



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

November 27, 2019

EA-17-132
EA-17-153

Mr. Pierre Paul Oneid
Senior Vice President
and Chief Nuclear Officer
Holtec International
Krishna P. Singh Technology Campus
1 Holtec Blvd.
Camden, NJ 08104

Ms. Pamela B. Cowan
Senior Vice President
and Chief Nuclear Officer
Holtec Decommissioning International, LLC
Krishna P. Singh Technology Campus
1 Holtec Blvd.
Camden, NJ 08104

SUBJECT: RESPONSE TO REQUEST FOR RESCISSION OF CONFIRMATORY ORDER
FOR PILGRIM NUCLEAR POWER STATION

Dear Mr. Oneid and Ms. Cowan:

This letter documents the U.S. Nuclear Regulatory Commission (NRC) staff response to the request for rescission of a Confirmatory Order for Pilgrim Nuclear Power Station (Pilgrim). As described in detail below, the NRC staff determined that the request did not demonstrate good cause for the withdrawal of the Confirmatory Order.

On March 12, 2018, the NRC staff issued a Confirmatory Order to the power reactor facilities owned and operated by Entergy Nuclear Operations, Inc. (ENOI) and Entergy Operations, Inc. (EOI). The Confirmatory Order can be found in the NRC Public Document Room and from the NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML18072A191. The Confirmatory Order was issued to ENOI and EOI as a result of a successful alternative dispute resolution mediation session, and the commitments were made as part of a settlement agreement between ENOI, EOI, and the NRC. The settlement agreement concerned apparent violations of NRC requirements, as discussed in our letter dated November 20, 2017 (ADAMS Accession No. ML17325A002).

By letter dated May 13, 2019, ENOI requested rescission of the Confirmatory Order for Pilgrim (ADAMS Accession No. ML19133A276) upon the docketing of 10 CFR 50.82(a)(1) certifications for permanent cessation of operations and removal of fuel from the reactor vessel. In the letter, ENOI stated that after these certifications are submitted, many of the regulatory requirements

associated with the Confirmatory Order will no longer be applicable to Pilgrim. In a letter dated June 10, 2019, ENOI submitted the certifications (ADAMS Accession No. ML19161A033). The NRC staff notes that in accordance with the NRC Enforcement Manual, Part I, Section 2.7.8 (ADAMS Accession No. ML19274C228), where the NRC exercises its inherent discretionary authority to not enforce the terms of an order, as would be the case with the requested relief here, the appropriate action is withdrawal, not rescission, of the Order or particular terms of the Order.

In follow-up telephone conversations with Mr. Michael Hay, Deputy Director, Division of Reactor Projects, on July 17 and 18, 2019, ENOI stated that it intended to submit additional information in support of the rescission withdrawal request. The additional information was provided by ENOI on August 19, 2019, ADAMS Accession No. ML19308A994.

Subsequently, by Order dated August 22, 2019 (ADAMS Accession No. ML19170A265), the NRC staff provided consent to the transfer of Pilgrim's license to Holtec Decommissioning International, LLC (HDI) and Holtec International (Holtec). On August 26, 2019, ENOI informed the NRC that the transaction closed on August 26, 2019 (ADAMS Accession No. ML19239A037). On August 27, 2019, the staff issued a conforming amendment to HDI and Holtec to reflect the license transfer (ADAMS Accession No. ML19235A050).

The NRC staff reviewed and evaluated the May 13 and August 19, 2019, correspondence from ENOI against the criteria provided in the NRC Enforcement Manual and determined that the request did not demonstrate good cause for the withdrawal of the Confirmatory Order. Specifically, the NRC staff determined that while the request did describe a material circumstance change (e.g., permanent cessation of operations) the request did not provide, in sufficient detail, justification for how acceptable levels of quality and safety will be maintained or why the underlying purpose of the Confirmatory Order is no longer necessary at Pilgrim. Therefore, the NRC plans no further action regarding ENOI's request. The Confirmatory Order and the requirements contained within remain applicable to Pilgrim.

As noted in Section V of the Confirmatory Order, the agreement is a modification of the license and is binding upon successors and assigns of EOI and ENOI. Therefore, as the licensed operator for Pilgrim decommissioning, HDI is required to comply with the Confirmatory Order and may request relaxation, withdrawal, or rescission with a demonstration of good cause. As indicated above, such a request must provide, in sufficient detail, justification for how acceptable levels of quality and safety will be maintained or why the underlying purpose of the order is no longer necessary at Pilgrim.

You are not required to respond to this letter. However, should you choose to respond, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Director, Division of Reactor Projects, 1600 E. Lamar Blvd., Arlington, TX 76011-4511.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and your response, should you choose to submit one, will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's ADAMS accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions regarding this matter, you may contact John Kramer, Senior Enforcement Specialist, at 817-200-1121.

Sincerely,

/RA/

Scott A. Morris
Regional Administrator

Docket No. 05000293

License No. DPR-35

cc:

Mr. Ron Gaston
Director, Nuclear Licensing
Entergy Nuclear Operations, Inc.
1340 Echelon Parkway
Jackson, MS 39213

RESPONSE TO REQUEST FOR RESCISSION OF CONFIRMATORY ORDER FOR PILGRIM NUCLEAR POWER STATION – DATED NOVEMBER 27, 2019

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ADAMS ACCESSION NUMBER: **ML19331A616**

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword:
 By: JGK Yes No Publicly Available Sensitive

OFFICE	SES/ACES	TL:ACES	RC	C:DRP/D	D:DNMS	BC:RI	NRR:D/DORL
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