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**NUCLEAR REGULATORY COMMISSION**

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Pre-Hearing Conference

Docket Number: 50-293-LR

Location: (telephone conference)

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

(ASLB)

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TELECONFERENCE

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In the Matter of: ||

|| Docket No. 50-293-LR

PILGRIM NUCLEAR POWER ||

STATION ||  
\_\_\_\_\_||

Tuesday,

June 20, 2006

The above-entitled matter came on for  
hearing, pursuant to notice, at 10:00 a.m.

BEFORE:

JUDGE ANN YOUNG Chair

JUDGE NICHOLAS TRIKOUIROS

JUDGE RICHARD COLE

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1 P-R-O-C-E-E-D-I-N-G-S

2 (10:03 a.m.)

3 JUDGE YOUNG: I'm Ann Young. I'm the  
4 Chair of the Licensing Board in this proceeding, and  
5 with me is Judge Nicholas Trikouros and Richard Cole,  
6 and our Law Clerk Jered Lindsay.

7 Let me just go over my listing of subjects  
8 for this conference, and, if anyone has anything to  
9 add, we can do that. First, obviously, the scheduling  
10 of the oral argument, where to hold the oral argument,  
11 whether the Town of Plymouth wishes to participate in  
12 the oral argument and to what extent, any other  
13 considerations regarding the Town's participation,  
14 etcetera, whether there is any need to hear limited  
15 appearance statements at this time, what the parties'  
16 positions may be on that.

17 I think there's no opposition to the  
18 Massachusetts Attorney General's reply time, so we  
19 will confirm all of the dates when things are due.  
20 And then, we have received the Massachusetts Attorney  
21 General's letter and request for a ruling based on the  
22 San Luis Obispo decision, and we will be asking the  
23 parties for your -- first, the Attorney General's  
24 office or counsel on what it is you would like us to  
25 do on that, at what point, and what the options on

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1 that might be, and then anything else that I may have  
2 overlooked or that the parties particularly wish to  
3 raise.

4 Can anyone add anything to that list at  
5 this point?

6 PARTICIPANT: Judge Young, that sounds  
7 like a pretty comprehensive list.

8 JUDGE YOUNG: All right. Okay. I think  
9 probably the most difficult issue may not be the best  
10 one to start with, but let's go ahead and do that, and  
11 that is when to hold this oral argument. We have been  
12 looking at dates, and for various reasons it looks as  
13 though July 25th and 26th may be the only dates on  
14 which we can realistically hold the oral argument in  
15 the near future. Otherwise, it looks as though we're  
16 going to be over into September or October.

17 MS. UTTAL: Judge Young?

18 JUDGE YOUNG: Yes.

19 MS. UTTAL: This is Susan Uttal. Those  
20 dates are impossible for me, and if you want me to  
21 explain why I will. But there's no way I can get out  
22 of town on those days.

23 JUDGE YOUNG: What's your situation, and  
24 what about Mr. Wedewer? Did I pronounce --

25 MS. UTTAL: Mr. Wedewer won't be with the

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1 office anymore.

2 JUDGE YOUNG: Hmm?

3 MS. UTTAL: Mr. Wedewer won't be with the  
4 office anymore.

5 JUDGE YOUNG: Do you have any other co-  
6 counsel who might be able to do it on those dates?

7 MS. UTTAL: No, I don't. We're kind of  
8 hurting over here.

9 JUDGE YOUNG: Okay. And what's the reason  
10 you won't be able to be available on those dates?

11 MS. UTTAL: My husband is going out of  
12 town on business. And my children are 11 and 13, and  
13 they can't be left alone, and I have no one else to  
14 watch them.

15 JUDGE YOUNG: I suppose that the parties  
16 want to have oral arguments in Massachusetts?

17 MR. BROCK: That's correct, Your Honor.  
18 This is Matt Brock.

19 JUDGE YOUNG: And tell me again who you're  
20 with.

21 MR. BROCK: I'm with Massachusetts  
22 Attorney General's Office.

23 JUDGE YOUNG: Okay. And the other  
24 parties?

25 MR. LEWIS: Entergy has no preference,

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1 Your Honor.

2 THE COURT REPORTER: Please identify  
3 yourself.

4 MR. LEWIS: This is David Lewis of  
5 Entergy. I would support a prehearing conference.

6 MS. UTTAL: The staff has -- this is Susan  
7 Uttal. The staff has no preference either.

8 MS. LAMPERT: May Lampert from Pilgrim  
9 Watch. We'd prefer Massachusetts.

10 JUDGE TRIKOUROS: Where in Massachusetts?

11 MS. LAMPERT: I think Boston would be  
12 certainly agreeable and easy for people to get to.

13 JUDGE TRIKOUROS: Thank you.

14 JUDGE YOUNG: Is Ms. Bartlett with us?

15 MS. BARTLETT: Yes, I am.

16 JUDGE YOUNG: Okay. So --

17 MS. BARTLETT: Judge Young, actually, I've  
18 made a change in my plans to kind of free up a couple  
19 of the earlier weeks in July.

20 JUDGE YOUNG: Oh, good. Okay. Let's look  
21 at those dates.

22 MS. BARTLETT: Which then makes the 25th  
23 and 26th tough for me. So for me now any time before  
24 the 15th is doable.

25 JUDGE YOUNG: So we could do it the 12th

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1 and 13th?

2 MS. BARTLETT: If other parties are free  
3 those days.

4 MS. CURRAN: Judge Young, this is Diane  
5 Curran. I'm going to be out of the country the 12th  
6 and the 13th, but I could do it on the 6th and the  
7 7th.

8 JUDGE YOUNG: Was there anyone else who  
9 could not do it on the 6th and the 7th? I think maybe  
10 those were good dates.

11 MS. HOLLIS: I'm sorry, Your Honor. This  
12 is Sheila Hollis, and I will not -- those are the only  
13 two dates, out of everything that you have listed so  
14 far, that I could not do it. I will be out of the  
15 country.

16 MS. UTTAL: I'm available those two dates,  
17 Judge. Susan Uttal.

18 MR. LEWIS: Judge Young, this is David  
19 Lewis. I could make myself available on those two  
20 dates.

21 JUDGE YOUNG: Ms. Hollis, let me ask you,  
22 did you want to participate and make any argument in  
23 the oral argument? I couldn't tell from your --

24 MS. HOLLIS: Of the oral arguments, we  
25 would be likely stating things that are embodied in

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1 the comments that we've filed already. And I would  
2 have to consult with the client as to whether they  
3 want us to participate fully as a -- in an oral  
4 argument context.

5 JUDGE YOUNG: Ms. Curran, I had thought  
6 that you had said that you were going to be out of the  
7 country on the 10th and the 11th, but that the 12th  
8 had not presented a problem for you.

9 MS. CURRAN: No, I'll be gone that entire  
10 week, and I get back on the afternoon of the 17th.

11 JUDGE YOUNG: The 20th and 21st was -- did  
12 anyone have a problem with the 20th and 21st of July?

13 MS. BARTLETT: Yes, Judge Young, I do now.  
14 This is Molly Bartlett.

15 JUDGE YOUNG: And what about the 18th and  
16 19th?

17 PARTICIPANT: I'll be unavailable on the  
18 18th and 19th.

19 JUDGE YOUNG: Oh, that's right. You  
20 have --

21 PARTICIPANT: I'll be on a case.

22 JUDGE YOUNG: Okay.

23 MR. LEWIS: Judge Young, on the 20th and  
24 21st Entergy is available. And while I appreciate --  
25 who is going to be unavailable on the 20th and 21st?

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1 MS. BARTLETT: Molly Bartlett.

2 MR. LEWIS: Oh, okay. Excuse me.

3 JUDGE YOUNG: Well, it looks as though the  
4 6th and 7th is the -- looks the best, unless the Town  
5 of Plymouth wants to take part.

6 Now, I think we may -- we may need to  
7 consider priorities when we're looking at this.  
8 Unfortunately, I guess the second option -- do you  
9 want to -- hold on just one second.

10 (Pause.)

11 JUDGE YOUNG: Ms. Uttal, would you be  
12 available the 27th and 28th of July?

13 MS. UTTAL: No. My husband is out that  
14 whole week, Judge. I'm sorry.

15 MR. LEWIS: Judge Young?

16 JUDGE YOUNG: Yes.

17 MR. LEWIS: This is David Lewis. I have  
18 one suggestion. I can't remember whether the week of  
19 July 31st/August 1st is bad, but we are having oral  
20 argument in the Vermont Yankee case on August 1st and  
21 2nd, and the Massachusetts Attorney General will be  
22 attending that oral argument and presenting their --  
23 presuming that there is argument on this -- on their  
24 one contention, presenting it during that two-day  
25 period.

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1 JUDGE YOUNG: We were aware of that, yes.

2 MR. LEWIS: Okay. I guess that could be  
3 a joint argument if that would help you, and that  
4 might obviate Ms. Curran's presence at an earlier  
5 session.

6 JUDGE COLE: The difficulty with that  
7 proposal is that I believe that's -- I'm not sure  
8 where that Vermont Yankee hearing will be held, but I  
9 think that would be in or around Brattleboro, and we  
10 would really like the Pilgrim hearing in  
11 Massachusetts.

12 MR. LEWIS: Okay. Just wanted to throw it  
13 out there.

14 JUDGE COLE: Okay.

15 JUDGE YOUNG: Okay.

16 PARTICIPANT: What about --

17 JUDGE YOUNG: Hold on one second.

18 (Pause.)

19 As a secondary set of dates, what about  
20 September 11th and 12th?

21 MS. HOLLIS: Judge, this is Sheila Hollis  
22 speaking. They're fine for me.

23 MR. LEWIS: This is David Lewis. I could  
24 do it. I'd just observe that those dates would not  
25 allow the Board to issue its decision within 45 days,

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1 which is what is contemplated by the rules.

2 JUDGE YOUNG: Right.

3 MR. LEWIS: And I think if it was going to  
4 be that late our suggestion would be to perhaps  
5 consider not having a prehearing conference.

6 JUDGE YOUNG: Can we hear from the other  
7 parties?

8 MS. CURRAN: Judge Young, this is Diane  
9 Curran. We think it's a good idea to have the  
10 prehearing conference, and we'd just like to see if we  
11 could do the earlier dates. And maybe there's some  
12 way that the town could comment on the oral argument  
13 at some point, if you could hold the record open for  
14 the town to submit additional comments on what was  
15 said at the oral argument. I just think the 6th and  
16 the 7th look pretty good for almost everybody.

17 MS. UTTAL: Judge, this is Susan Uttal.  
18 September 11th and 12th I can do with some hardship,  
19 since it's just a few days before my daughter's Bat  
20 Mitzvah. But I agree with Ms. Curran regarding  
21 perhaps leaving the record open for the township to  
22 provide any comments they want to. I also agree with  
23 Mr. Lewis that perhaps we don't need oral argument in  
24 this matter.

25 MR. BROCK: Your Honor, this is Matt Brock

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1 from the Mass AG. We would like to have oral  
2 argument. We think that would be important, and we  
3 certainly support your effort to make it as early as  
4 possible. We would hope it wouldn't have to be moved  
5 into September. And whatever accommodation of the  
6 record might make that possible, maybe that would be  
7 appropriate to consider then, to have an earlier date.

8 JUDGE YOUNG: Ms. Hollis, I guess I'd ask  
9 you to speak to a couple things. One, the suggestion  
10 that you would have the option of filing comments to  
11 the oral argument after the oral argument was  
12 completed. And, two, on whether -- and I guess anyone  
13 can speak to this in response. What we're required to  
14 provide a local government under Section 2315 is  
15 reasonable opportunity I believe to participate.

16 Under the circumstances, it's beginning to  
17 look as though the most reasonable thing to do would  
18 be to go ahead with the July 6th and 7th dates.  
19 That's how we're thinking at this point, and to allow  
20 you that option. But before making a final decision  
21 on that, would you like to speak to that?

22 MS. HOLLIS: Well, I'm fairly certain that  
23 we would want to, at a minimum, provide comments for  
24 the record. And it's possible that perhaps one of my  
25 colleagues could do -- should we elect to participate

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1 in the oral argument could do it. And I may -- if I  
2 can change my alleged non-refundable tickets to get  
3 back from England earlier, I will try and do that  
4 myself.

5 So I'd say I -- we don't want to be an  
6 impediment. In fact, what we hope to do is to  
7 illuminate the record and to provide assistance in  
8 help to the NRC in its decisional process.

9 JUDGE YOUNG: Well, we appreciate that,  
10 and so that would be great.

11 MR. LEWIS: Judge Young?

12 JUDGE YOUNG: Yes.

13 MR. LEWIS: This is David Lewis. We don't  
14 object to holding the record open and providing the  
15 town an opportunity for any comments they may have on  
16 the oral argument, but we'd point out that the oral  
17 argument is just legal argument on the admissibility  
18 of contentions, and, therefore, we presume this  
19 wouldn't be an opportunity to add new factual bases or  
20 factual information.

21 It would be comments in the form of, you  
22 know, any additional legal arguments that the town  
23 might want to make. Just wanted to confirm that --  
24 that we're not holding an opportunity to further  
25 supplement the bases of the contentions.

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1 JUDGE YOUNG: Right. And, obviously, we  
2 don't get into the merits of the contentions in oral  
3 arguments either. And I think that's probably clear  
4 to everyone. The quality of counsel in this case, I  
5 will say, is impressive. And so I would expect that  
6 we shouldn't have some of the disputes that we've had  
7 in some other proceedings about the scope of the  
8 reply, for example, whether it should or does add any  
9 new bases or new information that should have been  
10 included in the original petition, which the  
11 Commission has said is not permissible. The petitions  
12 are fairly lengthy, so I don't expect that that would  
13 be a problem.

14 And, Ms. Hollis, I don't know whether  
15 you're aware of that case law, but under the  
16 Commission's new rules there has been some case law  
17 that says that the replies of petitioners may not --  
18 while they may contain legitimate amplification and  
19 may address the arguments as to whether or not a  
20 particular contention is admissible -- the legal  
21 arguments -- they should not include additional facts  
22 that would bolster the admissibility of the  
23 contentions under the new rules, which have always  
24 been strict in terms of what is required of  
25 contentions but now has made more strict the timelines

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1 on those.

2 If there is any lack of clarity on any of  
3 that, speak up, anyone, and we can go into that any  
4 further. Otherwise, we'll just set the 6th and 7th of  
5 July as the oral argument dates. We'll hope that the  
6 Town of Plymouth can join us in one way or another.  
7 And if not, we will keep the record open another week,  
8 through -- until the 14th for additional comment.

9 MS. HOLLIS: Thank you, Your Honor.

10 MS. UTTAL: Judge Young, one more thing.  
11 This is Susan Uttal.

12 JUDGE YOUNG: Okay.

13 MS. UTTAL: Just so the Board doesn't  
14 think that I was misrepresenting. Mr. Wedewer last's  
15 day with our office is July 21st. That's why he  
16 couldn't make -- take my place thereafter, but he will  
17 be able to participate on the 6th and 7th.

18 JUDGE YOUNG: Okay. And we will attempt  
19 to locate a place in Boston, unless anyone else wants  
20 to suggest another -- that we consider another place.  
21 We'll notify you of that location at that time.

22 Is there any -- does any party have any  
23 point of view with regard to limited appearance  
24 statements at this time? Or when those should be  
25 heard?

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1 MR. LEWIS: Judge Young, this is David  
2 Lewis. My belief is that limited appearance  
3 statements are intended to, you know, alert the Board  
4 to any additional issues in the event that a hearing  
5 is heard, in the event a hearing is conducted. And,  
6 therefore, my suggestion would be not to have limited  
7 appearance sessions unless and until parties are  
8 admitted and contentions are admitted and we know  
9 we're going to have a hearing.

10 JUDGE YOUNG: Any other statements on  
11 that?

12 MS. UTTAL: Judge, I agree with Mr. --  
13 this is Susan Uttal. I agree with Mr. Lewis, because  
14 in the regulation it speaks of a person who is not a  
15 party, which assumes that parties have already been  
16 admitted.

17 MS. CURRAN: Judge Young, this is Diane  
18 Curran. In my experience in the past, often the  
19 Licensing Board holds the limited appearance sessions  
20 at the time of oral argument on standing and  
21 admissibility of contentions.

22 And I think it's a useful thing for the  
23 people who live near these plants to be able to go and  
24 express concerns that the way I have observed it  
25 happening is that if concerns are raised that were not

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1 raised in contentions that they're referred to the  
2 staff, and it seems to be -- it's a way of identifying  
3 issues that the staff may or may not be looking at.

4 JUDGE YOUNG: What about Plymouth Watch  
5 and the Town of Plymouth, do you have any input on  
6 this?

7 MS. CURRAN: What we normally do, for the  
8 benefit of Ms. Bartlett and Ms. Lampert and Ms.  
9 Hollis, with limited appearance statements we  
10 generally set aside a period of a few hours, two or  
11 three hours, and allow any member of the public to  
12 speak for five, maybe a few more minutes, depending  
13 upon the number of people who show up.

14 And everyone comes and listens, and it's  
15 -- I think the public has generally already had some  
16 occasion to speak when they meet with the staff and  
17 probably will have additional opportunities with the  
18 staff, but this is their one opportunity with the  
19 Licensing Board. It's not evidence, but the members  
20 of the public are permitted to make short statements.  
21 Do either of you have a position on this, on when this  
22 should occur?

23 MS. LAMPERT: This is Mary Lampert,  
24 Pilgrim Watch. And I would echo what Diane had to  
25 say, and I think it is in keeping with efforts that

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1 the NRC is now making to be more inclusive of the  
2 public.

3 MS. HOLLIS: I think it's useful, and I  
4 think as early and often as possible. My observation  
5 was from the scoping meetings there was a great degree  
6 of interest, both in the day and evening sessions, and  
7 the same was true for Vermont Yankee. There just  
8 seems to be a high level of interest in the  
9 relicensing process by the plant, by the public with  
10 respect to the plants.

11 THE COURT REPORTER: Please identify  
12 yourself.

13 MS. HOLLIS: Sorry. That's Sheila Hollis  
14 for the Town of Plymouth.

15 JUDGE YOUNG: All right. We'll take your  
16 comments into consideration and issue an order setting  
17 forth what we do here today. And if our order today  
18 doesn't deal with the limited appearance statements,  
19 then we will notify you at a later date if we should  
20 determine to hear those at this oral argument or in  
21 the evening -- it would probably be the evening of the  
22 6th.

23 All right. We've talked a little bit  
24 about the Town of Plymouth's participation. Are there  
25 any other issues that we need to address about that?

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1 The rule is fairly clear about what happens if a  
2 hearing is granted. The local government may -- let  
3 me get the actual section -- may introduce evidence,  
4 interrogate witnesses where cross examination is  
5 permitted, advise the Commission, file proposed  
6 findings, and so forth.

7 I'm assuming from introduced evidence that  
8 would include introducing or having witnesses testify.  
9 Anyone have any comments on any aspect of the  
10 participation of the Town of Plymouth?

11 MR. LEWIS: This is David Lewis. Not at  
12 this juncture.

13 JUDGE YOUNG: Does that mean you're going  
14 to later?

15 MR. LEWIS: I don't know what their  
16 proposed participation will be down the road. I don't  
17 have any current objections, but, quite frankly, I've  
18 been working on the responses to the Massachusetts  
19 Attorney General's and Pilgrim Watch's hearing  
20 request, and at this point I have not yet, you know,  
21 concentrated that much on Plymouth's request. I can't  
22 see any reason why they wouldn't be able to  
23 participate as an interested state under the rules.

24 MS. HOLLIS: Well, I think it's pretty  
25 straightforward under the rules, at least as I read

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1       them, is that a directly-affected community such as  
2       Plymouth in which the plant is located is granted that  
3       right to participate explicitly, even if they don't  
4       intervene as a party.

5                   THE COURT REPORTER:     Please identify  
6       yourself.

7                   MR. LEWIS: All I'm saying is I don't have  
8       any objection at this point. I just haven't had a lot  
9       of time yet to focus on it.

10                  MS. HOLLIS: Yes.

11                  MR. LEWIS: I don't want to --

12                  MS. HOLLIS: Yes.

13                  MR. LEWIS: If there is something new or  
14       different down the road, I --

15                  MS. HOLLIS: For the Court Reporter, that  
16       was Ms. Hollis and Mr. Lewis I believe, right?

17                  MR. LEWIS: Yes.

18                  MS. HOLLIS: Sorry, we're torturing you.

19                  JUDGE YOUNG: Obviously, and I think  
20       everyone understands this, that any of the evidence  
21       introduced would have to be relevant to any -- to an  
22       admitted contention, and so there's no dispute about  
23       that. Well, unless anyone has anything else to raise  
24       on that, I think that's pretty straightforward.

25                  Let's see. On the Attorney General's

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1 letter and request on the -- for a ruling on the --  
2 based on the San Luis Obispo decision, you're asking  
3 that we apply the Mothers For Peace decision by ruling  
4 that the environmental impacts of an intentional  
5 attack on the Pilgrim fuel storage pool must be  
6 addressed in an EIS or seek appropriate guidance from  
7 the Commission.

8           You don't really define how or when you're  
9 asking that we make such a ruling. You did raise I  
10 think the terrorism aspect as part of the basis for  
11 your contention. The Town of Plymouth has also raised  
12 that in I guess their scoping comments, which are not  
13 directed to us.

14           Are you asking that we do anything other  
15 than consider this in our ruling on your contention?  
16 Are you asking for a separate ruling? Are you asking  
17 for an early ruling? Are you asking that we certify  
18 this to the Commission at this point? Why don't you  
19 clarify a little bit for us what it is that you're  
20 seeking.

21           MS. CURRAN: Okay. This is Diane Curran.  
22 What we're asking is for the Licensing Board to rule  
23 that an environmental -- that the supplemental  
24 environmental impact statement has to address the  
25 impacts of a terrorist attack. In our contention

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1 we're concerned specifically with an attack on the  
2 pool.

3 JUDGE YOUNG: In the context of ruling on  
4 the contention.

5 MS. CURRAN: Yes.

6 JUDGE YOUNG: Okay.

7 MS. CURRAN: And this was presented as a  
8 -- in the contention as a factual question of -- that  
9 the issue that should be admitted is whether or not  
10 these impacts are foreseeable, and the court has now  
11 said as a matter of law they are. So it goes further  
12 -- the decision goes further and says this is now  
13 required.

14 And the Ninth Circuit -- of course, our  
15 case is not in the Ninth Circuit, but it's a  
16 significant precedent, so we think that the Board  
17 should take that into account, and that if the Board  
18 is uncertain of the precedential effect of the Ninth  
19 Circuit decision in the Pilgrim case then it should  
20 seek guidance from the Commission.

21 MR. LEWIS: Judge Young, this is David  
22 Lewis. I don't think there's a need to do anything  
23 special at this point in time. The Attorney General's  
24 contention currently presents the arguments that were  
25 also made in the Ninth Circuit, and I don't object to

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1 the Licensing Board, you know, considering whatever  
2 legal effect the San Luis Obispo case may have. We  
3 will address it in our answer, what that effect is and  
4 what it means to the contention.

5 I think the contention remains the same in  
6 any event, and I presume that the Attorney General  
7 will have a chance to address what we say in their  
8 reply, and it will also be, you know, fair game in the  
9 oral argument to discuss what are the implications of  
10 this case with respect to the proposed contention. So  
11 I think that, you know, this is a legal development  
12 that we'll argue about, and I just don't see the need  
13 to do anything early or special.

14 I don't know if, Diane Curran, whether you  
15 agree or disagree.

16 MS. CURRAN: Yes. We're content to  
17 address it in the -- to see what Entergy has to say  
18 and address it in our reply in the oral argument.

19 JUDGE YOUNG: Okay. And I'm assuming both  
20 of you obviously will consider the effect of that in  
21 light of the earlier rulings by the Commission and  
22 what we should consider as controlling here. If there  
23 is nothing more on that, then we won't worry about  
24 that for the time being, and look forward to what you  
25 have to offer in your written and oral arguments.

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1           Let's see. On the timing, just one last  
2 thing, let's confirm these deadlines, when we can  
3 expect to receive things from you. The staff -- could  
4 you clarify for us. I think we were expecting to hear  
5 from you tomorrow in your response to the Attorney  
6 General, but then I think there may have been a  
7 reference in the unopposed motion to your requesting  
8 to extend the deadline --

9           PARTICIPANT: To June 22nd.

10          JUDGE YOUNG: -- to June 22nd.

11          MS. CURRAN: Judge Young, this is Diane  
12 Curran. Why don't I address that, because it was the  
13 Commonwealth's motion. We had -- we would like to  
14 make uniform the dates on which the Attorney General  
15 has to reply to Entergy and the staff, and right now  
16 our reply to the staff is due on the 27th, our reply  
17 to Entergy is due the 29th. So we asked the staff if  
18 we could have another two days, until the 29th, and  
19 the staff said, "That's okay, but just give us until  
20 the 22nd to respond to you." And we agreed to that.

21                 So basically, what we're asking for is a  
22 shift of the due dates for the staff's response  
23 shifting from the 20th to the 22nd, and for the  
24 Attorney General's reply to shift from the 27th to the  
25 29th.

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1 MR. LEWIS: Diane?

2 MS. CURRAN: Yes.

3 MR. LEWIS: This is David Lewis. I've  
4 already forgotten -- I'm getting these confused -- but  
5 didn't the Vermont Yankee Board yesterday give you  
6 until the 30th?

7 MS. CURRAN: Yes, and we'll take that if  
8 -- no one has been offering that in this case.

9 MR. LEWIS: I don't object. I mean, I --  
10 it seems to me it would be a little silly if you had  
11 to file on the 29th in the Pilgrim case and the 30th  
12 in the VY when they will be I'm sure the identical  
13 reply, since our answers will be identical.

14 MS. CURRAN: Well, it certainly would be  
15 appreciated.

16 JUDGE YOUNG: The only thing -- let me  
17 just interrupt here. The only thing that I would  
18 point out is that, since we are having oral argument  
19 on the 6th and 7th, and we have a holiday weekend  
20 coming up, if you can do it by the 29th it would -- I  
21 think that would probably be helpful.

22 Before we get to that, let's just go  
23 through --

24 MS. CURRAN: So, Judge Young, are you  
25 saying that you will extend it to the 30th, but you'd

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1 like us to try to get it in by the 29th?

2 JUDGE YOUNG: We can confer if necessary.

3 (Laughter.)

4 But before we get to that one, let me just  
5 get clear -- go through -- I'm going to take these in  
6 order, so that I can sort of keep track of them.  
7 We've already received the staff's reply to Pilgrim  
8 Watch. The 22nd we're going to receive the reply to  
9 the Massachusetts Attorney General. Also, on the 22nd  
10 we're going to receive Entergy's reply to the  
11 Massachusetts Attorney General, right?

12 MR. LEWIS: That's correct. That's  
13 Thursday, right? Yes.

14 MS. CURRAN: That's correct.

15 JUDGE YOUNG: And then, June 26th we're  
16 going to receive Entergy's reply to Plymouth Watch.

17 MR. LEWIS: That's correct. That was  
18 David Lewis. Yes, that's correct.

19 PARTICIPANT: The 26th?

20 JUDGE YOUNG: The 26th.

21 PARTICIPANT: Okay.

22 JUDGE YOUNG: To Plymouth Watch.

23 PARTICIPANT: Pilgrim Watch.

24 JUDGE YOUNG: Response to Pilgrim Watch.

25 I was saying reply; I mean response on all those.

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1           So then, Ms. Curran is proposing that we  
2           set June 30th, but recommend the 29th for the staff --  
3           I'm sorry, for the Massachusetts Attorney General  
4           reply to both the staff and Entergy.

5           MS. CURRAN: Judge Young, can you go over  
6           when Pilgrim Watch's reply --

7           JUDGE YOUNG: Right. And that's what --  
8           you're next on the list. Your reply to the staff  
9           would be due next Monday, seven days after, although  
10          that gets us to another issue and that is under  
11          Section 2306, one of the things that we were going to  
12          discuss was the last portion of that, which allows a  
13          party who receives a pleading after 5:00 p.m. to add  
14          a day to their response time.

15          Now, for the remainder of this proceeding,  
16          we would like to not follow that, because normally  
17          what happens in these cases and what probably got us  
18          off to a confusing start was that all filings are done  
19          electronically, and it's fairly frequent that we get  
20          filings after 5:00 p.m.

21          And in order for everyone to be able to  
22          predict with any certainty when to expect responses,  
23          and so forth, we would like to say that -- we've  
24          already said 11:59 is an acceptable filing time for  
25          electronic filings. So we would like to say that the

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1 reply -- consider the reply time to be from the date  
2 that the item is actually filed.

3 But since we hadn't said that up to this  
4 point, and I believe the staff's response was filed at  
5 -- 8:30 was it, last night? That would give you until  
6 next Tuesday, Pilgrim Watch, to file any reply that  
7 you have to the staff. You would then have seven days  
8 to file a response to Entergy's -- to file a reply,  
9 pardon me, to Entergy's response, and that would put  
10 it July 3rd.

11 Okay. Let's just go over those again.  
12 June 19th -- well, the staff has already filed its  
13 response. June 22nd, the staff will file its response  
14 -- staff and Entergy will file their responses to the  
15 Massachusetts Attorney General's petition. June 26th,  
16 Entergy will file its response to Plymouth Watch  
17 petition. Preferably on June 29th, but absolutely on  
18 the 30th, the Massachusetts Attorney General will file  
19 a reply to Entergy and the staff.

20 And on July 3rd, Plymouth Watch will file  
21 its reply to Entergy. And I left out June 27th  
22 Plymouth Watch will file your reply to the staff.

23 Did I leave anything out?

24 Ms. Hollis, will you be wanting to file  
25 anything further before oral argument?

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1 MS. HOLLIS: I don't believe so.

2 JUDGE YOUNG: Okay. All right. Anything  
3 else that any participant thinks we should address  
4 today?

5 MR. LEWIS: Judge Young, this is David  
6 Lewis. If I could ask Ms. Uttal -- I don't think I  
7 got the answer that was filed yesterday evening. I  
8 don't think Mr. Gaukler received it either, so I'd  
9 just ask if you could check the e-mail addresses.

10 MS. UTTAL: Okay. Well, give me your e-  
11 mail addresses, because you are on my e-mail list, so  
12 --

13 MR. LEWIS: Okay. I'll just call you  
14 after this conference call.

15 MS. UTTAL: Okay. That would be fine.

16 MS. HOLLIS: Your Honor, this is Sheila  
17 Hollis. I was wondering if it would be possible to be  
18 sure that we are added on to service lists, so at  
19 least we're in the loop a little more on this. We've  
20 had some difficulty getting documents.

21 JUDGE YOUNG: Definitely. I think that  
22 the service list that I used in the e-mails since Ms.  
23 Hollis filed for the Town of Plymouth has everyone's  
24 correct e-mail addresses. Can everyone -- each of you  
25 tell me, did you receive my e-mail in response to Ms.

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1 Hollis?

2 MR. LEWIS: This is David Lewis. We did.

3 MS. CURRAN: This is Diane Curran. Judge  
4 Young, yes, I did. And I'm just -- I would like to  
5 ask, is Jered Lindsay on that list? And would you  
6 also like us to be sending him hard copies of our  
7 filings?

8 JUDGE YOUNG: Just electronic is fine.

9 MS. CURRAN: Okay. And he's on the list?

10 JUDGE YOUNG: He's on the list that I  
11 use --

12 MS. CURRAN: Okay.

13 JUDGE YOUNG: -- for those e-mails.

14 MS. CURRAN: Oh, I see.

15 JUDGE YOUNG: Did the staff receive those  
16 e-mails from me? I think you did.

17 MS. UTTAL: Yes, I did.

18 Ms. Hollis, did you receive my filing  
19 yesterday?

20 MS. HOLLIS: I have not, Susan.

21 MS. UTTAL: Okay. I sent it to the Town  
22 Manager, M. Sylvia, and you -- you're just  
23 sshollis@duanemorris.com?

24 MS. HOLLIS: Correct.

25 MS. UTTAL: Well, then, you should have

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1 gotten it. I'll check my e-mail.

2 MS. HOLLIS: Thanks a lot, Susan. I did  
3 not get it. Maybe we're being dutiful in our spam  
4 blocking here. I don't know. I'll check.

5 MS. UTTAL: Okay. Thank you.

6 MS. BARTLETT: Susan, this is Molly  
7 Bartlett for Pilgrim Watch. I don't think Mary  
8 Lampert got your e-mail of last night.

9 MS. UTTAL: Probably --

10 MS. LAMPERT: No, I didn't.

11 MS. UTTAL: I don't think she's on my  
12 list, so I --

13 MS. LAMPERT: Could I be on your list?

14 MS. UTTAL: -- I'll have to add her to my  
15 list.

16 JUDGE YOUNG: Ms. Lampert, did you get --  
17 and Ms. Bartlett, both, did you all get my e-mails to  
18 Ms. Hollis?

19 MS. LAMPERT: Yes, I did.

20 JUDGE YOUNG: Okay. Then, those e-mails,  
21 and which I also included the Office of the Secretary,  
22 I think those are complete, accurate service --  
23 electronic service lists.

24 MR. BROCK: Your Honor, this is Matt  
25 Brock. I've been actually out of my office and am not

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1 currently in my office to confirm receipt of some of  
2 these e-mails. I just want to be sure that I am also  
3 on the service list.

4 JUDGE YOUNG: Let me just quickly look  
5 back and -- I have you on my list, Matt.

6 MR. BROCK: Okay.

7 MS. HOLLIS: Susan, I definitely did not  
8 get that e-mail.

9 MS. UTTAL: Who is this?

10 MS. HOLLIS: Sheila. Sheila Hollis,  
11 Susan.

12 MS. UTTAL: Okay. Well, I will resend  
13 them as soon as we're done with this.

14 MS. LAMPERT: This is Mary Lampert. Could  
15 I make a request to the NRC to send documents in  
16 Microsoft Word.

17 MS. HOLLIS: We work --

18 MS. LAMPERT: Because I can't open them,  
19 and I'm sending them, you know, into Boston to -- I  
20 mean, it's crazy.

21 MS. HOLLIS: We work with WordPerfect.

22 MS. LAMPERT: I noticed.

23 MS. HOLLIS: And our ability to put it  
24 into Word is kind of limited. I mean, the things that  
25 I filed perhaps I can. I do have access to Word, but

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1 WordPerfect should have the ability to convert to  
2 Word.

3 MR. LEWIS: Diane?

4 MS. CURRAN: Yes.

5 MR. LEWIS: Am I on that service list?

6 MS. CURRAN: Yes, you're on Judge Young's  
7 list, yes.

8 MR. LEWIS: Okay. I just wanted to be  
9 sure. Thank you.

10 MS. CURRAN: Yes.

11 JUDGE YOUNG: Mr. Brock, did you get my  
12 e-mails about the timing?

13 MS. CURRAN: Judge Young, he is on the  
14 list.

15 JUDGE YOUNG: Okay, good.

16 THE COURT REPORTER: Please identify  
17 yourself.

18 MS. CURRAN: Oh, this is Diane Curran.

19 JUDGE YOUNG: And this was Judge Young.

20 MR. LEWIS: Ms. Hollis?

21 MS. HOLLIS: Yes.

22 MR. LEWIS: This is David Lewis. Just to  
23 let you know, the only thing that Entergy has filed so  
24 far in this proceeding are my notice of appearance and  
25 Paul Gaukler's notice of appearance.

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1 MS. HOLLIS: Okay. Would you be good  
2 enough to just shoot that to me?

3 MR. LEWIS: I will. But there aren't any  
4 substantive responses yet from us, so --

5 MS. HOLLIS: All right. Thanks, David.

6 MR. LEWIS: Sure. And, Judge Young, this  
7 just raised another point. In one of the other  
8 proceedings you had requested that when we file  
9 pleadings it would be helpful if we filed both -- if  
10 we file in PDF, also provide either a Word or a  
11 WordPerfect version. Is that still your preference at  
12 this proceeding, too?

13 JUDGE YOUNG: That's helpful, yes, it is.  
14 It's easy -- if we should want to lift any portions  
15 from long parts of a pleading, it is helpful to have  
16 it in a text, some kind of text version, Word or  
17 WordPerfect.

18 MR. LEWIS: I can do that.

19 JUDGE YOUNG: And we will try to -- I will  
20 try to remember to issue orders in WordPerfect and  
21 then convert it to Word. For page number references,  
22 the best thing to do is to rely on the copies that are  
23 in the NRC's ADAMS database, which is the document  
24 management system. And if you're not familiar with  
25 ADAMS, you should go to the NRC website.

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1 I believe you can click on -- I can't  
2 remember the heading -- electronic reading room, and  
3 then below that there's an electronic hearing docket,  
4 and then, once you get into the electronic hearing  
5 docket, go to the general as opposed to the high-level  
6 waste repository part of the electronic hearing  
7 docket.

8 Once you sign into that, then you can  
9 click on the Pilgrim proceeding. And as SECY gets  
10 documents filed with it -- SECY is short for Office of  
11 the Secretary. As documents are filed with the Office  
12 of the Secretary, they are then, within a few days  
13 after that, placed in the ADAMS system, and usually  
14 those are PDF, so they will have the actual page  
15 numbers. Otherwise, we get inaccurate page number  
16 references and filings and that makes it a little  
17 confusing from time to time.

18 One last question that I had -- I seem to  
19 recall that when we got the original petition from the  
20 Office of the Secretary, there was an indication that  
21 there were some hard copy exhibits that were not filed  
22 electronically. And if that's the case, we won't have  
23 those, because I think the only ones we got were the  
24 ones that were filed electronically.

25 MS. CURRAN: This is Diane Curran. Judge

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1 Young, yes, that's right. There were two exhibits, 3  
2 and 4, to the Attorney General's hearing request that  
3 we weren't able to convert them to PDF files. At this  
4 point, I think -- I'm assuming they're in the public  
5 document room. Would you like me to send them to you  
6 electronically, or figure out a way to do it?

7 JUDGE YOUNG: If you can. I mean, I don't  
8 mind looking in the -- in the ADAMS system, but -- oh,  
9 I'm told we do have those. Never mind.

10 MS. CURRAN: Okay.

11 JUDGE YOUNG: Okay. What were the  
12 documents? Just tell me the names of them.

13 MS. CURRAN: One was NUREG -- I think it  
14 was 1738, some excerpts, and the other was a National  
15 Academy of Sciences report, the whole thing.

16 JUDGE TRIKOUROS: Is it the whole thing,  
17 or is it the non-proprietary --

18 MS. CURRAN: Oh, right. The whole version  
19 -- the whole copy of the non-proprietary version. I  
20 didn't send out the classified version, no.

21 JUDGE YOUNG: Okay, good.

22 MS. BARTLETT: Judge Young, this is Molly  
23 Bartlett for Pilgrim Watch. I don't think our  
24 exhibits were ever sent electronically.

25 MS. CURRAN: Oh, okay. Well --

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1 MS. BARTLETT: That may be what you're  
2 thinking.

3 MS. CURRAN: I'll get those to you, Molly.

4 JUDGE YOUNG: And you're saying that some  
5 of Pilgrim Watch's exhibits --

6 MS. BARTLETT: Pilgrim Watch's exhibits  
7 were sent hard copy only.

8 JUDGE YOUNG: Do you have additional  
9 copies of those, or -- I tell you what, if we can't  
10 find them in ADAMS, we will --

11 MS. BARTLETT: We can send them out to  
12 anyone who still needs them.

13 JUDGE YOUNG: We'll accept CDs as well.  
14 But if you have -- if you already have a document in  
15 PDF and you can attach it to an e-mail, that would be  
16 helpful, I mean, if you have it and there's no problem  
17 sending it.

18 MS. BARTLETT: Yes.

19 JUDGE YOUNG: Okay. All right. Is there  
20 anything else that we've overlooked?

21 MS. UTTAL: Nothing from the staff, Your  
22 Honor.

23 JUDGE YOUNG: Okay. I'll get out an order  
24 in the next couple days memorializing all that we've  
25 done today, and later on we will notify you of our

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1 hearing location, specific times, and so forth, and  
2 whether we will be doing any -- hearing any limited  
3 appearance statements at the -- on the same dates as  
4 the oral argument.

5 Can you think of anything --

6 JUDGE COLE: Well, I guess -- this is  
7 Judge Cole. One consideration is that Plymouth -- I  
8 mean, Boston might not be the ideal location for a  
9 limited appearance statement, since most of the local  
10 people are considerably farther away. But we'll take  
11 that into consideration.

12 JUDGE YOUNG: Does either Plymouth Watch  
13 or Ms. Hollis for the Town of Plymouth want to speak  
14 to that?

15 MS. HOLLIS: Well, ideally, from the --  
16 from Plymouth's standpoint, it's to involve as many  
17 people from Plymouth and encourage as much  
18 participation as possible. It's much easier for many  
19 of our people to come if it's closer to their home,  
20 obviously.

21 MS. LAMPERT: This is Mary Lampert from  
22 Pilgrim Watch. If it's in the afternoon, the majority  
23 of the people nowadays do work, and that certainly  
24 affects participation. Whereas, people do have time  
25 to read the press, etcetera, and I think Boston

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1 coverage and the capability of statewide public  
2 interest groups such as MassPIRG, Clean Water Action,  
3 Positions of Social Responsibility, all of whom have  
4 expressed an interest, would find it easier, really,  
5 to be in Boston.

6 JUDGE YOUNG: Well, we'll --

7 MS. LAMPERT: But either way. I don't  
8 have a strong feeling one way or the other.

9 JUDGE YOUNG: We'll look to where we can  
10 find a good location for the hearing. And if the  
11 parties have any suggestions on that, feel free to  
12 make those, sooner rather than later.

13 PARTICIPANT: Like now maybe?

14 MS. HOLLIS: The spot in Plymouth, the  
15 hotel that we had it -- that we have in Plymouth was  
16 really an outstanding venue for the scoping meeting.

17 JUDGE YOUNG: What's the name of it?

18 MS. HOLLIS: I believe it is the Radisson.  
19 Yes, it's the Radisson. And it's very well located,  
20 very nice facility.

21 MS. LAMPERT: But do you think that the  
22 week after July 4th there will be any rooms available,  
23 it being a tourist town?

24 MS. HOLLIS: Maybe they will be cleared  
25 out after July 4th.

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1 MS. LAMPERT: That's possible.

2 JUDGE YOUNG: Well, we'll have our people  
3 look into it and notify you, and look forward to  
4 seeing everyone, hopefully including you, Ms. Hollis,  
5 but, if not, anyone else on behalf of the town, or  
6 your written comments, on July 6th and 7th. And we  
7 appreciate your working with us to try to get an early  
8 date for this.

9 If there's nothing else, then, that would  
10 conclude this conference. If the Court Reporter wants  
11 us to stay on the line to address any spelling issues,  
12 we'll be glad to do that. And look forward to talking  
13 with you at a later time.

14 (Whereupon, at 10:56 a.m., the  
15 proceedings in the foregoing matter were  
16 adjourned.)

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CERTIFICATE

This is to certify that the attached proceedings  
before the United States Nuclear Regulatory Commission  
in the matter of:

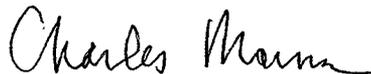
Name of Proceeding: Pilgrim Nuclear Power  
Station

Pre-Hearing Conference

Docket Number: 50-293-LR

Location: via teleconference

were held as herein appears, and that this is the  
original transcript thereof for the file of the United  
States Nuclear Regulatory Commission taken by me and,  
thereafter reduced to typewriting by me or under the  
direction of the court reporting company, and that the  
transcript is a true and accurate record of the  
foregoing proceedings.



Charles Morrison  
Official Reporter  
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