

May 12, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board Panel

DOCKETED
USNRC

In the Matter of)		May 12, 2008 4:20 pm
)		
Entergy Nuclear Generation Company and)	Docket No. 50-293-LR	OFFICE OF SECRETARY
Entergy Nuclear Operations, Inc.)	ASLBP No. 06-848-02-LR	RULEMAKINGS AND
)		ADJUDICATIONS STAFF
(Pilgrim Nuclear Power Station))		

ENERGY'S RESPONSE TO THE COMMONWEALTH OF MASSACHUSETTS' NOTICE OF INTENT TO PARTICIPATE AS AN INTERESTED STATE

Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc.

(collectively, "Entergy") do not object to the "Commonwealth of Massachusetts' Notice of Intent to Participate as an Interested State" (May 6, 2008) ("Notice of Intent") pursuant to 10 C.F.R § 2.315(c) as represented in the Commonwealth's Notice of Intent. This action is consistent with the Commission's statements in CLI-07-03¹ and CLI-07-13² which advised the Commonwealth that it could participate in this proceeding as an Interested State in order to preserve its ability to file a motion pursuant to 10 C.F.R § 2.802(d) if it appears that the Commission will issue the renewed license prior to a decision on the Commonwealth's rulemaking petition. Before the First Circuit, the Commission represented that that Commonwealth could "still attain interested governmental entity status [under 10 C.F.R § 2.315(c)] and avail itself of the § 2.802(d) stay procedure."³

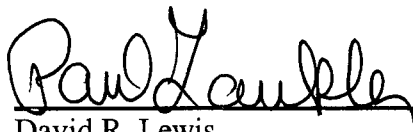
¹ Entergy Nuclear Vermont Yankee, LLC & Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), CLI-07-3, 65 N.R.C. 13, 22 n.37 (2007).

² Entergy Nuclear Vermont Yankee, LLC & Entergy Nuclear Operations, Inc., (Vermont Yankee Nuclear Power Station), CLI-07-13, 65 N.R.C. 211, 215 n.16 (2007).

³ Commonwealth of Massachusetts v. NRC, Nos. 07-1482, 07-1483, slip op. at 29 n.8 (1st Cir. Apr. 8, 2008).

In accordance with, First Circuit and Commission decisions, the Commonwealth seeks to participate in the Pilgrim license renewal proceeding to protect its ability “to ensure that the issues raised” on the environmental impacts of high density spent fuel storage in its contention, which has been dismissed, and its rulemaking petition “will be resolved before the [NRC] issues any renewed operating license” for the Pilgrim plant. Notice of Intent at 1. The Commonwealth in its Notice of Intent states no desire or intent to participate in the litigation of Pilgrim Watch Contention 1 currently before the Atomic Safety Licensing Board.⁴ Further, as a late entrant into this proceeding, the Commonwealth must take the proceeding as it finds it. Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-600, 12 N.R.C. 3, 8 (1980). Accordingly, the Commonwealth’s status as an Interested State should have no impact on the litigation or resolution of Pilgrim Watch Contention 1.

Respectfully Submitted,



David R. Lewis
Paul A. Gaukler
PILLSBURY WINTHROP SHAW PITTMAN LLP
2300 N Street, NW
Washington, DC 20037-1128
Tel. (202) 663-8000
Counsel for Entergy

May 12, 2008

⁴ This is consistent with the Commonwealth’s statements to the First Circuit that it had no desire to participate in the litigation of the admitted contentions of other parties. See Reply Brief for Petitioner Commonwealth of Massachusetts, Nos. 07-1482, 07-1483, (1st Cir. Nov. 8, 2007) at 13.

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(Pilgrim Nuclear Power Station))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Entergy's Response to the Commonwealth of Massachusetts' Notice of Intent to Participate as an Interested State" dated May 12, 2008, 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 12th day of May, 2008.

*Administrative Judge
Ann Marshall Young, Esq., Chair
Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
amy@nrc.gov

*Administrative Judge
Dr. Richard F. Cole
Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
rfc1@nrc.gov

*Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
pba@nrc.gov

*Secretary
Att'n: Rulemakings and Adjudications Staff
Mail Stop O-16 C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
secy@nrc.gov, hearingdocket@nrc.gov

Office of Commission Appellate
Adjudication
Mail Stop O-16 C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

*Susan L. Uttal, Esq.
*Kimberly Sexton, Esq.
*James E. Adler, Esq.
Office of the General Counsel
Mail Stop O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
slu@nrc.gov; kas2@nrc.gov; jeal@nrc.gov

*Ms. Mary Lampert
148 Washington Street
Duxbury, MA 02332
mary.lampert@comcast.net

*Sheila Slocum Hollis, Esq.
Duane Morris LLP
505 9th Street, N.W.
Suite 1000
Washington, DC 20006
sshollis@duanemorris.com

*James R. Milkey
Assistant Attorney General, Chief
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Jim.milkey@state.ma.us

Atomic Safety and Licensing Board
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

*Mr. Mark D. Sylvia
Town Manager
Town of Plymouth
11 Lincoln St.
Plymouth, MA 02360
msylvia@townhall.plymouth.ma.us

*Chief Kevin M. Nord
Fire Chief and Director, Duxbury Emergency
Management Agency
688 Tremont Street
P.O. Box 2824
Duxbury, MA 02331
nord@town.duxbury.ma.us

*Richard R. MacDonald
Town Manager
878 Tremont Street
Duxbury, MA 02332
macdonald@town.duxbury.ma.us

*Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, LLP
1726 M Street N.W., Suite 600
Washington, DC 20036
dcurran@harmoncurran.com


Paul A. Gaukler