

May 25, 2012

Ms. Mary Lampert
148 Washington Street
Duxbury, Massachusetts 02332

Dear Ms. Lampert:

This responds to your April 30, 2012, request opposing the NRC Staff recommendation that the Commission authorize issuance of the renewed license for the Pilgrim Nuclear Power Station (SECY-12-0062). NRC's process does not contemplate filings responding to a Staff recommendation: nevertheless, the Commission has reviewed your request.

The Staff recommendation requested Commission authorization "to renew the operating license for [Pilgrim] upon...making the appropriate findings on safety and environmental matters." The staff recommendation also described the long-running history of the *Pilgrim* adjudicatory proceeding, which has included an evidentiary hearing, several decisions by the Atomic Safety and Licensing Board, and several Commission appellate decisions addressing the Board's rulings, as well as current adjudicatory filings now pending before the Commission and the Atomic Safety and Licensing Board that seek to reopen the record to adjudicate additional proposed contentions.

As indicated in the Staff Requirements Memorandum (SRM) issued today in response to SECY-12-0062, the Commission has now granted the authorization requested by the staff. The SRM does, however, acknowledge the pending adjudicatory matters referenced in your April 30 request, as well as the new motions to reopen and hearing requests you filed on May 2, 2012, and May 14, 2012. Specifically, the SRM stated: "The Commission recognizes that in view of the petition for review pending before it and the motions to reopen and intervention petitions pending before the Atomic Safety and Licensing Board, if the renewed license is subsequently set aside on appeal, the previous operating license would be reinstated in accordance with 10 C.F.R. § 54.31(c)."

Our rules provide that a renewed license may be issued while some adjudicatory filings remain pending, so long as the Staff has made all necessary safety and environmental findings. See 10 C.F.R. § 2.340(i)(2); see also 10 C.F.R. § 2.1202(a). Indeed, section 54.31(c) specifically provides for the possibility that a renewed license, even after its issuance, could be "subsequently set aside upon further administrative or judicial appeal." The 2002 staff memorandum that you reference from the *Turkey Point* license renewal proceeding (SECY-02-0088) and the associated 2002 staff requirements memorandum issued by the Commission are consistent with the Commission's authorization decision. As the Staff correctly explained in SECY-12-0062, those *Turkey Point* memoranda indicate merely that Commission approval is

required when a license renewal application is the subject of a contested proceeding. In the current *Pilgrim* proceeding, the Staff has requested Commission authorization, and has now received it. Consistent with agency practice and the authority delegated to the Staff, the Commission has the information it needs to act now, and the Commission's authorization for the Staff to issue the renewed license is without prejudice to the merits of the pending adjudicatory matters.

You also request an oral hearing. Nothing in the NRC rules of practice provides for members of the public to request oral hearings on staff memoranda to the Commission. But there are well-established adjudicatory procedures in place that would provide for a hearing in the event that either of the pending adjudicatory filings referenced in your April 30 request or your subsequent filing on May 2 results in a new contention being found admissible. The Commission retains the ability to grant appropriate relief should proposed contentions be admitted for hearing and found meritorious.

Furthermore, pursuant to the Administrative Procedure Act and NRC regulations on "timely renewal" (5 U.S.C. § 558; 10 C.F.R. § 2.109(b)), delaying the agency's license renewal determination until the pending adjudicatory matters are resolved, as you request, would not affect Entergy's ability to continue operating *Pilgrim* in the interim. In addition, Staff issuance of the renewed license pursuant to the Commission's authorization has the advantage of formally binding Entergy to follow the aging-management programs that would be incorporated into the renewed license and empower the NRC to enforce compliance with those programs.

Sincerely,

/RA/

Kenneth R. Hart
Acting Secretary

Identical letter sent to:

Ms. Mary Lampert
148 Washington Street
Duxbury, Massachusetts 02332

Ms. Margaret Sheehan
61 Grozier Road
Cambridge, Massachusetts 02138

Ms. Anne Bingham
78A Cedar Street
Sharon, Massachusetts 02067