

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
BOSTON EDISON COMPANY) Docket No. 50-293
PILGRIM NUCLEAR POWER STATION:) License No. DPR-35
Order Modifying License) EA 81-63
Effective Immediately)
)
)
_____)

PETITION OF THE MASSACHUSETTS
ATTORNEY GENERAL TO
INTERVENE IN PROCEEDING
FOR MODIFICATION OF
PILGRIM STATION OPERATING
LICENSE

On January 18, 1982, the Commission's Office of Inspection and Enforcement issued an Order modifying the operating license for the Pilgrim Nuclear Power Station in Plymouth, Massachusetts. That Order provides that "[c]ontinued operation of the Pilgrim facility requires significant changes in Boston Edison Company's control of licensed activities" and requires that the Company submit to the NRC, within thirty days of the Order, "a comprehensive plan of action that will yield an independent appraisal of site and corporate management organizations and functions, recommendations for improvements in management controls and oversight, and a review of previous safety-related activities to evaluate compliance with NRC requirements." See Order Modifying License Effective Immediately, Docket No. 50-263 (January 18, 1982) at 6.

(Hereinafter, "Order")

For the reasons set forth below, Attorney General Francis X. Bellotti hereby exercises his right, pursuant to Section 189(a) of the Atomic Energy Act of 1954, 42 U.S.C. §2239(a), to intervene in the NRC's proceeding in this matter on behalf of the citizens of the Commonwealth of Massachusetts. Attorney General Bellotti is the chief law officer of the Commonwealth, responsible for establishing the legal policy of the Commonwealth. Secretary of Administration and Finance v. Attorney General, 326 N.E.2d 334 (Mass., 1975). He is a separately elected officer, representative of the citizens of this state and seeks, through this intervention, to protect the interests of the Commonwealth and his constituents in the safe operation of the Pilgrim plant. Attorney General Bellotti further requests, pursuant to Section 189(a), that a public hearing be held in this matter in the Town of Plymouth to allow for public review of the serious deficiencies identified in the Commission's Order and the Company's proposed remedial actions. Any action as significant as the amendment of an operating license for a nuclear power plant should be subjected to maximum public exposure.

I. THE INTERESTS OF THE CITIZENS OF
MASSACHUSETTS ARE AFFECTED BY
THIS PROCEEDING

According to its Order, the Office of Inspection and Enforcement has taken this action because of Boston Edison's numerous regulatory violations over the past several years, its below average rating in the NRC's recent Systematic Assessment

of Licensee Performance ("SALP"), and deficiencies discovered during NRC inspections between June 15 and September 30, 1981. Those inspections revealed inadequacies in Boston Edison's controls in several functional areas of activity, including engineering and design review, revision of operating procedures, facility maintenance, notification of safety problems, and onsite safety committee activities. See Order, at 2. Together with the weaknesses identified by the SALP and NRC enforcement actions over the past 2 1/2 years, the deficiencies discovered during these inspections have led the Office of Inspection and Enforcement to conclude that there exist "substantial serious breakdowns in Boston Edison Company's management controls related to the Pilgrim facility" and that the "public health, safety and interest" require that significant changes be made in the Company's control of licensed activities. See Order at 6.

In light of these findings by the Commission staff, there can be no doubt that the citizens of Massachusetts have a direct and substantial interest in the subject matter of this Order. Without participating in the review of the Company's proposed corrective actions, the public can have no assurance that continued operation of the facility will not jeopardize their health and safety.

II. THE ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS
HAS A NON-DISCRETIONARY RIGHT TO
INTERVENE IN THIS PROCEEDING
PRIOR TO ANY FURTHER NRC ACTION

The Atomic Energy Act of 1954 provides that "[i]n any proceeding, under this chapter, for the granting, suspending, revoking, or amending of any license . . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding." (Emphasis supplied.) By its own terms, the Commission's action constitutes a modification of Boston Edison's license, and there is thus no discretion to deny this petition and hearing request filed on behalf of persons clearly affected by the subject matter of this license amendment. Given this non-discretionary statutory obligation, the Commission's review of this Petition is limited to the question of whether the Petition properly sets forth the aspects of this proceeding as to which the Attorney General is intervening. See BPI v. Atomic Energy Commission, 502 F.2d 424 (D.C. Cir. 1974).

The Commission has arguably failed already to comply with the procedural requirements of Section 189(a) in that it has not provided thirty days' notice in the Federal Register of its intent to amend the Pilgrim license to allow for notices of intervention and hearing requests. This apparent failure will not prejudice Attorney General Bellotti in his effort to protect the interests of Massachusetts citizens, provided the Commission takes no further action in this matter pending his admission as a party. Approval by the Commission or its staff

of Boston Edison's action plan, or other formal action thereon, pending admission of the Attorney General as a party and an opportunity for exercise of the rights which attend that status would violate Section 189(a).

Therefore, the Attorney General asks that he receive written assurance, within seven days of the receipt hereof, that the Commission will honor his rights under Section 189(a) and suspend further formal action on Boston Edison's action plan pending his admission and participation in this matter.

III. ATTORNEY GENERAL BELLOTTI
INTENDS TO PARTICIPATE FULLY
IN EVERY ASPECT OF THIS
PROCEEDING TO ASSURE THE
SAFETY OF MASSACHUSETTS
CITIZENS

Attorney General Bellotti moves to intervene in this proceeding so as to participate in all the issues considered, including but not limited to the following:^{1/}

1. Any consideration of Boston Edison's continued operation of Pilgrim I pending the identification and implementation of the necessary changes in Boston Edison's management controls.

^{1/} As a separate matter, this office has notified the Commission that it anticipates exercising its rights pursuant to section 189(a) with respect to approval of the revised emergency plans for the Pilgrim Station. We suggest that the staff be required to complete its review of those plans in time that a hearing thereon, if it is necessary, can be conducted together with the hearing sought in this petition.

2. The adequacy of the plan of action submitted by Boston Edison, including the following issues:
 - a. The appropriateness of the parties chosen to conduct the review of site and corporate management organizations and functions and the various reviews of safety-related activities set forth in paragraphs (1) and (3) through (6) of the Order.
 - b. The schedule for completion of these reviews.
 - c. The specific matters to be addressed in these reviews.
3. The nature of the improvements which must be made in the Company's site and corporate management organizations and functions and safety-related activities to ensure the safe operation of the plant.
4. The determination as to whether Boston Edison has properly implemented all necessary improvements such that operation of the plant may continue.

IV. CONCLUSION

For the reasons outlined herein, Attorney General Bellotti asks, on behalf of the Commonwealth of Massachusetts and its citizens, that he be admitted as a party to this proceeding and that no further action be taken by the NRC in this matter pending his admission. Attorney General Bellotti further requests that a public hearing be held in the Town of Plymouth on the matters which are the subject of this proceeding.

Respectfully submitted,

FRANCIS X. BELLOTTI
ATTORNEY GENERAL

By: Paula W. Gold /jas
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(617) 727-2265


Dated: February 17, 1982

CERTIFICATE OF SERVICE

I, Jo Ann Shotwell, hereby certify that I have this day served a copy of the foregoing Petition on the NRC legal staff by mailing a copy thereof, postage prepaid, to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Signed under the pains and penalties of perjury this 17th day of February, 1982.

By:



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CERTIFICATE OF SERVICE

I, Jo Ann Shotwell, hereby certify that I have this day served a copy of the foregoing Petition on Boston Edison Company by mailing a copy thereof, postage prepaid, to its attorney, Thomas G. Dignan, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

Signed under the pains and penalties of perjury this 17th day of February, 1982.

By:


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