

Hearing Docket

From: Gaukler, Paul A. [paul.gaukler@pillsburylaw.com]
Sent: Wednesday, November 03, 2010 3:46 PM
To: mary.lampert@comcast.net
Cc: Docket, Hearing; OCAAMAIL Resource; Young, Ann; Cole, Richard; Abramson, Paul; Uttal, Susan; Jones, Andrea; Harris, Brian; msylvia@townhall.plymouth.ma.us; nord@town.duxbury.ma.us; macdonald@town.duxbury.ma.us; sshollis@duanemorris.com; Martha.Coakley@state.ma.us; Matthew.Brock@state.ma.us; Mitchell, Matilda; Solomakos, Matina; Tucker, Katie; Glew Jr, William; Cho, Jeanne; Lewis, David R.; Parker, Jason B.
Subject: Response to Pilgrim Watch October 27 Letter Regarding Pilgrim Watch 6th and 7th Supplemental Disclosures
Attachments: Response to PW Disclosures letter (11-3-10).pdf

Mary, attached is a letter responding to Pilgrim Watch's October 27, 2010 letter regarding Pilgrim Watch's Sixth and Seventh Supplemental Disclosures that we are sending out this afternoon. We look forward to hearing from you in regard to this letter.

Paul Gaukler
Counsel for Entergy

DOCKETED

<<Response to PW Disclosures letter (11-3-10).pdf>>

November 3, 2010 (3:46pm)

Paul Gaukler | Pillsbury Winthrop Shaw Pittman LLP

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Tel: 202.663.8304 | Fax: 202.663.8007 | Cell: 301.602.5881
2300 N Street, NW | Washington, DC 20037-1122
Email: paul.gaukler@pillsburylaw.com
Bio: www.pillsburylaw.com/paul.gaukler

Received: from mail2.nrc.gov (148.184.176.43) by TWMS01.nrc.gov
(148.184.200.145) with Microsoft SMTP Server id 8.1.393.1; Wed, 3 Nov 2010
15:46:26 -0400

X-Ironport-ID: mail2

X-SBRS: 5.3

X-MID: 28638520

X-fn: Response to PW Disclosures letter (11-3-10).pdf

X-IronPort-Anti-Spam-Filtered: true

X-IronPort-Anti-Spam-Result:

AhEBANdY0UzM4/YRmWdsb2JhbAChZxUBAQEBAQgLCgcRIsAtgwuCOwSFLlgxBg

X-IronPort-AV: E=Sophos;i="4.58,290,1286164800";

d="pdf?scan'208,217";a="28638520"

Received: from dcmf02.pillsburywinthrop.com ([204.227.246.17]) by
mail2.nrc.gov with ESMTP; 03 Nov 2010 15:46:25 -0400

Received: from [172.16.2.11] by dcmf02.PillsburyWinthrop.com with ESMTP
(DCPWSP SMTP Relay (Email Firewall v6.3.2)); Wed, 03 Nov 2010 15:46:15 -0400

X-Server-Uuid: 9BA6C334-D0DE-48DE-8906-DFAF2974D549

Received: from DW2XM02.PillsburyWinthrop.com ([172.16.2.60]) by
dcxims01.PillsburyWinthrop.com with Microsoft SMTPSVC(6.0.3790.4675); Wed, 3
Nov 2010 15:46:15 -0400

X-MimeOLE: Produced By Microsoft Exchange V6.5

Content-Class: urn:content-classes:message

MIME-Version: 1.0

Subject: Response to Pilgrim Watch October 27 Letter Regarding Pilgrim
Watch 6th and 7th Supplemental Disclosures

Date: Wed, 3 Nov 2010 15:46:15 -0400

Message-ID:

<47CAB5EECB89F4280DD8914EBD6FCFD9CBD07@DW2XM02.PillsburyWinthrop.com>

In-Reply-To:

<75EFF893C27E8740A74481F0AA350859A9D44A08@DW2XM02.PillsburyWinthrop.com>

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

Thread-Topic: Response to Pilgrim Watch October 27 Letter Regarding
Pilgrim Watch 6th and 7th Supplemental Disclosures

thread-index: ActwoLwd3PN5yhLHSWeXFDjYgwZrQQAAiNvAAroP7yA=

References:

<75EFF893C27E8740A74481F0AA350859A9D44A08@DW2XM02.PillsburyWinthrop.com>

From: "Gaukler, Paul A." <paul.gaukler@pillsburylaw.com>

To: mary.lampert@comcast.net

CC: hearingdocket@nrc.gov,
ocaamail@nrc.gov,
Ann.Young@nrc.gov,
Richard.Cole@nrc.gov,
Paul.Abramson@nrc.gov,

susan.uttal@nrc.gov,
andrea.jones@nrc.gov,
brian.harris@nrc.gov,
msylvia@townhall.plymouth.ma.us,
nord@town.duxbury.ma.us,
macdonald@town.duxbury.ma.us,
sshollis@duanemorris.com,
Martha.Coakley@state.ma.us,
Matthew.Brock@state.ma.us,
"Mitchell, Matilda" <MMitchell@duanemorris.com>,
Matina.Solomakos@nrc.gov,
Katie.Tucker@nrc.gov,
"Glew Jr, William" <wglew@entergy.com>,
"Cho, Jeanne" <jcho91@entergy.com>,
"Lewis, David R." <david.lewis@pillsburylaw.com>,
"Parker, Jason B." <jason.parker@pillsburylaw.com>

Return-Path: paul.gaukler@pillsburylaw.com

X-OriginalArrivalTime: 03 Nov 2010 19:46:15.0989 (UTC)

FILETIME=[C7078650:01CB7B8F]

X-WSS-ID: 60CF638D26S120157-01-01

Content-Type: multipart/mixed;

boundary="----_=_NextPart_001_01CB7B8F.C711F9A8"



Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW | Washington, DC 20037-1122 | tel 202.663.8000 | fax 202.663.8007

Paul A. Gaukler
Phone: 202.663.8304
paul.gaukler@pillsburylaw.com

November 3, 2010

BY FEDERAL EXPRESS

Ms. Mary Lampert
148 Washington Street
Duxbury, MA 02332

Dear Ms. Lampert:

Thank you for your October 27, 2010 response to our request that Pilgrim Watch identify its experts with respect to meteorological issues, and provide their relied upon bases, and provide copies of specific documents identified in its disclosure. While we appreciate your response, it is inadequate in several respects.

The first paragraph of your response suggests that Pilgrim Watch is not able to identify the analysis and authority on which its witnesses will base their opinions because Pilgrim Watch has not yet engaged expert witnesses. Your letter states that:

When the Commission responds [to Pilgrim Watch's motion for clarification], we expect that the scope will become crystal clear; and at that time Pilgrim Watch will enter into contracts with expert witnesses and provide a complete witness list and relied upon basis.

(Emphasis added). We are very concerned with this statement, not only because it leaves us in the dark concerning the issues against which we must defend but also because we are concerned that Pilgrim Watch is not endeavoring to meet the Board's scheduling Order requiring the parties to "simultaneously submit their prefiled direct testimony on the meteorological modeling issues by January 3, 2011." We see no reason why Pilgrim Watch should be unable to work on and disclose the bases for its testimony on the meteorological modeling issues; and we want you to clearly understand that Entergy will oppose any request by Pilgrim Watch to delay the submission of its prefiled expert testimony on the meteorological modeling issues beyond January 3, 2011 because of any failure to timely engage and employ experts for the preparation of its pre-filed testimony.

November 3, 2010

Page 2

Furthermore, while this may seem repetitive, it is still unclear to us which expert(s) you intend to rely upon with respect to Pilgrim Watch's meteorological modeling claims. We assume that Dr. Egan will testify with regards to these claims. Please inform us if you expect Mr. Chanin and Dr. Lyman – or any other expert witness – to testify on meteorological modeling issues.¹ Additionally, as your letter stated, 10 CFR § 2.336(a)(1) requires Pilgrim Watch to provide a “copy of the analysis or other authority upon which that person bases his or her opinion.” Therefore, please provide the relied upon bases of your experts for the meteorological modeling issues in your reply to this letter.

With regards to Pilgrim Watch's 6th and 7th disclosures, we appreciate your working with Dr. Egan to quickly produce your documents that we could not easily access on the internet. As you suggested, we reviewed Dr. Egan's Declaration for the NYAGO summary disposition motion, but only one of the twenty-one documents we requested is an exhibit to Dr. Egan's NYAGO declaration.² You suggest that Dr. Hanna may be able to access copies of these other documents. But he is busily engaged and, under the Commission's regulations, it is the responsibility of every party to attend to its own document disclosures. Entergy is not required to expend resources to conduct searches for documents that you have identified as relevant to your claims and which presumably you or Dr. Egan have already gathered. As such, please provide copies of the remaining twenty documents identified in Attachment 1 to our October 20, 2010 letter in accordance with 10 CFR § 2.336(a)(2).

Sincerely,

/s/ Paul A. Gaukler

Paul A. Gaukler
Counsel for Entergy

cc: Service List

¹ As noted in Entergy's October 20, 2010 letter, Entergy does not request Pilgrim Watch to identify, at this time, its expert witnesses on its averaging practice concerns since the Board has not yet ruled on the issue's timeliness and whether the issue is a part of this proceeding.

² Dr. Egan's Declaration for the NYAGO included Environmental Science and Engineering, J. Glynn Henry & Gary W. Heinke, (Prentice-Hall 1989) as an exhibit.

Service List

***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
ocaamail@nrc.gov

***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
rfe1@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

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

***Ms. Mary Lampert**

148 Washington Street
Duxbury, MA 02332
mary.lampert@comcast.net

***Susan L. Uttal, Esq.**

***Andrea Z. Jones, Esq.**

***Brian Harris, Esq.**

Office of the General Counsel
Mail Stop O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Susan.Uttal@nrc.gov ; andrea.jones@nrc.gov ;
brian.harris@nrc.gov

***Matthew Brock, Assistant Attorney General**

Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Martha.Coakley@state.ma.us
Matthew.Brock@state.ma.us

***Sheila Slocum Hollis, Esq.**

Duane Morris LLP
505 9th Street, NW
Suite 1000
Washington, DC 20006
sshollis@duanemorris.com

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

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

*Katherine Tucker, Esq.
Law Clerk,
Atomic Safety and Licensing Board Panel
Mail Stop T3-E2a
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Katie.Tucker@nrc.gov