



THE COMMONWEALTH OF MASSACHUSETTS
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January 10, 2020

VIA THE CM/ECF SYSTEM

Mark Langer, Clerk of Court
U.S. Court of Appeals for the
District of Columbia Circuit
333 Constitution Ave., NW
Washington, D.C. 20001

**Subj: 19-1198 - Massachusetts v. Nuclear Regulatory Commission –
Notice Regarding Massachusetts’ Motion for A Stay Pending
Appellate Review**

Dear Clerk Langer:

I write on behalf of the Petitioner Commonwealth of Massachusetts regarding the Commonwealth’s October 28, 2019 Motion for a Stay Pending Appellate Review. This letter serves to inform the Court that due to the circumstances described briefly below the Commonwealth is no longer presently pursuing the relief requested in its pending Stay Motion.

The Commonwealth’s Stay Motion asked this Court to stay certain actions of the Respondent Nuclear Regulatory Commission (NRC or Commission) pending review of those actions by this Court. In response, on November 22, 2019, the NRC and Intervenor-Respondents Holtec Decommissioning International, LLC et al. both filed combined responses to the Commonwealth’s Stay Motion. Those responses move to dismiss the Commonwealth’s Petition and respond to the Stay Motion. The Commonwealth’s combined response was due on December 20, 2019. However, as the NRC informed the Court on December 18, 2019, the Commission issued a memorandum and order denying the Commonwealth’s earlier application to the agency for a stay of the NRC’s actions on December 17, 2019—just three days before the Commonwealth’s combined response was due in this Court. Due to that development, the parties jointly requested an enlargement of the briefing schedule so that the Commonwealth could evaluate the relevance of the Commission’s order to its Stay Motion before this Court.

Based on its further review, the Commonwealth has concluded that the Commission’s December 17 order denying the Commonwealth’s application to the

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agency for a stay has altered the pre-existing circumstances to such an extent as to have rendered the Commonwealth's Stay Motion in this Court largely obsolete. While the Commonwealth expects shortly to file another petition for review of, among other things, the Commission's December 17, 2019 order and it may then file a new motion for a stay in this Court that is tailored to the changed circumstances, the Commonwealth, as noted above, is no longer presently seeking the relief it requested in its October 28, 2019 Stay Motion as a result of the Commission's order. For clarity, it makes this notice without prejudice to the possibility of filing a new motion for a stay following the filing of its new petition. And, also due to this development, the Commonwealth is filing today only an opposition to the NRC and Intervenors' motions to dismiss. Given the procedural posture, however, the Commonwealth does cite its Stay Motion in its opposition to the motions to dismiss for background context and relevant facts.

Very truly yours,

/s/ Seth Schofield

Seth Schofield
Senior Appellate Counsel
Energy and Environment Bureau

Cc: All Counsel of Record (by ECF)