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July 10, 2023

Hon. Gretchen Whitmer, Governor
State of Michigan

Via email to Gretchen.Whitmer@michigan.gov and via submission blank at official website

RE: Holtec CFO whistleblower lawsuit allegations of corporate misrepresentations

Dear Governor Whitmer:

I'm writing to you on behalf of Beyond Nuclear, a grassroots advocacy group in Takoma Park, Maryland, and Don't Waste Michigan, a Monroe, Michigan grassroots nonprofit. We're urgently bringing to your attention a whistleblower lawsuit filed June 1, 2023 in Camden, New Jersey against Holtec International by its former Chief Financial Officer (CFO). Holtec owns the Palisades Nuclear Plant near South Haven, Michigan. The former CFO, Kevin O'Rourke, claims in the lawsuit that he was fired in 2022 by Krishna Singh, Holtec's Chief Executive Officer. O'Rourke says Singh fired him as retaliation for refusing to misrepresent Holtec's financial status to induce Hyundai Engineering and Construction Co., Ltd. to invest in Holtec International. O'Rourke alleges he was ordered to tell Hyundai that Holtec would "break even" in the coming five years on its operation of Holtec's planned Consolidated Interim Storage Facility in New Mexico for irradiated nuclear fuel. The truth, according to O'Rourke, is that Holtec had internally projected annual losses of \$150,000,000 *per year* for that period.

These and other allegations by Mr. O'Rourke herald a disturbing new chapter in Holtec's opaque history.¹ If they are true, we wonder whether Holtec also might have misrepresented its ability to finance the restart of the Palisades Nuclear Plant to you and the Michigan Legislature in order to secure the \$150,000,000 that was appropriated on June 28, 2023. We request that you impose an immediate administrative freeze on the expenditure of any of that \$150,000,000 until there are solid assurances that Holtec's management is operating honestly and wholly within the

¹ See "Radioactive Skeletons in Holtec International's Closet" at <https://archive.beyondnuclear.org/decommissioning/2019/7/26/radioactive-and-other-skeletons-in-snc-lav-alins-closet.html>

Also, see the annotated corporate history of Holtec at [HOLTEC & SNC-LAVALIN COMPANY PROFILES I. Legal Issues History](#)

law. It is imperative that you require a full, public investigation and audit of all spending from the Palisades Decommissioning Trust Fund (PDTF) since the mid-May to mid-June, 2022 permanent shutdown of Palisades by its previous owner, Entergy, and Holtec's takeover of Palisades on June 28, 2022.

In April 2023, we complained to the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations and its Inspector-General, alleging that Holtec may have misspent as much as \$44,000,000 from the PDTF on preparations for restarting the plant instead of decommissioning activities, based on several revealing statements by Holtec executives to the NRC staff during a March 20, 2023 public conference. Holtec's March 31, 2023 "Report on Status of Decommissioning Funding," ADAMS No. ML23090A140² added to our suspicions. Table 1 on Page 40 of 53 shows that between June 28, 2022 (when Holtec took over at Palisades) and Dec. 31, 2022, \$44 million was expended from the PDTF: \$38 million for "License Termination," (another name for decommissioning expenses) and \$6 million for "Spent Fuel Management." This expenditure seems quite disproportionate, given that Holtec's representatives stated that very little to nothing was accomplished in terms of actual decommissioning work. For \$38 million spent in its first six months of ownership, Holtec executives said they had performed only some "easily-reversed" minor modifications to the mechanical draft cooling towers. They also said that the indoor wet radioactive fuel storage pool remains filled to capacity and that no transfer of the pool's contents to dry cask storage had begun as of the March 20, 2023 meeting.

Holtec is trying to get the NRC to reverse the June 13, 2022 termination of the Palisades operating license and is using the \$150,000,000 grant from the Michigan Legislature to leverage the expenses of reopening. Two weeks ago, forty-three indigenous, climate, environmental, Great Lakes and water protection, environmental and social and racial justice, religious, peace, taxpayer, and other organizations wrote to all members of the Legislature³ to oppose the handout. Signers included the Sierra Club Michigan Chapter, the Board of Directors of the statewide Anishinaabek Caucus of the Michigan Democratic Party, as well as the Native-led Citizens' Resistance at Fermi Two (CRAFT), Michigan Climate Action Network, Washtenaw350, For Love of Water, Freshwater Future, and Clean Water Action Michigan, to name just several of the Michigan organizations which endorsed the letter.

While we differ with you, Governor, over whether to reopen Palisades at all, we are also sure you don't want Michigan ratepayers and taxpayers to be scammed in the process. If it turns out to be true that Holtec's top managers deliberately failed to disclose \$750,000,000 of anticipated losses to Hyundai, what does that say about the veracity of statements Holtec made to induce you and the Legislature to finance the Palisades restart? If Holtec has been stripping the PDTF to pay for restart instead of decommissioning, it could require ratepayers and/or taxpayers to pay twice, to the tune of hundreds of millions of dollars, for dismantling Palisades and remediating radioactive contamination that will be increased by the restart. Attorney-General Dana Nessel recently submitted expert testimony during an NRC hearing on the adequacy of the DTF that shows it is already at least \$200,000,000 short of covering the true cost of decommissioning Palisades according to plans spelled out in the December 23, 2020 Post-Shutdown Decommissioning Activities Report (PSDAR) for Palisades.

² <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML23090A140>

³ <https://beyondnuclear.org/wp-content/uploads/2023/06/6-28-23-letter-to-legislators-with-signatories.pdf>

The PDTF is a creature of Michigan trust law and is subject to Michigan Public Service Commission restrictions. There are tools available to guarantee that Michigan ratepayers and taxpayers won't be victims of Holtec International's restart scheme. Please use them to protect the public interest, which we know is uppermost in your thoughts.

Thank you.

Very truly yours,

/s/ Terry J. Lodge

Terry J. Lodge
Counsel for Beyond Nuclear and
Don't Waste Michigan

enc: as stated

cc: Hon. Dana Nessel, Attorney-General, miag@michigan.gov

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