

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

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Paul B. Abramson
Dr. Richard F. Cole

In the Matter of:

ENTERGY NUCLEAR GENERATION
COMPANY AND ENTERGY NUCLEAR
OPERATIONS, INC.
(Pilgrim Nuclear Power Station)

Docket No. 50-293-LR

ASLBP No. 06-848-02-LR

November 23, 2010

ORDER
(Regarding Telephone Conference and Direction on Pre-Filed Evidentiary Material)

On Tuesday, December 7, 2010, at 3:00 p.m., a telephone conference will be held to address certain procedures to be used in the hearing yet to be held in this proceeding. Prior to this conference, the parties will be provided with information on how to participate. Meanwhile, the parties are provided with the following information at this time, to better prepare them for the conference as well as the hearing.

A. Use of the NRC Digital Data Management System (DDMS)

In the hearing the DDMS system will be used for the purpose of marking and entering exhibits into the record, as directed below. Assuming that all pre-filed testimony and exhibits submitted by the parties are properly filed and marked electronically, see Section B below, this will make it unnecessary for the parties to provide the Board or counsel for the other parties with paper copies of their evidentiary material either prior to or during the hearing, *except as follows*: The parties shall each have available at the hearing one properly marked and numbered copy of each document for use in the event there are any operational issues with the DDMS. Further, if

any party has any documentary material in addition to its pre-filed testimony and exhibit that it expects may become relevant during the Board's questioning of any of the parties' witnesses, it should ensure that it has (1) enough paper copies of that material, appropriately marked, available in the hearing room for all Board members, the Board's law clerk, and all parties, and (2) electronic copies, appropriately marked as provided below, on a DVD, CD or other acceptable electronic format.

B. Providing Pre-Filed Testimony and Exhibits for DDMS

(1) Initial written statements of position and responses thereto, in the nature of legal argument, shall be filed as other such documents are customarily filed, except that no paper copies need be filed; these need not be filed as exhibits for entry into the DDMS system; nor must the parties file copies of any legal authorities, including statutes, regulations, and reported NRC case decisions.

(2) Pre-filed written testimony and any exhibits that any party wishes to submit as evidence for the hearing shall be filed in accordance with the following instructions:

(a) Pursuant to 10 C.F.R. § 2.304(g), each item of pre-filed testimony and each exhibit must be filed as a separate PDF file. Prefiled testimony shall, apart from their titles, be treated in the DDMS system as exhibits.

(b) Each item of prefiled testimony and each exhibit shall be marked in the upper right-hand corner with the following:

An identifier consisting of a three-character party designation followed by a six-character zero-filled number. The party designations in this proceeding shall be as follows:

NRC Staff – NRC Applicant – ENT Pilgrim Watch – PWA

Thus, a typical numbering sequence for the NRC staff's testimony and exhibits would be as follows:

NRC000001, NRC000002, NRC000003 * * * NRC000100

(c) If an exhibit needs to be segmented because it exceed 50 megabytes (MB), each segment of the document should be given the same numerical designation along with a unique letter designation for that segment placed in the ninth character position (e.g., NRC00001A, NRC00001B, etc.).

(d) Once an exhibit is pre-filed using this numbering protocol, if a party subsequently needs to amend, revise, or otherwise make a substitution for the pre-filed exhibit, the new pre-filed exhibit should be numbered with an "R" as the fourth character (e.g., NRCR00001), with any subsequent revision of that same exhibit given a sequential numerical designation in the fifth character slot (e.g., NRCR20001).

(e) To the extent possible, the parties should order and number their pre-filed testimony and exhibits in the sequence the parties plan to identify and present them for inclusion in the record.

(f) All prefiled testimony and exhibits shall also be marked with their dates of filing or date revised, on the first pages thereof, below the numerical identifier.

(3) Any cited exhibits that are not provided in the preceding format shall not be considered to have been submitted as evidence in the proceeding. Mere reference to a document, even if by ADAMS accession number, is not appropriate. Relevant parts of any document to be relied upon as evidence must be submitted as directed above.

(4) (a) To the extent possible, if more than one party intends to introduce a document as an exhibit, the parties should coordinate the presentation of any such exhibit so that only one copy is included as evidence. For example, if the NRC offers a certain portion of an NRC Staff report, and either Entergy or Pilgrim Watch wishes to offer the same portion, Entergy and/or Pilgrim Watch need only refer to the Staff's exhibit number identifier in its pre-filed testimony or

legal arguments/statements of position. To this end, the parties should consult with one another regarding whether any of the pre-filed exhibits a party intends to offer into evidence in support of its pre-filed direct testimony would otherwise be duplicated by another party in the proceeding. In each instance in which this is the case, the parties should determine, based on the order of party presentations outlined below, which party will first offer the exhibit into evidence. If a party agrees to provide the document for the other parties to refer to, that party may not withdraw that document, but may indicate on the record that it no longer relies on that document as an exhibit.

(b) It may be preferable for the parties, rather than using the initial submitting party's identifier for an exhibit to be used by more than one party, to identify shared exhibits with the prefix JNT.

(c) If different parties intend to use different portions of the same document, they should submit those separate portions as separate exhibits, in the manner specified above.

(5) Exhibit List

At the time they submit their prefiled testimony and exhibits conforming to the formatting and numbering protocols specified above, each party should provide an electronic copy (preferably in Microsoft Word format) of their pre-filed exhibit list, using the exhibit list template included as Attachment A to this issuance. (The Board's law clerk, Ms. Katie Tucker, Esq., can provide the template in Microsoft Word format upon request to katie.tucker@nrc.gov.)

C. Document Handling at the Evidentiary Hearing

At the evidentiary hearing, the parties should present their documentary materials in the following form and manner:

(1) Order of parties: The Applicant as the party with the ultimate burden of persuasion under 10 C.F.R. § 2.325 relative to issuance of the requested license extension shall be first in

order of presenting its evidence and witnesses, followed by the NRC Staff, Pilgrim Watch, and the town of Plymouth.

(2) Assuming the electronic versions that will have been provided are complete and correct, the parties need not provide any additional copies at the hearing, except that they shall have their paper copies available, as specified above.

(3) Although strongly discouraged, if a party sees a compelling need to make any revisions to its pre-filed testimony at the hearing, it must be prepared to provide that revised testimony at the beginning of the hearing session, marked appropriately both electronically (in a PDF format) and in hard copy as specified above.

(4) The Board anticipates that pre-filed direct and rebuttal testimony, which should be in question-and-answer format and identify the witness(es) sponsoring each answer, will be adopted by the witnesses while under oath at the hearing, and thereafter be identified and, if appropriate, admitted into the record as exhibits, and so marked through the DDMS system. For exhibits that have been pre-filed, when first seeking to have an exhibit identified and incorporated into the record, the sponsoring party should be prepared to give a brief description of that individual exhibit for the record.

(5) If there are any objections to any exhibits or testimony, these may be presented at the time the proposed testimony or exhibit is submitted to be admitted into the record, and a ruling shall be made at that time whether to admit the material or reject it, or the matter will be taken under advisement. Any testimony or exhibit that is rejected shall still be included in the overall case record, but shall not be considered as evidence in the proceeding.

D. Miscellaneous Matters

(1) Submission of Proposed Cross-Examination Questions

(a) Pre-Hearing Proposed Questions

To maintain the confidentiality of each party's proposed cross-examination questions pending a Board initial decision, see 10 C.F.R. § 2.1207(a)(3)(iii), those questions should not be filed as other materials are filed. Instead, counsel and representatives for the parties should submit their proposed questions directly to the Board via e-mail directed to the Board's law clerk. The submission containing the questions should be in a PDF format.

(b) Proposed Questions Submitted During Ongoing Hearing

To the extent possible, any questions the parties wish the Board to ask any witness(es) during the hearing should be submitted to the Board in writing.

(2) The Board may issue additional administrative guidance over the next few weeks to assure a smooth and productive evidentiary hearing.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 23, 2010¹

¹ Copies of this Order were provided to all parties and/or representatives for parties by e-mail transmission on this date.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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)
ENTERGY NUCLEAR GENERATION CO.)
AND)
ENTERGY NUCLEAR OPERATIONS, INC.) Docket No. 50-293-LR
)
(Pilgrim Nuclear Power Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (REGARDING TELEPHONE CONFERENCE AND DIRECTION ON PRE-FILED EVIDENTIARY MATERIAL) have been served upon the following persons by U.S. mail, first class, or through NRC internal mail.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
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Administrative Judge
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Administrative Judge
Paul B. Abramson

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[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 23rd day of November 2010