

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of

ERIN HENDERSON

Docket No. IA-20-009

**NRC Staff Response to February 9, 2021, Order of the Secretary**

On September 13, 2020, Ms. Erin Henderson filed a request for a hearing on the Notice of Violation (NOV) issued to her by the staff of the Nuclear Regulatory Commission on August 24, 2020.<sup>1</sup> On January 22, 2021, the NRC Staff rescinded the NOV.<sup>2</sup> On February 9, 2021, the Secretary of the Commission issued an Order requesting that the parties clarify whether the rescission of the NOV renders the hearing request moot, and whether this adjudicatory matter should be terminated.<sup>3</sup> In the NRC Staff's view, the hearing request should be dismissed as moot and the matter terminated.

A case is moot "when the issues are no longer 'live,' or the parties lack a cognizable interest in the outcome."<sup>4</sup> In the instant case, Ms. Henderson sought a hearing on an NOV issued to her. As described in the Staff's answer to Ms. Henderson's request for hearing, it is well established that the NRC does not hold hearings on NOVs.<sup>5</sup> Notwithstanding the lack of

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<sup>1</sup> Erin Henderson's Request for a Hearing (Sept. 13, 2020) (ADAMS Accession No. ML20259A299); Notice of Violation, Nuclear Regulatory Commission Office of Investigations Report Nos. 2-2018-033 and 2-2019-015 (IA-20-009) (Aug. 24, 2020) (ML20218A584, ML20232B524 (package)).

<sup>2</sup> See Notification to Commission (Jan. 22, 2021) (ML21022A243).

<sup>3</sup> Order (Requesting Clarification from the Parties) (Feb. 9, 2021) (unpublished) (ML21040A509).

<sup>4</sup> See *So. Cal. Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-13-9, 78 NRC 551, 557 (2013) (citing *Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Unit 2), CLI-93-10, 37 NRC 192, 200 (1993)).

<sup>5</sup> NRC Staff Answer to Erin Henderson's Request for Hearing (Oct. 8, 2020) (ML20282A792).

validity of the hearing request, the Staff's rescission of the NOV mooted the request because no live controversy remains between the parties in this matter. Thus, the Commission should dismiss the request for hearing pending before it.

Respectfully submitted,

**/Signed (electronically) by/**

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Dated in Falls Church, VA  
this 1st day of March 2021

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**Certificate of Service**

Pursuant to 10 C.F.R § 2.305, I hereby certify that copies of the foregoing “NRC Staff Response to February 9, 2021, Order of the Secretary,” dated March 1, 2021, have been served upon the Electronic Information Exchange (the NRC’s E-Filing System), in the captioned proceeding, this 1st day of March 2021.

**/Signed (electronically) by/**

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