

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Bennett Brown, et al.)
)
Petitioners,)
)
U.S. Nuclear Regulatory Commission, et al.) Case No. 11-1441
)
Respondents,)
)
and)
)
NextEra Energy Duane Arnold, LLC, et al.)
)
Applicants for Intervention.)

Motion for Intervention As of Right of
NextEra Energy Duane Arnold, LLC,
Central Iowa Power Cooperative, and Corn Belt Power Cooperative

Pursuant to 28 U.S.C. § 2348 and F.R.A.P. 15(d), NextEra Energy Duane Arnold, LLC (“NextEra”), Central Iowa Power Cooperative (“CIPCO”), and Corn Belt Power Cooperative (“Corn Belt”) (hereinafter NextEra, CIPCO, and Corn Belt are collectively referred to as “Joint Intervenors”) hereby file this Motion for Intervention in the above-captioned case as a respondent in support of the agency orders identified in the Petition for Review. In support of this Motion, Joint Intervenors state as follows:

1. In this proceeding and in the U.S. Nuclear Regulatory Commission (“NRC”) licensing proceeding on review, NextEra acts for itself and as agent for CIPCO and Corn Belt; these three entities are joint owners of the Duane Arnold Energy Center (“DAEC”), a single unit nuclear power plant in Palo, Iowa. NextEra owns a 70 percent share of DAEC and is licensed by the NRC to operate the plant; CIPCO and Corn Belt own 20 and 10 percent of DAEC, respectively. Each company is an NRC-licensed owner of DAEC pursuant to NRC Operating License DPR-49.

2. The Joint Intervenors are entitled to intervene as a matter of right in this action because they were a party in interest in the matter before the NRC that is the subject of the Petitions for Review. On September 30, 2008, NextEra applied to the NRC to renew the operating license for DAEC for a twenty-year period. The NRC subsequently provided an opportunity for a hearing on the license renewal application for DAEC. 74 Fed. Reg. 7,489. The NRC received no requests for a hearing on the license renewal application. Nonetheless, NextEra fully participated in the NRC licensing proceeding, which ultimately resulted in the NRC’s issuance of a renewed operating license for DAEC on December 16, 2010.

3. As part of its review of NextEra’s application, the NRC prepared site-specific draft and final environmental impact statements to supplement its Generic Environment Impact Statement for Reactor License Renewal (NUREG-1437). The

NRC's Final Supplemental Environmental Impact Statement for DAEC is the subject of the instant petition for review before this Court.

4. The Joint Intervenors have a direct interest in the outcome of this proceeding. A renewed NRC operating license is required for NextEra to continue to operate DAEC beyond its current operating license expiration date, which is February 21, 2014. *See* 74 Fed. Reg. 7,489. The financial interests of the Joint Intervenors would be adversely affected if the NRC's issuance of the renewed license for DAEC were enjoined, set aside, or suspended. 28 U.S.C. § 2348 (“[A]ny party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right”). Thus, the Joint Intervenors have a substantial direct interest in this Court's review of the NRC order challenged in the Petition. As a party to the agency proceeding now on review whose interest will be affected if the NRC order is enjoined, set aside or suspended, the Joint Intervenors respectfully submit that they are entitled to intervene in this action as a matter of right. *See* 28 U.S.C. § 2348.

5. Counsel for the Joint Intervenors has been authorized by counsel for the Respondents to represent that they do not object to the Joint Intervenors' intervention in this proceeding. Counsel for the Joint Intervenors contacted counsel for the Petitioners, who has not taken a position on this motion.

WHEREFORE, based upon the foregoing, the Joint Intervenors respectfully request that their Motion for Intervention as of Right be granted.

Dated: March 18, 2011

Respectfully Submitted,

NEXTERA ENERGY DUANE ARNOLD, LLC
CENTRAL IOWA POWER COOPERATIVE
CORN BELT POWER COOPERATIVE

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2011, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Steven C. Hamrick