

RAS 14834

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

DOCKETED
USNRC

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

Docket # 50-293

December 17, 2007 (8:50am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

December 15, 2007

**PILGRIM WATCH'S MOTION REGARDING ADMISSABILITY OF
FACTUAL EVIDENCE**

Pilgrim Watch received December 14, 2007 information from the Applicant. It included a number of documents addressing questions regarding monitoring wells at Pilgrim Station – labeled “Confidential- Settlement Discussion.” The dispute is whether Pilgrim Watch can introduce the facts in those documents in the statements positions and other filings. On December 14 Pilgrim Watch discussed this issue with the Applicant’s attorney, David Lewis; he objected.

Pilgrim Watch explained to Mr. Lewis via e-mail dated December 14 that we agreed that offers and terms of settlement would be kept confidential; but certainly not basic factual information; otherwise the Applicant could easily turn the entire process into an absurd charade by putting facts that they wished not to be brought forward by the Petitioners in a document labeled for “settlement purposes only” and make a total mockery out of the adjudication process.

Those documents merely included (1) The hydrological assessment performed by GZA in order to locate new monitoring wells – that were simply a review of old documents provided by Entergy dating back before Entergy owned Pilgrim Station -from 1967, 1976, 1984; (2) the 1967 Dames and Moore hydrological assessment performed for Boston Edison; (3) a map showing the location of monitoring wells; (4) the [dated] well logs showing Pilgrim site construction information; (5) Pilgrim procedure governing the

sampling and analysis of the monitoring wells – essentially a re-write of the publicly available NEI Guidance Initiative; (6) Slides summarizing #5; and a table reflecting Pilgrim’s communication approach- again a re-write of the NEI Guidance Initiative. In short the documents were essentially a compilation of very old/historical documents and near- copies of NEI Industry Ground Water Protection Voluntary Initiation – Final Guidance Document, August 2007. There is no information contained in those documents of any details of a settlement offer or even mentioning of a settlement offer.

Mr. Lewis claims that monitoring information is not pertinent to the issue. We disagree and the ASLB. Monitoring disagrees. The October 17, 2007 Order states [at 17-18] that,

Contention 1 involves the challenge that leak detection is a necessary AMP element to ensure safety function performance. Whether this is or is not the case is the matter in dispute, involving experts who disagree. The Pertinent issue in dispute is whether leak detection via a system of monitoring wells is necessary as part of Pilgrim’s aging management program to ensure that relevant components perform their intended functions during the license renewal period. Thus the only issue remaining before this Licensing board regarding Contention 1 is whether or not monitoring wells are necessary to assure that the buried pipes and tanks at issue will continue to perform their safety function during the license renewal period ____or, put another way, whether Pilgrim’s existing AMPs have elements that provide appropriate assurance as required under relevant NRC regulations that the buried pipes and tanks will not develop leaks so great as to cause those pipes and tanks to be unable to perform their intended safety functions. [Emphasis added]


Also, we note that Rule 408 in the Rules of Evidence, Federal Civil Judicial Procedure and Rules applies and fully supports our position.

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, valuable consideration in compromising or

attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. *This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations.* [Emphasis added]

We are simply asking clarity about using facts that should not be excluded merely because they were presented in the course of compromise negotiations. If excluded this would allow the Applicant to use the Settlement process like a “trash compactor” to dispose of relevant factual information that they do not want brought forward and discussed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I Hereby Certify That The Foregoing Pilgrim Watch Motion Requesting That The Order Establishing The Schedule For The Proceedings Be Reset To Extend All Deadlines For Filings At Minimum Thirty (30) Days Has Been Served This 15th Day Of December, 2007 By Electronic Mail And By U.S. Mail, First Class To Each Of The Following:

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