

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE EDO, U.S. NUCLEAR REGULATORY COMMISSION

May 16, 2012

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Washington, DC 20555-0001
Via Email SECY@nrc.gov

2.206 ENFORCEMENT PETITION REGARDING LABOR DISPUTE- PILGRIM NPS

Pursuant to §2.206 of Title 10 in the Code of Federal Regulations, Petitioners request that the Nuclear Regulatory Commission (NRC) initiate a proceeding pursuant to §2.202 of Title 10 in the Code of Federal Regulations.

Summary

Reactor: Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Request for Enforcement Action: Require Pilgrim NPS to cease operations due to the threat to public safety due to: the current lock out of its non-essential workers; a likely strike; and Entergy's refusal to honor the demands of U.W.U.A. local 369 workers.

Facts that constitute the basis for taking this action: discussed herein.

Discussion

Pilgrim Watch, Jones River Watershed, Pilgrim Coalition, and Freeze Pilgrim file respectfully a 2.206 petition as the only means available to our members to address safety concerns over the present contract negotiations between Entergy Nuclear Operations Inc., and U.W.U.A. local 369.

Standing: Petitioners have standing based on proximity; our members live within 50 miles of Pilgrim NPS. Pilgrim Watch (“PW”) is a non-profit citizens’ organization that serves the public interest in issues regarding the Pilgrim Nuclear Power Station. The organization is located at 148 Washington Street, Duxbury, Massachusetts, 02332. Many of its members live within the immediate neighborhood of the reactor, and others either within the 10 -mile Emergency Planning Zone or within the 50-mile ingestion pathway. Mary Lampert who represents PW makes her residence and place of occupation and recreation within an approximate six (6) miles of Pilgrim Nuclear Power Station.

Jones River Watershed Association (JWRA) is a non-profit citizens’ organization that serves the public interest in issues regarding the preservation of our natural resources and Pilgrim Nuclear Power Station. The organization is located at 55 Landing Road Kingston, MA 02364. Many of its members live within the immediate neighborhood of the reactor, and others either within the 10 -mile Emergency Planning Zone or within the 50-mile ingestion pathway. Many of its members live within the immediate neighborhood of the reactor, and others either within the 10 -mile Emergency Planning Zone or within the 50-mile ingestion pathway. Pine duBois who represents JRWA makes her residence and place of occupation and recreation within an approximate eight and one-half miles from Pilgrim Nuclear Power Station. Freeze Pilgrim and

Pilgrim Coalition also have members within the 10-50 miles of Pilgrim Station as the signature blocks indicate.

Petitioners believe that the lock-out, an actual strike, and Entergy's unwillingness to honor the requests of the workers present an unacceptable risk to the public and environment jeopardizing the health, safety, property and finances of Petitioners' members who live, recreate, conduct business and own property within the vicinity of the Pilgrim Nuclear Power Station

Overview: As of this morning, May 16, the press and reports from MEMA show that, "Dozens of workers have been locked out of the Pilgrim Nuclear Power Station as plant owner – Louisiana-based Entergy Corp. – is barring all non-essential employees from the facility. After more than a month of negotiations, between the Utility Workers Union of America Local 369 and Entergy, UWUA plans to bring Entergy's offer to a vote next week. The previous contract expired at midnight on May 15th. UWUA Local 369 makes up nearly 90 percent of the plant's total workforce, and at stake were several key health care, safety and staffing issues."¹

The possible impact of the worker situation on the requestor's/petitioner's interest includes the following:

First, Petitioners do not believe the plant can be operated safely by replacement workers that have not received site specific training; do not have years of experience at the site; do not have a history specific to Pilgrim NPS. This cannot be taught in a few hours, days or even weeks. We share Local 369 President Dan Hurley's "expressed 'grave concern' with Entergy's stance, alleging the company is trying to replace skilled workers with less experienced and knowledgeable employees. He said Entergy was 'manipulating' the plant's license renewal

¹ <http://959watd.com/blog/2012/05/plymouth-entergy-locks-out-non-essential-pilgrim-employees/>

process by stalling talks ‘in order to leverage an anticipated renewed license against the workers.’²

Second, Entergy’s efforts to cut worker benefits on key healthcare, safety and staffing³ will have a substantial negative effect on worker’s present and future morale. Petitioners do not believe demoralized workers will perform at peak performance, irrespective if some sort of compromise is reached.

Factual Basis

1. **Background:** The UWUA 369 announcement *Utility Workers Vote To Authorize Strike At Pilgrim Nuclear Plant*⁴ (May 4, 2012) explained that:

May 15th deadline set as workers poised to walk out of controversial Pilgrim Nuclear Power Station over safety, staffing and healthcare issues

BRAINTREE (May 4, 2102) – Members of the Utility Workers Union of America Local 369 have voted overwhelmingly to authorize leadership to call a strike at Pilgrim Nuclear Power Station as workers remain significantly far apart with plant ownership – Louisiana-based Entergy Corp. – on key healthcare, safety and staffing issues.

As part of its proposal, Entergy is also trying to replace more than a dozen workers with outside contractors – workers who often have less experience and knowledge – to operate several areas inside the plant that are located outside of the most sensitive protected zones.

"Entergy makes a million dollars a day in profits from Pilgrim Nuclear and yet company executives are threatening the safety of our communities by trying to replace highly skilled veteran workers with outside contractors who have little or no knowledge of this facility," said UWUA President Daniel Hurley. "It's our hardworking men and women who run this plant safely day in and day out, and it's their experience that makes Pilgrim Nuclear extremely profitable for Entergy executives. At a time when Entergy CEO J. Wayne Leonard is paid more than \$15 million a year, it's disgusting that the company would attempt to nickel and dime the people who keep the communities around Pilgrim Nuclear safe."

² <http://www.bostonherald.com/news/regional/view.bg?articleid=1061131322>
Union chief rips Entergy, asks state officials to explore Pilgrim contract talks

By Michael Norton / State House News Service, Sunday, May 13, 2012

³ <http://www.uwua369.org/25-news-a-events/press-release/120-utility-workers-vote-to-authorize-strike-at-pilgrim-nuclear-plant> Utility Workers Vote To Authorize Strike At Pilgrim Nuclear Plant

⁴ Ibid

UWUA Local 369 has 380 members currently working at Pilgrim Nuclear – about 90 percent of the plant's total workforce. Nearly all of these employees serve in high level roles responsible for the day-to-day maintenance and operations of the 40-year-old plant, and many have been working at the facility for decades.

The UWUA strike authorization vote comes as Entergy enters the final stages of a six-year review process to renew the license at Pilgrim Nuclear – which is set to expire on June 8, 2012. The Nuclear Regulatory Commission has recommended that commissioners issue a license renewal, which would allow the plant to operate through 2032.

"How can Entergy say it's serious about safety when it's trying to replace workers and attempting to force massive healthcare and retirement cuts on the rest of our hardworking men and women?" said Hurley. "Entergy stalled on starting negotiations because they wanted their license renewal first. But it's essential that we have the appropriate working conditions in place that ensure the facility's safety before the licensing process reaches its conclusion."

UWUA's current contract with Entergy expires at midnight on May 15th. To date, Entergy and UWUA have agreed on just one of more than 40 pending articles in the contract after a month of negotiations. Entergy's latest proposal also includes significant healthcare cuts, which would add millions in dollars of costs for workers.

"At a time when Entergy's top executive made more than a hundred million dollars over the past several years, it's unconscionable that the company continues to insist on massive healthcare cuts and changes to retirement that hurt workers and their families," said UWUA Executive Vice President Dan Leary.

2. Importance Human Performance to reduce reactor risk:

a. Research commissioned by the NRC demonstrates the importance of human performance, *Profiles of Human Performance Contributions to Operating Events* (Accession No. ML011280042). The NRC saw a need to better understand how human performance influences the risk associated with nuclear power plant operations and NRC Office of Research requested Idaho National Engineering and Environmental Laboratories (INEEL) to identify and characterize the influences of human performance in significant operating events.

b. Summary: Table 1 (Performance failure categories, error type and error frequency for significant events) shows that operators are most likely to make active errors, in other words to make a decision that immediately causes problems. Other workers can and do make latent errors, such as writing down the wrong steps in maintenance work order so that the problem occurs later when the work is done.

c. Summary Table 2 (Results of Spar analyses ranked by event importance) ranks recent plant events by event importance. The rightmost column of the table explains how much human error contributed to the event. The whole bunch of 100s (all but 4 out of 23 reactors sampled ranked 100; and 2 of remaining 4 had a scores of 80 and 82) - means that the event would not have occurred or would not have been serious had human error, mistakes, not happened.

d. Findings Summary: Human performance was found to be a major contributor to the risk increases in significant operating events. And, all operating events involved multiple human failures. The Summary states that,

Findings from this work underscore the significant contribution human performance makes to nuclear power plant risk.

3. Pilgrim NPS workers, themselves, say that human performance would be degraded if substitute workers are used to replace those on strike. The reasons for this are obvious.

a. No two nuclear plants are alike: Facility designs, layouts, and operating procedures vary significantly from plant- to- plant. In Pilgrim's case, the degree of variation is especially pronounced because the Pilgrim NPS is one of the nation's oldest reactors. At Pilgrim, it is often more difficult to find needed spare parts, or even to know what parts are needed to maintain or repair equipment. We are told that the special practices developed to deal with such challenges, and generally to bring some level of assurance that Pilgrim will have smooth and safe operation, is part of the institutional knowledge that Pilgrim's workforce brings to the performance of their jobs, but may not be written down.

We are told by workers that operators must be able to do more than follow written procedures, which tend to provide guidance about how to respond to isolated events, or one equipment failure at a time. However, as in any complicated system, more than one problem often occurs at one time. Thus, operators must know how to address situations in which multiple events are happening at the same time, for which there may be no specific written protocols. In those instances, the importance of having experienced personnel on hand to make informed judgments cannot be overstated.

The current Pilgrim workforce has *decades of plant specific* experience. By contrast, the replacement staff that will be put together to run Pilgrim following a work stoppage will obviously not have the same on- the- job experience with the Plant.

b. We understand that the Contingency Plan Calls for the Replacement of Experienced Reactor Operators with Personnel Who Do Not Have Plant –Specific Experience. We understand that reactor operators (or “ROs”) are responsible for the day-to-day operation of the Plant’s Control Room - including reading gauges and meters and turning switches, setting dials, and pulling levers in response to those meter and gauge readings. Site specific experience is essential, because there are thousands of gauges and meters, and many of them are highly sensitive, requiring familiarity and finesse to operate properly.

c. In the event of a strike or other work stoppage, we understand that Entergy intends to use senior reactor operators (“SROs”) from Pilgrim to replace the current contingent of ROs. We are told that applied to Pilgrim, the term “senior reactor operator” is a misnomer, because most of the SROs at Pilgrim have no hands-on experience operating the control board at Pilgrim. The SROs at Pilgrim, unlike their RO counterparts, have no experience turning dials, pulling levers, or reading gauges and meters because, as a matter of practice at Pilgrim, SROs do not

operate Control Room equipment. Indeed, we understand from workers that of the management personnel who will be used by Entergy in the event of a strike, only six have any experience actually touching Control Room equipment. Specifically, on the “management side,” we understand from workers that there are only eight Operations Department employees with any licensed operator experience. As licensed operators, those eight personnel have an average of 4.1 years of experience and cumulative experience of 33 years. Two of the eight management personnel who have experience as licensed operators currently do not have active operator licenses, and thus would not be permitted to work as a reactor operator. The safety problem is that the qualifications of these SROs- turned- into- ROs may also be suspect.

We understand that normally, reactor operators have to be tested on their knowledge of a number of plant systems before they are permitted to work the plant controls. However, in order to replace reactor operators in the event of a work stoppage, senior operators would be asked to “self-assess” their qualifications to operate the plant.

In the past, and if so now, in preparation for the strike, Pilgrim senior operators were apparently being asked to identify any systems about which they think their knowledge may be deficient. If they identified an area, they would be tested on their knowledge of that system, but will not be tested on their knowledge of other systems about which they do not acknowledge a deficiency. Thus, if this policy remains today, whether these personnel are permitted to take control of Pilgrim will be based substantially, if not entirely, on their own assessment of what they know.

4. The Contingency Plan Will Result in Replacement Workers Performing the Functions Currently Performed by Experienced Personnel

a. We are told that throughout the Plant, significant surveillance functions are being performed everyday that are dependent upon the experience of the existing workforce. For example, technicians working in Pilgrim's Instrumentation and Control Department are called upon to test and maintain devices that report information to the ROs in the Control Room. This is the work of testing systems to ensure that under certain parameters they perform certain automatic functions. The procedures for conducting these tests are highly plant specific, even among nuclear plants of the same vintage. Equipment testing is sequenced by procedure; the failure to follow the procedures correctly may constitute a prohibited action outside the parameters of the Plant's operating license. The same concerns arise with respect to employees in Pilgrim's Chemistry Department, who, among other things, are called upon to do effluent testing and other forms of environmental monitoring.

All of these tests must be conducted by fully qualified technicians; until now, full qualification status for Instruments and Controls personnel has required at least three to four years of Pilgrim experience.

b. Equally, like most nuclear plants, Pilgrim has a "Master Equipment List," which serves as a database that permits a user to look up a piece of equipment and determine its component parts and relevant maintenance history. We are told that the Master Equipment List is substantial, as there may be anywhere from 300,000 to 400,000 component parts in a nuclear plant. This form of configuration control is critical to ensuring that maintenance work is planned and conducted based on the facts-on-the-ground.

At Pilgrim, we understand that the Master Equipment List is incomplete and unreliable, despite years of effort to bring the List up to industry standards, either in terms of completeness or accuracy. Unless and until the Master Equipment List is complete and accurate, maintenance work cannot be properly planned based on the contents of the List.

The experienced workforce that deals with the Plant and its equipment components on a day-to-day basis will be aware that information on the List cannot be relied upon, and will know the actual status of a given plant component because of direct experience.

Contractors brought in to perform the same functions on an ad hoc basis will not have that experience based knowledge. Significant problems may arise to the extent that outside contractors or others without Plant-specific experience seek to perform maintenance tasks based on inaccurate configuration information. By analogy, it will be impossible to navigate the Plant properly without an accurate map.

c. Substandard and Counterfeit Parts were identified in GAO/RCED 91-6, October 1990 - nuts, bolts, pipe fittings, circuit breakers, fuses: It is the petitioners understanding that all those substandard and counterfeit parts have not been replaced with standard parts from LRA adjudication proceedings. Therefore institutional knowledge is required to know what is standard and what isn't.

5. A “negative” environment with workers at Pilgrim that exists now due to the lack of cooperation by Entergy with its workers will carry over irrespective of the negotiations placing us at risk. Like a bad marriage, it does disservice to the whole –unhappy partners perform poorly. This indicates that something is clearly wrong with Entergy’s management.

6. Work force cut: Pilgrim has already substantially cut their work force over the past decade – work force is stressed (part of reasoning behind threatened strike) - a bad time for “substitutes.”

7. Risk Reduced If Reactor Shut Down: Dr. Edwin Lyman, physicist, *Union of Concerned Scientists*, stated that the risk of a core meltdown is considerably reduced within hours of the reactor being closed. He reasoned that it is easier to protect and monitor a reactor that is closed because it is less likely that safety systems could be compromised. A core melt can be triggered by cutting off-site power, destroying coolant intakes, sabotaging/destroying safety systems, destroying the control room, etc. According to a preliminary analysis by Dr. Lyman of Indian Point after a shutdown of 20 days would greatly reduce the radioactive inventory in the core through half-life decay. Lessons learned can be readily transferred to Pilgrim NPS. The number of fatalities from a core melt and breach of containment could be reduced by 80% and the number of long-term cancer deaths by 50%.

8. Need for electricity: We recognize that temporarily closing Pilgrim NPS during the strike would not cause the lights to go out. As you know, Massachusetts relies on electricity drawn from the ISO - New England electric grid. ISO pools power generated throughout New England. Because we are plugged into the grid, Massachusetts is not specifically dependent on electricity generated at Pilgrim; instead, we tap into power from hundreds of generators throughout the six New England States.

At April 6, 2011 State House hearing Stephen Rourke, Vice President, System Planning for ISO New England, stated that other sources of electricity are available if Pilgrim is taken off-

line⁵. When Pilgrim shuts down for about a month or so to refuel every 2 years or is forced to shut down in the interim for repairs, ISO customers still have electricity.

Conclusion

Based on the facts discussed, Petitioners request that NRC requires Pilgrim NPS to cease operations during the negotiations and to maintain the shutdown if a full-blown strike occurs and until the worker's demands are met so that morale is restored. We base this request due to the clear threat presented to public safety and health.

Respectfully Submitted

(Electronically signed)

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Pine duBois

⁵ Video at malegislature.gov: Joint Hearing on Nuclear Emergency Preparedness. (ISO's presentation is from 121.50-145; at 138.56, Sen. Downing asked Mr. Rourke to describe the effect on the grid if Pilgrim were not relicensed – in other words, would the lights stay on? Mr. Rourke replied there are other sources to make up power that would be lost if Pilgrim shut down.

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Attachment

Photographs taken May 16, 2012

