

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the Matter of)	Docket No. 50-255 NRC-2021-0036
Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC)	February 24, 2021
(Palisades Nuclear Plant))	
)	

* * * * *

**REPLY IN SUPPORT OF MOTION TO EXTEND DEADLINES FOR
FILING OF INTERVENTION PETITIONS AND PUBLIC COMMENTS
IN PALISADES LICENSE TRANSFER PROCEEDING**

Now come Don't Waste Michigan, a nonprofit Michigan organization; Beyond Nuclear, a Maryland-based nonprofit organization; and Michigan Safe Energy Future, a western-Michigan based grassroots organization ("Petitioners"), by and through counsel, and reply in support of their Motion to Extend Deadlines filed February 23, 2021. Specifically, Petitioners rebut the "Applicant's Opposition" memorandum filed on February 23, 2021 by Entergy Nuclear Operations, Inc., Entergy Nuclear Palisades, LLC, Holtec International, and Holtec Decommissioning International, LLC ("Applicants").

I. Petitioners are not "parties" obliged to consult pursuant to 10 CFR § 2.323

According to 10 CFR § 2.4, BN, MSEF and DWM have not yet attained party status; they as yet merely "potential parties," defined as "any person who has requested, or who may intend to request, a hearing or petition to intervene in a hearing under 10 CFR part 2, other than hearings conducted under Subparts J and M of 10 CFR part 2."

The consultation rule, 10 CFR §2.323(b), clearly contemplates that a "moving party," *i.e.*,

a person that has been accorded party status under the procedural rules, is obligated to engage in consultation with the “other parties in the proceeding.” There is no “proceeding” as yet; BN, DWM and MSEF have not yet filed a pleading for leave to intervene. While it appears that counsel for Applicants are registered to receive items filed in the Palisades EIE docket, they have not yet formally entered appearances nor identified what prospective party, if any, they will represent. That is because there is not a “proceeding” being litigated at this point. Petitioners’ beef, as it were, is with the Commission and the manner in which it has flooded ADAMS with possibly relevant evidence at the very last minute.

For these reasons, the Motion to need not be accompanied by a consultation certificate, and the Commission and/or Secretary are free to consider it on its merits.

II. Legacy ADAMS documents are not practically identifiable or retrievable until deposited in ADAMS; the public is not required by the NRC to be on notice of Legacy ADAMS items while they are merely bibliographic

Regarding the Legacy ADAMS documents, the NRC states that its “Public Legacy Library includes bibliographic citations to regulatory and technical documents and reports issued by NRC, NRC contractors or licensees. . . . There are a limited number of documents that are full-text or have an abstract in the Public Legacy Library, however the majority of records are bibliographic citations only.”¹ According to NRC policy, “[c]opies of documents can be ordered from the PDR copy service for a fee. Patrons in the area can visit the PDR [Public Documents Room] and view or copy documents from microfiche on coin-operated microfiche reader printers

¹https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiEju7Tn4HvAhXFW80KHfRrA1oQFjABegQIARAD&url=https%3A%2F%2Fwww.nrc.gov%2Freading-rm%2Fadams%2Fpll-information.pdf&usg=AOvVaw1UNxglQpcJAnCF4jLgf_e7

available in the PDR.”²

The February 4, 2021 Federal Register notice directs the public solely to ADAMS, not to the Public Legacy Library, as the source of documents that might be relevant to Palisades.³ The NRC has no known policy of requiring persons who might seek to litigate to be on notice of documents which are poorly identified and mostly not visible in their entirety.

What has happened in the past month in the ADAMS record is a deluge by design. Petitioners are attempting to craft a complicated petition to intervene that is based upon relevant and material facts. The mere bibliographically titled items in the Legacy Library are typically not explanatory of the contents they describe. Petitioners must not, at this pre-filing stage, be held to know exactly what they are looking for when a document dump of 1,000 archival items has just occurred. The existence of a legacy document dump was not apparent for some time after February 4, 2021, when Petitioners commenced work on their research and writing. It only became clear as Petitioners’ research queries became more complex in recent days and growing numbers of quarter-century old items began to turn up.

The 20 day period the public has been given to bring a legal petition is the shortest allowable period of time afforded the public in licensing cases. Applicants’ insistence that Petitioners be charged with knowledge of the Legacy Library is superficial and illogical.

²*Id.*

³*NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.”

Petitioners are not required to search for microfiche documents they did not even know existed. They call upon the Commission to stop this denial of due process and prejudice and to extend the pleading and comment deadlines as requested.

February 24, 2021

/s/ Terry J. Lodge
Terry J. Lodge, Esq.
316 N. Michigan St., Suite 520
Toledo, OH 43604-5627
(419) 205-7084
tjlodge50@yahoo.com
lodgelaw@yahoo.com
Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2021, I deposited the foregoing Reply in Support into the NRC's EIE system in this proceeding and that according to the protocols of that system, it was automatically transmitted to all parties of record registered to receive electronic service.

/s/ Terry J. Lodge
Terry J. Lodge, Esq.
Counsel for Petitioners