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November 20, 2022

Freedom of Information Act Officer
FOIA Request Service Center
1000 Independence Avenue, SW
Mail Stop MA-46
Washington, DC 20585
Via email only to FOIA-Central@hq.doe.gov

RE: Disclosure of DOE decision letter and entire application and investigation files on
Holtec International's application for receipt of payments under DOE Civil Nuclear
Credit Program

Dear DOE FOIA Officer:

I am hereby making a request under the Freedom of Information Act (FOIA, 5 U.S.C. §552, as amended). As detailed below, I hereby request any documents or other items in the possession of the U.S. Department of Energy (DOE) which have been generated or maintained by DOE about the application submitted by Holtec International, LLC, or any subsidiary of Holtec International, for the receipt of payments and benefits under the DOE Civil Nuclear Credit Program (Program) in 2022.

To expedite provision of these records, I request, first, that you provide a copy of any communication originating from DOE to any party wherein the Department stated that it will not subsidize with Program benefits the operations of the Palisades Nuclear Generating Station in Van Buren County, Michigan. Such documents need not be identified by title or "draft"/"final" designations if to do so would compromise the Department's decision-making process. In such cases, we ask that you merely delete such revealing designations and release the balance. There has been ongoing and contentious public policy controversy regarding this matter, I thus note that time is of the essence for your provision of the above-identified decision document(s). Since November 18, 2022, there has been considerable media reportage that DOE has rejected a request from Holtec International for funding under the Program, but no publication of, or quotation from, the DOE communication rejecting Holtec's application. There is a great need for prompt disclosure so that the released information may more adequately inform the public debate.

Second, I request that DOE provide a copy of all files generated of and about the Holtec International request for benefits under the Program, including communications received by DOE from Holtec International or any other source. While we are not waiving the statutory response deadlines under FOIA, we anticipate that the decision document(s) identified above

should be provided within a day or so of this request, with the requested file(s) to be provided shortly thereafter.

I am making this request on behalf of Don't Waste Michigan (DWM), a nonprofit public advocacy and education organization in Michigan, and also for Beyond Nuclear (BN), a nonprofit public advocacy and education organization in Takoma Park, Maryland. Each organization actively informs the public on matters affecting commercial nuclear power plants and their operation and other nuclear power infrastructure, plans and policies. Both organizations achieve these aims through publications, commentary to the press, sponsorship of educational programs and events, public appearances of their members, litigation and the development of institutional expertise regarding nuclear power plans and policies. Both organizations have lobbied, litigated, and publicly commented on federal actions affecting the operations, decommissioning and contemplated restart of the Palisades Nuclear Generating Station located in Van Buren County, Michigan.

The documents sought by DWM and BN will illuminate in a clear and direct way, the formal request, processing by DOE and deliberations concerning whether to commit federal funds from the Program to restoring the Palisades power plant to operability. As such, their release will significantly contribute to public understanding and oversight of the DOE's implementation of the Program and the efficacy of both Congressional directives and DOE policies and regulations relating to the Infrastructure Investment and Jobs Act (IIJA) by which Congress authorized the Program.

The information DOE provides in response to this FOIA request will not be used for commercial gain. It will be published on the BN website (which averages hundreds of hits per week) and likely will be disseminated to the media and Congress as a component of DWM's and BN's involvements in nuclear power issues. These affirmative steps to make the DOE information available to the general public will foster openness in government and facilitate the education of the public concerning the IIJA policies and regulations.

This request is not meant to be exclusive of any other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

In the event that access to any of the requested records is denied, please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. I therefore request that I be provided with all non-exempt portions which are reasonably segregable. I further request that you describe the deleted material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination, and in

formulating arguments in case an appeal is taken. The DOE's written justification might also help to avoid unnecessary litigation.

I reserve my right to appeal the withholding or deletion of any information, and expect that you will list the office and address where such an appeal can be sent.

Because we anticipate that you will make the requested materials available within the statutorily prescribed period, we also request that you waive any applicable fees since disclosure meets the statutory standard for waiver of fees in that it is clearly "in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 U.S.C. § 552(a)(4)(A). As stated above, we have no intention of using the information disclosed for financial gain. If for some reason the fee waiver request is denied, while reserving our right to appeal such a decision, we are willing to pay up to \$25.00 to cover costs of document search and duplication.

Access to the requested records should be granted within twenty (20) working days from the date of your receipt. Failure to respond in a timely manner will be treated as a denial of this request and the requesters may immediately file an administrative appeal.

Thank you.

Sincerely,

/s/ Terry J. Lodge

Terry J. Lodge, Esq.

Counsel for Don't Waste Michigan

And Beyond Nuclear