

Congress of the United States
Washington, DC 20515

March 4, 2019

The Honorable Kristine L. Svinicki, Chair
Nuclear Regulatory Commission
Mail Stop O-16G4
Washington, DC 20555-0001

Dear Chair Svinicki,

We write today to follow up on concerns raised at the Government-to-Government meeting held in Plymouth, Massachusetts on January 15, 2019 regarding the Post-Shutdown Decommissioning Activities Report (PSDAR) filed by Entergy for the decommissioning of Pilgrim Nuclear Power Station (Pilgrim). A sustained discussion of the financial health of the Pilgrim Decommissioning Trust Fund (DTF) occurred at this meeting, and many of our state and federal colleagues had questions about the discrepancy between the level of the DTF (approximately \$1.05 billion as of October 31, 2018) and the decommissioning costs.

Entergy estimates that the site's decommissioning will cost \$1.66 billion, using the SAFSTOR method. If the Nuclear Regulatory Commission (NRC) approves the Holtec International license transfer request, Holtec has estimated that the total decommissioning, including spent fuel management and license termination, will cost \$1.134 billion, using the DECON method .

We understand that under NRC regulations, the DTF only needs to cover expenses related to radiological decommissioning, but we have repeatedly expressed our desire to work with the licensee(s) and relevant state and federal agencies towards the goal of restoring the site to productive use in an affordable, safe, and expedient manner. Additionally, the state has adopted some stricter rules for site restoration and institutes a 10 millirem per year limit for its licensees—a limit that should be adopted and observed for the decommissioned Pilgrim site.

We therefore seek assurances that the fund's growth over time will be sufficiently robust to accommodate all related expenses, or, if not, that the licensee(s) will be held solely financially responsible by the NRC for all decommissioning-related costs. We also believe that the licensee(s) should ensure that state and local officials and other local stakeholders such as the Nuclear Decommissioning Citizens Advisory Panel will be regularly supplied with detailed information regarding the DTF and how expenditures during the decommissioning process are impacting the fund.

The PSDAR filed by Holtec as a supplement to the Entergy PSDAR states that the amount of funding in the DTF is sufficient, but does not account for the likelihood that decommissioning activity costs will increase faster than the rate of general inflation. The expedited timeline of the

Holtec DECON process—taking eight years rather than the 60-year SAFSTOR timeline—means that the DTF will have fewer years in which to accrue interest.

Holtec also submitted a request for an exemption from the NRC's DTF requirements, which would allow it to use the DTF for spent fuel management and restoration activities. If the company receives this exemption and uses DTF funding for long-term spent fuel management, any money recovered from the U.S. Judgment Fund for spent fuel management should be required to be reinvested in the DTF for monitoring, security, and other restoration activity—not put into Holtec's company coffers. If possible, this should be included as a stipulation on any potential approval of the exemption request.

Regardless of the financial health of the DTF, the licensee(s) must assume complete financial responsibility for the site and its decommissioning. Any licensee must be ultimately responsible for ensuring the decommissioning plan conducted by its subsidiaries is completed within the financial constraints of the Pilgrim trust fund or must be held responsible for any cost overruns. Affiliates and subsidiaries of the same overarching conglomerate must not be allowed to play a shell game with their LLC status or corporate structure to avoid fulfilling their financial obligations. The NRC must require the licensee(s) to retain sufficiently robust insurance policies for the site, the spent fuel pools, the casks, and the concrete pad to cover the costs for repairs of any leaks or previously unknown radiological conditions identified at the site in the short-term or in the long-term.

We continue to urge the NRC to hold the Pilgrim licensee(s) to the highest standards of safety and security as the plant approaches its closure and eventual decommissioning. The cessation of power generation operations will lessen, but not eliminate, the safety risks presented by the plant. Security protocols and staffing must remain at robust levels to ensure the physical security of the site and the inviolability of the plant's electronic and cybersecurity systems, as well as monitor the integrity of the storage casks. The NRC should obligate Pilgrim operators to meet the more stringent cybersecurity protocols required under 10 CFR 73.54, as any information systems used at the plant post-shutdown must be impervious to outside attack.

In addition, we urge that, after June 1, 2019, the licensee(s) should be required to maintain the 10-mile emergency planning zone for Pilgrim, the public safety protocols, offsite emergency planning, funding of communications, and staff training that have been required during power generation operations. Spent fuel rods in cooling pools present a continued risk even after power generation operations have ceased. A system failure that leads to inadequate watering of the spent fuel rods in the pool raises the risk of a disastrous fire, one which could expose communities within (and possibly outside) the current 10-mile emergency planning zone to unacceptable risks. Those communities must have access to the resources they would need to address such a calamity as long as fuel rods remain in the spent fuel pools.


Finally, and most importantly, the people most affected by the Pilgrim closure and the safety threats posed by radiation should have meaningful input into its disposition as a decommissioned plant. As the people of Massachusetts and residents of the Town of Plymouth remain concerned for the health of their environment and the safety of their families, they deserve clear, accurate information about the decommissioning process and an opportunity to voice their concerns about its impact on their lives.

We ask for answers to the following questions by March 8, 2019:

1. What regulatory or statutory authorities ensure that licensees will bear any costs of decommissioning and site maintenance above the funds available in the DTF?
2. What guarantees has the NRC required (or will require in the future) from the licensee(s) to ensure that it will pay for any shortfall between the costs of decommissioning and site maintenance and the funds available in the DTF?
3. Will the NRC require the licensee(s) to update the environmental impact statements to include new information, including climate impacts, from the past decade? If not, why not?
4. Will the NRC require additional research on or monitoring of the high-burnup spent fuel that will be stored at the Pilgrim site? If not, why not? If yes, will this affect the cost of the decommissioning process?
5. If the NRC approves the exemption request for using the DTF on spent fuel management, will the NRC require the licensee(s) to reinvest any potential federal settlement funds for spent fuel storage back into the DTF? If not, why not?
6. Will the NRC require that the licensee(s) include the state's 10 millirem limit in its calculations of decommissioning costs? If not, why not?

We will continue to pursue legislative avenues to protect the people of Massachusetts from any unforeseen physical, financial, environmental or other harm resulting from the decommissioning of Pilgrim Nuclear Power Station. We also look forward to hearing in more detail how the NRC will work with the people of Massachusetts to ensure that these protections are in place, leading towards a future where the former site of Pilgrim is a productive property that the residents of Plymouth and surrounding towns can point to with pride.

Sincerely,


Edward J. Markey
United States Senator


Elizabeth Warren
United States Senator


Bill Keating
U.S. Representative