

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the matter of  
Entergy Corporation  
Pilgrim Nuclear Power Station  
License Renewal Application

Docket # 50-293

July 30, 2007

**PILGRIM WATCH'S ANSWER OPPOSING NRC STAFF'S MOTION  
REQUESTING THAT PILGRIM WATCH'S ANSWER OPPOSING NRC STAFF  
SUPPORT OF ENTERGY'S MOTION TO STRIKE PILGRIM WATCH'S  
ANSWER TO ENTERGY'S SUMMARY DISPOSITION MOTION NOT BE  
CONSIDERED BY THE BOARD**

INTRODUCTION

On July 9, 2007, Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc., (collectively, Entergy), filed a motion to strike portions of Pilgrim Watch's Answer Opposing Entergy's motion for summary disposition of Pilgrim Watch Contention 3.<sup>1</sup> On July 17, 2007, Pilgrim Watch filed its answer in opposition to Entergy's motion,<sup>2</sup> and on July 19, 2007, the NRC staff (Staff) filed its response in support of Entergy's motion.<sup>3</sup> On July 26, 2007, Pilgrim Watch filed an answer to the Staff Response.<sup>4</sup> On July 27, 2007, the NRC Staff filed a motion requesting that Pilgrim Watch's answer opposing NRC Staff support of Entergy's Motion to strike Pilgrim

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<sup>1</sup> See Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 (July 9, 2007) (Motion to Strike).

<sup>2</sup> See Pilgrim Watch's Answer Opposing Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 (July 17, 2007).

<sup>3</sup> See NRC Staff Response in Support of Entergy's Motion to Strike Portions of Pilgrim Watch's Opposition to Motion for Summary Disposition of Contention 3 (Staff Response).

<sup>4</sup> See Pilgrim Watch's Answer Opposing NRC Staff's Support of Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Contention 3 (Pilgrim Watch's Answer).

TEMPLATE = SECY-037

SECY-02

Watch's Answer to Entergy's Summary Disposition Motion not be considered by the board.

Pursuant to 10 C.F.R. § 2.323 (c) and for the reasons discussed below, Pilgrim Watch requests that NRC Staff's motion be denied.

### DISCUSSION

Here we are dealing specifically with Motions for Summary Disposition. The rule, 10 C.F.R. §2.710 (a) states that, "The opposing party may, within ten (10) days after service, respond in writing to new facts and arguments presented in any statement filed in support of the motion." The citation provided by NRC Staff *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), LBP-98-12, 47 NRC 343, 345-46 (1998) (interpreting 10 C.F.R. § 2.730, the predecessor to 10 C.F.R. §2.323) specifically refers to Petitions for Leave to Intervene.

10 C.F.R. § 2.323 (c) Answers to Motions states that "Within ten (10) days after service of a written motion, or other period as determined by the Secretary....a party may file an answer in support or in opposition to the motion, accompanied by affidavits or other evidence. The moving party has no right to reply, except as permitted by the Secretary, the Assistant Secretary, or the presiding officer. Permission may be granted only in compelling circumstances..." Pilgrim Watch is not the "moving party" here.

Therefore the rule, 10 C.F.R. § 2.323 (c), only addresses Entergy's right to reply to a response filed by another party. It does not prohibit a non-moving party, such as Pilgrim Watch, from replying to the NRC Staff's response to Entergy's motion.

As a matter of fairness, the rule does not, and should not, be interpreted to forbid Pilgrim Watch from entering a reply to NRC Staff's Motion which, both in substance and effect, is nothing more than an additional motion in favor of Entergy.

CONCLUSION

Based on the foregoing, Pilgrim Watch respectfully requests that the Board deny NRC Staff's motion.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary Lampert". The signature is written in a cursive style with a large loop at the end of the word "Lampert".

Mary Lampert

Pilgrim Watch

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Pilgrim Watch's Answer Opposing NRC Staff's Motion Requesting That Pilgrim Watch's Answer Opposing NRC Staff Support Of Entergy's Motion To Strike Pilgrim Watch's Answer To Entergy's Summary Disposition Motion Not Be Considered By The Board has been served this 30th day of July, 2007 by electronic mail and by U.S. Mail, first class to each of the following:

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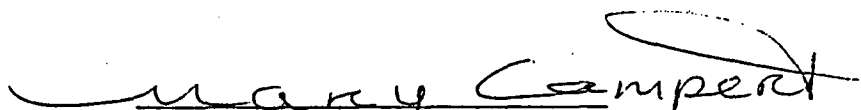
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