



OFFICE OF THE  
GENERAL COUNSEL

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

February 27, 2019

**BY ELECTRONIC FILING**

Mark Langer, Clerk of Court  
United States Court of Appeals for the District of Columbia Circuit  
333 Constitution Ave., NW  
Washington, DC 20001

Re: *Commonwealth of Massachusetts v. NRC*,  
No. 20-1019 (consolidated with No. 19-1198)—  
Clarification of Statements Made in Petitioner's Docketing Statement

Dear Mr. Langer:

Respondent, Nuclear Regulatory Commission (NRC), on behalf of Federal Respondents, writes to correct a statement made by Petitioner, Commonwealth of Massachusetts, in the Agency Docketing Statement that Massachusetts filed on February 26, 2020 (Document #1830258).

In response to question “g”, Massachusetts stated that there are no cases pending before the NRC that “involve substantially the same issues as the instant case presents.” This assertion is incorrect. As set out in our pending Motion to Dismiss Case No. 19-1198 for lack of jurisdiction and, specifically, lack of final agency action (Document #1817379 (Nov. 22, 2019) (motion), #1826060 (Jan. 29, 2020) (reply)), the issues that Massachusetts intends to raise before the Court are currently the subject of adjudicatory proceedings before the NRC. In those proceedings, Massachusetts has challenged the provisional issuance of a license transfer order, a license amendment, and an exemption issued to the license holder. While it is true that the NRC issued a decision denying Massachusetts’s request for a stay of the effectiveness of these actions and that issues associated with the stay are no longer before the agency, the majority of the issues that Massachusetts has

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raised before the Court (including those identified in issues 2, 3, and 4 of its Non-binding Statement of Issues to Be Raised, Document #1830260 (Feb. 26, 2020)) are still squarely pending before the Commission.

Respectfully,

/s/ Andrew P. Averbach  
Solicitor