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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

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))	
		May 17, 2010

**PILGRIM WATCH'S REPLY TO NRC STAFFS INITIAL BRIEF TO THE BOARD'S
ORDER (REGARDING DEADLINES FOR SUBMISSION OF PARTIES)**

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 May 17, 2010

PILGRIM WATCH'S REPLY TO NRC STAFFS INITIAL BRIEF TO THE BOARD'S ORDER (REGARDING DEADLINES FOR SUBMISSION OF PARTIES)

The NRC Staff, unlike either Entergy or Pilgrim Watch ("PW") would bifurcate the hearing, and proposes a schedule that is even more absurd and unfair than that proposed by Entergy. The Staff, unlike Entergy, agrees that a settlement judge should be appointed. The Staff and PW are to some extent in agreement regarding the scope of the remand, but disagree about what costs go into the cost-benefit analysis and how the materiality of deficiencies in Entergy's meteorological model should be determined.

I. Scope of Remand

Depending on what the Staff means by "meteorological data and/or alternative meteorological models" (Staff Initial Brief, "Staff", at 2), the Staff's proposed issue does not appear to be significantly different from the issues proposed by PW. (Pilgrim Watch Response ASLB's May 5 Order, p. 1) It seems agreed that the remand allows analysis of "whether the effects of additional meteorological data or alternative meteorological modeling will identify newly cost-beneficial Severe Accident Mitigation Alternatives [SAMAs]" (Staff at 1), and whether changes in "meteorological modeling ... have a material impact on the economic cost matters raised and admitted as part of Contention 3." (Staff at 4, quoting the Commission Order (Com. Ord., at 37))

It also appears that PW and the Staff agree that the use of site-specific meteorological inputs and plume models will define the atmospheric transport and dispersion, which will in turn define the size and locations of areas impacted by a severe accident and the likely deposition of contaminants in those areas.

There are, however, areas of disagreement.

If, as PW expects to show, a proper variable plume model with proper inputs resulted in affected areas having different size, different locations, and different contaminant dispositions than the "answer" given by the straight-line Gaussian plume inputs and model used by Entergy, then Entergy's model is clearly inadequate and deficient, and the deficiencies would include the "wrong" answer as to both evacuation times (which obviously depend on the size and locations of the areas to be evacuated) and, the amount of "loss of economic infrastructure and tourism" (see Com. Ord., 29).

The Staff's view of "evacuation times" and what costs are included in "loss of economic infrastructure and tourism" is self-contradictory, in many ways nonsensical, and largely at odds with the Commission Order.

Evacuation Times: Staff acknowledges (at 4) that the Commission Order asked what impact the adequacy of the meteorological modeling could have on the evacuation time portions of Contention 3 (Commission Order, at 27). However, at 6, Staff says that, "Since Sensitivity Case 6 of the Pilgrim SAMA analysis bounded all issues regarding evacuation timing issues, the Board need not consider it any further in remand." Staff ignores that any potential validity of "Sensitivity Case 6" is based on, and limited to, the area and deposition predicted by the straight-line Gaussian model embedded in the code that Entergy used in its "sensitivity" analysis. The sensitivity case has no application to evacuation that likely would be predicted by a site specific variable plume model inputs. How many sensitivity studies Entergy might run using its deficient straight-line Gaussian plume inputs and model is simply irrelevant.

Economic Costs: On the one hand, the Staff says that economic costs are limited to "business value" and "tourism" (Staff at 5, 6); but on the other hand it correctly says that the Commission included in costs "economic infrastructure." (Staff at 7) The Staff does not seem to understand that "loss of economic infrastructure" includes the loss of, and costs to remediate the land and facilities that make business, tourism and other economic activity possible.

Business and Tourism: Common sense should have made clear to the Staff, and to Entergy, that the economics of "tourism" and "business value" not only depends on the size and locations of the areas contaminated, but that an affected area must be decontaminated and returned to its pre-accident status before, if tourism and business activity are to resume. Tourists will not visit, and business will not be conducted, in areas that have not been cleaned up. "Business value" is dependent upon a functioning infrastructure, the ability and willingness of employees to enter and work in the area where the businesses are located; the availability of customers and customers willing to buy their products; and those factors, in turn, require decontamination of the impacted areas to the state and local governments' and public's satisfaction.

Decontamination and Health Costs: Both the Staff and Entergy fail to recognize the important distinction between the costs that, according to them, the Commission took off the table, and costs that even Entergy admits are embedded in the MACCS2 code. According to Entergy, the results of the ATMOS model are stored for use by EARLY (that calculates consequences due to radiation exposure in the first seven days) and CHRONC (that simulates longer term exposure and decontamination costs and economic inputs. (Entergy, 3-4); and “any modifications to the ATMOS model or other meteorological model inputs will necessarily result in changes to the EARLY and CRONC outputs and will be reflected in the overall outcome of the MAACS2 analysis.” (Entergy, 4) Even if we were to assume, incorrectly, that all “decontamination or clean-up costs,” or specific “medical costs, loss of productivity” etc. are not within the scope of Contention 3 (see Com. Or., pp. 29-30), the inputs into, and assumptions embedded in, EARLY and CHRONC plainly are; and the “changes to the EARLY and CHRONC outputs” will reflect not only the “overall outcome of the MACCS2 analysis, but also the costs of “business and tourism.”

Bifurcation: Although the Staff recognizes that the issue before the Board is whether “additional SAMAs would be identified as cost-beneficial when utilizing additional meteorological data and alternative meteorological models” (Staff at 8, underlining added; see also Staff at 2: “additional meteorological data and/or alternative meteorological models”) the Staff inconsistently proposes that the hearing on this issue should be bifurcated into at least two stages. Both PW and Entergy oppose bifurcation.

Apparently, the first stages would evaluate what would result if Entergy simply changed some meteorological inputs (data and models) into the MACCS2 code it used before; neither “any other changes to the modeling” (Staff at 5) nor “the meteorological effects on economic costs (Staff at 8) would be considered. The fundamental problems with the Staff’s proposal are (1) that it is not possible to show any particular change or changes are “material” without considering the “effects on economic costs,” (2) it ignores the Commission’s recognition of the overlap between “arguments challenging the sufficiency of ‘input’ data used and challenging the model used” (Com. Ord., at 14), and (3) it also ignores the

Commission's recognition that "an additional factor of use of other assumptions or models" could plausibly change the cost benefit conclusions. (Com. Ord., at 39).

Inputs, models and assumptions are all interrelated and, in various combinations, could show that other SAMAs are cost-beneficial. Only the Staff proposes a bifurcated approach or suggests that some concerns should be evaluated independently of any other.

II. Settlement Judge

Staff and Pilgrim Watch support the appointment of a settlement judge.

III. Staff's Proposed Schedule

Like Entergy, the Staff apparently sees no reason that Pilgrim Watch should be able to prepare and present its case. The Staff's proposed schedule is even more absurd and unfair than Entergy's. The Staff recommends that PW's Final Witness List be May 28 (11 days after this filing is submitted and before a decision on the scope of the proceeding is made); and its evidence for the hearing be filed by June 18, 2010, even though it knows that Pilgrim Watch's two key witnesses (Dr. Bruce Egan, meteorologist, and Arnold Gundersen (nuclear engineer) will not be available to begin work until early September. Pilgrim Watch, unlike Entergy or the NRC, has neither the staff nor funds to prepare on a rushed schedule.

The unfairness of the Staff's position is most plainly shown its statement that it did not "propose an earlier date of the hearing" because of the other commitments and obligations of "the Staff's experts." The fact that two of Pilgrim Watch's experts are Jewish and that "Rosh Hashanah and Yom Kippur occur on September 8-10, 2010, and September 17, 2010" might matter to the Staff, but when Pilgrim Watch's experts are "unable to begin their review" and "able to travel to participate in a hearing" is not. (Staff at 7, Fn. 27)

Unlike Entergy's and PW's proposal, and the Boards' prior scheduling order, the Staff abandons simultaneous exchanges and would have PW lay its evidence on the table one month ahead of when

Entergy and NRC Staff must do so. This may avoid the Staff's experts scheduling problems, but it does so at the cost of fundamental fairness.

We note that the Staff's abandonment of simultaneous exchange extends the proposed schedule from the usual 8 to 10 weeks to almost 4 months. With the usual time frame and procedures, the schedules of the Staff's and PW's experts could be accommodated if the Hearing were held after Thanksgiving, about a month and one-half after the hearing date proposed by the Staff. The end result is that PW's proposal is fair, reasonable (adds approximately 6 weeks to Staff's), is not out of line with precedents set at other sites – examples, Oyster Creek and EVY – and does not risk damaging public trust in the processes of NRC and the law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Lampert". The signature is written in black ink and is positioned above the typed name and address.

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May 17, 2001

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

In the Matter of

Docket # 50-293-LR

Entergy Corporation

Pilgrim Nuclear Power Station

License Renewal Application

May 17, 2010

CERTIFICATE OF SERVICE

I hereby certify that *Pilgrim Watch's Reply to NRC Staff's Initial Brief To The Board's Order (Regarding Deadlines for Submission of Parties)* was served May 17, 2010 in the above captioned proceeding to the following persons by electronic mail this date, followed by deposit of paper copies in the U.S. mail, first class.

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