HOLTEC
DECOMMISSIONING
INTERNATIONAL

~~PROPRIETARY INFORMATION – WITHHOLD UNDER 10 CFR 2.390~~

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HDI PNP 2023-001

February 1, 2023

Mr. Bo Pham
Director, Division of Operating Reactor Licensing
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Palisades Nuclear Plant
Docket No. 50-255
Renewed Facility Operating License No. DPR-20

Subject: Regulatory Path to Reauthorize Power Operations at the Palisades Nuclear Plant

Holtec Decommissioning International, LLC (HDI), on behalf of Holtec Palisades, LLC (Holtec Palisades), is submitting to the US Nuclear Regulatory Commission (NRC), a regulatory path for the reauthorization of power operations at the Palisades Nuclear Plant (PNP) under the current regulatory framework. The regulatory path considers the ability of the reactor to resume operations safely and in conformance with NRC licensing requirements for operating reactors. The viability of HDI pursuing reauthorization of power operations at PNP is dependent on several key regulatory assumptions. HDI is providing the NRC Staff with this information ahead of formal licensing submittals and applications to raise awareness and maintain transparent communications.

By letter dated October 19, 2017, Entergy Nuclear Operations, Inc. (Entergy) certified under 10 CFR 50.82, *Termination of license*, paragraph (a)(1) that it planned to permanently cease power operations no later than May 31, 2022 (Reference 1). By letter dated June 13, 2022, Entergy certified to the NRC, under 10 CFR 50.82(a)(1)(i), that power operations ceased at PNP on May 20, 2022, and, in accordance with 10 CFR 50.82 (a)(1)(ii), that the fuel was permanently removed from the PNP reactor vessel and placed in the spent fuel pool on June 10, 2022 (Reference 2). In accordance with 10 CFR 50.82(a)(2), *Upon docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect, the 10 CFR part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel*. Also, Amendment 272 to the PNP Renewed Facility Operating License (RFOL) was issued on May 13, 2022, to reflect a permanently defueled status, where operation of the reactor is not permitted (Reference 3). Thus, the PNP current licensing basis does not authorize operation of the reactor.

On June 28, 2022, Entergy transferred the PNP RFOL to Holtec Palisades, the licensed owner, and HDI as the licensed operator, as approved by NRC Commission Order EA-21-158,

Palisades Nuclear Plant and ISFSI and Big Rock Point and ISFSI – Order Approving Direct and Indirect Transfers of Licenses and Draft Conforming Administrative License Amendments (Reference 4). PNP is currently executing the Post Shutdown Decommissioning Activities Report (PSDAR) submitted to the NRC on December 23, 2020 (Reference 6).

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Because HDI is currently only authorized to perform spent fuel management, decommissioning, and site-maintenance activities authorized by the shutdown licensing basis (see Reference 2), HDI intends to [

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[ ] 4.a,4.b,4.c

[ ] 4.a,4.b,4.c

The three key regulatory path assumptions - the reauthorization of power operations at Palisades is permitted within the existing regulatory framework, [ ] 4.a,4.b,4.c We believe that since this regulatory path is authorized by NRC regulations, and submittals will require NRC review and approval, there is reasonable assurance that HDI can safely restore PNP to power operations within the reactor's previous licensing basis (as updated to permit operation) and pose no significant safety hazards.

Sections of this letter and Enclosure 1 in its entirety contains information associated with HDI's regulatory path to reauthorize power operations at PNP and are considered proprietary information. Therefore, HDI requests that the NRC withhold certain information in accordance with 10 CFR 2.390, *Public inspections, exemptions, requests for withholding.*

Enclosure 2 provides the affidavit signed by Holtec which supports withholding the proprietary information.

This letter contains no new regulatory commitments.

Should you have any questions or require additional information, please contact me at (856) 797-0900 ext. 3578.

Sincerely,

Jean A. Fleming Digitally signed by Jean A. Fleming
Date: 2023.02.01 12:54:03 -05'00'

Jean A. Fleming
Vice President of Licensing, Regulatory Affairs & PSA
Holtec International

Enclosure 1: Regulatory Path to Reauthorize Power Operations at the Palisades Nuclear Plant – ~~Proprietary~~
Enclosure 2: Withhold Information Per 10 CFR 2.390 Affidavit

References:

1. Letter from Entergy Nuclear Operations, Inc. to the U.S. Nuclear Regulatory Commission, *Supplement to Certification of Permanent Cessation of Power Operations*, (ADAMS Accession No. ML17292A032), dated October 19, 2017

2. Letter from Entergy Nuclear Operations, Inc. to the U.S. Nuclear Regulatory Commission, *Certifications of Permanent Cessation of Power Operations and Permanent Removal of Fuel from the Reactor Vessel*, (ADAMS Accession No. ML22164A067), dated June 13, 2022

3. Letter from the U.S. Nuclear Regulatory Commission to Entergy Nuclear Operations, Inc., *Palisades Nuclear Plant – Issuance of Amendment No. 272 RE: Permanently Defueled Technical Specifications (EPID L-2021-LLA-0099)*, (ADAMS Accession No. ML22039A198), dated May 13, 2022

4. Letter from the U.S. Nuclear Regulatory Commission to Entergy Nuclear Operations, Inc., *Palisades Nuclear Plant and Big Rock Point Plant – Order Approving Transfer of Licenses and Draft Conforming Administrative License Amendments (EPID L-2020-LLM-0003)*, (ADAMS Accession Package No. ML21292A155), dated December 13, 2021

5. U.S. Nuclear Regulatory Commission SECY-20-0110, Enclosure 1, *Federal Register Notice – Denial of Petition for Rulemaking on Criteria to Return Retired Nuclear Power Reactors to Operations (PRM-50-117; NRC-2019-0063)*, (ADAMS Accession No. ML20205L307), dated December 7, 2020

6. Letter from Holtec Decommissioning International, LLC to the U.S. Nuclear Regulatory Commission, *Post Shutdown Decommissioning Activities Report*, (ADAMS Accession No. ML20358A232), dated December 23, 2020

cc: NRC Region III Regional Administrator
NRC Deputy Director, Reactor Safety Programs & Mission Support
NRC Lead Decommissioning Inspector – Palisades Nuclear Plant
NRC NMSS Project Manager – Palisades Nuclear Plant

ENCLOSURE 1

HDI PNP 2023-001

Regulatory Path to Reauthorize Power Operations at the Palisades Nuclear Plant

~~Proprietary~~

Regulatory Path to Reauthorize Power Operations at the Palisades Nuclear Plant

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ENCLOSURE 2

HDI PNP 2023-001

Withhold Information Per 10 CFR 2.390 Affidavit

U.S. Nuclear Regulatory Commission
ATTN: Document Control Clerk
Non-Proprietary Enclosure to HDI PNP 2023-001

AFFIDAVIT PURSUANT TO 10 CFR 2.390

I, Jean A. Fleming, being duly sworn, depose and state as follows:

1) I have reviewed the information provided in letter HDI PNP 2023-001, *HDI's Regulatory Path Forward to Reauthorize Power Operations at the Palisades Nuclear Plant,* in which certain information is sought to be withheld, and I am authorized to apply for its withholding.

2) The information sought to be withheld is portions of the cover letter and Enclosure 1 in its entirety. This information documents a regulatory strategy to reauthorize power operations for a licensee who has permanently ceased power under 10 CFR 50.82(a)(1)(i). This information included in the documents is proprietary to Holtec Decommissioning International, LLC (HDI).

3) In making this application for withholding of proprietary information of which it is the owner, HDI relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4) and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR Part 9.17(a)(4), 2.390(a)(4), and 2.390(b)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).

4) Some examples of categories of information which fit into the definition of proprietary information are:

   a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by HDI's competitors without license from HDI constitutes a competitive economic advantage over other companies;

AFFIDAVIT PURSUANT TO 10 CFR 2.390

b. Information which, if used by a competitor, would reduce its expenditure of resources or improve its competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

c. Information which reveals cost or price information, production, capacities, budget levels, or commercial strategies of HDI, its affiliates, customers, or its suppliers;

d. Information which reveals aspects of past, present, or future HDI customer-funded development plans and programs of potential commercial value to HDI;

e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4.a, 4.b, and 4.c. above.

5) The information sought to be withheld is being submitted to the NRC in confidence. The information (including that compiled from many sources) is of a sort customarily held in confidence by HDI, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by HDI. No public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.

6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within HDI is limited on a "need to know" basis.

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7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his designee), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside HDI are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.

8) The information classified as proprietary was developed and compiled by HDI at a significant cost to HDI. This information is classified as proprietary because it contains detailed descriptions of analytical approaches and methodologies not available elsewhere. This information would provide other parties, including competitors, with information from HDI's technical database and the results of evaluations performed by HDI. A substantial effort has been expended by HDI to develop this information. Release of this information would improve a competitor's position because it would enable Holtec's competitor to copy our technology and offer it for sale in competition with our company, causing us financial injury.

9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to HDI's competitive position and foreclose or reduce the availability of profit-making opportunities. The information and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology, and includes development of the expertise to determine and apply the appropriate evaluation process.

   The research and development comprise a substantial investment of time and money by HDI.

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The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

HDI's competitive advantage will be lost if its competitors are able to use the results of the HDI experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to HDI would be lost if the information were disclosed to the public. Making such information available to competitors without there having been required to undertake similar expenditure of resources would unfairly provide competitors with a windfall, and deprive HDI of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable tools.

AFFIDAVIT PURSUANT TO 10 CFR 2.390

STATE OF NEW JERSEY)
) ss:
COUNTY OF CAMDEN)

Jean A. Fleming, being duly sworn, deposes and says:

That she has read the foregoing affidavit and the matters stated therein are true and correct to the best of her knowledge, information, and belief.

Executed at Camden, New Jersey, this 1 day of February 2023.

Jean A. Fleming
Holtec International
VP, Licensing, Regulatory Affairs & PSA

Subscribed and sworn before me this 1 day of February, 2023

LAUREN MADISON MURDOCH
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES AUGUST 13, 2027
COMMISSION: #50201915