

ORAL ARGUMENT NOT YET SCHEDULED

No. 19-1198

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

COMMONWEALTH OF MASSACHUSETTS

Petitioner,

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION and UNITED
STATES OF AMERICA,*Respondents.*

On Petition for Review of Actions by the
Nuclear Regulatory Commission

**PUTATIVE INTERVENORS' OPPOSED
MOTION FOR EXTENSION OF TIME**

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Entergy Nuclear Operations, Inc. (“ENOI”), Holtec International (“Holtec”), Holtec Decommissioning International, LLC (“HDI”), and Holtec Pilgrim, LLC (formerly known as Entergy Nuclear Generation Company, LLC (“ENGC”)) (the Holtec entities, together with ENOI, “Putative Intervenors”) respectfully move for an extension of time to November 22, 2019, to file a combined submission (“Combined Submission”) that (1) opposes Petitioner Commonwealth of Massachusetts’ Motion for a Stay Pending Appellate Review, Doc. No. 1812979 (Oct. 28, 2019) (the “Stay Motion”), and (2) seeks dismissal of Massachusetts’s Petition for Review, Doc. No. 1808410. Respondents the U.S. Nuclear Regulatory Commission (“NRC”) and the United States of America (together, “Federal Respondents”) have filed their own motion for an extension of time, and Putative Intervenors join in and consent to that motion, but are filing their own motion in an abundance of caution.

Pursuant to this Court’s Rule 27(h)(2), the Federal Respondents sought Massachusetts’ and Putative Intervenors’ consent to the Federal Respondents’ motion, and Putative Intervenors notified the Federal Respondents and Massachusetts that Putative Intervenors consent to the Federal Respondents’ motion. Counsel for Massachusetts advised the Federal Respondents and Putative Intervenors that, while Massachusetts would not have opposed a shorter extension to November 15, 2019, Massachusetts does oppose the Federal Respondents’ request

for an extension to November 22, 2019, and Massachusetts intends to file a written opposition.¹

This motion is timely filed under this Court's Rule 28(h)(1).

1. Putative Intervenors are the entities that were parties to this proceeding before the NRC. On October 16, 2019, they filed a motion to intervene in this appeal, Doc. No. 1811165, and that motion remains pending.

2. Putative Intervenors join in Federal Respondents' motion for an extension of time, including, among other things, that motion's description of the current due dates applicable to a response to the Stay Motion and to an affirmative motion to dismiss Massachusetts' petition, and that motion's explanation that the complexity of the proceeding warrants an extension of time for the Federal Respondents and Putative Intervenors to file their respective Combined Submissions.

3. Putative Intervenors add that an extension of time is further warranted because their counsel have competing commitments that were on calendar over this time period before Massachusetts filed the Stay Motion. Specifically, Sanford I.

¹ This morning (November 1, 2019), counsel for Putative Intervenors notified counsel for Massachusetts that Putative Intervenors would likely be filing their own motion for extension of time, separate from the Federal Respondents' motion, seeking the same relief as is sought by the Federal Respondents. Putative Intervenors further stated their assumption that the filing of a separate motion would not change Massachusetts' position as stated in the text above, and invited counsel for Massachusetts to advise if that were not correct. Counsel for Massachusetts responded that its position is indeed the same.

Weisburst, counsel for ENOI, has an opening brief due on November 18, 2019, in two consolidated appeals in the Fifth Circuit, *see Total E&P USA, Inc. v. Marubeni Oil & Gas (USA), Inc.*, Nos. 19-20271, 19-20282 (5th Cir.), and Adam K. Israel, counsel for the Holtec entities, has been involved in a jury trial for the past two weeks that is still ongoing, *see Kipu Sys., LLC v. ZenCharts, LLC*, No. 1:17-cv-24733-KMW (S.D. Fla.).

WHEREFORE, Putative Intervenors respectfully request that the Court grant their motion for an extension of time to November 22, 2019, to file a Combined Submission that (1) opposes Massachusetts' Stay Motion, and (2) seeks dismissal of Massachusetts' Petition for Review.

Dated: Nov. 1, 2019

Respectfully submitted,

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Sanford I. Weisburst
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ADDENDUM--CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appeal Procedure 26.1 and D.C. Circuit Rule 26.1, counsel for Entergy Nuclear Operations, Inc. certifies as follows:

Entergy Nuclear Operations, Inc. is a Delaware corporation engaged principally in the business of operating nuclear power facilities owned by its affiliates in the northeastern United States. Entergy Nuclear Operations, Inc. is a direct, wholly-owned subsidiary of Entergy Nuclear Holding Company #2. Entergy Nuclear Holding Company #2 is an indirect wholly-owned subsidiary of Entergy Corporation (NYSE: ETR). No other publicly-held company directly or indirectly holds a 10 percent or more equity interest in Entergy Nuclear Operations, Inc.

ADDENDUM--CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appeal Procedure 26.1 and D.C. Circuit Rule 26.1, counsel for Holtec International, Holtec Decommissioning International, LLC, and Holtec Pilgrim, LLC certifies as follows:

Holtec International is a Delaware corporation engaged principally in the business of providing equipment, systems, and services to the nuclear industry throughout the world. Holtec International has no parent company, and no publicly-held company directly or indirectly holds a 10 percent or more equity interest in Holtec International.

Holtec Decommissioning International, LLC is a Delaware limited liability company engaged principally in the business of operating and decommissioning shutdown nuclear power plants. Holtec Decommissioning International, LLC is a direct, wholly-owned subsidiary of Holtec Power, Inc., which in turn is a direct, wholly-owned subsidiary of Holtec International.

Holtec Pilgrim, LLC (f/k/a Entergy Nuclear Generation Company, LLC), is a Massachusetts limited liability company engaged principally in the business of owning the shutdown Pilgrim Nuclear Power Station in Plymouth, Massachusetts. Holtec Pilgrim, LLC is a direct, wholly-owned subsidiary of Nuclear Asset

Management Company, LLC, which in turn is a indirect, wholly-owned subsidiary of Holtec International.

**CERTIFICATE OF COMPLIANCE WITH
FEDERAL RULE OF APPELLATE PROCEDURE 27(D)**

I certify that this filing complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Times New Roman, a proportionally spaced font.

I further certify that this filing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 574 words, excluding the parts of the filing exempted under Fed. R. App. P. 32(f), according to the count of Microsoft Word.

/s/ Sanford I. Weisburst
Sanford I. Weisburst

Counsel for Putative Intervenor ENOI

CERTIFICATE OF SERVICE

I, Sanford I. Weisburst, a member of the Bar of this Court, hereby certify that on November 1, 2019, I electronically filed the foregoing “PUTATIVE INTERVENORS’ OPPOSED MOTION FOR EXTENSION OF TIME” with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate ECF system.

/s/ Sanford I. Weisburst
Sanford I. Weisburst

Dated: November 1, 2019