**Separate Statement of Administrative Judge Ann Marshall Young, in the Matter of *Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc.* (Pilgrim Nuclear Power Station), Docket No. 50-293-LR, ASLBP No. 06-848-02-LR**

On the surface my colleagues' approach of posing their questions to the parties for their experts to address, prior to ruling on the timeliness of Pilgrim Watch's raising of concerns regarding the NRC's practice of using averaging and mean consequence values in SAMA analyses,[1] seems appropriately calculated to lead to a more informed decision on the timeliness question. I do not take lightly opposing such a course, but find that the reality underlying the surface requires it. In short, I find the approach to be inefficient, unduly burdensome to the parties (which further reduces overall efficiency), and in any event unnecessary, given that the matter was, quite arguably, presented on a timely basis. In light of the Commission's often-expressed concerns with efficiency in NRC adjudication proceedings, it would, in my view, make more sense to allow the parties, on at least a provisional basis, to present evidence on all matters relating to averaging and mean consequence values (including their responses to the Board majority's questions) as part of their prefiled written testimony. The Board could very appropriately take under advisement all questions relating to whether, how, and the extent to which we should consider such matters, and resolve them, in context, much more effectively and efficiently.

In my estimation, the majority's approach saddles the parties with added work that is not likely to produce any significant benefit but will instead distract them from preparation for the hearing and could, contrary to the majority's assessment, lead to multiple inefficiencies. For example, it could: (1) prompt objections from some or all

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[1] *See Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc*. (Pilgrim Nuclear Power Station),CLI-10-22, 72 NRC __, __ (slip op. at 8 n.34) (Aug. 27, 2010). I use here and elsewhere in this Statement the terms "averaging" and "mean consequence values" and similar terms simply as short means of referring to the Commission's discussion of these and related issues in remanding Contention 3 to the Board. *See infra* text accompanying notes 19 and 20.

parties (notwithstanding the Board majority's admonition not to include opinions on either each other's pleadings or the merits of the evidence on the averaging/mean consequence values issue), and responses thereto; (2) require further clarification questions, responses, and more possible objections, etc.; (3) devolve into essentially a written "mini-hearing" that must be concluded before the actual hearing and preparation for it can effectively proceed forward; and (4) ultimately, as a result of the preceding, delay the actual hearing on the remand now before us.

The additional work that the majority's approach will require of the parties could, in addition to interfering with their preparation for the main hearing, actually lower the quality of the evidence produced for the main hearing – not only by the distracting and time-consuming aspects of it, but also by virtue of the fact that provision of the responses called for in a relative vacuum rather than in the context of the other evidence in the main hearing might well, I expect, be of less value to the Board, and ultimately to all concerned parties and entities on appeal.[2] Allowing evidence on the "averaging/ mean consequence values" issue to be presented as part of the prefiled testimony and hearing should not, however, be significantly more burdensome, notwithstanding that it could call for additional evidence from the parties on the issue.[3] Indeed, based on its Statement of Material Facts submitted in support of its summary disposition motion,[4] Applicant can be expected to produce evidence on the matter in any event, which in turn can be expected to elicit response in the prefiled rebuttal testimony.

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[2] I would emphasize that nothing in this statement should be taken by any party to encourage any of the potential negative eventualities with which I am concerned.

[3] I do not concur that any "exhaustive" or even significant additional briefing would be required, particularly given that, as the Commission has recognized, in considering any NEPA requirements a "practical rule of reason" governs. CLI-10-22, 72 NRC at __ (slip op. at 9) (citing *Communities, Inc. v. Busey,* 956 F.2d 619, 626 (6th Cir. 1992); CLI-10-11, 71 NRC __ (slip op. at 37); *Hells Canyon Alliance v. United States Forest Serv.,* 227 F.3d 1170, 1184-85 (9th Cir. 2000)).

[4] *See infra* text accompanying note 10.

I do note the lack of clarity that leads the Board majority to pose their questions. For example, the terms "averaging" and "mean consequence values" as used by the Commission[5] are concepts – or a collective concept – that may well have more than one possible interpretation and usage and/or be used at more than one stage of the SAMA analysis and modeling in the MACCS2 code. I endeavor herein to address two potential areas of usage and their legal and practical significance in this proceeding.

First, in consulting the User's Guide for the MACCS2 code,[6] I find various references to "mean consequence values," "mean consequence results," and averaging,[7] some of which appear in discussions of plumes[8] and deposition processes in the ATMOS part of the code.[9] This would seem to support straightaway a conclusion that these usages of the terms are implicitly encompassed within Pilgrim Watch's challenge in Contention 3 to the Gaussian plume model and the modeling processes associated with that – which would lead to a conclusion that the subject at issue was timely raised, at least as to these usages.

I note also that the first two asserted facts stated by Entergy in its Statement of Material Facts supporting its May 17, 2007, Motion for Summary Disposition of Contention 3 were the following:

1. A SAMA analysis requires that hundreds of simulations of the model code be performed in order to obtain statistically relevant results.
2. The SAMA cost-benefit evaluation looks at whether a SAMA is potentially cost effective by measuring the mean of the total costs avoided versus the cost of implementing the SAMA.[10]

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[5] See *Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc*. (Pilgrim Nuclear Power Station),CLI-10-11, 71 NRC __, __ (slip op. at 38-39) (Mar. 26, 2010); CLI-10-22, 72 NRC at __ (slip op. at 8 n.34).
[6] NUREG/CR-6613, SAND97-0594, Code Manual for MACCS2: Volume 1, User's Guide, D. Chanin & M.L. Young (May 1998).
[7] *See*, *e.g.*, *id*. at 2-4, 2-17, 2-19, 5-3.
[8] *Id*. at 2-19.
[9] *Id*. at 5-3
[10] Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 [hereinafter Summary Disposition Motion], Attached Statement of Material Facts at 1 (May 17, 2007) [hereinafter Statement of Material Facts].

Entergy continued, in the "General" subheading of its Statement, to assert that the total cost avoided in the SAMA analysis includes "offsite costs related to population dose risk ('PDR') . . . in person-rem per year, . . . off-site economic cost risk ('OECR') . . . in dollars per year, [and] . . . on-site exposure costs and . . . economic costs"; that MACCS2 is used to determine the off-site costs but not the on-site costs; and that "the OECR accounted for 54% of the total costs and the PDR accounted for 32% of the total costs" in the Pilgrim SAMA analysis.[11]

Pilgrim Watch – which at that point was no longer represented by counsel (and still today proceeds *pro se*) – disputed all of these asserted facts. Regarding Entergy's Statement 2, Intervenor among other things stated that, instead of using the mean of total costs avoided, Entergy "should make a comparison to the *sum* of the total costs avoided, not the mean."[12]

The NRC Staff notes this use by Pilgrim Watch of "the term 'mean,'" but argues that this was "not in the context of mean consequence values."[13] Staff argues further (in essence conceding that Pilgrim Watch nonetheless did address the subject now at issue in some form and/or to some extent) that, even if Pilgrim Watch "raised" the issue in opposing summary disposition, this was not timely, nor did Pilgrim Watch raise the issue on appeal or in any subsequent pleadings until the Commission itself spoke of it.[14]

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[11] *Id*. at 1-2.
[12] Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 at 6.
[13] NRC Staff Brief Regarding Timeliness of Pilgrim Watch's Raising of Means Consequence Concern at 9 (Oct. 1, 2010) (citations omitted).
[14] *Id.* at 9 n.42 (citations omitted). As for Pilgrim Watch, it argues that Contention 3 addressed not just input data but "input parameters" and "parameterizations" that encompass the averaging and mean consequence values at issue and affect the SAMA cost-benefit conclusions, and refers to parts of affidavits of its experts, including that of David Chanin, who is apparently the author of the MACCS2 User's Guide referenced in note 6. *See* Pilgrim Watch's Brief: Petitioner Timely Raised Issue of NRC's Practice to use Mean Consequence Values in SAMA Analysis at 2-13 (Oct. 1, 2010); Pilgrim Watch Reply to Entergy's and NRC Staff's Briefs Regarding Timeliness of Pilgrim Watch's

For its part, Entergy at the time moved to strike (among other things) Pilgrim Watch's response to Statement 2, arguing that it should be rejected as beyond the scope of Contention 3 because it was not raised as part of Contention 3 and was unsupported by a qualified expert.[15] Pilgrim Watch responded to Entergy's "beyond the scope" argument by stating among other things that it "properly brought this forward when directly answering Material Fact number 2 as is called for under 10 CFR

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Raising Averaging Practice Concerns at 2-4 (Oct. 8, 2010) [hereinafter PW Timeliness Reply]. Staff responds that "averaging cost concerns" and mean consequence values are not "inputs" into the MACCS2 code and that a "parameter" is merely "a piece of data or an object that the program or model manipulates; it is not the program or the technique employed." NRC Staff's Reply to Pilgrim Watch's Brief at 10 (Oct. 8, 2010) [hereinafter Staff Timeliness Reply]; *see id*. at 2-9. Entergy argues among other things that Contention 3 as originally submitted cannot be construed to encompass the subject at issue and that Pilgrim Watch has not shown that it meets the requirements of 10 C.F.R. § 2.309(c), (f)(2); Entergy also focuses on an asserted distinction between *input* parameters and mean consequence *output* values. *See* Entergy's Brief on Untimeliness of Pilgrm Watch Concerns Regarding use of Mean Values (Oct. 1, 2010); Entergy's Reply Brief on the Untimeliness of Pilgrim Watch Concerns Regarding the use of Mean Values (Oct. 8, 2010) [hereinafter Entergy Timeliness Reply].

I do not find Entergy's and Staff's arguments regarding the meaning of "parameter" and the distinctions between inputs and outputs altogether persuasive. Although it is clear that Pilgrim Watch's arguments in this regard are not as precise as they might be, I do take into account its *pro se* status at this point. *See* PW Timeliness Reply at 15; *Consolidated Edison Co or N.Y.* (Indian Point, Unit 2) *and Power Authority of the State of N.Y.* (Indian Point, Unit 3), LBP-83-5, 17 NRC 134, 136 (1983). And it would seem, from a "plain language" perspective, that in order to obtain outputs consisting of "mean consequence values" there would need to be some defining aspects of the modeling that lead to the production of such outputs, and that the use of the term "parameter" by an unrepresented party to describe such defining aspects is not an unreasonable use of the term under the circumstances. Nor would such usage – again, from a "plain language" perspective – appear to be altogether inconsistent with the concept expressed in one of the definitions of the term found in Webster's Third New International Dictionary (1976), namely, "an independent variable through functions of which other functions may be expressed." *See also* Staff Timeliness Reply at 8-10; Entergy Timeliness Reply at 3 n.4.

As for arguments on the standards of 10 C.F.R. § 2.309(c), (f)(2), it is true that Pilgrim Watch does not make any arguments on the basis of such standards, other than to say that they do not apply because the original contention encompassed the subject(s) at issue. I find these standards largely irrelevant to my analysis, which looks to whether the original contention implicitly encompassed the subject(s) at issue, and whether evidence related to the subject(s) is material to the contention and related issues as developed in the course of the proceeding.

[15] Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 at 12-13 (July 9, 2007)

2.710(a).[16] I find no ruling striking the response in question in the Board Majority's Memorandum and Order granting summary disposition of Contention 3,or elsewhere.[17]

Moreover, although the Commission stated in CLI-10-11 that new arguments and claims not "fairly encompassed" in or "reasonably inferable" from Contention 3 as submitted were properly rejected by the Board majority in granting summary disposition, Pilgrim Watch's response to Entergy's Statement of Material Fact 2 is not included in the examples of such arguments and claims mentioned by the Commission. The examples the Commission provided appear to be, with one exception, not part of Pilgrim Watch's direct responses to the Statements of Material Fact, but were limited to its "Discussion – Areas of Dispute," following those responses.[18] In addition, Pilgrim Watch's response to Entergy's Statement of Material Fact 2 does not contain any of the sort of information cited by the Commission that might arguably be distinguished as going beyond what is necessary or integral to responding to the Statement and arguably raising entirely new information "beyond the scope" of the statement of asserted material fact that prompted it.

Again, it is not completely clear whether the Commission intended to include the concept addressed in Entergy's Statement of Material Fact 2 in what it directed us to consider. It seems, however, at the very least arguable that the Commission was referring to the same process of obtaining a mean of total cost avoided and comparing this to the cost of implementing various SAMAs, or severe accident mitigation alternatives, when it stated the following in CLI-10-11 and CLI-10-22:

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[16] Pilgrim Watch's Answer Opposing Entergy 's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 at 19-20 (July 17, 2007) [hereinafter PW Answer to Motion for Summary Disposition].

[17] *See* LBP-07-13, 66 NRC 131 (2007).

[18] *See* CLI-10-11, 71 NRC at __ (slip op. at 29-31); PW Answer to Motion for Summary Disposition at 46, 50-92.

> We conclude by emphasizing that the issue here is whether the Pilgrim SAMA analysis resulted in erroneous conclusions on the SAMAs found cost-beneficial to implement. . . .
> . . . .
> The SAMA analysis is a site-specific *mitigation* analysis. For a mitigation analysis, NEPA "demands 'no fully developed plan' or 'detailed examination of specific measures which will be employed' to mitigate adverse environmental effects." As a mitigation analysis, NRC SAMA analysis is neither a worst-case nor a best-case impacts analysis. It is NRC practice to utilize the *mean* values of the consequence distributions for each postulated release scenario or category – the mean estimated value for predicted total population dose and predicted off-site economic costs. These mean consequence values are multiplied by the estimated frequency of occurrence of specific accident scenarios to determine population dose risk and offsite economic cost risk for each type of accident sequence studied. There is in SAMA analysis, therefore, an averaging of potential consequences. As a policy matter, license renewal applicants are not required to base their SAMA analysis upon consequence values at the 95th percentile consequence level (the level used for the GEIS severe accident environmental impacts analysis). Unless it looks genuinely plausible that inclusion of an additional factor or use of other assumptions or models may change the cost-benefit conclusions for the SAMA candidates evaluated, no purpose would be served to further refine the SAMA analysis, whose goal is only to determine what safety enhancements are cost-effective to implement.[19]
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> . . . it is NRC practice for SAMA analysis to utilize mean consequence values, which results in an averaging of potential consequences.[20]

Assuming that the matter addressed by Entergy in its 2007 Statement of Material Fact 2 and by Pilgrim Watch in its Answer thereto is coextensive with, or at least is directed to, the same subject the Commission was contemplating above, then it would seem quite arguable that facts relating to this subject are "material facts" regarding Contention 3, which would thus very arguably be admissible in litigation and adjudication of Contention 3. This would be the case, however technically correct or precise Pilgrim Watch was or was not in setting forth and supporting its own asserted facts in this regard – matters that go more to the merits of the issues, as opposed to the basic question of whether they were, considering all relevant circumstances, appropriately raised or presented by Intervenor.

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[19] CLI-10-11, 71 NRC at__ (slip op. at 38-39) (citations omitted).
[20] CLI-10-22, 72 NRC at __ (slip op. at 8 n.34) (citations omitted).

I note that Entergy now contends that it was in Statement of Material Fact 2 merely "describing the nature of a SAMA analysis to provide context and background for its summary disposition motion."[21] Although this characterization is a fair one in some respects, it seems also fair to observe that Entergy obviously considered those facts stated in its Statement of Material Fact 2 to be "material." They would seem also to be material in the plain sense that their resolution will affect the outcome of the issue as summarized by the Commission, namely, "whether the Pilgrim SAMA analysis resulted in erroneous conclusions on the SAMAs found cost-beneficial to implement."[22] Indeed, it would seem to be impossible to determine the outcome of this issue without some evidence on the relationship between the total consequences or costs avoided and the cost of implementing any additional SAMA(s) – whether produced through the use of mean consequence values or some other process such as summing the costs, as Intervenor has asserted.[23] And this would seem arguably not to be approaching "on a generic basis the use of probabilistic techniques that evaluate risk,"[24] but rather to be assessing the modeling and its results only insofar as they relate to the Pilgrim plant, so that the issue as summarized by the Commission may be resolved.

I recognize that in NRC adjudications, in addition to steps taken in past years to render more strict the contention admissibility standards,[25] there has recently been a

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[21] Entergy Timeliness Reply at 5 (citing Summary Disposition Motion at 11).
[22] *See supra* text accompanying note 19.
[23] *See supra* text accompanying note 12.
[24] LBP-06-23, 64 NRC 257, 340 (2006); *see* Entergy Timeliness Reply at 5 n.12.
[25] *See* Rules of Practice for Domestic Licensing Proceedings – Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168 (Aug. 11, 1989); *Duke Energy Corp*. (Oconee Nuclear Station, Units 1, 2, and 3), CLI-99-11, 49 NRC 328, 334 (1999); Changes to Adjudicatory Process – Final Rule, 69 Fed. Reg. 2182 (Jan. 14, 2004). Prior to adoption of the 1989 changes, some had argued that, under prior practice, too many "insignificant, meritless, hypothetical and time-consuming contentions" had been admitted, which contributed to inefficiency in the process. 54 Fed. Reg. at 33,168-69, The Commission concluded that the new rules would promote efficiency. *Id.* at 33,179.

trend toward requiring finer and finer definition of "issues" raised in contentions.[26] Further, as noted above, the Commission in CLI-10-11 indicated that the facts that may be presented in response to a motion for summary disposition should be limited to those "reasonably encompassed" by or "reasonably inferable" from a submitted contention.[27] I also recognize that responding to a statement of material fact in support of a motion for summary disposition is not precisely the same thing as raising a concern on a party's own initiative.

On the other hand, it may also be observed that, whether in a summary disposition or hearing context, to the extent that one party puts forth asserted facts on a particular issue, it would defy any reasonable notion of fundamental fairness to deny an opposing party in the same proceeding *any* opportunity to present facts in response, to dispute those asserted material facts. An objection might be raised to presenting facts "beyond the scope of the direct evidence," but to deny altogether an opportunity to respond would seem to violate the right to due process. And, as Pilgrim Watch argued on Entergy's motion to strike its response, it was in that response simply "directly answering Material Fact number 2 as is called for under 10 CFR 2.710(a)."[28]

It is true that NRC adjudicatory proceedings are different from the general model of adjudication in a number of ways, including in the requirements and restrictions related to contentions. But the NRC procedural rules permit summary disposition motions, as well as responses thereto, clearly setting forth a specific right to respond to a moving party's statement of material facts. Indeed, any party opposing summary disposition in an NRC proceeding would be highly motivated to so respond, given that all

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[26] *See*, *e.g.*, *Crow Butte Resources, Inc.* (License Renewal for In Situ Leach Facility, Crawford, Nebraska), CLI-09-9, 69 NRC 535, 563 (2009); *Progress Energy Florida, Inc*. (Combined License Application, Levy County Nuclear Power Plant, Units 1 and 2), 71 NRC __, __ (slip op. at 5-7) (Jan. 7, 2010).
[27] *But see supra* text accompanying note 18.
[28] *See supra* note 16.

facts asserted by the moving party "will be considered to be admitted unless controverted by the statement required to be served by the opposing party."[29] It may thus be said that Pilgrim Watch was appropriately complying with NRC regulatory requirements in "directly answering Material Fact number 2." Possibly there is an anomaly in the rules, as regards the relationship between summary disposition and the contention admissibility standards, but the remedy for this is not to punish a party in an ongoing adjudicatory proceeding who relies on the rules and specifically complies with them.

In this proceeding Applicant has argued to the effect that various conservatisms and sensitivity analyses will render any differences produced by the changes urged by Pilgrim Watch insignificant, in that any such differences would not be sufficient to make any additional SAMAs cost-beneficial.[30] It appears to make the same sort of argument with regard to the process of "measuring a mean of total costs avoided . . . ," as mentioned in its Statement of Material Facts.[31] Applicant may well be correct in these assessments. However, as the Commission has recognized, at least with regard to conservatisms and sensitivity studies,[32] Entergy's arguments and assertions were challenged by Pilgrim Watch in response to Entergy's summary disposition motion. Intervenor also challenged Entergy's arguments and assertions relating to the use of mean consequence values and averaging. And again, these "mean consequence values/averaging" issues would also seem to fall under, and be material to, the broad, "bottom-line" issue the Commission has remanded – namely, "whether the Pilgrim SAMA analysis resulted in erroneous conclusions on the SAMAs found cost-beneficial to

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[29] 10 C.F.R. § 2.710(a); *see* generally10 C.F.R. §§ 2.710, 2.1205(c).
[30] *See*, *e.g.*, Statement of Material Facts generally. Similar arguments have been made in other pleadings and arguments, but I will not attempt to recount every such instance here.
[31] Statements of Material Facts at 1; *see also id*. at 9-10.
[32] *See*, *e.g.*, CLI-10-11, 71 NRC at __ (slip op. at 18-27).

implement."[33] It seems at a minimum arguable that, much as it raises the conservatisms and sensitivity studies, Entergy has raised these averaging/mean consequence values issues in the manner of raising "defenses" to Pilgrim Watch's "charges" in Contention 3, with respect to the effect such averaging has on whether any additional SAMAs might be cost-beneficial to implement.[34]

Based on the preceding analysis, I would find, as an evidentiary matter, that Pilgrim Watch should appropriately be permitted – at least on a provisional basis – to present evidence and argument on these matters, which are very arguably material to Contention 3 and the issues remanded by the Commission, in order that the record in this proceeding will be complete and adequate for informed fact-finding and decision-making on the part of the Board, as well as for informed consideration in any further appeals in this proceeding.[35] Approached from an evidentiary perspective, the

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[33] *See supra* text accompanying note 19.

[34] It may shed some light on the situation now at issue to compare parts of an applicant's response to an intervenor's contention in an NRC proceeding, in either a summary disposition or hearing context, to "defenses" of the sort a defendant in a court proceeding might raise in response to charges brought by a plaintiff (be it an action on a contract, a lawsuit alleging some tortious conduct, etc., etc.). In such circumstances (which also arise in administrative proceedings in many of the myriad federal and state agencies in which adjudicatory proceedings are conducted), the charges and any defenses brought forward, along with various methods of fine-tuning, clarifying, and narrowing issues, establish as a practical matter (often very effectively and efficiently) the issues to be litigated, and the plaintiff is obviously accorded the right to present evidence regarding any defenses of the defendant or respondent. This of course oversimplifies the multitude of circumstances that may arise in numerous types of legal proceedings, in which there are a vast variety of particular rules regarding the circumstances in which allegations and defenses may be raised and responded to – but the general principle stands, and there would seem to be no reason why it should not stand as well in NRC proceedings.

[35] I would nonetheless suggest that Pilgrim Watch should at this point address the majority's questions. I would further suggest that it should in any event, whatever ruling is ultimately issued on the matters herein addressed, proceed forward with an understanding that it should be prepared to present evidence on its meteorological concerns, and on the results of the SAMA analysis changing only those parts of the analysis relating to those concerns, saving for later any additional evidence it might potentially be permitted to present on evacuation and/or economic cost issues. *See* Letter from Paul Gaukler to Mary Lampert (Oct. 20, 2010)

"timeliness" question should, in other words, be resolved in favor of permitting, at least provisionally, the presentation of such evidence by Pilgrim Watch.[36]

If we were to proceed in this fashion, and ultimately to find the "mean consequence values/averaging" issues or concerns not to have been timely or otherwise appropriately presented, I expect the Board would be quite capable of disregarding any evidence presented on the issues by Pilgrim Watch. The same should be true if the evidence were ultimately to prove me to be incorrect in drawing comparisons between the issue raised in Entergy's Statement of Material Fact 2 and what the Commission describes in CLI-10-11 and CLI-10-22 regarding mean consequence values and averaging of consequences, and/or between the use of any averaging and mean consequence values in the ATMOS part of the MACCS2 code and Pilgrim Watch's challenges to the modeling involved with the Gaussian plume model,

In conclusion, I offer this statement in the interest of more efficient and effective case management in the future, in keeping with the Commission's long-standing and appropriate concerns with efficiency and fairness in adjudicatory proceedings. In my view, the concerns on which my observations focus call for some level of attention, both in this regard and with regard to some relevant and significant legal principles respecting adjudication generally, and NRC adjudication more specifically. Although I do not "fully" address these matters here, but rather merely highlight them as I find them to be relevant at this point, I do now respectfully state my concerns with these interests in mind.

***/RA/***

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Administrative Judge Ann Marshall Young

Oct. 26, 2010

[36] Pilgrim Watch will, of course, in any event have the right to make an offer of proof as to any excluded evidence.