

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 Pilgrim Watch's Stay Motions

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”), (collectively, “Applicants”), hereby answer opposing Pilgrim Watch’s motions to stay the NRC Staff’s August 22, 2019 order approving the license transfers in this proceeding and the associated exemption allowing Holtec Pilgrim and HDI to use the Pilgrim decommissioning trust fund (“DTF”) for spent fuel management and site restoration.¹ The Commission should deny these motions because neither satisfies the factors governing stay requests.

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,² following Pilgrim’s permanent cessation of operations. The Application included a request for an exemption to allow use of the DTF for spent fuel management and site restoration activities. LTA, Encl.

¹ Pilgrim Watch Motion under 10 C.F.R. §2.1327 to Stay Staff Order of August 22, 2019 (Sept. 3, 2019) (“Motion to Stay Order”); Pilgrim Watch Motion Under 10 C.F.R. §2.323 to Stay Staff Order of August 22, 2019 Granting Exemption (Sept. 3, 2019) (“Motion to Stay Exemption”).

² 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”).

2. The Commonwealth and Pilgrim Watch each requested a hearing, and their requests are currently pending before the Commission. Pilgrim Watch's hearing request seeks a hearing on two contentions – the first challenging HDI's financial qualifications and the second seeking additional environmental review.³ In addition, five months after the deadline for hearing requests, Pilgrim Watch filed a motion to admit a new contention asserting that the NRC Staff's consideration of character concerns is deficient.⁴ Applicants have opposed the admissibility of these contentions.⁵

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.⁶ 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,"⁷ and issued the associated exemption.⁸ Thereafter, on August 26, 2019, after providing notice,⁹ the Applicants completed their transaction transferring the licenses.

III. ARGUMENT

Each of the stay factors specified in the NRC rules compels denial of Pilgrim Watch's motions. The factors governing a stay of a license transfer 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.¹⁰ The Commission applies these same standards to requests to stay other NRC Staff

³ Pilgrim Watch Petition for Leave to Intervene and Hearing Request (Feb. 20, 2019) ("PW Pet.").

⁴ Pilgrim Watch Motion to File a New Contention (July 16, 2019) ("PW Motion re New Contention").

⁵ Applicants' Answer Opposing Pilgrim Watch Petition for Leave to Intervene and Hearing Request (Mar. 18, 2019) ("Ans. Opposing PW Pet."); Applicants' Answer Opposing Pilgrim Watch's Motion to File a New Contention (Aug. 12, 2019) ("Ans. Opposing New Contention").

⁶ Safety Evaluation (ML19234A364) at 15, 24 ("SE").

⁷ Order Approving Direct and Indirect Transfer of License and Conforming Amendment (Aug. 22, 2019) (ML19234A362) ("Order") at 5-6.

⁸ Exemption (Aug. 22, 2019) (ML19192A086) ("Exemption").

⁹ Letter from B. Sullivan to NRC (Aug. 22, 2019) (ML19234A357).

¹⁰ 10 C.F.R. § 2.1327(d)(1)-(4).

action, as they represent the “commonplace principles of equity universally followed” in considering such requests.¹¹ A stay is “an extraordinary equitable remedy,”¹² and as the proponent, Pilgrim Watch has the burden of persuasion.¹³ Pilgrim Watch does not meet this burden. Indeed, none of the factors favors a stay of either the Order or the Exemption.

Pilgrim Watch’s motion to stay the exemption does not even address the stay factors, which by itself requires denial of that motion.¹⁴ Moreover, the 20-page motion to stay the exemption appears simply to argue in greater detail the claims made in the motion to stay the Order, in circumvention of the ten-page limit in 10 C.F.R. § 2.1327(b).

A. Pilgrim Watch Will Not Be Irreparably Injured

Irreparable injury is “the most crucial factor”¹⁵ – the *sine qua non* of obtaining a stay.¹⁶ A party seeking a stay must show that it faces irreparable injury that is not only “imminent” but also “certain and great.”¹⁷ Unproven speculation does not suffice.¹⁸ Further, “[t]o qualify as irreparable harm justifying a stay, the asserted harm must be related to the underlying claim.”¹⁹

Pilgrim Watch does not demonstrate any injury, let alone one that is irreparable, imminent, certain and great. Pilgrim Watch asserts that the public interest requires that the Order not become

¹¹ *Entergy Nuclear Vermont Yankee, LLC* (Vermont Yankee Nuclear Power Station), CLI-06-8, 63 N.R.C. 235, 237 n.4 (2006). See also *Sequoyah Fuels Corp.* (Gore, OK, site), CLI-94-9, 40 N.R.C. 1, 6 (1994).

¹² *U.S. Department of Energy* (High-Level Waste Repository), CLI-05-27, 62 N.R.C. 715, 718 (2005).

¹³ 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).

¹⁴ *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-08-13, 67 N.R.C. 396, 399 (2008).

¹⁵ *Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Power Station), CLI-00-17, 52 N.R.C. 79, 83 (2000).

¹⁶ *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237.

¹⁷ *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)).

¹⁸ *Vermont Yankee*, CLI-06-8, 63 N.R.C. at 237.

¹⁹ *Vogtle*, CLI-12-11, 75 N.R.C. at 530-31 (internal quotation marks and citations omitted). There is “no basis for a claim of irreparable harm . . . unrelated to any contention proposed by Petitioners.” *Id.* at 531-32.

effective until all pending contentions have been resolved (Motion to Stay Order at 6), but this assertion does not identify any specific injury to either Pilgrim Watch or its members. Further, the Commission has made it clear that transfer applicants who proceed with the transfer before hearings are complete do so at the risk that the subsequent hearing process could result in additional conditions or even rescission of the license transfer.²⁰ Indeed, the Order is expressly conditioned on the Commission's retained authority to address the outcome of any post-effectiveness hearing. Order at 6. Irreparable harm cannot be found where, as here, it is possible for the Commission to address the Pilgrim Watch's concerns at a later point in time.²¹

Pilgrim Watch makes several additional, speculative and conclusory allegations of threatened harm, many of which either have no basis in Pilgrim Watch's pending contentions or would apply regardless of license transfer, and none of which demonstrates any irreparable, imminent, certain or great injury. Pilgrim Watch asserts that threatened irreparable harm includes "significant remaining radiological and hazardous contamination in portions of the Pilgrim Site that Holtec thinks it has already decommissioned and remediated." Motion to Stay Order at 7-8. As partial site release is not targeted to occur until 2026,²² Pilgrim Watch's speculation that some contamination might remain is obviously not imminent. Further, Pilgrim Watch's concern ignores the NRC's inspection program overseeing HDI work, the NRC rules requiring submittal of a license termination plan ("LTP") – which must include a site characterization and detailed plans for the final radiation survey, and which is subject to an opportunity for hearing – and the confirmatory surveys that the NRC conducts. Therefore, any concern with the completeness of decommissioning is obviously not irreparable, imminent, certain, or great. Moreover,

²⁰ *Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), CLI-19-08, slip op. at 3 n.6 (Aug. 14, 2019); *Susquehanna Nuclear, LLC* (Susquehanna Steam Electric Station, Units 1 and 2), CLI-17-04, 85 N.R.C. 59, 61 n.5 (2017).

²¹ *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.").

²² *See* Revised Post-Shutdown Decommissioning Activities Report (Nov. 16, 2018) at 35 (ML18320A040) ("PSDAR").

because Pilgrim Watch did not challenge HDI's technical qualifications in any of its pending contentions, it may not rely on allegations of incomplete decommissioning to justify a stay.

Pilgrim Watch asserts that irreparable harm includes "leakage, resulting from lack of knowledge or poor or incomplete work, of contaminants into Cape Cod Bay and Massachusetts' second largest aquifer." *Id.* at 8. Again, Pilgrim Watch's contentions do not challenge HDI's technical qualifications, and therefore Pilgrim Watch cannot claim irreparable harm on this basis. Pilgrim Watch also fails to explain how the Order and Exemption would have any effect on alleged leakage given the retention of onsite personnel and Pilgrim's continued compliance with the Offsite Dose Calculation Manual, Radiological Environmental Monitoring Program, and the Groundwater Protection Initiative Program during decommissioning.²³ In short, Pilgrim Watch does not demonstrate any imminent, certain or great risk that Cape Cod or any aquifer will become contaminated if the Order or Exemption is not stayed.

Pilgrim Watch asserts that irreparable harm includes "airborne contamination from parts of [the] site that, because no site analysis was conducted, Holtec did not know were contaminated, impacting workers onsite and the public offsite." Motion to Stay Order at 8. Pilgrim Watch provides no support for this assertion, which once more cannot constitute irreparable injury because it was not raised in the contentions. Moreover, Holtec conducted extensive due diligence to understand plant conditions prior to the acquisition, including examining the records of contamination required by 10 C.F.R. § 50.75(g)(1), and the PSDAR indicates that site characterization (including surveys to establish the contamination and radiation levels throughout the plant) will be completed in the planning and preparation period.²⁴ Indeed, a Historical Site Assessment was completed in December 2018.²⁵ The PSDAR further indicates that "[a]s decontamination and dismantlement work proceeds, surveys will be conducted to maintain current site characterization, and to ensure that decommissioning activities are adjusted accordingly."²⁶ In addition,

²³ PSDAR at 36.

²⁴ *Id.* at 10, 18; HDI Decommissioning Cost Estimate (included in the PSDAR) at 23.

²⁵ See attached Declaration of Pamela B. Cowan ("Cowan Decl."), ¶ 6.

²⁶ PSDAR at 11.

CDI (HDI's general contractor) has retained the Pilgrim employees, thus retaining their institutional knowledge of site conditions. Pilgrim Watch offers nothing other than speculation that plant conditions will be unknown and unmonitored. Speculation about possible releases without any demonstration of their significance falls far short of showing a specific irreparable injury.²⁷

Pilgrim Watch asserts that irreparable harm includes “[e]xhaustion of the DTF, leaving insufficient money to properly complete the job and passing the bill on to the public.” Motion to Stay Order at 8. Pilgrim Watch merely repeats arguments already made in its pending hearing request. Indeed, Pilgrim Watch cites its own hearing request as having “shown that actual costs over the next six years will be more than \$100 million more than Holtec estimates . . .” *Id.* In the cited portion of its hearing request, Pilgrim Watch argued that decommissioning costs might escalate at a rate of 4% percent above inflation, but its argument was based on reported increases in site-specific estimates resulting from changes in scope (e.g. changes in the method of decommissioning, or inclusion of spent fuel management and site restoration costs). *See* Ans. Opposing PW Pet. at 34. Thus, Pilgrim Watch’s arguments about potential escalation rates do not “show” HDI will incur additional costs, and do not demonstrate any “certain” harm. Moreover, Pilgrim Watch’s concern that costs might escalate more than expected “over the next six years” is clearly not an imminent harm.

Pilgrim Watch also ignores the substantial conservatism in Application, which took no credit for hundreds of millions of dollars in additional cash flow from recoveries of the spent fuel management costs from the Department of Energy (“DOE”). Pilgrim Watch argues that Holtec has not agreed to use the DOE recoveries to replenish the DTF (Motion to Stay Order at 1-2), but Pilgrim Watch ignores the comprehensive NRC oversight, which includes requirements for annual review and adjustment of funding assurance,²⁸ and the Commission’s authority to require additional assurance if warranted by the outcome of any post-effectiveness hearing. Consequently, the NRC could direct the provision of additional

²⁷ *Cleveland Elec. Illuminating Co.* (Perry Nuclear Power Plant, Units 1 & 2), ALAB-820, 22 N.R.C. 743, 747-48 (1985).

²⁸ *See Entergy Nuclear Vermont Yankee, LLC* (Vermont Yankee Nuclear Power Station), CLI-16-17, 84 N.R.C. 99, 118 (2016).

funding assurance at any time if warranted, and HDI and Holtec Pilgrim would have both the obligation and means to comply. In short, Pilgrim Watch's concern about the adequacy of funding does not represent any irreparable harm.

B. Pilgrim Watch 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, Pilgrim Watch must show that success on the merits is a "virtual certainty to warrant issuance of a stay."²⁹ Pilgrim Watch 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. For the most part, Pilgrim Watch merely asserts that it will prove its allegations at hearing (*see, e.g.*, Motion to Stay Order at 2, 4, 6), but it is not enough simply to state confidence or an expectation of success.³⁰

Further, Pilgrim Watch's contentions raise no genuine material dispute with the Application. Pilgrim Watch's first contention, which seeks to challenge the financial qualifications of HDI and Holtec Pilgrim (despite over \$1 billion in the DTF), did not address or provide any basis to dispute the efficacy of the NRC's rigorous decommissioning oversight rules, which require annual reporting and, as needed, adjustment to funding for decommissioning and spent fuel management, as well as further review of funding assurance when the LTP is submitted. Pilgrim Watch also failed to address or dispute the substantial conservatism in the financial analysis in Application, in that the cash flow analysis does not credit the considerable additional cash flow from expected DOE recoveries over the life of the project.

Pilgrim Watch incorrectly asserts that "[i]f the DTF runs short, no one is legally required, or can be forced to supply more money." Motion to Stay Order at 2. The NRC has clear authority to require additional funding if necessary, and Holtec Pilgrim and HDI have the obligation to comply.³¹ Pilgrim

²⁹ *Shieldalloy Metallurgical Corp.*, CLI-10-8, 71 N.R.C. at 154 (2010) (internal quotation marks omitted).

³⁰ *Philadelphia Elec. Co.* (Limerick Generating Station, Units 1 and 2), ALAB-814, 22 N.R.C. 191, 196 (1985) (citing *Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit 1), CLI-84-17, 20 N.R.C. 801, 804-05 (1984)).

³¹ 10 C.F.R. § 50.82(a)(8)(vi), (vii); *see also* Director's Decision Under 10 CFR 2.206, Docket Nos. 50-334, 50-412, 50-346, and 50-440, at 8–9 (April 3, 2019) (ML19052A040) (rejecting a petition that NRC require entities in bankruptcy proceedings to provide additional decommissioning funding).

Watch's supposition that "a bankrupt licensee cannot 'make-up' anything (*id.*) is incorrect as a general theory of bankruptcy law, but more importantly has no relevance to the licensees here³² and is logically inconsistent with Pilgrim Watch's claims that the licensees will recover "all spent fuel management costs from DOE" and earn \$800 million profit (*id.* at 9-10), which ostensibly would leave the licensees more than adequately capitalized. In addition to using DOE recoveries as a source of potential supplemental decommissioning funding, to the extent required, HDI and Holtec Pilgrim could also provide additional assurance, if necessary, by providing a surety or a parent guarantee.

Pilgrim Watch also asserts that Holtec has not disputed that a greater-than-general-inflation increase in decommissioning costs could result in a billion-dollar deficit in the DTF. *Id.* at 2. This allegation in Pilgrim Watch's hearing request pertained to spent fuel management costs (PW Pet. at 25), and as Applicants responded, Pilgrim Watch neither explained why the costs of spent fuel management (e.g., ISFSI maintenance) would escalate significantly, nor disputed that if such costs escalate, so will DOE recoveries. *See* Ans. Opposing PW Pet. at 35. The same is true regarding Pilgrim Watch's concern that spent fuel may remain on-site longer than HDI has projected. In fact, Pilgrim Watch explicitly admits that "[t]hey will recover *all* spent fuel management costs from DOE." Motion to Stay Order at 9 (emphasis added).³³

³² Cf. Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 261 (1996) ("Petitioners offer no evidence whatever suggesting that [licensee] will . . . go bankrupt. Petitioner must submit more than this in order for a contention to be submitted for litigation.").

³³ In its motion to stay the exemption, Pilgrim Watch adds that site restoration costs will be far more than the \$40 million included in HDI's decommissioning cost estimate (Motion to Stay Exemption at 12-14) and repeats the unsupported claim from its hearing request that HDI assumes the Pilgrim site is essentially "clean" (*id.* at 9) – a characterization entirely of Pilgrim Watch's own invention. Because 10 C.F.R. § 50.82(a)(8)(i)(C) prohibits withdrawals from a nuclear decommissioning trust that would inhibit the ability of the licensee to complete funding of any shortfalls in the DTF needed to ultimately release the site and terminate the license, the speculative possibility that some unforeseen site restoration costs might arise could not affect the adequacy of the DTF. Pilgrim Watch also asserts that the Staff accepted HDI's cost estimate without analysis. As reflected in both the safety evaluation and exemption, the NRC Staff determined that the Pilgrim site-specific radiological decommissioning costs are reasonable by comparing them with the site-specific costs of comparable decommissioning projects, as well as NUREG/CR-6174, "Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station." Safety Evaluation at 11; Exemption at 8. Pilgrim Watch alleges "that there is no indication that the NRC Staff actually made such a comparison" (Motion to Stay Exemption at 6 n.4), but its willingness to make such unsupported accusations simply underscores the unlikelihood of Pilgrim Watch prevailing on any of its claims.

Pilgrim Watch's second contention, which argued that an environmental review was necessary, impermissibly challenges the NRC's rule at 10 C.F.R. § 51.22(c)(21) categorically excluding license transfers from review. Pilgrim Watch argues that this rule "does not apply to this license transfer" (Motion to Stay Order at 5), but on its face 10 C.F.R. § 51.22(c)(21) applies to "[a]pprovals of direct or indirect transfers of any license issued by NRC and any associated amendments of license required to reflect the approval of a direct or indirect transfer of an NRC license." Contrary to Pilgrim Watch's assertion, all of the conforming amendments were associated with the license transfer, including those deleting conditions relating to extinguished Entergy obligations. *See* Ans. Opposing PW Pet. at 64-65. Further, contrary to Pilgrim Watch's protestation, Pilgrim Watch's concerns relate to whether the environmental impacts of decommissioning activities in the PSDAR are bounded by the Generic Environmental Impact Statement on Decommissioning, which is a matter outside the scope of this license transfer proceeding.

Pilgrim Watch's third contention, which alleged that "the NRC has not done its job" by not conducting an investigation to ensure Holtec, SNC-Lavalin, HDI and CDI are trustworthy, reliable and of good character, was late-filed and failed to connect any allegations to HDI and its qualifications to decommission Pilgrim (or CDI as its general contractor). In fact, Pilgrim Watch expressly stated that it "does not seek to prove that Holtec, SNCL and the subsidiaries HDI and CDI that they own and control, are in fact untrustworthy, unreliable, and lack good character . . . This contention also does not seek to prove that allowing the LTA will present a risk to the common defense, security, and public health and safety." *See* PW Motion re New Contention at 2. Consequently, this allegation that the Staff has failed in its performance raises no litigable issue in this proceeding. *See* Ans. Opposing New Contention at 12-17.

For all these reasons, the likelihood that Pilgrim Watch will prevail on the merits is far from a "virtual certainty" – indeed, in Applicants' estimation, it is highly unlikely.

C. A Stay Would Harm Other Participants

A stay of the effectiveness of the Order or Exemption would significantly harm Applicants. Holtec's acquisition of Pilgrim was completed and the licenses were transferred on August 26, 2019.

Although it had the opportunity to do so, Pilgrim Watch failed to seek a temporary stay before the license transfer was complete despite notice of the closing date. 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. *See Cowan Decl.* ¶ 7. Pilgrim Watch belittles the impact on Pilgrim employees, asserting that the only thing that would change is who pays them. Motion to Stay Order at 9. This view ignores uncertainty that a stay would create among site employees regarding the likelihood that HDI and CDI will be permitted to proceed with the DECON methods of decommissioning Pilgrim, and associated longer-term prospects of employment, potentially prompting employees to seek employment elsewhere and diminishing institutional knowledge and expertise.

D. A Stay Is Not in the Public Interest

The public interest militates against the stay. Pilgrim Watch does not address this factor separately but asserts in its discussion of irreparable harm that the public interest requires that the Order not become effective until pending contentions have been resolved. Motion to Stay Order at 6. This single, conclusory assertion does not satisfy Pilgrim Watch's burden of proof and ignores the Commission's ability to address any contentions that it may find admissible through a post-effectiveness hearing. Further, the NRC's Subpart M "procedures are designed 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."³⁴ Applying the Subpart M procedures as they were intended, to allow transactions to occur without undue delay, serves the public interest. Proceeding with prompt decommissioning is also in the public interest.

IV. CONCLUSION

For the reasons discussed above, Pilgrim Watch's motions should be denied.

³⁴ Streamlined Hearing Process for NRC Approval of License Transfers, Final Rule, 63 Fed. Reg. 66,721, 66,722 (Dec. 3, 1998)

Respectfully submitted,

/signed electronically by David R. Lewis/

Susan H. Raimo
Entergy Services, LLC
101 Constitution Avenue, NW
Suite 200 East
Washington, DC 20001
Tel. 202-530-7330
Email: sraimo@entergy.com

David R. Lewis
Meghan C. Hammond
Pillsbury Winthrop Shaw Pittman, LLP
1200 Seventeenth Street, N.W.
Washington, DC 20036-3006
Tel. 202-663-8474
E-mail: David.lewis@pillsburylaw.com

Counsel for Entergy

AND

Erin E. Connolly
Holtec International
Holtec Technology Campus
1 Holtec Boulevard
Camden, NJ 08104
Telephone: (856) 797-0900 x 3712
E-mail: E.Connolly@holtec.com

Peter D. Lejeune
Alan D. Lovett
Balch & Bingham LLP
1710 Sixth Avenue North
Birmingham, AL 35203-2015
Telephone: 205-226-8774
204-226-8769
Email: plejeune@balch.com
alovett@balch.com

Counsel for Holtec

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NUCLEAR REGULATORY COMMISSION**

Before the Commission

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(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
Senior Vice President & Chief Operating Officer
Holtec Decommissioning International, LLC
1 Holtec Blvd.
Camden, NJ 08104
(856) 797-0900
P.Cowan@holtec.com

Dated at Camden, New Jersey
this 13th day of September 2019

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NUCLEAR REGULATORY COMMISSION**

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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))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicants' Answer Opposing Pilgrim Watch's Stay Motions, 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