

February 16, 2011

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board Panel

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)	)	

**JOINT MOTION REQUESTING RESOLUTION OF CONTENTION 3  
METEOROLOGICAL ISSUES ON WRITTEN SUBMISSIONS**

The parties, Entergy Nuclear Generation Company and Entergy Nuclear Operations, Inc. (collectively “Entergy”), the Nuclear Regulatory Commission (“NRC”) Staff, and Pilgrim Watch, file this joint motion requesting the Atomic Safety and Licensing Board (“Board”) to resolve the Contention 3 meteorological modeling issues based on the written evidentiary submissions already before it without further submissions or an oral hearing. Each party believes that it has sufficiently presented its evidence, to the extent permitted by prior Orders, in its pre-filed testimony and exhibits, and the parties request the Board to resolve and decide the Contention 3 meteorological modeling issues on the basis of these evidentiary submissions without an oral hearing.<sup>1</sup>

On February 8, 2011, Pilgrim Watch initiated consultation with the parties concerning a potential motion by Pilgrim Watch to allow Dr. Egan’s January 30, 2011 statement to be admitted as an exhibit. This consultation led to the parties discussing and then agreeing to ask the Board to resolve with no oral evidentiary hearing, based solely on the parties’ submitted pre-filed testimony and exhibits (including Dr. Egan’s January 30, 2011 statement),<sup>2</sup> the “primary

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<sup>1</sup> This joint request does not include the conduct of any further proceedings if the Board should resolve the meteorological modeling issues in Pilgrim Watch's favor. Neither does it include the timing and location of oral argument on Pilgrim Watch's new contentions.

<sup>2</sup> If the Board denies this Joint Motion, the issue of the admissibility of Dr. Egan’s January 30 declaration as an exhibit would remain an open issue to be resolved either by separate motion or at the hearing.

and threshold issue” as identified in the Board’s Order of September 23, 2010 (“Confirming Matters Addressed at September 15, 2010, Telephone Conference”), this issue being, “whether the meteorological modeling in the Pilgrim SAMA analysis is adequate and reasonable to satisfy NEPA, and whether accounting for the meteorological patterns/issues of concern to Pilgrim Watch could, on its own, credibly alter the Pilgrim SAMA analysis conclusions on which SAMAs are cost-beneficial to implement.” Specifically, the parties request the Board to proceed as follows in resolving the remanded meteorological modeling issues:

1. The parties request the Board to accept the evidentiary submissions of Entergy, the NRC Staff, and Pilgrim Watch, subject to ruling on “Entergy’s Motion In Limine to Exclude from Evidence Pilgrim Watch’s SAMA Remand Pre-Filed Testimony and Exhibits” (Jan. 13, 2011) (“Entergy’s Motion In Limine”). As such, the Board would accept into the record the pre-filed testimony of the parties on the meteorological modeling issues, including the January 30 declaration of Dr. Bruce Egan submitted by Pilgrim Watch, and the pre-filed exhibits of the parties subject to ruling on Entergy’s Motion In Limine.<sup>3</sup>

2. The parties request the Board to rule on and decide the meteorological modeling issues based on this evidentiary record, without further written submissions or holding of an oral evidentiary hearing. If the Board adopts this procedure, the parties would not submit any questions pursuant to 10 C.F.R. § 2.1208(a)(3).

3. The parties agree that Findings of Facts and Conclusions of Law or written concluding statements of position under 10 C.F.R. § 2.1208(a)(4) are not necessary from their perspective and that they would not submit such proposed findings or concluding statements of position

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<sup>3</sup> If the Board rules, as requested by Entergy in its Motion In Limine, that the source term used in the Pilgrim SAMA analysis is beyond the scope of this proceeding, the Board need not admit into the record the source term testimony filed by the parties.

unless requested by the Board. If requested by the Board, the parties would file Findings of Facts and Conclusions of Law or concluding statements of position per the schedule set by the Board. In accordance with the Board's Order of January 5, 2011, ("Rescheduling Hearing and Oral Argument"), the period of March 11-20 would be a dead period that is not counted as "part of the time" provided by the Board to file any further pleadings that it may request.

10 C.F.R. § 2.1206 allows the parties to unanimously agree and file a joint motion requesting a hearing consisting of written submissions under 10 C.F.R. § 2.1208. While 10 C.F.R. § 2.1206 provides that such a request shall be made within fifteen days after service of the order granting a request for hearing, 10 C.F.R. § 2.307 authorizes the Board, as presiding officer, to extend such a time limit for good cause or approved stipulation. As stated above, if adopted by the Board, the parties contemplate no further submissions under 10 C.F.R. § 2.1208.

The NRC Staff and Pilgrim Watch have reviewed this joint motion and authorize Entergy to file it on their behalf.

Wherefore, the parties jointly request the Board to rule on the meteorological modeling issues based on the evidentiary record as described above without further written submission or holding of an evidentiary oral hearing.

/Signed electronically by Paul A. Gaukler/

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Dated: February 16, 2011

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CERTIFICATE OF SERVICE

I hereby certify that the “Joint Motion Requesting Resolution of Contention 3 Meteorological Issues on Written Submissions” was provided to the Electronic Information Exchange for service on the individuals below, this 16th day of February, 2011. In addition, a copy of this pleading was provided by email to the persons designated by an asterisk below.

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