

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

DOCKETED 05/12/08  
SERVED 05/12/08

Before Administrative Judges:

Ann Marshall Young, Chair  
Dr. Paul B. Abramson  
Dr. Richard F. Cole

In the Matter of:

ENTERGY NUCLEAR GENERATION  
COMPANY AND ENTERGY NUCLEAR  
OPERATIONS, INC.  
(Pilgrim Nuclear Power Station)

Docket No. 50-293-LR

ASLBP No. 06-848-02-LR

May 12, 2008

ORDER

(Setting Deadlines for Provisional Proposed Findings and Conclusions on Contention 1,  
and for Pleadings Related to Pilgrim Watch's Recent Motion Regarding CUFs)

Currently pending in this proceeding, which involves the license renewal application of Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc., for its Pilgrim Nuclear Power Station, are several matters potentially affecting time lines for remaining activities in the proceeding. These include: (1) two motions of Intervenor Pilgrim Watch regarding certain information relating to the plant's cumulative usage factors, or "CUFs";<sup>1</sup> (2) the question of how and when to proceed with regard to Pilgrim Watch Contention 1, on which a hearing was commenced on April 10, 2008,<sup>2</sup> but which hearing the Licensing Board did not

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<sup>1</sup> Pilgrim Watch Motion Requesting the Record be Held Open so that the Board May Address a New and Significant Issue [Method to Calculate Cumulative Usage Factors (CUF)] Sua Sponte and Provide Pilgrim Watch an Opportunity for Hearing (Apr. 9, 2008); Pilgrim Watch Motion Regarding the Cumulative Use Factor (CUF) (May 5, 2008); see *also* Entergy's Response in Opposition to Pilgrim Watch Motion Requesting the Record be Held Open for Sua Sponte Consideration Of Cumulative Usage Factors (Apr. 21, 2008); NRC Staff Response in Opposition to Pilgrim Watch Motion Requesting Record be Held Open (Apr. 21, 2008); NRC Staff Motion to Strike Pilgrim Watch Motion Regarding the Cumulative Usage Factor (May 8, 2008).

<sup>2</sup> Transcript of Proceeding at 557-874.

conclude based on the stay of the closing of the hearing by the First Circuit Court of Appeals in a related proceeding;<sup>3</sup> (3) the recent notification of the Commonwealth of Massachusetts of intent to participate in the proceeding, based on the First Circuit's decision;<sup>4</sup> (4) the recent issuance by the NRC Office of the Inspector General of a Memorandum concerning its recently completed audit of the NRC License Renewal Program;<sup>5</sup> and, finally, (5) the Commission's indication<sup>6</sup> that it may be addressing in the near future both a January 3, 2008, Petition to Suspend filed by Petitioners in this and other license renewal proceedings based on the Inspector General's audit,<sup>7</sup> and Entergy's April 17, 2008, request for guidance from the Commission regarding the First Circuit's stay<sup>8</sup> — these matters are tentatively set for a Commission Affirmation Session to be held May 16, 2008.<sup>9</sup>

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<sup>3</sup> Commonwealth of Massachusetts v. United States, 522 F.3d 115,        (1st Cir. 2008).

<sup>4</sup> Commonwealth of Massachusetts Notice Of Intent To Participate As An Interested State (May 6, 2008).

<sup>5</sup> Memorandum to Dale E. Klein, Chairman, from Hubert T. Bell, Inspector General (May 2, 2008).

<sup>6</sup> See Commission Meeting Schedule at [www.nrc.gov/about-nrc/policy-making/schedule.html](http://www.nrc.gov/about-nrc/policy-making/schedule.html) (last visited May 9, 2008).

<sup>7</sup> Petition by Nuclear Information and Resource Service; Jersey Shore Nuclear Watch, Inc.; Grandmothers, Mothers and More for Energy Safety; New Jersey Public Interest Research Group; New Jersey Sierra Club; New Jersey Environmental Federation; Riverkeeper, Inc.; Pilgrim Watch and New England Coalition to Suspend License Renewal Reviews for Oyster Creek, Indian Point, Pilgrim, and Vermont Yankee Nuclear Power Plants Pending Investigation of NRC Staff Review Process and Correction of Deficiencies (Jan 3, 2008).

<sup>8</sup> Entergy's Request For Guidance On The First Circuit's Administrative Stay (Apr. 17, 2008).

<sup>9</sup> See *supra* n.6.

In the meantime, the Licensing Board finds it appropriate to address any matters that may effectively move forward, whatever other further action may ensue with regard to any of the matters listed above.

Specifically, regarding item (2) above, unless any action of the Commission subsequent to issuance of this Order would effectively nullify or render inappropriate such a course of action, the Board hereby sets the following deadlines for the filing of provisional proposed findings of fact and conclusions of law with respect to Pilgrim Watch Contention 1 only: All parties shall file proposed findings of fact and conclusions of law on Contention 1 no later than June 9, 2008, and shall file responses to each others' proposed findings and conclusions no later than June 23, 2008. These shall be provisional in the sense that setting the deadlines in question should not be construed as closing the hearing in the matter; among other things, if the need for further findings later arises based on the current stay or related activities, these will be permitted as appropriate and necessary.

In addition, treating Pilgrim Watch's most recent motion regarding CUFs as being in effect the submission of a new contention, the Board directs the NRC Staff and Entergy to include in their responses thereto argument regarding the admissibility of such contention under 10 C.F.R. § 2.309(f)(1). Such responses shall be filed no later than May 19, 2008, and a reply to these shall be filed by Pilgrim Watch no later than May 27, 2008. These directions should not be taken to indicate any possible Board ruling on any of the pending motions, including the Staff's recent Motion to Strike Pilgrim Watch's motions.<sup>10</sup>

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<sup>10</sup> See *supra* n.1.

In addition, after the Commission addresses the pending Petition to Suspend and OIG audit, further deadlines may be set to address any related matters, as appropriate.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair  
ADMINISTRATIVE JUDGE

/RA/

Dr. Paul B. Abramson  
ADMINISTRATIVE JUDGE

/RA/

Dr. Richard F. Cole  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
May 12, 2008<sup>11</sup>

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<sup>11</sup> Copies of this Order were sent this date by Internet electronic mail transmission to all counsel and representatives for the parties.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
ENTERGY NUCLEAR GENERATION CO. )  
AND )  
ENTERGY NUCLEAR OPERATIONS, INC. ) Docket No. 50-293-LR  
 )  
 )  
(Pilgrim Nuclear Power Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SETTING DEADLINES FOR PROVISIONAL PROPOSED FINDINGS AND CONCLUSIONS ON CONTENTION 1, AND FOR PLEADINGS RELATED TO PILGRIM WATCH'S RECENT MOTION REGARDING CUFS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 50-293-LR  
LB ORDER (SETTING DEADLINES FOR PROVISIONAL PROPOSED FINDINGS AND  
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[Original signed by Linda D. Lewis]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 12<sup>th</sup> day of May 2008