

December 27, 2022

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

| | | |
|---|---|-----------------------------|
| In the Matter of |) | |
| |) | |
| Entergy Nuclear Operations, Inc., |) | |
| Entergy Nuclear Palisades, LLC, |) | Docket Nos. 50-255-LT |
| Holtec International, and |) | 50-155-LT |
| Holtec Decommissioning International, LLC |) | 72-007-LT |
| |) | 72-043-LT |
| (Palisades Nuclear Plant and |) | |
| Big Rock Point Site) |) | ASLBP No. 22-974-01-LT-BD01 |

**Applicants' Response to the Environmental Law and Policy Center's
Request for Public Access**

On December 14, 2022, the Environmental Law and Policy Center (“ELPC”) filed a letter requesting that “all filings in the above-referenced proceeding be made public,” with the understanding that Holtec may redact those portions of filings that are confidential or proprietary.¹ ELPC’s Request is moot because, on December 22, 2022, the Board entered an Amended Protective Order requiring the Parties to file redacted, public versions of their submissions. ELPC did not consult the Parties before filing as required by the Commission’s regulations, or it would have learned its Request was unnecessary. Finally, even if it were not moot, ELPC’s Request is untimely.

On December 20, 2022, the Parties filed a joint motion requesting that the Board amend the protective order in this proceeding to, among other things, provide for the filing of redacted

¹ Letter from Michael J. Zoeller, Environmental Law and Policy Center to ASLBP Judge Paul S. Ryerson, Presiding Officer (Dec. 14, 2022) (ADAMS Accession No. ML22348A166) (hereinafter, “ELPC’s Request”).

versions of their statements on the public docket.² The Board granted the Joint Motion and entered the Amended Protective Order on December 22, 2022.³ Section H of the Amended Protective Order requires the Parties to file on the public docket versions of their initial statements of position, rebuttal statements, concluding statements, and post-hearing statements with Protected Information redacted.⁴ As stated in their Joint Motion, the Parties believe this approach addresses ELPC's Request.⁵ Accordingly, ELPC's Request is now moot.

Had ELPC consulted with the Parties prior to filing its Request, it would have learned that the Parties were already planning to file redacted, public versions of their submissions. In fact, its failure to consult the Parties is an independent reason ELPC's Request should be rejected: "A motion must be rejected if it does not include a certification by the attorney or representative of the moving party that the movant has made a sincere effort to contact other parties in the proceeding and resolve the issue(s) raised in the motion, and that the movant's efforts to resolve the issue(s) have been unsuccessful."⁶

Finally, even if it were not moot, ELPC's Request is untimely. The Commission's regulations require that "[a]ll motions, other than motions for summary disposition, must be made no later than ten (10) days after the occurrence or circumstance from which the motion arises."⁷

² Joint Motion Regarding Amended Protective Order, ASLBP No. 22-974-01-LT-BD01 (Dec. 20, 2022) (ADAMS Accession No. ML22354A162) (hereinafter, "Joint Motion").

³ Amended Protective Order Governing Disclosure of Proprietary Materials, ASLBP No. 22-974-01-LT-BD01 (Dec. 22, 2022) (ADAMS Accession No. ML22356A153) (hereinafter, "Amended Protective Order").

⁴ *Id.*, at 4.

⁵ Joint Motion, at 2.

⁶ 10 C.F.R. § 2.323(b).

⁷ 10 C.F.R. § 2.323(a)(2).

While ELPC is not a party to this hearing and did not style its request as a motion, it should nonetheless be denied on this basis as well.

/Executed in accord with § 2.304(d)/

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicants' Response to the Environmental Law and Policy Center's Request for Public Access has been served through the EFiled system on the participants in the above-captioned proceeding this 27th day of December 2022.

/signed electronically by Jason Tompkins/

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