

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

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|----------------------------------|---|--------------------|
| COMMONWEALTH OF MASSACHUSETTS |) | |
| |) | |
| Petitioner |) | |
| |) | |
| v. |) | |
| |) | No. 12-1772 |
| UNITED STATES NUCLEAR REGULATORY |) | (consolidated with |
| COMMISSION, and |) | No. 12-1404) |
| UNITED STATES OF AMERICA |) | |
| |) | |
| Respondents |) | |

**UNOPPOSED MOTION OF ENTERGY NUCLEAR OPERATIONS, INC.
AND ENTERGY NUCLEAR GENERATION COMPANY
FOR LEAVE TO INTERVENE**

Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company (collectively “Entergy”) respectfully move, pursuant to 28 U.S.C. § 2348 and Rule 15(d) of the Federal Rules of Appellate Procedure, for intervention as of right in Case No. 12-1772 as a respondent in support of the agency orders identified in the Petition for Review filed by the Commonwealth of Massachusetts Attorney General (“Attorney General”).¹ Entergy is already an intervenor in Case No. 12-1404, with which Case No. 12-1772 has been consolidated. In support of its motion, Entergy states the following:

¹ Commonwealth of Massachusetts Petition for Judicial Review of Nuclear Regulatory Commission Orders to Renew the Pilgrim Operating License for an

Entergy is entitled to intervene as a matter of right in this action because Entergy is a party in interest in the matter before the U.S. Nuclear Regulatory Commission (“NRC”) to which the Petition for Review relates. That NRC proceeding pertains to Entergy’s application to renew the operating license for the Pilgrim Nuclear Power Station (“Pilgrim”), which is located in Plymouth, MA. Entergy owns and operates Pilgrim and in January 2006 applied to the NRC to renew the Pilgrim operating license for an additional 20 years. The NRC subsequently provided an opportunity for hearing on Entergy’s application.² The Attorney General petitioned to intervene and requested a hearing in the Pilgrim license renewal proceeding and sought to challenge the sufficiency of the application. Entergy fully participated as the applicant and a party in this proceeding. The NRC ultimately denied the Attorney General’s intervention petition. The Attorney General appealed to this Court the NRC’s denial of its intervention petition (Case No. 07-1483), which this Court affirmed. Mass. v. U.S., 522 F.3d 115 (1st Cir. 2008). This Court granted Entergy’s request to intervene on judicial review.

Additional Twenty Years, Commonwealth of Massachusetts v. United States Nuclear Regulatory Commission, No. 12-1772 (Jun. 18, 2012).

² See Nuclear Regulatory Commission, Docket No. 50-293, “Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DPR-35 for an Additional 20-Year Period,” 71 Fed. Reg. 15,222 (Mar. 27, 2006).

Over three years after this Court affirmed the NRC's denial of the Attorney General's initial hearing request, the Attorney General moved to reopen the hearing in the Pilgrim license renewal proceeding to consider a new contention, citing the March 2011 accident at the Fukushima Daiichi nuclear power plant in Japan as the basis for its challenge. Entergy continued to participate fully as a party in the NRC proceeding and opposed the Attorney General's request to reopen the hearing. The NRC denied the Attorney General's request. That denial is the subject of the Commonwealth's petition for review in Case No. 12-1404, in which this Court has already allowed Entergy to intervene.

Subsequently, the NRC voted to authorize issuance issued the renewed Pilgrim license, and then issued the renewed license. The NRC's decisions to authorize issuance of and issue the renewed license are the subjects of the instant Petition for Review before this Court (No. 12-1772). By Order of Court dated June 22, 2012, the Court granted the Attorney General's unopposed motion to consolidate this Petition for Review with No. 12-1404.

The Pilgrim NRC operating license renewal is required for Entergy to continue to operate Pilgrim for twenty years beyond the expiration of its initial operating license, which expired on June 8, 2012. 71 Fed. Reg. at 15,222. Entergy derives financial benefit from the generation and sale of electricity from Pilgrim.

The NRC operating license renewal for Pilgrim is necessary for Entergy to receive financial benefit from the continued operation of each plant during the twenty year license renewal period, as well as receive any of the other expected benefits.

Therefore, Entergy's interests would be adversely affected if the NRC actions identified in the Petition were enjoined, set aside, or suspended. 28 U.S.C. § 2348.

Thus, Entergy has substantial, direct, and tangible interests in this Court's affirmance of the NRC actions challenged by the Petition. Accordingly, Entergy is entitled to intervene as of right in this action. 28 U.S.C. § 2348. Counsel for Entergy has been authorized by counsel for the Petitioner and counsel for the Respondents to represent that they do not oppose Entergy's intervention in these actions.

Respectfully submitted,

/s/ David R. Lewis

David R. Lewis
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

Dated: June 26, 2012

Counsel for Entergy

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2012, the foregoing Unopposed Motion of Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company for Leave to Intervene was served via the Case Management/Electronic Case Files system. In addition, copies of the foregoing were also served by deposit in the U.S. mail, first class, postage prepaid, and by electronic mail, on the persons listed below, this 26th day of June, 2012.

John F. Cordes, Jr., Esq.
Solicitor
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
John.cordes@nrc.gov

James Adler, Esq.
Office of General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
James.Adler@nrc.gov

J. David Gunter II, Esq.
Environmental & Natural Resources
Division,
Appellate Section
United States Department of Justice
P.O. Box 7415
Washington, D.C. 20044
david.gunter2@usdoj.gov

Matthew Brock, Esq.
Assistant Attorney General
Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
matthew.brock@state.ma.us

/s/ David R. Lewis
David R. Lewis