

November 21, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Commission

November 21, 2007 (11:03am)

In the Matter of)	
)	
Entergy Nuclear Generation Company and)	Docket No. 50-293-LR
Entergy Nuclear Operations, Inc.)	ASLBP No. 06-848-02-LR
)	
(Pilgrim Nuclear Power Station))	

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

ENERGY'S ANSWER OPPOSING PILGRIM WATCH'S APPEAL OF LBP-07-13

Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc. ("Entergy") hereby answer and oppose Pilgrim Watch's Appeal¹ of the Atomic Safety and Licensing Board's Order granting Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3.² The Board's order is interlocutory, and therefore Pilgrim Watch's appeal is impermissible at this juncture.

The Order granted summary disposition of only one of Pilgrim Watch's two contentions admitted into the Pilgrim license renewal proceeding. Pilgrim Watch's other contention -- Contention 1 -- will go to hearing in early 2008.³ Thus, with Contention 1 still at issue, Pilgrim Watch has retained its status as an intervenor in this proceeding. An order granting summary disposition of some, but not all, of an intervenor's contentions does not dismiss the intervenor from the proceeding and is interlocutory in nature. A petition for review of such an order, therefore, must await the issuance of a reviewable decision. Public Service Co. of New

¹ Pilgrim Watch's Brief on Appeal of LBP-07-13 Memorandum and Order (Ruling of Motion to Discuss Petitioner's Contention 3 Regarding Severe Accident Mitigation Alternatives) ("Appeal").

² LBP-07-13 Memorandum and Order (Ruling of Motion to Discuss Petitioner's Contention 3 Regarding Severe Accident Mitigation Alternatives) ("Order").

³ Memorandum and Order (Ruling on Entergy's Motion for Reconsideration of [LBP]-07-12), November 14, 2007.

Hampshire (Seabrook Station, Units 1 and 2), ALAB-731, 17 N.R.C. 1073, 1074 (1983);
Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-736, 18
N.R.C. 165 (1983); Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1),
ALAB-807, 21 N.R.C. 1195, 1198 n.3 (1985); Florida Power and Light Co. (Turkey Point
Nuclear Generating Plant, Units 3 and 4), LBP-85-29, 22 N.R.C. 300, 331 (1985).

The NRC's rules grant no right to review interlocutory orders. See Pa'ina Hawaii
(Material License Application), CLI-06-18, 64 N.R.C. 1, 3 (2006). Further, pursuant to 10
C.F.R. § 2.341(f)(2), a petition for review of an interlocutory order will be granted only if the
requesting party demonstrates that the order threatens the party with an immediate and serious
irreparable impact which as a practical matter cannot be alleviated through a petition for review
of the presiding officer's final decision, or affects the structure of the proceeding in a pervasive
or unusual manner. Pilgrim Watch has not addressed these standards or made any such
demonstration.

Consequently, for the foregoing reasons, Pilgrim Watch's Appeal should be denied.

Respectfully Submitted,



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Dated: November 21, 2007

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Entergy's Answer Opposing Pilgrim Watch's Appeal of LBP-07-13" were served on the persons listed below by deposit in the U.S. Mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 21st day of November, 2007.

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