

July 30, 2007 (10:39am)

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the matter of
Entergy Corporation
Pilgrim Nuclear Power Station
License Renewal Application

Docket # 50-293

July 30, 2007

**PILGRIM WATCH'S ANSWER OPPOSING NRC STAFF'S MOTION
REQUESTING THAT PILGRIM WATCH'S ANSWER OPPOSING NRC STAFF
SUPPORT OF ENTERGY'S MOTION TO STRIKE PILGRIM WATCH'S
ANSWER TO ENTERGY'S SUMMARY DISPOSITION MOTION NOT BE
CONSIDERED BY THE BOARD**

INTRODUCTION

On July 9, 2007, Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc., (collectively, Entergy), filed a motion to strike portions of Pilgrim Watch's Answer Opposing Entergy's motion for summary disposition of Pilgrim Watch Contention 3.¹ On July 17, 2007, Pilgrim Watch filed its answer in opposition to Entergy's motion,² and on July 19, 2007, the NRC staff (Staff) filed its response in support of Entergy's motion.³ On July 26, 2007, Pilgrim Watch filed an answer to the Staff Response.⁴ On July 27, 2007, the NRC Staff filed a motion requesting that Pilgrim Watch's answer opposing NRC Staff support of Entergy's Motion to strike Pilgrim

¹ See Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 (July 9, 2007) (Motion to Strike).

² See Pilgrim Watch's Answer Opposing Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Pilgrim Watch Contention 3 (July 17, 2007).

³ See NRC Staff Response in Support of Entergy's Motion to Strike Portions of Pilgrim Watch's Opposition to Motion for Summary Disposition of Contention 3 (Staff Response).

⁴ See Pilgrim Watch's Answer Opposing NRC Staff's Support of Entergy's Motion to Strike Portions of Pilgrim Watch's Answer Opposing Entergy's Motion for Summary Disposition of Contention 3 (Pilgrim Watch's Answer).

TEMPLATE = SECY-037

SECY-02

Watch's Answer to Entergy's Summary Disposition Motion not be considered by the board.

Pursuant to 10 C.F.R. § 2.323 (c) and for the reasons discussed below, Pilgrim Watch requests that NRC Staff's motion be denied.

DISCUSSION

Here we are dealing specifically with Motions for Summary Disposition. The rule, 10 C.F.R. §2.710 (a) states that, " The opposing party may, within ten (10) days after service, respond in writing to new facts and arguments presented in any statement filed in support of the motion." The citation provided by NRC Staff *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), LBP-98-12, 47 NRC 343, 345-46 (1998) (interpreting 10 C.F.R. § 2.730, the predecessor to 10 C.F.R. §2.323) specifically refers to Petitions for Leave to Intervene.

10 C.F.R. § 2.323 (c) Answers to Motions states that "Within ten (10) days after service of a written motion, or other period as determined by the Secretary....a party may file an answer in support or in opposition to the motion, accompanied by affidavits or other evidence. The moving party has no right to reply, except as permitted by the Secretary, the Assistant Secretary, or the presiding officer. Permission may be granted only in compelling circumstances..." Pilgrim Watch is not the "moving party" here.

Therefore the rule, 10 C.F.R. § 2.323 (c), only addresses Entergy's right to reply to a response filed by another party. It does not prohibit a non-moving party, such as Pilgrim Watch, from replying to the NRC Staff's response to Entergy's motion.

As a matter of fairness, the rule does not, and should not, be interpreted to forbid Pilgrim Watch from entering a reply to NRC Staff's Motion which, both in substance and effect, is nothing more than an additional motion in favor of Entergy.

CONCLUSION

Based on the foregoing, Pilgrim Watch respectfully requests that the Board deny NRC Staff's motion.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Lampert". The signature is written in black ink and is positioned above a horizontal line.

Mary Lampert

Pilgrim Watch

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

In the matter of Docket # 50-293

Entergy Corporation

Pilgrim Nuclear Power Station

License Renewal Application

July 30, 2007

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Pilgrim Watch's Answer Opposing NRC Staff's Motion Requesting That Pilgrim Watch's Answer Opposing NRC Staff Support Of Entergy's Motion To Strike Pilgrim Watch's Answer To Entergy's Summary Disposition Motion Not Be Considered By The Board has been served this 30th day of July, 2007 by electronic mail and by U.S. Mail, first class to each of the following:

Administrative Judge
Ann Marshall Young, Chair
Atomic Safety and Licensing Board
Mail Stop – T-3 F23
US NRC
Washington, DC 20555-0001
amy@nrc.gov

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board
Mail Stop T-3 F23
US NRC
Washington, DC 20555-0001
pba@nrc.gov

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board
Mail Stop –T-3-F23
US NRC
Washington, DC 20555-0001
rfc@nrc.gov

Secretary of the Commission
Attn: Rulemakings and Adjudications
Staff
Mail Stop 0-16 C1
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001
rfc1@nrc.gov

Office of Commission Appellate
Adjudication
Mail Stop 0-16 C1
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001

Atomic Safety and Licensing Board
Mail Stop T-3 F23
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001

Susan L. Uttal, Esq.
Marian L. Zobler, Esq.
Office of General Counsel
Mail Stop – O-15 D21
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001

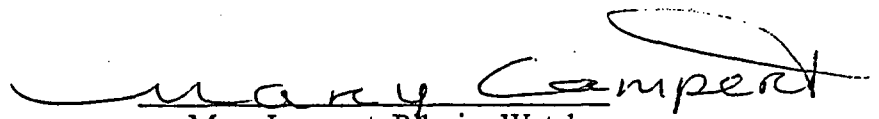
Paul A. Gaukler, Esq.
David R. Lewis, Esq.
Pillsbury, Winthrop, Shaw, Pittman,
LLP
2300 N Street, N.W.
Washington, DC 20037-1138

Mr. Mark Sylvia
Town Manager, Town of Plymouth
11 Lincoln Street
Plymouth MA 02360
msylvia@townhall.plymouth.ma.us

Sheila Slocum Hollis, Esq.
Town of Plymouth MA
Duane Morris, LLP
1667 K. Street, N.W.
Suite 700
Washington, DC 20006

Richard R. MacDonald
Town Manager, Town of Duxbury
878 Tremont Street
Duxbury, MA 02332
macdonald@town.duxbury.ma.us

Fire Chief & Director DEMA,
Town of Duxbury
688 Tremont Street
P.O. Box 2824
Duxbury, MA 02331
nord@town.duxbury.ma.us


Mary Lampert, Pilgrim Watch