

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Kristine L. Svinicki, Chairman
Jeff Baran
Annie Caputo
David A. Wright

In the Matter of

ENERGY NUCLEAR OPERATIONS, INC.,
ENERGY NUCLEAR GENERATION COMPANY,
HOLTEC INTERNATIONAL, AND
HOLTEC DECOMMISSIONING INTERNATIONAL,
LLC

(Pilgrim Nuclear Power Station)

Docket Nos. 50-293-LT
72-1044-LT

CLI-19-08

MEMORANDUM AND ORDER

In this license transfer proceeding, the Commonwealth of Massachusetts and Pilgrim Watch have each separately petitioned to intervene.¹ The Commonwealth now requests that we stay “all activities” in this proceeding for 90 days to permit it to complete settlement negotiations with the license transfer applicants. Specifically, the Commonwealth requests that the Commission “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.”² In support of its motion, the

¹ *Commonwealth of Massachusetts’ Petition for Leave to Intervene and Hearing Request* (Feb. 20, 2019); *Pilgrim Watch Petition for Leave to Intervene and Hearing Request* (Feb. 20, 2019).

² *See Motion of the Commonwealth of Massachusetts to Stay Proceeding to Complete Settlement Negotiations* (Aug. 1, 2019), at 3.

Commonwealth states that allowing the participants to reach an accord through a settlement agreement may resolve the Commonwealth's concerns in a timelier and more efficient fashion than a potential hearing, thereby avoiding the need to expend the NRC's or the participants' resources.

We deny the Commonwealth's motion to hold this adjudicatory proceeding in abeyance. While we encourage settlement negotiations and have held adjudicatory proceedings in abeyance at the request of participants in negotiations,³ here only the Commonwealth requests that we hold this adjudication in abeyance pending negotiations. The applicants oppose the Commonwealth's motion on several grounds, despite the ongoing settlement negotiations.⁴ And while petitioner Pilgrim Watch did not oppose the Commonwealth's motion, it has not requested that we also hold its intervention request in abeyance.

Further, the Commonwealth requests that we stay "all activities" connected with this proceeding. To the extent that the Commonwealth's motion requests that we—as an exercise of our inherent supervisory authority over proceedings—suspend the Staff's action on the license transfer application, we deny the request. The Commonwealth's interest in potentially resolving its concerns more efficiently outside of the adjudicatory process does not present a compelling basis for us to suspend the Staff's activities or its decision on the application.⁵

³ See, e.g., *Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), CLI-18-3, 87 NRC 87 (2018).

⁴ See *Applicants' Answer Opposing the Motion of the Commonwealth of Massachusetts to Stay Proceedings to Complete Settlement Negotiations* (Aug. 5, 2019), at 2-3, 5, 7. The applicants are Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Co., Holtec International, and Holtec Decommissioning International, LLC.

⁵ See, e.g., *Union Electric Co. d/b/a Ameren Missouri* (Callaway Plant, Unit 2), CLI-11-5, 74 NRC 141, 158 (2011) (suspension of licensing proceedings is a "drastic" action, generally unwarranted absent an immediate threat to public health and safety or other compelling ground); *DTE Electric Co.* (Fermi Nuclear Power Plant, Unit 3), CLI-14-7, 80 NRC 1, 7-8 (2014) (denying request to suspend issuance of decisions on reactor license applications).

Moreover, the Commonwealth did not address the factors that we weigh when considering whether to grant a request to stay the effectiveness of a Staff order on a license transfer application.⁶ The Commonwealth will have the opportunity to do so if the Staff issues such an order.

For the reasons outlined, the Commonwealth's motion presents insufficient grounds for us to hold this adjudicatory proceeding in abeyance or to stay or suspend all activities relating to the license transfer application. We therefore deny the motion.

IT IS SO ORDERED.

For the Commission

NRC Seal

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 14th day of August 2019.

⁶ See 10 C.F.R. § 2.1327(b)(2), (d); see also 10 C.F.R. § 2.342(e) (outlining same four stay factors for consideration in requests to stay the decision or action of a Presiding Officer). We note that our regulations contemplate that the Staff may issue an order on a license transfer application before the Commission has concluded the adjudication. See 10 C.F.R. 2.1316(a). In such instances, however, "the application will lack the agency's final approval until and unless the Commission" concludes the adjudication and approves the transfer. See *Entergy Nuclear Operations, Inc., and Entergy Nuclear Palisades, LLC* (Palisades Nuclear Plant), CLI-08-19, 68 NRC 251, 257 n.8 (2008) (quoting *Vermont Yankee Nuclear Power Corporation* (Vermont Yankee Nuclear Power Station), CLI-00-17, 52 NRC 79, 83 (2000)). Until the adjudicatory proceeding is concluded, the Commission retains the authority to modify the license by imposing license conditions or, if warranted, to rescind an order approving a license transfer. See *id.*

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)
ENTERGY NUCLEAR OPERATIONS, INC.)
ENTERGY NUCLEAR GENERATION) Docket Nos. 50-293 and 72-1044 LT
COMPANY, HOLTEC INTERNATIONAL,)
and HOLTEC DECOMMISSIONING)
INTERNATIONAL, LLC)
)
(Pilgrim Nuclear Power Station)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Commission Memorandum and Order (CLI-19-08)** have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Krupskaya T. Castellon]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 14th day of August 2019