufactured harm to themselves by closing

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[29] Update to Spent Fuel Management Plan Pursuant to 10 CFR 54.54(bb) (Nov. 16, 2018), Att. 1 at 3, 9-10 (ML18320A036).

[30] Letter from B. Sullivan to NRC (Aug. 22, 2019) (ML19234A357).

a mutually-beneficial transaction they had been working toward for over a year, for which they had obtained long-sought regulatory approval, and for which no stay request was pending, ignores the realities of the business world and the Applicants' shared goal of promptly decommissioning Pilgrim.

Staying the license transfer would also create considerable uncertainty for Pilgrim site employees regarding the likelihood that HDI and CDI will be permitted to proceed with the DECON method of decommissioning Pilgrim, and associated longer-term prospects of employment, potentially prompting employees to seek employment elsewhere. The Commonwealth dismisses this concern as rooted in Holtec's lack of confidence in the ability to attract and retain qualified replacements (App. at 9), but the Commonwealth's disregard for the current employees ignores the loss of institutional plant knowledge that would occur if site employees must be replaced, the disruption that would be caused in decommissioning activities, and the impact on the workers and their families if they relocate.

D. A Stay Is Not in the Public Interest

The Commonwealth acknowledges the public interest served by "the prompt decommissioning and restoration of Pilgrim." *Id.* at 10. The Commonwealth's suggestion that this interest is outweighed by the interest in ensuring that Holtec has the financial and technical capacity to do so ignores (1) the NRC's Staff determination that HDI and Holtec Pilgrim are qualified, (2) the NRC's rigorous oversight, and (3) the adequacy of the NRC's post-effectiveness hearing process to address any contentions that are found to present a genuine, material dispute with the Application. Further, the public interest is served by implementing the NRC's Subpart M procedures as they are intended – "to provide for public participation in the event of requests for hearing under these provisions, *while at the same time providing an efficient process that recognizes the time-sensitivity normally present in transfer cases*."[31] For these reasons, the public interest militates against a stay.

IV. CONCLUSION

For the reasons discussed above, the Commonwealth's application for a stay should be denied.

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[31] 63 Fed. Reg. 66,721, 66,722 (Dec. 3, 1998) (emphasis added).

Respectfully submitted,

/signed electronically by David R. Lewis/

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NUCLEAR REGULATORY COMMISSION

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Holtec Decommissioning International, LLC	)	
	)	
(Pilgrim Nuclear Power Station)	)	

Declaration of Pamela B. Cowan

I, Pamela B. Cowan, declare and state as follows:

1. I am the Senior Vice President and Chief Operating Officer of Holtec Decommissioning International, LLC ("HDI"). HDI is the NRC-licensed operator for the Pilgrim Nuclear Power Station ("Pilgrim"). HDI has overall supervision for the licensing activities at Pilgrim, including the submittal of NRC filings and decommissioning cost estimates. HDI is also responsible for the overall supervision of the decommissioning activity at Pilgrim and is the conduit by which decommissioning costs are collected and submitted for reimbursement to the trustee of the Pilgrim nuclear decommissioning trust fund. In my role, I am directly involved with and help manage the afore-mentioned activities, including supervising the Pilgrim Site Vice President and closely coordinating with Pilgrim's decommissioning general contractor, Comprehensive Decommissioning International, LLC ("CDI").

2. I am providing this declaration in support of Applicants' Answer Opposing the Application of the Commonwealth of Massachusetts for a Stay, and Applicants' Answer Opposing Pilgrim Watch's Stay Motions.

3. The Commonwealth and its declarant, Mr. Brewer, assert that initial decommissioning work in the next seventeen months may alter Pilgrim's systems, structures and components in a manner leaving the facility in a state (such as openings in containment) that would preclude returning it to SAFSTOR if necessary, or reduce the decommissioning trust fund below an amount that would permit another vendor to complete the decommissioning work or change the decommissioning approach. These assertions are incorrect. First, there is no activity between now and the end of the campaign to transfer the spent fuel to the ISFSI (mid-2021 earliest), which would prevent the plant from returning to SAFSTOR, or require significant additional expenditure to do so. Second, the decommissioning trust fund contains sufficient funds that would allow placing and maintaining Pilgrim in SAFSTOR at the end of 2021 (including spent fuel management and the completion of decommissioning and site restoration), if that were necessary. In this regard, the projected expenditure of $303 million by HDI through 2020 is not markedly greater than the $276 million in expenditures that were projected through this same period under Entergy's SAFSTOR plan, which is a difference of only nine percent and one that would not alter the sufficiency of the cash flow analysis that Entergy provided when it was the licensee to demonstrate the adequacy of the decommissioning trust fund.

4. The Commonwealth asserts that it and its citizens are likely to suffer irreparable harm due to immediate start of decommissioning activities, including health, safety, and infrastructure harm inflicted by, among other things, frequent waste shipments over local roads, which will cause noise, dust, and air pollution emissions, increase the risk of accidents on local roads, and damage local transportation infrastructure. This assertion is incorrect. Shipments of significant volumes of waste will not start prior to the removal of large components, currently scheduled after the conclusion of the spent fuel campaign, and Holtec plans to use a combination of

approaches that will include road, rail, and barge to best meet the needs of the project and minimize impacts to local communities. Shipments of legacy waste removed during earlier stages of plan shutdown and "cold and dark" efforts would occur irrespective of the license transfer. Further, shipments of legacy waste, or other waste generated prior to the removal of large components, are not materially different from regular shipments of waste from Pilgrim, which have occurred over the life of the plant with no harm to persons or damage to infrastructure. Such shipments are subject to packaging, labeling and transportation requirements that protect against harm to the public health and safety.

5. The Commonwealth and Mr. Brewer suggest that HDI may not be able to execute simultaneous decommissioning projects, including acquiring the staffing particularly for specialized tasks such as reactor vessel and internal segmentation. This is incorrect. First, Holtec's acquisitions of Indian Point and Palisades will not occur until after those plants cease operation in April 2021 and Spring 2022, respectively. Further, a separate site organization and dedicated leadership has been established for Pilgrim, allowing its decommissioning to proceed without being materially affected by other projects. In addition, there is no apparent difficulty in scheduling the segmentation of the Pilgrim reactor vessel and internals. In fact, there are benefits to a multi-plant approach. For example, CDI has scheduled reactor segmentation at Pilgrim to follow shortly after Oyster Creek. This will enable Pilgrim to avoid repurchasing some tooling, but also enable CDI to implement lessons learned, all of which may reduce cost and risk.

6. Pilgrim Watch alleges that Holtec does not know what contamination is on the site. As part of its due diligence, Holtec reviewed the records required by 10 C.F.R. 50.75(g), annual radiological environmental operating reports, several other ecological impact studies, and other

inspection reports and plant records. In addition, in December 2018, a comprehensive Historical Site Assessment was completed, accounting for both radiological and non-radiological contamination.

7. Both the Commonwealth and Pilgrim Watch argue that there would be no harm to Holtec or Entergy if the license transfer is stayed. This argument is incorrect. Staying the transfer would raise numerous commercial, administrative and logistical challenges, particularly if the stay were to require that the license transfer be reversed—unwinding a complex commercial transaction and handoff that took months of preparation. Among other impacts:

- Certain incumbent employees transferred or seconded back to Entergy's site operator (which also impacts collective bargaining agreements, payroll systems, employment laws, and benefit plans); Entergy may also have to reassign personnel back to Pilgrim.
- Entergy's information technology would have to be reestablished,
- Insurance replaced,
- New notifications and consent requests issued to regulators,
- Contracts with site support vendors amended and decommissioning procurement activities halted,
- The trust agreement (re)amended,
- Further rulings requested from the IRS,
- Real property filings and title commitments modified.

I hereby declare under penalty of perjury that my statements in this declaration are true and correct to the best of my knowledge and belief.

/Executed in Accord with 10 CFR 2.304(d)/

Pamela B. Cowan
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Dated at Camden, New Jersey
this 13th day of September 2019

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	)		
Entergy Nuclear Operations, Inc,	)		
Entergy Nuclear Generation Company,	)	Docket Nos.	50-293-LT
Holtec International, and	)		72-1044-LT
Holtec Decommissioning International, LLC	)		
	)		
(Pilgrim Nuclear Power Station)	)		

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicants' Answer Opposing the Application of the Commonwealth of Massachusetts for a Stay, including the Declaration of Pamela B. Cowan, has been served through the E-Filing system on the participants in the above-captioned proceeding this 13th day of September, 2019.

/signed electronically by /
David R. Lewis