



TOWN OF CORTLANDT

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Re: CASE 19-E-0730: Joint Petition of Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Indian Point 3, LLC; and Nuclear Asset Management Company, LLC for a Declaratory Ruling Disclaiming Jurisdiction Over or Abstaining from Review of the Proposed Transfers or, in the Alternative, an Order Approving the Proposed Transfers Pursuant to Section 70 of the New York Public Service Law ("Joint Petition")

PUBLIC COMMENTS AND TESTIMONY OF JAMES F. CREIGHTON BEFORE NEW YORK STATE PUBLIC SERVICE COMMISSION REGARDING INDIAN POINT LICENSE TRANSFER

As a resident living just a few miles away from Indian Point and as a Councilman in the Town of Cortlandt, I submit these comments in connection with the Joint Petition seeking the Public Service Commission ("PSC") to disclaim jurisdiction or, alternatively, for an order authorizing the upstream transfers involving the Indian Point facility. These requests should be denied.

Initially, there should be no question about whether the PSC has authority to oversee and intervene in decommissioning activities and outcomes at nuclear power plants. The State also has a duty to protect New York's jurisdictional interests on behalf of New Yorkers. Although the NRC has jurisdiction over radiological safety issues, states have jurisdiction over other impacts from decommissioning, including impacts on the economy, surface water, future energy policy, future land use, tourism and recreation, and other impacts. New York also has authority over hazardous material and toxic chemical contamination which applies to nuclear sites. The PSC has a responsibility to us to exercise its jurisdiction and protect the residents of Cortlandt and New York State.

We understand that the Public Service Commission is soliciting comments about the proposed transfer of IPEC from Entergy Nuclear Operations, Inc. and its affiliated entities ("Entergy") to Holtec International and its affiliated entities ("Holtec"). I have some serious concerns related to this proposed transfer.

First, we at the Town have yet to have had any communications with a representative of Holtec regarding their plans. For years, Entergy has been a member of the local community, and the Town had a productive and amicable relationship with Entergy, even when we did not always see eye to eye on certain issues. All of us on the Town Board remain ready and eager to communicate with Holtec, but the lack of communication thus far does not bode well for the future. Would Holtec plan to enter into a Payment in Lieu of Taxes ("PILOT") agreement with the taxing jurisdictions? This is expressly authorized pursuant to the bill signed by Gov Cuomo on December 31, 2020. There are also many issues we are concerned about:

1. Does Holtec have the technical capabilities to properly decommission the plant?

Holtec touts its expertise in decommissioning nuclear power plants when in fact it is learning on the job as it acquires nuclear plants. The only experience and track record we have so far (such as at Oyster Creek nuclear plant in New Jersey which it recently acquired, and at the San Onofre Nuclear Generating Station in California, where it is contracted to handle the plants spent nuclear fuel (SNF), does not inspire confidence and raises serious concerns from members of our community. In New Jersey, Clean Water Action confirms that Holtec put costs ahead of safety by hiring low-skilled, unqualified nonunion workers who were not familiar with the plant at Oyster Creek, by stopping funding to local first responders who are responsible for implementing an emergency response plan, and by ignoring concerns of local officials. Holtec told officials at Oyster Creek that, if there was a problem with nuclear waste storage at Oyster Creek, it would take several days to bring an overpack to the site from Camden, rather than storing one onsite as a reasonably safe precaution. None of that can happen here ... we need someone to step up and protect our community.

Holtec's "fast-decommissioning" business model involves leveraging the ratepayer-financed decommissioning trust fund (DTF) while cutting costs and corners in decommissioning procedures to maximize its profits. Holtec has sought and obtained from the NRC a raft of exemptions from safety requirements and other NRC regulations to facilitate fast decommissioning. These include significantly raising the allowable level of workers' exposure to radiation. "Quick and dirty" is not the type of decommissioning activity we need or want here. We want the job done right, as quickly and safely as is reasonable.

2. What are Holtec's short-term and long-term plans for the nuclear waste?

We have heard about Holtec's manufacturing facility in Camden, New Jersey where it plans to build small modular reactors, with some designs that run on reprocessed spent fuel. We also know that Holtec is seeking a license to build a consolidated interim storage facility for spent nuclear fuel in New Mexico. Is Holtec trying to leverage our ratepayer and government money to fund its various linked businesses? That would be an impermissible conflict of interest, with a high potential for self-dealing, and heightened risk that Holtec will make decisions prioritizing its profits over public health and safety.

3. Does Holtec have the financial means to safely decommission IPEC to final completion?

Holtec is a closely held, private company with no transparency or financial assurance that it has the financial depth needed to take on Indian Point decommissioning. It has offered no proof of substantial capitalization. It is secretive about its finances. Holtec's business model relies on leveraging other people's money, i.e., ratepayers' and taxpayers' money, for its own profit, without bringing any of its own capital to perform decommissioning work.

It sought and obtained from the NRC an exemption from the prohibition on using the decommissioning trust fund for purposes other than decommissioning, which means it can reimburse itself for spent fuel handling out of the DTF. At Indian Point, this could seriously deplete funding for actual decommissioning activities such as dismantling the plant and remediating the site. As a matter of course, Holtec like other decommissioning companies will also sue the Department of Energy to recover spent fuel management costs, since no geologic repository such as Yucca Mountain has materialized. In effect, it will use the DTF and DOE money to get paid for spent fuel management twice, amounting to hundreds of millions of dollars. But unlike other decommissioning companies,

Holtec will keep the federal money as profit instead of putting it back into the DTF. This was affirmed at a 2020 NRC public meeting on Holtec license transfer.

Since the Holtec subsidiary proposes to bring none of the parent companies' capital to Indian Point decommissioning work, but only to leverage public money, and since it will tap the ratepayer-financed decommissioning trust fund for spent fuel management, transferring Indian Point's licenses to Holtec's subsidiary poses a clear fiscal danger to New York State. If it depletes the decommissioning fund and if the costs of remediating this highly complex site prove higher than Holtec estimates, the subsidiary could declare bankruptcy, leave the work half done and walk away without incurring any liability to the parent companies. In that case, New Yorkers -- the State and municipalities, ratepayers and taxpayers -- would be left to bear the costs and risks. In fact, the subsidiary structure seems to envision this very possibility.

4. Has a full environmental review been completed?

In its Post Shut Down Activities Report, Holtec indicated it would do nothing to remediate known contamination of radioactive isotopes leaking from the plant into the groundwater and the Hudson River, including strontium-90. It said it would remove above-ground structures only to a nominal depth of 3 feet. But contamination at the site almost certainly goes much deeper. What environmental assessments have they done? Depending on the source, radiological contamination may affect not only surface soils, but also subsurface soils and groundwater. Groundwater contamination at Indian Point is documented. There's an urgent need for independent, thorough site characterization at Indian Point, without which it isn't possible to know how much work will be needed to remediate the site or what it might cost, and without which Holtec's representations about the timing and scope of its work aren't reliable or credible. We are worried that the focus on speed will result in our community being left with the impacts and costs of unremediated contamination at the site. This is completely unacceptable and we demand that the NYS PSC exercise its clear jurisdiction here and protect the residents of our community.