

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

In the Matter of

Docket No. 50-293

Entergy Corporation

Pilgrim Nuclear Power Station

License Transfer Agreement Application

**Pilgrim Watch Reply to Applicants' Answer Opposing Pilgrim Watch's
Motion to File a New Contention.**

“At the outset, it is important to make clear what this contention is, and what it is not.

“Pilgrim Watch’s Contention 3 is that the NRC has not done its job; and that the License Transfer Application cannot be allowed unless and until it does so. It is the NRC, not Pilgrim Watch, that has a statutory and regulatory duty to determine that Holtec (that owns HDI, will own Holtec Pilgrim, and is a majority owner of CDI that will decommission Pilgrim) and duty to determine that Holtec (that owns HDI, will own Holtec Pilgrim, and is a majority owner of CDI that will decommission Pilgrim) and SNCL (that is the co-owner of CDI) are in fact trustworthy, reliable and of good character. It is the NRC, not Pilgrim Watch, that properly cannot grant Holtec’s license transfer application unless and until it has made those determinations and has also found that granting the License Transfer Application ‘will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public.’ 10 CFR § 61.23

“This contention does not seek to prove that Holtec, SNCL, and the subsidiaries HDI and CDI that they own and control, are in fact untrustworthy, unreliable, and lack good

character; but it identifies numerous reports that Holtec and SNCL, the real parties-in-interest, are not. This contention also does not seek to prove that allowing the LTA will present a risk to the common defense, security, and public health and safety.

“This contention does say that the NRC cannot meet its statutory and regulatory obligations by considering only the technical and financial qualifications of HDI, ignoring the obvious fact that newly-formed HDI and CDI themselves have no history and that their ‘character’ is necessarily that of their owners, and ignoring the character of those owners, Holtec and SNC-Lavalin. It is the NRC’s job to determine the truth, and to insure that giving these companies the right to decommission not only Pilgrim but numerous other nuclear power stations will not create a risk to the public health, safety, and the environment before approving the LTA.” (Pilgrim Watch Motion to File a New Contention, p. 2)

In opposing Pilgrim Watch’s Motion, the Applicants make essentially two arguments.

One is their assertion that, in deciding whether to grant this license transfer, the NRC has no obligation to determine whether duty to determine whether Holtec (that owns HDI, will own Holtec Pilgrim, and is a majority owner of CDI that will decommission Pilgrim) and SNCL (that is the co-owner of CDI) are in fact trustworthy, reliable and of good character.

The other is that Pilgrim Watch’s Motion was not timely because, despite numerous public reports of Holtec and SNCL malfeasance that the NRC knew about (and many others that a cursory background check, search or investigation would have found), Pilgrim Watch should have known that the NRC would not investigate them or determine the answer to a very basic question: Can Holtec, SNCL, and the new companies they own and control, be trusted to decommission Pilgrim in a way that will protect the public health, safety, the environment and our pocketbooks.

Both assertions are wrong, and truly alarming.

A. The NRC's Obligations

The most troubling aspect of the Applicants' Answer are their assertions that long-standing NRC practice has been to ignore character, trustworthiness and reliability, and "that the NRC would ignore the character of Holtec, SNCL, HDI and CDI" (See Answer, pp 8-9):

"The information ... is not new - they simply represent the direct outcome of applying NRC rules and procedures that were publicly available prior to Pilgrim Watch's initial petition deadline on February 20, 2019." (Answer, p. 7)

"Pilgrim Watch's late-breaking understanding of long-standing NRC precedent does not constitute new information" (Answer, pp. 8-9)

"The response Pilgrim Watch received from the NRC [Public Affairs] does not provide any new or materially different information because it merely restates the scope of NRC's authority under long-standing, existing regulations." (Answer, p. 9)

"The Office of Enforcement response ['NRC regulations do not specifically address bribery'] did not show any change in policy or procedure" (Answer, p. 10)

"Pilgrim Watch now asserts as 'new information' examples of NRC's applications of existing standards." (Answer, p. 12)

If NRC practice has been to ignore character, as Applicants suggest, it would be legally unjustifiable, and has been well-hidden.

Pilgrim Watch's motion shows both why the practice Applicants suggest would be legally wrong, and why, even if it existed, Pilgrim Watch had no reason to know that the NRC

has not conducted, and has no intention of conducting, any investigations into the character of Holtec and SNCL¹:

- i. The Atomic Energy Act is clear that an applicant's² character is an important factor in whether a license should be granted (42 U.S.C. §2232a).
- ii. Prior ASLB decisions are clear that ethics is a legitimate area of inquiry in a license transfer proceeding such as that before the NRC now. (See, e.g., Ga. Power Co. CLI-93-16, 38 NRC 25 (1993) (The integrity or character of a licensee's management personnel bears on the Commission's ability to find reasonable assurance that a facility can be safely operated); Three Mile Island, ALAB-772, 19 NRC at 1227 (1984) (A licensee's ethics and technical proficiency are both legitimate areas of inquiry insofar as consideration of the licensee's overall management competence is at issue); Piping Specialists, Inc. (Kansas City, Missouri), LBP-92-25, 36 NRC 156, 153 (1992) (The commission is authorized to consider licensee's character and integrity in deciding whether to continue or revoke a license);³ and,
- iii. Numerous NRC regulations and other statements show that the NRC's official position is that trustworthiness and reliability are important to protect the public health, safety and security.

¹ As discussed in Pilgrim Watch's motion and below, HDI (the prospective decommissioning licensee) and CDI (the joint venture that will actually do the decommissioning work) are new companies with no prior history, and are owned and controlled by Holtec and SNCL.

² Holtec is an Applicant for the license transfer.

³ These are but a few of the ASLB decisions, of which Pilgrim Watch knew, that make clear that character is an important issue in deciding whether to grant a license. Exhibit 1 is relevant extracts from the NRC Staff Practice and Procedure Digest. None of these support Applicants assertion that Pilgrim Watch should have known that NRC policy was not to consider it.

Pilgrim Watch knew all of this when its Motion was filed. Tellingly, Applicants cite no NRC policy statement or regulation supporting their assertion that ignoring character was NRC practice, or that any such NRC practice was well-known.

B. Pilgrim Watch's New Contention was Timely

Applicants do not disagree that reports of Holtec bribery, misrepresentations and lack of quality assurance, and SNCL corruption, fraud, underestimating costs, and cutting corners, have been public knowledge for several years. They also do not contest that the NRC is well aware of them.

But, as said above and in Pilgrim Watch's Motion, these reports are not the "new information" on which Pilgrim Watch's motion is based. The "new information" is that, despite fact that the NRC knows of these reports, it will not consider Holtec's or SNCL's character, trustworthiness and reliability in deciding whether to grant the requested license transfer application. Pilgrim Watch first learned this information in mid-June of 2019.

The plain fact of the matter is that the Oyster Creek June 18, 2019 Oyster Creek Order, the June 19, 2019 email from NRC Public Affairs, the NRC letter to Kevin Kamps, and the information in them, are "new." Before June 18, 2019, Pilgrim Watch had no reason to think that the NRC has not conducted, and has no intention of conducting, the investigations that are prerequisite and essential to it determining whether this requests for license transfer should be granted. As discussed above, the Applicants have not cited any regulation or NRC statement to support their contention that Pilgrim Watch should have known the NRC would not do so.

Taking the three "new information" documents one-at-a-time, the Oyster Creek decision made very clear that the NRC conducted no background check and made no determination of

trustworthiness and reliability; and that in the future, it will limit its inquiry to financial and technical qualifications of only the proposed licensee, and that it has no intention of considering the trustworthiness, reliability or character” of any “separate entities” such as Holtec, SNCL or CDI, even though those “separate entities,” in reality, will be responsible for and control decommissioning.⁴

The June 19 email affirmed that the NRC will exercise its discretion only with respect to the applicant for a licensee (regardless of how new, experienced, or independent may be) and whether that entity alone “is technically and financially qualified.” 10 CFR 50.40(b), and that the “character” of those who will actually be responsible for and control decommissioning is irrelevant.

With respect to the NRC letter of December 20, 2018 to Kevin Kamps, it includes the explicit statement, ignored by Applicants, that” NRC regulations do not specifically address bribery.”

In their attempt to avoid this statement, Applicants cite a 2015 Public Comment to support their contention that Mr. Kamps’ allegations have been in the public domain since at least 2015 (Applicants’ Answer p.10). What Applicants ignore is that even if the *allegations* were in the public domain, and Pilgrim Watch might somehow have known about them, they were directed to abuse of whistleblowers (“Dec. 7, 2015 FC1119 public comment opposing Exelon takeover of Pepco, re: Exelon's abuse of whistleblowers),” and – unlike the statement in the OE letter that “The NRC Staff determined that NRC regulations do not specifically address

⁴ In section C. below, we will address the Applicant’s overblown assertions that the Oyster Creek decision “considered and rejected” Lacey Townships “character claims” (Answer, p. 8) and that Pilgrim Watch has not “connect[ed] its claims to the contents of the Application, the technical and financial qualifications of the proposed licensees, or the relevant regulations or precedent applicable to the Commission’s decision on the Application.” (Answer, p. 13)

bribery” - had nothing to do with whether the NRC considers character in determining whether to grant or transfer a license.

As for Applicants’ statement that “the OE letter was posted on Beyond Nuclear’s website in December, and therefore has been publicly available for months,” Pilgrim Watch has two comments: (i) After first learning of the letter on June 18, 2018 and before filing its motion, Pilgrim Watch tried to find this letter on both the internet (Google Search) and NRC websites, Nuclear Website and was unable to do so; (ii) We suggest that the proper test of whether OE’s statement that “NRC regulations do not specifically address bribery” was “publicly available” is *not* whether that it might be somewhere on the internet⁵ and somehow might be found by someone who had no reason to expect that it existed or to know where it might be. We know of nothing in any prior decisions that suggests that the NRC “publicly available” standard is not constrained by rationality and reasonableness. If the NRC were to construe “publicly available” to encompass “anything anywhere on the internet or anywhere else,” that would serve no public purpose (although it might well serve industry interests) and would be starkly at odds with other law.⁶

We also suggest that it would be an anomaly for the NRC to decide that an NRC document not on the NRC website was nonetheless “publicly available.”

⁵ There were at least 4.66 billion web pages online as of mid-March 2016 (<https://www.livescience.com/54094-how-big-is-the-internet.html>). As of June 2019 there were over 4.4 million internet users, and there are billions of new postings every day (<https://blog.microfocus.com/how-much-data-is-created-on-the-internet-each-day/>). The estimated size of the internet is over 5 billion gigabytes of data, and there are thought to be some 155 million websites on the internet. (<https://www.wisegeek.com/how-big-is-the-internet.htm>)

⁶ For example, the patent law standard whether something is a publication requires that it be disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence can locate it. Typically, the issue comes down to whether something has actually been disseminated to the public by the distribution of copies, or has been indexed in a library or data base.

In any event, before it first learned of these three documents in mid-June of 2019, Pilgrim Watch had no reason to think that the NRC would ignore its obligations. The Atomic Energy Act is clear that an applicant's character is an important factor in whether a license should be granted (42 U.S.C. §2232a); prior ASLB decisions are clear that ethics is a legitimate area of inquiry in a license transfer proceeding such as that before the NRC now. (Ga. Power Co. CLI-93-16, 38 NRC 25 (1993); Three Mile Island, ALAB-772, 19 NRC at 1227; Piping Specialists, Inc. (Kansas City, Missouri), LBP-92-25, 36 NRC 156, 153 (1992); and numerous NRC regulations and other statements show that the NRC's official position is that trustworthiness and reliability are important to protect the public health, safety and security. (Pilgrim Motion, pp.19-21).

How and why would Pilgrim Watch have known otherwise?

C. Oyster Creek v. Pilgrim

In their Answer, Applicants say:

“In approving the Oyster Creek license transfer application, the Commission did not ignore, but in fact considered and rejected character claims raised by the intervenor in that proceeding based on well-established rules that had long provided the standard for character-based challenges.”

The Applicants are half right. The Commission plainly rejected Lacey Township's “concerns about HDI's intention to subcontract decommissioning work to CDI (CLI-19-06, p. 14).

But in Oyster Creek, the Commission did not consider the substance of Lacey Township's statement that it was “concerned about the ‘trustworthiness and ... overall involvement in the decommissioning of Oyster Creek’ by CDI's parent company SNC-Lavalin,

which has been charged in Canada with corruption, fraud and bribery.” (Id.) Rather, the Commission said that it would *not* consider Lacey Township’s concerns.

Some of the reasons that the NRC refused to consider the corruption that concerned Lacey Township, much of which the NRC knew, are plainly not applicable here, e.g.:

1. “[T]he Township does not describe the bribery or other charges it references and does not link them to any aspect of the technical or financial qualifications of the Applicants.” (CLI-19-06, p. 15).

Pages 10-18 of Pilgrim Watch’s Motion, and the 13 pages (29-41) of its Exhibit 2 describes more than 30 reports of Holtec and SNLC “bribery and other charges” in considerable detail.

2. “It does not claim or provide any indication that individuals who may have been involved in the asserted wrongdoing remain at SNC-Lavalin or are likely to be involved in managing Oyster Creek’s decommissioning activities.”

The reports at pages 14-17 of Pilgrim’s Motion say Holtec’s then-and current CEO, Dr. Singh, made false statements to New Jersey government officials, and accuse him of bribery and attempted bribery in connection with Holtec’s nuclear waste storage business.

The various papers filed in connection with the license transfer application also Pilgrim Watch’s Motion also say that HDI is owned and controlled by Holtec and managed by Holtec senior staff, and that Holtec and SNCL are transferring employees into CDI. (See Pilgrim Motion, pp 7-8)⁷

⁷ Unfortunately, the license transfer application documents are short on specifics as to what Holtec and SNCL “are transferring into CDI or HDI. A first step in the NRC’s investigation should be identifying whether any of these were involved in, or held positions of responsibility relating to, Holtec’s and SNCL’s reported malfeasance.

3. “The Township does not indicate when and where the referenced violations by SNC-Lavalin personnel occurred.”

Pilgrim Watch’s Motion states the date of each of the more than 30 reports, and the quoted portions of the reports themselves “indicate when and where the referenced violations ... occurred.”

4. “SNC-Lavalin is not an Applicant.” (Id.)

Holtec is the applicant for the license transfer.

5. “[T]he Township does not specify how SNC-Lavalin may adversely impact Oyster Creek decommissioning activities or their funding.” (Id.)

Pilgrim Watch’s Motion discusses reports of SNCL’s history of underestimating costs, cutting corners to save money and dumping radioactive waste into sub-basements rather than removing it from a site. (Pilgrim Motion, p.13), say Dr. Singh attempted to bribe whistle-blowers to keep quiet about Holtec quality assurance violations (Pilgrim Motion, pp. 16, 28), and that Holtec is facing fines in Chernobyl for missed deadlines and engineering errors. (Pilgrim Motion, p 17). A repeat of any of this history would adversely impact decommissioning activities and funding.

*Further, it is clear from ASLB decisions identified in Exhibit 1 to this reply that **lack of ethics** (Three Mile Island, ALAB-772, 19 NRC at 1227; Piping Specialists, Inc. (Kansas City, Missouri), LBP-92-25, 36 NRC 156, 153 (1992)); **bad character** (Id.), **particularly of management** (USEC, Inc. (American Centrifuge Plant), LBP-05-28, 62 NRC 585, 618-19 (2005); Ga. Power Co. (Vogtle Electric Generating Plant, Units 1 & 2), CLI-93-16, 38 NRC 25 (1993); Piping Specialists, Inc. (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-*

92-24, 36 NRC 156, 163, n.5 (1992); Commonwealth Edison Co. (Zion Nuclear Power Station, Units 1 & 2), CLI-99-4, 49 NRC 185, 189 (1999); Consumers Power Co. (Midland Plant, Units 1 & 2), LBP-84-20, 19 NRC 1285, 1297 (1984), Houston Lighting & Power Co. (South Texas Project, Units 1 & 2), LBP-84-13, 19 NRC 659, 674-75 (1984), and Consumers Power Co. (Midland Plant, Units 1 & 2), CLI-83-2, 17 NRC 69, 70 (1983)); **lack of candor** (Metro. Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-85-9, 21 NRC 1118, 1136-37 (1985); Ga. Power, *supra*; Piping Specialists, *supra*; Commonwealth Edison, *supra*; USEC, *supra*), and **false statements** (Consumers Power Co., *supra*; Houston Lighting & Power Co., *supra*; Consumers Power Co., *supra*) are, in and of themselves, grounds for denying a license. The reports set forth in Pilgrim Watch’s Motion accuse Holtec and SNCL of all of these.

6. “[T]he Township does not connect the character claims about the general contractor’s co-parent to the Applicants’ financial qualifications.”

The general contractor here is a new company, CDI, formed by Applicant Holtec and SNCL “with the express purpose of creating a company to provide all-encompassing project solutions for the accelerated decommissioning of retired nuclear power plants.” (Pilgrim Motion, p. 9)

Pilgrim Watch’s Motion to Intervene shows that the Applicants created a corporate structure in which neither Holtec nor SNCL would have any financial responsibility, and that neither HDI nor CDI has the required financial qualifications. (See Pilgrim Watch Motion to Intervene and Hearing Request, pp 14-82)

Further, it is clear from ASLB decisions discussed above and extracts from which are Exhibit 1, that character claims are not required to be connected to financial qualifications.

7. “The Township does not describe how its concerns about SNC-Lavalin call into question the financial qualifications of separate entities, the Applicants.” (CLI-19-06, p. 16).

*Pilgrim Watch’s Motion raises serious concerns about Holtec - **which is an Applicant.***

Although SNLC itself is not an Applicant, but the NRC should not ignore reality. The

multi-level corporate organization that Holtec and SNCL created may permit avoid

financial liability; but the NRC obligation is to regulate Pilgrim’s decommissioning that

will in fact protect the public health and safety. To so, it must look at actuality – CDI and

HDI themselves have no history. The reported history of the entities that created and will

control them is unacceptable, and must be investigated before action is taken with respect

to the License Transfer Application. (See Pilgrim Motion, pp. 7-10)

D. Character is Material

Applicants say that character, trustworthiness and reliability are “not material to the findings that the NRC must make.” (Answer, pp. 12, 17). This echoes their equally erroneous contention that Pilgrim Watch should have known that the NRC would not investigate (See pages 2-4, above). As shown in Section A, above, and the cases listed in Exhibit 1, lack of candor, poor character or integrity, unfit management, deliberate false statements and effective quality assurance are all material to the NRC’s duty to insure that Holtec and SNLC have the character to decommission Pilgrim in a manner consistent with the public health and safety and

to assure financial and technological integrity.⁸ Can NRC reply on the PSDAR cost estimates prepared by CDI given SNCL's reported history of underbidding projects. Should NRC rely on Holtec's technological competence given its reported incompetence at TVA and at San Onofre, or SNCL's in view of the reports that it dumped radiological waste in basements beside the Chalk River instead of properly and safely disposing of them? Can NRC trust what either says?

Pilgrim's Motion and the cases listed in Exhibit 1 show that, contrary to Applicants' claim, there is no requirement that "claims against character ... must be connected to the technical character and financial qualifications applicants in the proceeding." (Answer, pp. 13-14). In any event, Pilgrim's motion show that they are connected. See pg. 10 above.

The Applicants statement that "Pilgrim Watch's citation to 10 C.F.R. Parts 73 and 37 is also misplaced" (Answer, p.17) is wide of the point. Those regulations and the other NRC statements quoted at pages 19-21 of Pilgrim Watch's Motion "show that the NRC's official position is that trustworthiness and reliability are important to protect the public health, safety and security." The Applicants' suggestion that trustworthiness and reliability are unimportant to anything except "physical protection of plants and apply [only] to individuals accessing certain materials and areas of a nuclear plant" (Id.) defies reality – those that run the plants must also be trustworthy and reliable.

Pilgrim Watch is not suggesting that the NRC has a duty to conduct what Applicants call "free ranging inquiries' into a licensee's character." (Answer, p. 15.) Pilgrim Watch does say that, when as here, the NRC knows of innumerable reports of Holtec's and SNCL's lack of character and integrity, it has a duty to investigate.

Finally, this Pilgrim Watch contention 3 does not say that any review the Staff might have made of Holtec's and NRC's character was not adequate. (See Answer, p. 16). What it does say is that the NRC has a duty to conduct some review of their character (we will leave the adequacy of the

⁸ The Applicants statement that "Pilgrim Watch's

review for another day) before deciding whether to allow Holtec's License Transfer Application. There is a vast difference between a review that Staff did conduct was adequate (as in Pacific Gas & Electric Co.) or performed well (as in Curators of the University of Missouri), and whether the NRC completely failed in its duty to conduct any character review.

As said at the outset:

“It is the NRC, not Pilgrim Watch, that has a statutory and regulatory duty to determine that Holtec (that owns HDI, will own Holtec Pilgrim, and is a majority owner of CDI that will decommission Pilgrim) and duty to determine that Holtec (that owns HDI, will own Holtec Pilgrim, and is a majority owner of CDI that will decommission Pilgrim) and SNCL (that is the co-owner of CDI) are in fact trustworthy, reliable and of good character.

Pilgrim Watch is not saying that the NRC did a poor job in making these determinations.

Pilgrim Watch's Contention is that the NRC has not done the job at all.

E. Conclusion

The NRC is responsible for regulating decommissioning in a way that will protect the public health, safety and the environment, and also our pocketbooks by assuring the Applicants' financial capability.

Pilgrim Watch's Contentions 1 and 2 say that the NRC should not grant the LTA because the proposed licensees do not have enough money to do the job, and also because they have not shown that their plan will protect the environment.

Contention 3 says that the NRC cannot properly grant the LTA unless and until it has investigated Holtec, SNCL, HDI and CDI, and has determined that each of the four is

trustworthy and reliable, and possess the character that is prerequisite to allowing it to participate in or control Pilgrim's decommissioning.

Pilgrim Watch's new contention 3 should be admitted for hearing, and for the reasons set forth here, in Pilgrim Watch's Motion to File a New Contention and in contentions 1 and 2, the LTA should not be approved.

Respectfully submitted this 19th of August 2019,

(Electronically signed)

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EXHIBIT 1

Extracts from the NRC Staff Practice and Procedure Digest

1. In an operating license proceeding (with the exception of certain NEPA issues), the applicant's license application is in issue, not the adequacy of the Staff's review of the application. An intervenor thus is free to challenge directly an unresolved generic safety issue by filing a proper contention but it may not proceed on the basis of allegations that the Staff has somehow failed in its performance. Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-728, 17 NRC 777, 807 (1983), review denied, CLI-83 32, 18 NRC 1309 (1983); Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-812, 22 NRC 5, 55-56 (1985). See Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit 1), ALAB-921, 30 NRC 177, 186 (1989); Curators of the University of Missouri, LBP-91-31, 34 NRC 29, 108-109 (1991), clarified, LBP-91-34, 34 NRC 159 (1991). Furthermore, although the Commission expects its Staff to thoroughly consider all its licensing decisions, the issue for decision in adjudications is not whether the Staff performed its duty well, but instead whether the license application raises health and safety concerns. Curators of the University of Missouri, CLI-95-8, 41 NRC 386, 396 (1995).
2. In some cases, the Commission or Board has admitted contentions based on claims of poor licensee character or integrity. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 365 (2001). To form the basis for an admissible contention, allegations of management improprieties or lack of "integrity" must be of more than historical interest: they must relate directly to the proposed licensing action. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 365 (2001); Georgia Institute of Technology (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 120 (1995).
3. Management issues must be directly germane to the challenged licensing action to serve as the basis for an admissible contention. In determining whether to grant a license, it is proper for a Licensing Board to evaluate whether the applicant, as presently organized and staffed, can provide reasonable assurance of candor, willingness, and ability to follow NRC regulations. A finding that an applicant's current management is unfit would be cause to deny a license. However, no genuine dispute with regard to a material issue of fact or law is raised where an intervenor relies on the existence of past violations, but then fails to present any information indicating that any person or procedure associated with those past violations will be employed at, or involved with, the proposed facility. USEC, Inc. (American Centrifuge Plant), LBP-05-28, 62 NRC 585, 618-19 (2005).
4. The Commission is authorized to consider a licensee's character and integrity in deciding whether to continue or revoke a license. Piping Specialists, Inc., et al. (Kansas City, MO), LBP-92-25, 36 NRC 156, 153 (1992), citing Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), ALAB-772, 19 NRC 1193, 1207 (1984), rev'd in part on other grounds, CLI-85-2, 21 NRC 282 (1985).

5. The untimely provision of significant information is an important measure of a licensee's character, particularly if it is found to constitute a material false statement. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), ALAB-738, 18 NRC 177, 198 (1983), rev'd in part on other grounds, CLI-85-2, 21 NRC 282 (1985).
6. An applicant's failure to notify a Board of significant information may reflect a deficiency in character or competence if such failure is a deliberate breach of a clearly defined duty, a pattern of conduct to that effect, or an indication of bad faith. Houston Lighting & Power Co. (South Texas Project, Units 1 & 2), LBP-86-15, 23 NRC 595, 625-626 (1986).
7. The generally applicable standard for licensee character and integrity is whether there is reasonable assurance that the licensee has the character to operate the facility in a manner consistent with the public health and safety and NRC requirements. To decide that issue, the Commission may consider evidence of licensee behavior having a rational connection to safe operation of the facility and some reasonable relationship to licensee's candor, truthfulness, and willingness to abide by regulatory requirements and accept responsibility to protect public health and safety. In this regard, the Commission can rest its decision on evidence that past inadequacies have been corrected and that current licensee management has the requisite character. Metro. Edison Co. (Three Mile Island Nuclear Station, Unit 1), CLI-85-9, 21 NRC 1118, 1136-37 (1985).
8. False statements, if proved, could signify lack of management character sufficient to preclude an award of an operating license, at least as long as responsible individuals retained any responsibilities for the project. Consumers Power Co. (Midland Plant, Units 1 & 2), LBP-84-20, 19 NRC 1285, 1297 (1984), citing South Texas, LBP-84-13, 19 NRC at 674-75, and Consumers Power Co. (Midland Plant, Units 1 & 2), CLI-83-2, 17 NRC 69, 70 (1983)
9. Another measure of the overall competence and character of an applicant or licensee is the extent to which the company management is willing to implement its quality assurance program. Waterford, ALAB-812, 22 NRC at 15 n.5, citing Consumers Power Co. (Midland Plant, Units 1 & 2), ALAB-106, 6 AEC 182, 184 (1973).

10. Candor is an especially important element of management character because of the Commission's heavy dependence on an applicant or licensee to provide accurate and timely information about its facility. La. Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-812, 22 NRC 5, 48, 51 (1985), citing Three Mile Island, ALAB-772, 19 NRC at 1208; Piping Specialists, LBP-92-25, 36 NRC at 156.

11. Under the Atomic Energy Act, the Commission is authorized to consider a licensee's character or integrity in deciding whether to continue or revoke its operating license. Metro. Edison Co. (Three Mile Island Nuclear Station, Unit 1), ALAB-772, 19 NRC 1193, 1207 (1984), rev'd in part on other grounds, CLI-85-2, 21 NRC 282 (1985). A licensee's ethics and technical proficiency are both legitimate areas of inquiry insofar as consideration of the licensee's overall management competence is at issue. Three Mile Island, ALAB-772, 19 NRC at 1227; Piping Specialists, Inc. (Kansas City, Missouri), LBP-92-25, 36 NRC 156, 153 (1992).

12. The integrity or character of a licensee's management personnel bears on the Commission's ability to find reasonable assurance that a facility can be safely operated. Lack of either technical competence or character qualifications on the part of a licensee or applicant is sufficient grounds for the revocation of a license or the denial of a license application. In making determinations about character, the Commission may consider evidence bearing upon the licensee's candor, truthfulness, willingness to abide by regulatory requirements, and acceptance of responsibility to protect public health and safety. However, not every licensing action throws open an opportunity to engage in an inquiry into the "character" of the licensee. There must be some direct and obvious relationship between the character issues and the licensing action in dispute. The issue of character is a proper matter for inquiry in a license transfer proceeding. Ga. Power Co. (Vogtle Electric Generating Plant, Units 1 & 2), CLI-93-16, 38 NRC 25 (1993). See also Piping Specialists, Inc. (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-92-24, 36 NRC 156, 163, n.5 (1992); Commonwealth Edison Co. (Zion Nuclear Power Station, Units 1 & 2), CLI-99-4, 49 NRC 185, 189 (1999).

13. In some cases, the Commission or Board has admitted contentions based on claims of poor licensee character or integrity. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 365 (2001). To form the basis for an admissible contention, allegations of management improprieties or lack of "integrity" must be of more than historical interest: they must relate directly to the proposed licensing action. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 365 (2001); Georgia Institute of Technology (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 120 (1995).

14. Management issues must be directly germane to the challenged licensing action to serve as the basis for an admissible contention. In determining whether to grant a license, it is proper for a Licensing Board to evaluate whether the applicant, as presently organized and staffed, can provide reasonable assurance of candor, willingness, and ability to follow NRC regulations. A finding that an applicant's current management is unfit would be cause to deny a license. However, no genuine dispute with regard to a material issue of fact or law is raised where an intervenor relies on the existence of past violations, but then fails to present any information indicating that any person or procedure associated with those past violations will be employed at, or involved with, the proposed facility. USEC, Inc. (American Centrifuge Plant), LBP-05-28, 62 NRC 585, 618-19 (2005).

15. A deliberate false statement or withholding of material information would warrant the imposition of a severe sanction. Not only are material false statements and omissions punishable under Sections 234 and 186 of the Atomic Energy Act, but deliberate planning for such statements or concerns on the part of applicants or licensees would be evidence of bad character that could warrant adverse licensing action even where those plans are not carried to fruition. When parties and their attorneys engage in conduct which skirts close to the line of improper conduct, they are running a grave risk of serious sanction if they cross that line. Consumers Power Co. (Midland Plant, Units 1 & 2), CLI-83-2, 17 NRC 69, 70 (1983).

16. False statements, if proved, could signify lack of management character sufficient to preclude an award of an operating license, at least as long as responsible individuals retained any responsibilities for the project. Consumers Power Co. (Midland Plant, Units 1 & 2), LBP-84-20, 19 NRC 1285, 1297 (1984), citing Houston Lighting & Power Co. (South Texas Project, Units 1 & 2), LBP-84-13, 19 NRC 659, 674-75 (1984), and Consumers Power Co. (Midland Plant, Units 1 & 2), CLI-83-2, 17 NRC 69, 70 (1983).

17. Information concerning a licensee's or applicant's intent to deceive may call into question its "character," a matter the Commission is authorized to consider under Section 182.a. of the Atomic Energy Act, 42 U.S.C. § 2232a, or its ability and willingness to comply with Agency regulations, as Section 103.b., 42 U.S.C. § 2133b, requires. Consumers Power Co. (Midland Plant, Units 1 & 2), ALAB-691, 16 NRC 897, 915 n.25 (1982).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
ENTERGY NUCLEAR OPERATIONS, INC.,)
ENTERGY NUCLEAR GENERATION)
COMPANY, AND HOLTEC) Docket Nos. 50-293 & 72-1044
DECOMMISSIONING INTERNATIONAL,)
LLC; CONSIDERATION OF APPROVAL OF)
TRANSFER OF LICENSE AND)
CONFORMING AMENDMENT)
)
(Pilgrim Nuclear Power Station))

CERTIFICATION OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify Pilgrim Watch Reply to New Contention 08.19.19 has been served upon the Electronic Information Exchange, the NRC's e-filing system, in the above-captioned proceeding this 19th day of August 2019.

Signed (electronically) by _____

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Dated: August 19, 2019