November 22, 2010

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

In the Matter of	)	
	)	
NEXTERA ENERGY SEABROOK (LLC)	)	
[Also Known As FLORIDA POWER & LIGHT]	)	
	)	
SEABROOK NUCLEAR POWER PLANT	)	DOCKET NO. 50-443-LR
	)	
Regarding the Renewal of Facility Operating License No-NFP-86 for a 20-Year Period	)	ASLBP No. 10-906-02-LR
	)	

COMBINED REPLY OF JOINT PETITIONERS (BEYOND NUCLEAR, SEACOAST ANTI-POLLUTION LEAGE AND NEW HAMPSHIRE SIERRA CLUB) TO ANSWERS OF NEXTERA ENERGY SEABROOK, LLC AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION

I. Introduction

Pursuant to the Atomic Safety and Licensing Board's Order of November 5, 2010 establishing the pre-hearing conference, joint petitioners Beyond Nuclear, Seacoast Anti-Pollution League and the New Hampshire Sierra Club, hereafter referenced as the "Petitioners" hereby submit their Combined Reply ("Reply") to the November 15, 2010 Answers of the license renewal applicant NextEra Energy Seabrook ("NextEra" or "Applicant") and the U.S. Nuclear Regulatory Commission ("Staff" or "Commission") in response to the Petitioners' Request for Public Hearing and Petition for Leave to Intervene of October 20, 2010 in the above captioned matter. Petitioners have

submitted a single environmental contention pursuant to the National Environmental Policy Act (NEPA).

II. Summary

On the matter of standing, NextEra and the NRC Staff do not raise an objection to the standing of the Petitioners in this Atomic Safety Licensing Board (ASLB) proceeding.

Both NextEra and Staff raise objections to the Petitioners single proffered contention regarding the Environment Report in the NextEra application for Seabrook relicensing.

The Petitioners Contention One states “The NextEra Environmental Report fails to evaluate the potential for renewable energy to offset the loss of energy production from the Seabrook nuclear power plant and to make the requested license renewal action for 2030 unnecessary. In violation of the requirements of 10 C.F.R. §51.53(c)(3)(iii) and of the GEIS § 8.1, the NextEra Environmental Report (§ 7.2) treats all of the alternatives to license renewal except for natural gas and coal plants as unreasonable and does not provide a substantial analysis of the potential for significant alternatives which are being aggressively planned and developed in the Region of Interest for the requested relicensing period of 2030-2050. The scope of the SEIS is improperly narrow, and the issue of the need for Seabrook as a means of satisfying demand forecasts for the relicensing period must be revisited due to dramatically-changing circumstances in the regional energy mix throughout the two decades preceding the relicensing period.”

III. The Petitioners reply that they have submitted an admissible contention on the Applicant's Environmental Report evaluation of the alternative of offshore wind power in the Region of Interest for the requested relicensing action for 2030.

The Petitioners respond to NextEra and the NRC staff objections contending that the Petitioners have not submitted an admissible contention.

A. NextEra and NRC staff answer in various and repetitious objections to Petitioners' Contention 1 arguing that it fails to meet the standards of admissibility in 10 C.F.R. § 2.309 and is outside of the scope of this proceeding, lacks an adequate factual basis, and does not raise a genuine dispute on a material fact with the application.

1. NextEra and NRC staff answer that they object to Contention 1 because it lacks an adequate factual basis and does not raise a genuine dispute on a material fact with the application;

a) NextEra answers that the Petitioners do not account for a factual basis regarding the construction of the wind power alternative in their comparison to the continued operation of Seabrook for another twenty years and ignore the discussion of the carbon footprint attributable to the requested license renewal period in the Environmental Report.(NextEra Answer, p.32) NextEra further answers that "Petitioners do not identify any impacts or benefits of wind generation that the ER has not already addressed. Thus, Petitioners' Contention fails to demonstrate the existence of a genuine, material dispute with the application." (NextEra Answer at p.34-35)

At a minimum, Petitioners have articulated a contention which adequately describes the information that should have been included in the Environmental Report and "adequately identified the legal basis of the contention by alleging that such disclosure is required by NEPA. A contention is within the scope of the proceeding when it "challenges the legal sufficiency of the ER and is material to compliance with NEPA, our NEPA-implementing regulations, and ultimately, to the NRC's compliance." *Calvert Cliffs 3 Nuclear Project, LLC and Unistart Nuclear operating Services, LLC,* (Combined License Application for Calvert Cliffs, Unit 3), CLI-09-20 (affirming admission of COLA contention on LLRW disposal inadequacies).

Petitioners reply that their proffered Exhibit 1 "Valuing the greenhouse gas emissions from nuclear power: A critical survey," Benjamin Sovacool (2008), is in fact a survey that screens a compilation of 103 expert studies on a broad range of estimates of greenhouse gas emissions from nuclear power plants. The Petitioners acknowledge that there is a wide range of studies and a considerable range between the estimated minimum and maximum greenhouse gas emissions from the Seabrook nuclear power plant equivalent. However, the Petitioners' expert document does briefly detail the estimated greenhouse gas emissions from the separate components of the "once through" nuclear fuel cycle.

NextEra has answered and asserts that the Environment Report concludes that the construction and decommissioning of Seabrook can be discounted and that these emission components are beyond the scope of this proceeding because they have occurred or will occur whether Seabrook license is renewed or not. NextEra answers

that the Environmental Report surmises that with the relicensed operation of the nuclear power plant, the greenhouse gas emissions will be "'on the same order of magnitude as for those renewable energy sources' including wind." (NextEra Answer, pp.32-33)

The Petitioners reply that their Exhibit 1 (Sovacool) identifies beyond what the Applicant's Environment Report provides and details that a significant portion of those greenhouse gas emissions will continue to emit from the discrete and unique aspects of the nuclear power life cycle for the 20-year extension as the result of 1) the "front end" of the uranium fuel chain including uranium mining, milling, conversion, enrichment and fuel fabrication; 2) reactor operation and maintenance and; 3) resulting "back end" with the estimated emissions generated by the long term management of the 20 years of additional generation of the volume and curie count of nuclear waste. Sovacool further identifies that the "front end" of the fuel chain is a series of energy and emissions intensive operations where "To supply enough enriched fuel for a standard 1000MW reactor for 1 year, about 200 tons of natural uranium has to be processed [Fleming, 2007]." (Petitioners Exhibit 1, p. 2942)

Moreover, Petitioners reply that NextEra's very brief evaluation assumes that these greenhouse gas emissions will be consistent leading up to and throughout the requested relicensing action for 2030 to 2050. The provision for providing "brief" cannot be misinterpreted to mean "cut short" to the exclude significant and important environmental considerations provided by an alternative that otherwise provides a "sufficiently complete" environmental analysis "to the fullest extent possible."

The Petitioners reply that in fact Sovacool identifies that the "Studies varied in their assumptions regarding the quality of uranium ore used in the nuclear fuel cycle. Low-grade uranium ores contain less than 0.01% yellowcake, and is at least ten times less concentrated than high-grade ores, meaning it takes 10 ton of ore to produce 1 kg of yellowcake. Put another way, if uranium ore grade declines by a factor of ten, then energy inputs to mining and milling must increase by at least a factor of ten [Diesendorf and Christoff, 2006]." (Petitioners' Exhibit 1, p. 2945) Contrary to NextEra's incomplete assumption with the diminishing finite supply of high grade ore deposits and an increased reliance upon lower grade ore deposits, this would result in the significant increase in greenhouse gas emissions for the requested renewal period and corresponding harm and should be evaluated to the wind energy alternative which has no harmful fuel cycle at all. Petitioners contend that it is reasonable to say that the nuclear industry predictions about the quality and quantity of greenhouse gas emissions from the processing of finite uranium ore deposits into nuclear fuel for the requested relicensing action in 2030 through 2050 is significantly less certain than predicting the availability of an ever abundant supply of the emission free resource of wind for the same requested relicensing action period of 2030 to 2050.

Petitioners further reply that the "back end" of the fuel chain entails the interim on-site storage and the ever evasive long-term sequestration of high-level (irradiated nuclear fuel) and low-level nuclear radioactive waste. As Sovacool notes, the half life of uranium-238, one of the largest toxic components of so-called "spent fuel," is about the same age of the earth: 4.5 billion years. (Petitioners' Exhibit 1, p. 2943) The emissions

projected for the projected construction, operation and management of long term sequestration of nuclear waste is discrete, unique and in addition to the emissions from the requested federal relicensing action in 2030 to 2050. Neither in NextEra's ER nor in its Answer does the application provide discussion, evaluation or detail specific to the additional greenhouse gas emissions predicted from the discrete and unique emissions contributions arising from both the "front-end" and "back end" of the Seabrook nuclear power plant's uranium fuel chain. This environmental impact would undoubtedly change sharply upward as a result of a 20-year license renewal in comparison to the wind energy alternative, which has no fuel cycle-related emissions at all.

In fact, given that Petitioners' citation of the comparative life cycle emission value including the construction, operation and decommissioning of new wind energy production is estimated at 9 gCO2e/kWh (Petitioners' Exhibit 1 identifies at Table 5 "Summary statistics of qualified studies reporting projected greenhouse gas emissions for nuclear power plants"), even after discounting the greenhouse gas emissions from the construction and decommissioning of the already-built Seabrook nuclear power plant as beyond the scope of this license renewal proceeding, the resulting mean value for greenhouse gas emissions from the components of the once-through fuel cycle remains 45.87 gCO2 /kWh - more than 5 times greater. (Petitioners' Exhibit 1, Table 5, p. 2947)

The emissions projected for the construction, operation and management of long term sequestration and management of the additional nuclear waste for the requested

federal relicensing action in 2030 to 2050 is not only unique but significant clouded with uncertainty about if and when a management program will arrive.

Petitioners reply that neither the NextEra Environmental Report nor its Answer provides any discussion, evaluation or detail specific to the additional greenhouse gas emissions from these discrete and unique emissions contributions from the "front-end" and "back end" of the Seabrook nuclear power plant's uranium fuel chain that would for the 20-year license renewal in comparison to the wind energy alternative which only has no fuel cycle-related emissions at all. They simply assert that by discounting the construction and decommission emissions from Seabrook's greenhouse gas contributions bring the license renewal action on par with renewable energy such as the wind alternative.

In fact, given Petitioners' citation of the comparative life cycle emission value including the construction, operation and decommissioning of new wind energy production is estimated at 9 gCO_2e/kWh, Petitioners' Exhibit 1 identifies at Table 5 "Summary statistics of qualified studies reporting projected greenhouse gas emissions for nuclear power plants," that even after discounting the greenhouse gas emissions from the construction and decommissioning of the already built Seabrook nuclear power plant that NextEra argues are beyond the scope of this license renewal proceeding, the resulting mean value for greenhouse gas emissions just from front-end and back-end components of the once-through fuel chain are still 45.87 gCO_2e /kWh or more than 5 times greater than wind energy. (Petitioners' Exhibit 1, Table 5, p. 2947) The

environmental benefits from the significant reduction in greenhouse gas emissions projected to be achievable from the offshore wind energy alternative is dramatic enough to warrant the replacement of Seabrook nuclear for the requested 2030 relicensing action. It thus follows that there must be more serious treatment of this alternative within the Environmental Impact Statement.

b) NextEra answers that “Petitioners do not identify any impacts or benefits of wind generation that the ER has not already addressed.” (NextEra Answer at 33)

Petitioners reply that contrary to NextEra’s assertion, the Petitioners have pointed out “by fact that renewable energy generators such as wind turbines also do not require radiological emergency planning zones, constantly vigilant security perimeters and use-of-lethal-force security exclusion zones and the creation of national sacrifice areas to contain radioactive wastes as is the case with the uranium fuel chain beginning with the uranium mines and ultimately leading to the still unresolved issue of long-term nuclear waste management.

Petitioners reply that it is not reasonable for NextEra to mean to say that the Petitioners in their citing of the undisputable fact that wind farms do not require federal and state emergency plans, that the Petitioners should have provided the Board with the abundance of decades of documentation from the inception of the controversial emergency plan for Seabrook to date.

This would be an unnecessary expense for Petitioners and the Board’s time and resource to compare the ever present Seabrook Emergency Planning Zone and the

required documented need for radiological preparedness with the absence of such a plan for wind energy.

The Board can recognize that the Petitioners' reference and discussion should suffice to say that there is no comparative harm generated by an increased reliance on the abundance of technologically feasible and commercially viable wind power in the Region of Interest. In fact, an increased reliance on the alternative significantly reduces the threat of harm.

c) NextEra answers that wind has a "relatively low capacity, compared with current baseload technologies," a result of the intermittency of wind energy. GEIS at 8-17. It also notes that "[c]urrent energy storage technologies are too expensive to permit wind power plants to serve as large baseload plants." Id. Accordingly, the GEIS concludes that wind is an inappropriate choice for baseload power. [NextEra Answer at 15]

Petitioners reply that they have already addressed in the context of the petition and that the Applicant's conclusion is thoroughly unsupportable, relying as it does upon a GEIS which does not address the indisputable 2010 reality of the accelerating growth of offshore generation and which also fails to account for the new information of numerous technological advances as proffered in the Petitioners exhibits. The Applicant provides no answer to the Petitioners' exhibits that would alter the specific and significant alternative development establishing that wind power is in fact considered a reasonable, technically feasible and commercially viable with agreements and development plans

for as much as 5 Gigawatts of offshore wind in the Region of Interest for the requested relicensing action period of 2030.

d) NextEra answers that the reasonableness of the alternative is based on the need to provide baseload power which “focuses on meeting future power system generating needs” and where the licensee renewal applicant “should identify the criteria used in evaluating the reasonableness of the alternatives and explain which alternatives will not be considered and why.” (NextEra Answer footnote 4 at 15)

Petitioners reply as that the criteria must include any new important information to be sufficiently complete for evaluating the alternative to the fullest extent possible in the Region of Interest for the requested renewal period of 2030. As the Petitioners have reiterated, the Applicant has omitted numerous significant and important expert and expert agency opinion, agreements and material fact establishing wind energy to be a reasonable alternative that is technologically feasible and commercially viable and under development for transmission of as much as 5 Gigawatts in the Region of Interest for the requested relicensing action in 2030. The Applicant provides no evaluation in the Environmental Report of such development and submits no answer with any specificity to the Petitioners’ contention on this discrete alternative development. The Applicant has provided no reasonable basis with any specificity for why this significant development is not being considered in context of the requested relicensing action for 2030.

e) NextEra's answers "ER also considers wind energy but concludes that it is not a reasonable alternative to the proposed action, relying in part on the GEIS.6 ER at 7-12 – 7-13. The ER then provides a brief explanation of why wind generation was rejected as a reasonable alternative. Specifically, it updates the GEIS review of wind generation and, citing more recent references, states that while advances in technology have improved wind turbine capacity, average annual capacity factors for wind power systems are still relatively low compared to baseload generator like a nuclear plant." *Id*. at 7-12. (NextEra Answer at 16)

The Petitioners reply that the Applicant acknowledges that the GEIS (1996) is in need of an "update" and that NextEra provides "more recent references" for its explanation. The Petitioners' dispute that the Applicant's very brief "update" to the GEIS provides "to the fullest extent possible" a "sufficiently complete" Environmental Report. The Petitioners further reiterate that the Applicant's "update" omits a significant important, specific documents establishing the discrete wind energy development in the Region of Interest for the requested relicensing action period of 2030.

Petitioners further reply that the dispute is in part over whether or not the proffered very brief explanation constitutes a sufficiently complete evaluation given that the Petitioners have alleged that a significant amount of new and well documented expert and expert agency documents provided as Petitioners exhibits were omitted from consideration, discussion and evaluation in the Applicant's Environmental Report. The Petitioners further contend that their dispute centers on whether or not the Applicant is allowed to

fix the Environment Report's evaluation of the alternative early in a point of time (2008) so as to advance their particular financial interest at the expense of ignoring a preponderance of more recent expert documentation, trends of significant technological advancement in the less harmful alternative, demonstrations of its commercial viability, state and federal memorandums of understanding and resourced and reasonable development plans with projected schedules for deliverable supplies of baseload energy by the requested federal action timeline of 2030.

Petitioners reply that there is no reasonable excuse for NextEra not disclosing this level of detail of state and federal agreements and advanced development planning for the very alternative they have dismissed in the Environmental Report. This is the very type of disclosure that NEPA seeks to drive through the agency's federal hearing process for a sufficiently complete evaluation to inform the agency's Environmental Impact Statement.

The Petitioners reply that NEPA never intended and does not allow a federal agency to foster or harbor complacency in its environmental review process of reasonable alternatives to the requested federal relicensing action. To the contrary, new and important information on reasonable alternatives must be considered to the fullest extent possible not omitted.

As the Petitioners have argued, new and reasonable information casting doubt upon a previous environmental analysis prompts the reevaluation of prior analysis within the GEIS (1996). *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989).

The Petitioners further point to NRC regulations at 10 C.F.R. § 51.92(a)(2), Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions, Subpart A, National Environmental Policy Act---Regulations Implementing Section 102(2), Final Environmental Impact Statements---General Requirements, Supplement to the Final Environmental Impact Statement." (a) If the proposed action has not been taken, the NRC staff will prepare a supplement to a final environmental impact statement for which a notice of availability has been published in the **Federal Register** as provided in § 51.118, if: (2) There are new and significant circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

Petitioners reply that in fact NextEra is demonstrated to have taken very little initiative in its Environmental Report to actually "update" the Commission or the GEIS with current expert and expert agency documents on the wind energy alternative given that as Petitioners have already pointed out NextEra's evaluation relies heavily upon a preponderance of reference documents published in 2008 and significantly earlier. (NextEra Environmental Report, Chapter 10, References) This dated reliance is made more curious by NextEra's claim in the Environment Report to be a national leader in the development of wind energy. The Petitioners reply that the Commission must question whether or not the Applicant's reliance upon a preponderance of even older reference documents from 2006 or 2000 would also constitute a "sufficiently complete" evaluation of the alternative for the requested federal in 2030. More to the point, Petitioners reply that the Commission should ask the question why the Applicant's

Environmental Review omits a significant number of new expert and expert agency information from 2009 and 2010 as provided by the Petitioners exhibits and if by their omission the Applicant can claim to have provided the agency with a “sufficiently complete” evaluation “to the fullest extent possible”.

As Petitioners have already pointed out these limited and already outdated reference documents in the Environmental Report do not constitute a sufficiently complete analysis to necessarily inform the Commission to take the required “hard look” in the Supplemental Environmental Impact Statement for the requested federal action.

The Petitioners reply that the Applicant’s Environment Report has so briefly discussed the wind energy alternative relying upon significantly dated information compounded by its own omission of significant expert and expert agency documents for the Region of Interest as to render its discussion of the alternative significantly incomplete, uninforming, inaccurate and misleading for the purpose of preparing the Environmental Impact Statement.

f) NextEra answers that the Petitioners have not demonstrated that baseload wind energy is a reasonable alternative.(NextEra Answer, page 18)

Petitioners reply that NextEra’s in making its assertion that baseload wind is not a reasonable alternative does not provide any answer in rebuttal to the exhibits establishing aggressive planning for the development of as much as 5 Gigawatts of offshore and deepwater wind in the Region of Interest by 2030 as documented by

Petitioners' expert and expert agency exhibits. The Applicant provides no specificity to its conclusion in rebuttal to the specific and discrete planning for development by 2030.

The NRC Staff Answer goes even farther, intimating (Staff Answer p. 97) that Beyond Nuclear wants Next Era and the agency to produce a "research document" for the Environmental Impact Statement for a mere "emerging technology" "for which there are not yet standard methods of measurement or analysis." (<>CITATION<>) The NRC Staff makes these frivolous assertions about a technology that, since the dated 1,077 kw offshore wind power figure (2008) cited by NextEra in its Environmental Report, has already more than doubled this Reply memorandum is being written. (Petitioners' Exhibit 11). The significant and accelerating increase in offshore wind, 20 years out from the requested federal relicensing action in 2030, augurs poorly for the environmental negatives of an aging, radiation-emitting and nuclear waste generating nuclear power plant a generation hence. Reliance on inaccurate data, coupled with word play aimed at minimizing and trivializing this established and highly-competitive alternative threatens to "defeat the purpose of an EIS by 'impairing the agency's consideration of the adverse environmental effects' and by 'skewing the public's evaluation' of the proposed agency action." *Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437, 446-48 (4th Cir. 1996).

g) The NRC staff answers that Beyond Nuclear does not establish that NextEra has omitted information required by law to be included in their ER. [Staff Answer at 93]

Petitioners reply that 10 C.F.R. § 51.45(b)(3) clearly states that “Alternatives to the proposed action. The discussion of alternatives shall be sufficiently complete to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, "appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." To the extent practicable, the environmental impacts of the proposal and the alternatives should be presented in comparative form;”

The Petitioners have provided the ASLB with expert and expert agency documents as exhibits that the Petitioners contend are significant and essential to “aiding the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA,” and that the Petitioners further contend have been omitted by the Applicant from the Environmental Report.

Petitioners argued in their first brief that they have more than met the burden of demonstrating a NEPA violation by showing in considerable detail a daunting array of evidence that offshore wind is aggressively be developed to be deployed for the requested relicensing action of 2030, and that a very serious, in-process alternative is completely ignored, if not deliberately. The Petitioners can only surmise that it is being ignored and omitted because it poses the specter of direct competition to NextEra’s business plan for the Region of Interest. Offshore wind is a “reasonable” alternative - the more so when other far less attainable alternatives, such as tidal power, were identified and considered in the Environmental Report. “The existence of a viable, but unexamined alternative renders an environmental impact statement inadequate.” *Idaho*

Conservation League v. Mumma, 956 F.2d 1508, 1519-20 (9th Cir. 1992). Agencies must "study. . . significant alternatives suggested by other agencies or the public. . . ." *DuBois v. U.S. Dept. of Agric.*, 102 F.3d 1273, 1286 (1st Cir. 1996), *cert. denied*, 117 S.Ct. 1567 (1997). Even an alternative which would only partially satisfy the need and purpose of the proposed project must be considered by the agency if it is "reasonable," *Natural Resources Defense Council v. Callaway*, 524 F.2d 79, (2nd Cir. 1975), because it might convince the decision-maker to meet part of the goal with less impact, *North Buckhead Civic Ass'n v. Skinner*, 903 F.2d 1533, 1542 (11th Cir. 1990).

h) The NRC staff answers that "If a contention alleges an omission, it must identify each omission and give supporting reasons for the petitioner's belief that the application fails to contain information on a relevant matter required by law. 10 C.F.R. § 2.309(f)(1)(vi)." [NRC Answer at p. 94]

It is hard to imagine what more Petitioners could do to prove and support their contention. Contrary to the NRC staff assertion, Petitioners identify a significant number of omissions in the ER for the offshore and deepwater wind energy alternative which are principally expert and expert agency documents that establish the alternative as a technologically feasible and commercially viable baseload energy alternative to the proposed federal relicensing action.

Contrary to NRC staff assertion that the Petitioners have not complied to the letter of 10 CFR 2.309(f)(1)(vi), the Petitioners have succinctly argued in their petition for leave to intervene that it is their belief that the significant omissions in the Applicant's ER are

fundamentally the result of the premature submittal of the application to the extreme of twenty years in advance of the current license expiration date.

While the Petitioners have acknowledged that the current regulation provides that the application can be made to the extreme of 20 years in advance of the current license expiration date, the Petitioners argue that the rule does not preclude or provide an excuse or justification for an insufficiently complete, inaccurate and uninformative Environmental Report under NEPA.

The Applicant and the Staff simply ignore the critical implications of this license extension request, which comes 20 years before the effective date of the extension. If an existing two lane highway were being widened to accommodate a six lane interstate highway, NEPA would require analysis of the project's environmental effects. If that project were to be phased in with funding in 2030 and a massive, directly-competing less adverse environmentally impacting intermodal elevated rail system were presently planned to be installed by 2025, the public would have an indisputable right to seek to reopen the NEPA aspects. Yet that option strangely is not available here, where the regulation is relied upon the NextEra and the Staff to justify the argument that self-imposed ignorance is an acceptable substitute for compliance with NEPA. A request for the significant widening of an existing highway project years in the future does not have an ironclad implementation date. An Environmental Impact Statement performed for such projects legally can become “stale,” and supplementation be required, if for example modes of transportation significantly less harmful to the human environment

are in interim in the planning and development stages.

Here, by contrast, the Applicant and NRC staff argue that a decision that can *only* be "implemented" at in 2030 is to be made by about 2012, and once made, *cannot ever again be subjected to NEPA supplementation requirements.* On its face, this proposition is ludicrous. While the Petitioners are not directly challenging the license renewal rule they point out that as the NRC regulations are currently structured, this license extension proceeding in 2010 is the sole opportunity for all time for the public to insist upon a genuine examination of a reasonable, technological feasible and commercially viable alternatives for the requested license renewal action in 2030. This sole opportunity for relief makes paramount the inclusion of <u>all</u> pertinent and important expert and expert agency opinion and development of the alternative in the Region of Interest. For the Applicant and Staff to argue that the Petitioners' exhibits need not be evaluated in the Environmental Report, now, and in fact omit any consideration of extensive expert and expert agency exhibits that reasonably indicate in 2010 that the less harmful offshore wind energy alternative is reasonably considered a technologically feasible and commercially viable potent competitor with Seabrook, is at the height of unreasonable illogic and is a deprivation of equal protection of the law.

i) The NRC staff answers that "Beyond Nuclear has not demonstrated a genuine dispute with NextEra's application because NextEra has included in its ER a sufficient alternatives analysis that meets the agency's requirements under 10 C.F.R § 51.45(c), comports with the GEIS, and is in compliance with NEPA." [NRC Answer at p. 94]

Petitioners reply that 10 C.F.R § 51.45(c) requires that the Applicant's analysis "shall, *to the fullest extent practicable*,[emphasis added] quantify the various factors considered. To the extent that there are important qualitative considerations or factors that cannot be quantified, those considerations or factors shall be discussed in qualitative terms. The environmental report should contain sufficient data to aid the Commission in its development of an independent analysis."

Petitioners reply that to the extent that NextEra does not inform, discuss, weigh and sufficiently analyze the important qualitative considerations for this particular alternative to the relicensing action within the Region of Interest by not providing a sufficiently complete Environmental Report. By expert and expert agency exhibits, the Petitioners have illuminated a number of important qualitative consideration for the technological feasibility and commercial viability of the offshore wind for the Region of Interest for the requested relicensing action that have been omitted from the Applicant's Environmental Report.

Petitioners have amply demonstrated through the submission of their exhibits that NextEra analysis did not provide or discuss expert and expert agency documents revealing 1) several New England states joined with the Department of Interior's in a Memorandum of Understanding to produce and transmit significant amounts of less environmentally harmful offshore wind into the Region of Interest by the requested federal action by 2030 and; 2) more specifically, the State of Maine's Governor's Ocean Energy Task Force in collaboration with the University of Maine's Advanced Structures

and Composites Center, DeepCWind Consortium is developing for transmission of as much as 5 Gigawatts of offshore wind into the Region of Interest by 2030 and; 3) with the Department of Interior and the Department of Energy support in the Region of Interest in the identical timeframe for the requested relicensing action in 2030. These exhibits provide some of the Petitioners submitted elements demonstrating that significant and important qualitative activity is underway in the Region of Interest specifically for the requested relicensing action timeframe of 2030 which must be discussed to provide sufficient complete consideration of the feasible, nonspeculative and reasonable alternative for the Environmental Impact Statement.

The ASLB must take pains to avoid the “losing proposition” of “blindly adopting the applicant's goals”, because it does not allow for the full consideration of alternatives required by NEPA. *Simmons v. Corps of Engineers,* 20 F.3d 664, 669 (7 Cir. 1997). NEPA requires than agency to "exercise a degree of skepticism in dealing with self-serving statements from a prime beneficiary of the project" and to look at the general goal of the project rather than only those alternatives by which a particular applicant can reach its own specific goals.” *Id.*

j) The NRC staff answers that “Beyond Nuclear alleges that NextEra violates NEPA by restricting its analysis to what alternatives are available *at this time*; instead, Beyond Nuclear asserts, NextEra must predict what technologies will be available during the licensing period of 2030-2050. [NRC Answer at p. 95]

Petitioners reply that some prediction is inherent in the NEPA process. However, NEPA requires that the NextEra Environmental Report must honestly acknowledge and be sufficiently complete with the relevant expert and expert agency documents that would establish that the offshore and deepwater wind energy alternative as technically feasible and commercially viable so that the agency can make the required informed hard look on the availability of the alternative identified as less harmful to the human environment for the requested federal action. Rather than include such relevant documents, Applicant's Environmental Report has omitted expert and expert agency documents that inform the agency of significant amounts of the offshore and deepwater wind alternative in the Region of Interest by 2030.

While the Environmental Impact Statement must not "require the government to speculate on impacts in order to 'foresee the unforeseeable'" *City of Davis v. Coleman,* 521 F.2d 661, 676 (9th Cir.1975), 'It must be remembered that the basic thrust of an agency's responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known. *Reasonable forecasting and speculation is thus implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as 'crystal ball inquiry.' Id.* at 676 (quoting *Scientists' Institute for Public Information v. A.E.C.*, 481 F.2d 1079, 1092 (D.C.Cir.1973)). Thus we find it imperative that the Forest Service evaluate the reasonably foreseeable significant effects which would be proximately caused by implementation of the proposed action. *Port of Astoria, Oregon v. Hodel*, 595 F.2d 467, 478 (9th Cir.1979) (EIS must address

those reasonably likely consequences of a proposed development that would have an environmental impact).

Methow Valley Citizens Council v. Regional Forester, 833 F.2d 810, 816-17*, rev'd on other grounds, Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989) (internal quotations and citations omitted).

The significant number of omissions in the Environmental Report neither provides an honest nor a sufficiently complete evaluation and appraisal of the alternative for the ROI for the requested relicensing action. The utter lack of acknowledgment of significant offshore wind wind development in the Region of Interest, coupled with the arguments made by NextEra and the Staff to trivialize the accelerating transformation of the wind power generation industry in the Region of Interest by the requested relicensing action time of 2030 is unmistakably reducing the NEPA process here to "crystal ball inquiry."

The significant number of omissions in the ER neither provides an honest or sufficiently complete evaluation and appraisal of the alternative for the ROI for the requested relicensing action.

k) The NRC staff answers that "Indeed, the Supreme Court has held that an EIS, and thus the alternatives analysis required therein, must be prepared when a project is proposed. *Kleppe v. Sierra Club*, 427 U.S. 390, 405-06 (1976). [NRC Answer at p. 96]

The Petitioners reply that that interpretation is correct only insofar as the agency does not indulge in a self-imposed ignorance, the turning of a blind eye or actual censure of

expert opinion and material fact to define otherwise “reasonable alternatives” out of existence. “NEPA's requirement for forecasting environmental consequences far into the future *implies the need for predictions based on existing technology and those developments which can be extrapolated from it”* (emphasis supplied). *Natural Resources Defense Council, Inc. v. Nuclear Regulatory Commission* (Vermont Yankee I), 547 F.2d 633, 637, 6 ELR 20615 (D.C. Cir. 1976), *rev'd on other grounds sub nom. Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 8 ELR 20288 (1978). Similarly, NextEra and the NRC are not free to favor legitimate technical information over bad. *See, Seattle Audubon Society v. Espy*, 998 F.2d 699, 703-04 (9th Cir. 1993) (overturning decision which “rests on stale scientific evidence, incomplete discussion of environmental effects . . . and false assumptions”).

Petitioners further note that *Kleppe v. Sierra Club* found that the agency must prepare a comprehensive Environmental Impact Statement for the Region of Interest - for a region - is correct. In this proceeding that means the coastal region of Maine, New Hampshire, Massachusetts, Connecticut and Rhode Island. The Applicant’s Environmental Report analysis must therefore provide a sufficiently complete discussion and evaluation of expert and expert agency information about the development of offshore and deepwater wind power alternative in the Region of Interest for the requested relicensing action of 2030. The Applicant has significantly failed to do so.

As the Petitioners’ exhibits amplify, the Applicant has failed to provide any discussion or the evaluation of the development plans for as much as 5 Gigawatts of offshore and

deepwater wind in the Gulf of Maine for transmission into the Region of Interest by 2030.

The Petitioners further reply that NEPA drives the environment protection assessment. The Applicant's discussion does not drive the need for power now as Seabrook's Current Licensing Basis is not questioned and is beyond the scope of this proceeding. NEPA does not say that the NextEra application must be filed now. NEPA, however, affects the standard for the environmental review of the alternatives when the request for the federal action is made. While NRC rule provides that a nuclear power company can make relicensing application 20-years in advance of the current expiration date its does not preclude the need for an application to strictly follow NEPA as to the requirement of addressing "reasonable alternatives."

The NRC staff answer is in fact an admission that the Applicant is required to prepare its Environmental Report informed at very least by the same such expert and expert agency opinions and documents that the Petitioners contention is based upon. The Petitioners have not conjured up documents, agreements, plans and baseless opinions from a séance session. Petitioners assert that it is the responsibility of the Applicant pursuing the requested federal action to provide a sufficiently complete evaluation to inform the NEPA process. Neither the Applicant nor NRC staff directly answer, address nor refute the "elephant in the room" at this point of the proceeding, namely, the expert documentation of offshore and deepwater wind development in the Gulf of Maine as extensively being planned for the Region of Interest for the requested federal

relicensing action in 2030. The agency's environmental analysis violates NEPA and is "fatally deficient" when it fails to disclose and respond to "the opinions held by well-respected scientists concerning the hazards of the proposed action"). *Friends of the Earth v. Hall*, 693 F.Supp. 904, 934 (W.D. Wash. 1988).]

l) The NRC staff answers that "While a certain level of prediction on the part of an agency is implicit in NEPA, only alternatives that are not considered 'remote and speculative possibilities' need be analyzed." [NRC Answer at p.96]

Petitioners reply that the "certain level of prediction" that the NRC staff references and acknowledges---without specifying exactly what a "certain level of prediction" is to be based on---must also acknowledge that a sufficiently complete Environmental Report must at least contain any State and Federal Memorandums of Understanding, State and Federal Task Force planning documents, as well as resourced technological and commercial ventures for the development and transmission of offshore and deep water as beyond the threshold of being considered "remote and speculative possibilities." The omission of any discussion and evaluation of such expert and expert agency documents from an Environmental Report does not alone make wind power development in the Gulf of Maine "remote and speculative."

m) The NRC staff answers that Beyond Nuclear does not establish that NextEra has omitted information required by law to be included in their Environment Report, and therefore does not raise a genuine dispute with the applicant [NRC Answer at p.96] and further answers that "Beyond Nuclear does not cite to any regulations or case law that

supports the argument that NextEra's ER must look beyond what is presently available in formulating its evaluation of *alternatives*." [NRC Answer at p.96]

Petitioners reply and reiterate that that 10 C.F.R. § 51.45(b)(3) clearly states that "Alternatives to the proposed action. The discussion of alternatives shall be *sufficiently complete* [emphasis added] to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, 'appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

Petitioners reply that pursuant to 10 C.F.R. § 51.53(c)(3)(iv) provides the Environmental Report must contain "any new and significant information regarding the environmental impacts of license renewal of which the applicant is aware." Given that NextEra claims to be a national leader in wind energy development, Petitioners reply that NextEra should have been aware of Petitioner's proffered publicly available exhibits for evaluation in the Environmental Report.

Under NEPA, alternatives analysis must "[i]nclude reasonable alternatives not within the jurisdiction of the lead agency." 40 C.F.R. § 1502.14 (c). See California v. Block, 690 F.2d 753, 765-69 (9Under NEPA, alternatives analysis must "[i]nclude reasonable alternatives not within the jurisdiction of the lead agency." 40 C.F.R. § 1502.14 (c). See California v. Block, 690 F.2d 753, 765-69 (9th Cir. 1982) (reversing EIS for failure to address reasonable range of alternatives).

The Petitioners further point to NRC regulations at 10 C.F.R. § 51.92(a)(2), Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions, Subpart A, National Environmental Policy Act---Regulations Implementing Section 102(2), Final Environmental Impact Statements---General Requirements, Supplement to the Final Environmental Impact Statement." (a) If the proposed action has not been taken, the NRC staff will prepare a supplement to a final environmental impact statement for which a notice of availability has been published in the **Federal Register** as provided in § 51.118, if: (2) There are new and significant circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

n) The NRC staff answers that "Accordingly, as baseload providing offshore wind energy is still an "emerging" technology presenting only a remote and speculative possibility that it could constitute a feasible, nonspeculative, and reasonable alternative to the proposed action, NextEra has not failed to include in its ER information required by Part 51 or NEPA." [NRC Answer at p. 97]

The Petitioners reply that without directly addressing, discussing and actually evaluating discrete development projects as is proceeding in the Gulf of Maine, the Applicant and Commission cannot inform the NEPA process for the purpose of issuing the required Environmental Impact Statement evaluation the discrete alternative to the proposed federal relicensing program in 2030. This is to be considered avoidance and elimination by omission rather than an honest and thorough evaluation.

o) The NRC staff answers that “the Commission has held that an applicant’s ER is not meant to be a ‘research document.’ Indeed, “NEPA does not require agencies to use technologies and methodologies that are still ‘emerging’ and under development, or to study phenomena ‘for which there are not yet standard methods of measurement or analysis.’ And while there ‘will always be more data that could be gathered,’ agencies ‘must have some discretion to draw the line and move forward with decisionmaking.’” [NRC Answer at p. 96-97]

However, “[i]t must be remembered that the basic thrust of an agency's responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known. Reasonable forecasting and speculation is thus implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as ‘crystal ball inquiry.’ *Id.* at 676 (quoting *Scientists' Institute for Public Information v. A.E.C.*, 481 F.2d 1079, 1092 (D.C.Cir.1973)).

The Petitioners reply that the Environmental Report must in fact acknowledge and sufficiently evaluate the existing expert and expert agency document plans that have determined that offshore wind energy is technically feasible and commercially viable for the requested relicensing period.

The Petitioners reply that the proffered expert and expert agency documents establish that such discrete technically feasible and commercially viable projects as the development of as much as 5 Gigawatts of offshore and deepwater wind in the Gulf of Maine and Google Corporation's initial investment of $5 billion for the commencement of an East Coast High Voltage Direct Current to transmit interconnected offshore wind farms is to be considered beyond the threshold of being characterized as "still emerging" technology. Petitioners reply that the term "still emerging" technology is more like the idea of proposing a fusion reactor without any implementation strategy or planning, no State and Federal Memorandum of Understanding for development, no State Governors and Federal task forces, no specific academic/technological development planning and implementation programs and commercial ventures for transmission to be a "still emerging" technology.

In the context of a comparative alternative analysis of NEPA, Petitioners reply that in fact operating nuclear power plants and their relicensing are to be regarded as a "still emerging" technology more particularly in regards to the Petitioners concern for long term environmental protection resulting from the still decades long absence of a scientifically proven, accepted and licensable long term nuclear waste management plan for the twenty additional years of nuclear waste generation being proposed. The "still emerging" long term waste management technology has not stopped the NRC from relicensing any of its nuclear power plants. Instead, the agency and the industry have proceeded merely on a "confidence decision" with much less scientific certainty, no State and Federal Memorandum of Understanding, no implementation plan, and

significantly less market support than what is advancing as renewable energy technology in the Region of Interest with proffered exhibits for wind energy from the Gulf of Maine by the requested federal licensing action for 2030.

Petitioners reply moreover that given the NextEra Environmental Report's reliance upon a preponderance of significantly dated reference documents, much of its data and conclusions are rendered inaccurate and misleading particularly in the context of the looking forward to the requested federal relicensing action in 2030. When this failure is coupled with the word play of the Applicant and the Staff aimed at minimizing or trivializing the established, technologically feasible and commercially viable less environmentally harmful alternative it threatens to "defeat the purpose of an EIS by 'impairing the agency's consideration of the adverse environmental effects' and by 'skewing the public's evaluation' of the proposed agency action." *Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437, 446-48 (4th Cir. 1996).

p) The NRC staff answers that "Beyond Nuclear suggests that NextEra's ER is deficient because it fails to consider the potential for developments in technology that could link wind farms far outside the ROI, which would avert the intermittency problems that currently prevent wind power from serving as a source of base-load energy." [NRC Answer at p.98]

Petitioners reply that they have presented expert documentation specific to baseload wind energy development in the Region of Interest for the requested relicensing action in 2030 that the Applicant omitted and simply failed to discuss and evaluate for the

requested relicensing action as exemplified but not limited to in Petitioners' Exhibit 9 "Eastern Wind Integration and Transmission Study," National Renewable Energy Laboratory (NREL), Department of Energy" referencing the Northeast ISO; Exhibit 13 Press Release, Department of Interior MOU, June 8, 2010 announcing the agreement formally establishing the Atlantic Offshore Wind Energy Consortium and referencing the Department of Interior MOU with 10 East Coast states including Maine, New Hampshire, Massachusetts and Rhode Island all within the Region of Interest; Exhibit 14 Maine Governor's Final Ocean Energy Task Force; Exhibit 15 "*Creating an Offshore Wind Industry in the United States: A Strategic Work Plan for the United States Department of Energy, FiscalYears 201-2015,* U.S. Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE), Wind and Water Power Program, September 2010 that includes a Strategic Work Plan for promoting generation in the Region of Interest; Exhibit 16 "Deepwater Offshore Wind in Maine: The Plan, The Timeline," Dr. Habib Dahger, Advanced Structures and Composites Center, University of Maine"; Exhibit 17 "Advanced Structures and Composites Material Center, University of Maine"s 20-Year Plan Time Line for the Gulf of Maine; Exhibit 18 the presentation of Dr. Habib Dahger, AEWC University of Maine; Exhibit 19 "20% Wind Energy by 2030: Increasing Wind Energy's Contribution to U.S. Electricity Supply," that references offshore wind development in the Region of Interest; Exhibit 20 "Assessment of Offshore Wind Energy Resources for the United States," NREL, with reference to the offshore wind resources in states within the Applicant's Region of Interest, and Exhibit 21 "Large Scale Offshore Wind Power in the United States: Assessment of

Opportunities and Barriers, US Department of Energy National Renewable Energy Laboratory.

q) The NRC staff answers in support of the Applicant's of the conclusion of the Environment Report's that wind farm transmission grids are still speculative for the Region of Interest. [NRC Answer at p. 98]

Petitioners reply that NRC staff manages to make this assertion without discussing, evaluating or even acknowledging in any specificity the Petitioners' proffered exhibits omitted from the Applicant's Environmental Report. This broad and general dismissal does not constitute a vigorous inquiry into the reasonable alternative and more appropriately as to be addressed through the requested intervention.

r) The NRC staff answers that it is beyond the requirements of Part 51 to insist that NextEra's analysis of alternatives include a study of wind power projects and policies planned for regions outside the ROI because an applicant is only required to analyze alternatives to the extent that they are capable of achieving the goals of the proposed action in 2030. [NRC Answer at p. 98]

Petitioners reply that pursuant to 10 C.F.R. § 51.53(c)(3)(iv) provides the Environmental Report must contain "any new and significant information regarding the environmental impacts of license renewal of which the applicant is aware." Given that NextEra claims to be a national leader in wind energy development, Petitioners reply that NextEra

should have been aware of Petitioner's publicly available exhibits for evaluation in the Environmental Report.

s) The NRC staff answers that Beyond Nuclear states that offshore wind power can provide base-load capacity if used in conjunction with energy storage mechanisms. NRC staff answers that NextEra only required to analyze discrete energy sources rather than comprehensive systems. [NRC Answer at p. 98-99]

Petitioners reply that NRC staff has misconstrued the Petitioners' assertion on baseload wind as only achievable through energy storage mechanisms in its ER.

First, Petitioners contention addresses NextEra's dismissal of baseload wind through energy storage mechanisms as not feasible or commercially viable. Petitioners' Exhibits provide the expert agency conclusion that in fact it is technically feasible and should be discussed in the context of the requested federal relicensing action for 2030.

Secondly, Petitioners have provided expert and expert agency documentation that is entirely omitted from the Environmental Report advancing HVDC interconnected wind farms are technically feasible and commercially viable to provide baseload wind energy to the Region of Interest for the requested federal relicensing action in 2030 particularly with Google Corporation's recent significant investment of $5 billion to begin the construction of the first vertebrae of the "backbone" for the transmission of baseload offshore wind along the East Coast for the requested relicensing action of 2030. The

HVDC transmission system developing for the East Coast would interconnect the discrete systems. Petitioners reply that NRC's answer is disingenuous if it is suggesting that NextEra omitted such analysis without discussion because it knew it did not have to discuss comprehensive systems. In fact it did raise storage in context of wind energy. NextEra did not provide or raise any specificity for transmission plans for any of the Petitioners proffered relevant exhibits as the Maine Governor's Ocean Energy Task Force for the transmission of 5 Gigawatts of electricity from the Gulf of Maine into the Region of Interest by 2030.

2. NextEra and NRC staff answer that Contention 1 amounts to an impermissible and direct challenge of the NRC rules and is therefore outside of the scope of a license renewal proceeding.

a). NextEra and Staff answer that Contention 1 is an impermissible attack on 10 CFR 54.17(c) and thus beyond the scope of this proceeding. (NextEra Answer at 34-36 and Staff Answer at 99-103)

First, the Petitioners reply that they are submitting Errata for the October 20, 2010 Request for Public Hearing and Petition for Leave to Intervene to correct the record reflecting their incorrect citation of 10 CFR 54.17(c) as "10 CFR 51.17(c)" in the body of text of their petition and note that the correct citation is within the text of their proffered Exhibit 2 regarding PRM-54-6.

The Petitioners reply that their original October 20, 2010 Request for Hearing and Petition for Leave to Intervene anticipated the objections of NextEra and Staff.

Petitioners reiterate that on August 18, 2010, they separately submitted a Petition for Rulemaking to the Commission that regards a host of issues raised by 10 CFR 54.17(c) on the provision to submit a license renewal application 20 years in advance of the current license expiration date including the discrete issues that the rule raises for the NEPA analysis of the Environmental Report and Environmental Impact Statement.

The Petition for Rulemaking is docketed as PRM 54-6 and was provided a 75-day comment period which ends on December 13, 2010.

As the Petitioners have already explained in their October 20, 2010 petition to intervene, the proffered contention hinges upon whether or not the Applicant's Environmental Report is sufficiently complete on the alternative as required by 10 C.F.R. § 51.45(b)(3) and the NEPA standard to thoroughly evaluate the less harmful alternative "to the fullest extent possible."

The Petitioners do not shy away from making the assertion that this particular relicensing proceeding might inform the rulemaking process and ultimately determine that making application 20 years in advance of the current license is in the extreme and provides no better qualitative difference for a sufficiently complete and accurate environmental evaluation than making application a quarter of a century or more in advance. Given that the relicensing of more than half (59) of the nation's 104 nuclear power plants has to date resulting in two (2) proceedings any longer than five (5) years, the Petitioners do not shy away from the assertion that in fact submitting a relicense application no more than 10 years in advance presents no unreasonable licensing

burden upon the applicant or the agency and arguably a significantly more reasonable environmental forecast.

While 10 CFR 54.17(c) does provide that NextEra can make such application under the rule, the matter before this proceeding is that the rule alone cannot and does not assure the licensing board that the application will be thorough, accurate and sufficiently complete. Moreover, the rule alone cannot and does not provide the Applicant with immunity from a challenge based upon the Petitioners' findings of the omissions of important and significant expert and expert agency documents creating an inferior, inaccurate and incomplete Environmental Report that is insufficient to aid and inform the required Environmental Impact Statement on the alternative.

The Petitioners do not intend to present their argument in support of their petition for rulemaking before this Licensing Board in defense of the contention. Nor do the Petitioners feel that the NextEra and NRC staff arguments in defense of 10 CFR 54.17(c) are any more germane to this proceeding than the Petitioners argument would be. The Petitioners will appropriately provide their argument and further comments to the NRC Rules and Adjudications staff within the requested comment period as we anticipate that NextEra and Staff will elaborate on their arguments as comments to PRM 54-6 and submit them more appropriately to the Rules and Adjudications Staff.

The Petitioners reply that the NextEra and Staff objections that the Contention 1 as beyond scope because it makes an inadmissible attack upon NRC regulations are therefore baseless.

IV. CONCLUSION

Contrary to assertions byNextEra and NRC staff, the Petitioners reply that they have complied with the NRC legal standards for submission of an admissible contention focused on the Applicant's Environmental Reviews lack of a sufficiently complete and accurate evaluation to the fullest extent possible for the alternative of offshore wind energy to the requested federal action for 2030.

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November 22, 2010

November 22, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Secretary

In the Matter of	)	
	)	
NEXTERA ENERGY SEABROOK (LLC)	)	
[Also Known As FLORIDA POWER & LIGHT]	)	
	)	
SEABROOK NUCLEAR POWER PLANT	)	DOCKET NO. 50-443-LR
	)	
Regarding the Renewal of Facility Operating License No-NFP-86 for a 20-Year Period	)	ASLBP No. 0-906-02-LR
	)	

CERTIFICATE OF SERVICE

The Petitioners certify that a copy of the "COMBINED REPLY OF JOINT PETITIONERS BEYOND NUCLEAR, SEACOAST ANTI-POLLUTION LEAGE AND NEW HAMPSHIRE SIERRA CLUB TO ANSWERS OF NEXTERA ENERGY SEABROOK, LLC AND THE UNITED STATES NUCLEAR REGULATORY COMMISSION" has been provided to the Electronic Information Exchange by Digital Certificate for service to the listed individuals and all others on the service list in this proceeding on this 22th day of November, 2010.

Secretary
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