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FINAL REPLY:

Scott H. Strauss  
Spiegel & McDiarmid LLP

TO:

Borchardt, EDO

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Pilgrim Nuclear Power Station - Petition  
of Utility Workers Union of America, Local 369  
(EDATS: OEDO-2008-0390)

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May 14, 2008

## Via Hand Delivery

Mr. R. William Borchardt  
Executive Director for Operations  
NRC Public Document Room  
11555 Rockville Pike  
Rockville, Maryland 20852

Re: **Petition of Utility Workers Union of America, Local 369 Pursuant to 10 C.F.R. § 2.206 (Pilgrim Nuclear Power Station)**

Dear Mr. Borchardt:

Pursuant to 10 C.F.R. § 2.206 (2007), Utility Workers Union of America, Local 369 ("Local 369") hereby petitions the Nuclear Regulatory Commission to institute a proceeding pursuant to 10 C.F.R. § 2.202 (2007). In the event of a work stoppage by members of Local 369, the NRC should require Entergy Nuclear Generation Company ("Entergy"), the operator of Pilgrim Nuclear Power Station ("Pilgrim" or "Plant") to (1) shutdown the Plant because, on information and belief, Entergy's strike contingency plan is inadequate in several significant respects; and (2) maintain the Plant in a shutdown condition unless and until the members of Local 369 return to work at the Plant. The members of Local 369 have been in bargaining negotiations with Entergy and are prepared to strike in the event that a new collective bargaining agreement with Entergy has not been completed by May 15, 2008. In these circumstances, Local 369 urges the Commission to undertake the actions addressed here expeditiously, as they are essential to ensuring that the safety of the Pilgrim workforce and the communities surrounding the Plant is protected.

Local 369 represents the interests of approximately 350 of Pilgrim's 550-member workforce. The members of Local 369 are dedicated to and responsible for Pilgrim's safe operation. The interests of these workers in ensuring that Pilgrim is operated in a safe manner go beyond the workplace, as these same workers also live in the communities surrounding the Plant.

Over the past few months, representatives of Local 369 and Entergy have conducted extensive negotiations aimed at finalizing a new collective bargaining agreement. Despite these efforts, to date no such agreement has been reached. In the absence of an agreement, the

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members of Local 369 are prepared to authorize a strike. Moreover, Local 369 officials have been informed by Entergy that in the event that negotiations have not been successfully completed prior to the expiration of the existing labor agreements, on May 15, 2008, Local 369-represented employees will be "locked-out" of the Pilgrim site, meaning that they will not be permitted to work at Pilgrim.

Entergy intends to continue to operate Pilgrim notwithstanding the absence of the entire Local 369 workforce and the strong likelihood that other unionized Pilgrim employees will honor picket lines and refuse to report for work. Our understanding is that Entergy plans to staff Pilgrim with workers assembled from Pilgrim plant management, outside contractors, and persons borrowed from other Entergy Nuclear plants. Based on our understanding, Entergy's plan to operate Pilgrim with replacement workers complies with neither the Plant's operating license nor applicable NRC regulations. Most fundamentally, our belief is that the Company's contingency plan fails to fulfill practical and essential requirements for the Plant's safe operation. Thus, in the event of a work stoppage at the Plant, and for the duration of any such work stoppage, the Commission should require the Pilgrim reactor to be shutdown. Our understanding of Entergy's contingency plan and specific facts supporting Local 369's assertion that Pilgrim cannot be run safely under this plan are set forth in detail in the attached "Verified Statement of Local 369, Utility Workers Union of America, Opposing Continued Commercial Operation of Pilgrim Nuclear Power Station During a Work Stoppage,"<sup>1</sup> which is incorporated as part of this Petition.

The Statement explains Local 369's understanding that, in the event of a strike, the replacement personnel that Entergy plans to use to operate the Plant have little or no hands-on Plant experience. Due to the Plant's age and the complexity of operations, Pilgrim-specific knowledge is essential to safe operation. Nonetheless, our understanding is that Entergy's contingency plan includes reliance upon "replacement workers":

- who fail to meet mandatory NRC and internal training and experience requirements;
- who have no hands-on experience;
- who have no specific experience at Pilgrim;
- whose experience and training is unknown;
- who will be required, for purposes of meeting emergency planning requirements, to be responsible for the performance of duplicative functions; and
- who will constitute a fire brigade that lacks a sufficient number of trained personnel to meet mandatory staffing levels.

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<sup>1</sup> The attached Statement was prepared under the direction of Gary P. Sullivan, President of Local 369, and is verified by him. Due to time constraints, the verification provided herewith is a facsimile. Local 369 will supply the original verification as a follow-up to this filing.

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To the extent that Local 369's understanding with respect to any of these factors is correct, it would constitute more than sufficient reason for the Commission to direct Entergy to shut down the Plant and not to follow through with plans to operate Pilgrim under the contingency plan. Taken together, these shortcomings in Entergy's contingency plan make overwhelmingly clear that the Commission should require that the Plant be shutdown for the duration of any work stoppage.

Given the likelihood that a strike could begin as early as midnight on the morning of May 16, Local 369 respectfully submits that the Commission conduct an expedited review of this Petition. Such action is essential to ensuring the safety of the Pilgrim Plant, its workforce, and the communities surrounding the Plant.

The names, addresses, and telephone numbers of the persons to whom communications concerning this matter should be addressed are as follows:

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Thank you for your assistance. Please contact the undersigned if the Commission has any questions about the matters discussed herein, or any other concerns that can be addressed by Local 369 members who have intimate knowledge of Pilgrim operations.

Yours truly,



Scott H. Strauss

Rebecca J. Baldwin

Attorneys for Utility Workers Union of  
America, Local 369

Attachments

cc: Hon. Dale E. Klein  
Hon. Kristine L. Svinicki  
Hon. Gregory B. Jaczko  
Hon. Peter B. Lyons  
Hon. Edward Kennedy  
Hon. John Kerry  
Hon. Ed Markey  
Hon. Michael Capuano  
Hon. William Delahunt  
Hon. Barney Frank  
Hon. Stephen Lynch  
Hon. Deval L. Patrick  
Hon. Martha Coakley  
Hon. Paul Hibbard  
Hon. Suzanne Bump

**UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION**

Petition of Utility Workers Union of America, )  
Local 369 Pursuant to 10 C.F.R. § 2.206 )  
(Pilgrim Nuclear Power Station) )

**VERIFIED STATEMENT OF GARY P. SULLIVAN, PRESIDENT, LOCAL 369,  
UTILITY WORKERS UNION OF AMERICA, AFL-CIO, OPPOSING  
CONTINUED COMMERCIAL OPERATION OF PILGRIM NUCLEAR POWER  
STATION DURING A WORK STOPPAGE**

I am Gary P. Sullivan, president of Local 369 of the Utility Workers Union of America, AFL-CIO ("Local 369"). Local 369 represents more than 60% of the employee workforce at the Pilgrim Nuclear Power Station. Over the past few months, Local 369 and Entergy Nuclear Generation, owner of the Pilgrim plant, have been engaged in intensive negotiations over the terms of a new collective bargaining agreement.

While we have made some progress, our efforts have not yet resulted in an agreement. With great reluctance, our membership is prepared to authorize a work stoppage as of May 15. Even if the membership did not authorize this action, we understand from Entergy site officials that they do not intend to allow the Local membership to work at the plant without a contract, and plan to "lockout" our members.

With its trained, experienced, and dedicated staff at the controls, and monitoring and maintaining the equipment, Pilgrim is as safe as any nuclear plant in the United States. Once a work stoppage begins, however, the situation is drastically different. We know that Entergy plans to continue to operate Pilgrim, even though the vast majority of its well-qualified and experienced workforce will not be on the job during the work stoppage. Entergy intends to do this through its so-called "Contingency Plan."

Over the past few weeks, we have been gathering information concerning how Entergy plans to run the plant without its experienced and dedicated workforce. Our understanding is that the Contingency Plan calls for the replacement of Pilgrim's experienced workforce with a combination of Entergy Nuclear management, contractors, and workers from other Entergy nuclear plants. There is no question that Entergy's intended "workforce-by-committee" will not possess either the experience or the plant-specific knowledge needed to operate Pilgrim safely and in compliance with the plant's operating license.

Based on our understanding, Entergy's Contingency Plan for Pilgrim poses concerns that include:

1. Operations

- a. Training for Replacement Radwaste personnel

- i. We understand that of the 65 tasks required to be trained and demonstrated (by performance, simulation or discussion) on the abbreviated Radwaste Operator's qualification card, only 20 items have been performed or simulated by Entergy's proposed contingency workforce. Our understanding is that four items have only been "discussed," and the remaining 41 tasks were exempted by PNPS plant management.
      - ii. Of the four "contingency workers" that we understand are likely to be assigned to Radwaste, two have never worked in this area before. We cannot over-estimate the importance of Radwaste worker training to ensuring that assigned tasks are



properly performed. We understand that the other 2 contingency workers likely assigned to Radwaste have limited experience and have not maintained their qualifications as radwaste operators since August 2007.

2. Training for the Operator apprentice personnel

- a. During normal Pilgrim plant operations there is no position for an “operator apprentice.” The operator training program is more than a year long. Nonetheless, we have been informed by Entergy that the replacement operators have had less than 3 weeks of training.

3. Tour Operators

- a. We recognize that NRC Senior Reactor Operators (“SROs”) meet the minimum qualification requirements set forth by the NRC to perform the Station Tour, but they do not meet Pilgrim requirements for training and qualifications for operating field equipment.
- b. Our understanding is that under the Contingency Plan, SROs being used as Tour Operators have no experience in practical equipment operation and transient response, such as component quick-starts and traveling screen shear pin change-outs.
- c. Even though Entergy plans to use SROs to perform operator rounds, these individuals have not received training that is even remotely equivalent to that received by the personnel being replaced.
- d. SROs will be required to conduct operator rounds without extensive training, after only a walk-through of the facility.

#### 4. Operating crews

- a. Our understanding is that all of the contingency control room staff in place under the Contingency Plan will meet the minimum requirements set forth by the NRC (this position requires an NRC Reactor Operator's License). However, it is our understanding that only two of the eight control room panel operators have ever previously held this position at PNPS. Based on our extensive experience, PNPS management would never allow two inexperienced panel operators in the control room at the same time.
  - i. We do not believe that, as of May 2, 2008, John House has participated in the requisite proficiency watches required to reactivate his NRC License.
  - ii. We do not believe that, as of May 2, 2008, Kevin O'Rourke has participated in the requisite proficiency watches required to reactivate his NRC License.
- b. Although SROs may be officially qualified as Licensed Reactor Operators, none stand any watches or perform licensed Operator tasks except on very rare occasions during training exercises. They therefore lack the experience to perform these functions safely.
- c. We understand that only 15 of the 36 replacement workers assigned to the operating staff have Massachusetts State Nuclear operating licenses.

- d. To be a Station Fire Brigade Chief the replacement worker must be Tour Qualified. Our understanding is that only two of the sixteen replacement workers who could be assigned to this position were previously Tour Qualified. If this is correct, then there would appear to be an insufficient number of Station Fire Brigade Chiefs at Pilgrim.
- e. Our understanding is that not all personnel have NRC mandated training for post-9/11 plant security related events.
- f. Normal minimum crew staffing includes two fully qualified tour operators. Our understanding is that contingency force crews have only one replacement worker per crew considered to be tour qualified. Of these, our understanding is that none has ever performed this function before.

#### 5. Chemistry

- a. Our understanding is that Entergy's training for Replacement Chemistry personnel does not include several vital functions, such as:
  - i. *Main Stack & Reactor Building Ventilation gas samples.* These samples are required by the Offsite Dose Calculation Manual ("ODCM") on a 50% power change and every 30 days. These samples are used in the calculation utilized to determine gaseous radioactive release rates to the public.
  - ii. *Offgas sampling/analysis.* This sample is required by the ODCM and Technical Specifications on a 50% power change and every 30 days. This sample is used in the calculation

utilized to determine gaseous radioactive releases rates to the public.

- iii. *Chemistry Lab equipment calibration.* Our understanding is that the proposed replacement workers lack the training to perform the required calibrations of lab equipment.
- iv. *Operation of other air samplers (i.e.; Turbine Building GEMS, Hot Shop, TCF).* These components require weekly filter change outs.
- v. *Liquid (overboard discharge) or gaseous release sampling/procedure training.* Our understanding is that the proposed replacement workers lack the training to perform these tasks.
- vi. *Oxygen injection into the condensate system.* Our understanding is that the proposed replacement workers lack the training to perform these tasks.
- vii. *Oxygen analysis on Reactor coolant water.* Our understanding is that the proposed replacement workers lack the training to perform these tasks.
- viii. *Oxygen analysis on Stator cooling water.* Our understanding is that the proposed replacement workers lack the training to perform these tasks.

ix. *Main Stack & Reactor Building Ventilation tritium sampling.*

This sampling is required to be conducted monthly by the ODCM.

x. *Gas Chromatography.* This is required for hydrogen analysis post-accident and if the in-line AOG hydrogen analyzers (N009A/B) fail.

b. Our understanding, based on direct interaction with the individuals involved, is that there is little practical experience among the three Chemistry Technicians likely listed on the Contingency Plan:

i. L. Rayle - has no experience as a chemistry technician

ii. G. Blankenbiller - Has worked as a chemistry technician, but not in a number of years.

iii. D. Mitchell - has not worked in Chemistry for over 19 years

6. Radiation Protection. Our understanding of issues in this area is based on direct interaction with the individuals involved.

a. Joseph Henderson, who is named as the Radiation Protection Manager on the Strike Contingency Plan, has just stepped down from this position due to medical reasons. The acting Radiation Protection Manager, Thomas McElhinney, is named as the Chemistry Superintendent on the Strike Contingency Plan. The acting Chemistry Superintendent, G. Blankenbiller, is named as the Strike Contingency Technician.

- b. Of the 20 Radiation Protection Technicians on the Strike Contingency plan, only four are workers at PNPS. The remaining 16 are contractors hired as replacement workers.

## 7. Maintenance

### a. Electrical Maintenance

- i. Our understanding is that the Contingency Plan includes the use of five management supervisors as electricians, not one of whom is proficient in these tasks, but rather functions only in a supervisory capacity, as well as seven unnamed contractors. Indeed, our understanding is that the five management supervisors used as replacement workers have never worked as electricians before.
- ii. Our understanding is that the proposed replacement workers are only qualified to perform battery surveillance.
- iii. Our understanding is that as of May 2, 2008, none of the five proposed replacement workers is tagout holder or work order qualified, in accordance with OSHA requirements.

### b. Electrical Lab Engineers

- i. Our understanding is that all of the replacement workers in the "E-lab" will be contractors. We have seen no information on their qualifications. At a minimum, any replacement personnel would need to have surveillance qualifications (*i.e.*, A5/A6 Under-voltage surveillance and others).

c. Mechanical Maintenance

- i. Our understanding is that the Contingency Plan includes the use of six management supervisors as mechanical maintenance personnel, two management managers who will work as assistants (with no one proficient in these tasks, but only those who operate in a supervisory or managerial capacity), as well as additional and unnamed contractors.
- ii. Worse, our understanding is that neither the six management supervisors nor the two assistants used as replacement workers have ever before worked as mechanics at PNPS.
- iii. Our understanding is that as of May 2, 2008, none of the six proposed replacement workers is tagout holder or work order qualified, as required by OSHA.

d. Instrument & Controls Technicians

- i. Our understanding is that the Contingency Plan includes the use of six management supervisors who were previously qualified as Nuclear Control Technicians.
- ii. We understand, based on access to Company records, that one of the six management supervisors who was previously qualified as a Nuclear Control Technician failed to pass his re-qualification test.

8. Emergency Response Organization

- a. We understand that the Emergency Plan does not contemplate an individual performing dual roles unless the Plan so provides. Nonetheless, our understanding is that many of the Emergency Response personnel to be used under the Contingency Plan will have to perform dual functions.



