

Congress of the United States
Washington, DC 20510

Chairman Christopher T. Hanson
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

August 30, 2022

Dear Chairman Hanson,

We write today following New York State's recent Indian Point Decommissioning Oversight Board meeting where many of our constituents in the Lower Hudson Valley communities surrounding Indian Point Energy Center (Indian Point) in Buchanan, New York, expressed deep concerns regarding a lack of transparency and public engagement by the U.S. Nuclear Regulatory Commission (NRC) as it pertains to the plant's ongoing decommissioning process. As the federal delegation representing these communities, we share these concerns, and urge the NRC to immediately schedule a public meeting with our constituents at the Cortlandt Town Hall before any determination is made on NRC's proposed rule on "Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning."

On November 23, 2020, despite our concerns and the absence of any public meeting, the NRC approved the transfer of the Indian Point Facility Operating Licenses for Units 1, 2, and 3, as well as the general license for the Independent Spent Fuel Storage Installation (ISFSI) from Entergy to Holtec, as the licensed owner, and to Holtec Decommissioning International (HDI), as the licensed operator. Since then, there have been many concerns regarding the NRC's lack of transparency and its current practice of "regulating by exemption" of *operating* rules, rather than instituting specific rules for *decommissioning*. Exemptions to operating rules fail to adequately account for the needs of the community specific to the decommissioning process.

We agree that change is needed to properly account for the *decommissioning* of nuclear plants because "regulating by exemption" creates accountability issues and causes a disconnect for communities undergoing decommissioning. For example, Holtec's requests for exemptions and license amendments, including for emergency planning, allowable contents in dry cask storage containers, off-site liability, and property insurance, have all been raised as major concerns by residents during meetings of the New York State Indian Point Decommissioning Oversight Board. However, as currently written, the proposed rule falls short of providing the "reasonable assurance of adequate protection" for public safety and the environment that our constituents deserve.

This standard can only be met through continued, meaningful engagement with communities undergoing decommissioning, and the state and local officials representing their

interests. However, the proposed rule does not require public comment or hearing opportunities, including with state and local agencies, during the Post Shutdown Decommissioning Activities Report (PSDAR) and fails to outline a formal NRC approval process of the PSDAR. While the Indian Point license transfer process allowed the State of New York to reach a settlement agreement with Holtec, resulting in certain key protections, oversight, and the forming of the Indian Point Decommissioning Oversight Board, the NRC should be the nationwide watchdog holding licensees accountable for their activities throughout decommissioning. The proposed rule also fails to outline the NRC's public engagement strategy with Community Advisory Panels, like the Oversight Board, regarding items like common information requests. After-the-fact engagement by the NRC, as required by the License Termination Plan (LTP), is not enough.

Moreover, the proposed rule weakens the NRC's oversight role during decommissioning by eliminating certain NRC requirements, including those related to emergency preparedness, physical security, offsite and onsite financial protection requirements and indemnity agreements, decommissioning funding assurance, and low-level waste transportation. For example, in practice, the proposed rule effectively eliminates offsite emergency response requirements even if spent nuclear fuel remains on site. Unfortunately, the communities surrounding Indian Point know all too well that giving a licensee sole responsibility for required assessments, without any independent review, can be disastrous, resulting in flawed analysis and extreme public distrust. In February of 2020, the NRC Office of the Inspector General called into question the accuracy of the Algonquin Incremental Market (AIM) Project's safety assessments conducted by Entergy, IPEC's former owner. This distrust was deepened by recent reports of various incidents at other sites that Holtec is decommissioning, renewing concerns about NRC's lack of transparency and oversight.

The NRC must be a watchdog and make sure that the Lower Hudson Valley communities we represent are protected and Indian Point is decommissioned as safely as possible. For these reasons, we respectfully request that the NRC conduct a public meeting with the Lower Hudson Valley communities surrounding Indian Point to ensure that any proposed rule includes the input of those most directly impacted by decommissioning.

Sincerely,



Charles E. Schumer
United States Senate



Kirsten Gillibrand
United States Senate



Mondaire Jones
United States Representative



Sean Patrick Maloney
United States Representative