



Steven Hamrick  
(202) 349-3496  
steven.hamrick@fpl.com

March 30, 2011

Paul S. Ryerson, Esq., Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dr. Michael Kennedy  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dr. Richard E. Wardwell  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

In the Matter of  
NextEra Energy Seabrook, LLC  
(Seabrook Station)  
Docket No. 50-443-LR; ASLBP No. 10-906-02-LR

Dear Administrative Judges:

By order dated March 23, 2011, the Licensing Board circulated a draft Scheduling Order for the above-captioned proceeding and requested that any comments be filed on or before March 30, 2011. NextEra Energy Seabrook, LLC ("NextEra") hereby offers comments on a single matter – the schedule for evidentiary submittals by the Commonwealth of Massachusetts acting as an interested state under 10 C.F.R. § 2.315(c).

While an interested state need not proffer its own contentions, once it is in the proceeding, it must observe the procedural requirements applicable to the parties appearing before the Board. *See Gulf States Utilities Co.* (River Bend Station, Units 1 & 2), ALAB-444, 6 NRC 760, 768 (1977). Paragraph II.F.3 of the draft Scheduling Order sets forth a staggered filing schedule whereby each party to the proceeding is afforded an opportunity to respond to the initial evidentiary submission of any opposing party. But the draft Scheduling Order treats the Commonwealth differently in this respect, offering it an opportunity to file an evidentiary submission 15 days after the last party filing. NextEra is concerned that the proposed schedule would preclude any party from offering a pre-filed written rebuttal to the Commonwealth's submission.

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Instead, NextEra suggests a requirement that the Commonwealth notify the parties within 30 days after the Trigger Date whether it intends to submit testimony in support of or opposition to the contentions for which it has already indicated its desire to participate. *See Louisiana Energy Services, L.P.* (National Enrichment Facility), 60 NRC 619, 627 (2004) (“The representative [of an interested state] shall identify in advance of a hearing those contentions on which he or she wishes to participate”). Under this proposal, any such testimony would then be filed at the same time as the party or parties whose position the Commonwealth supports. That way, regardless of the position asserted by the Commonwealth, the opposing party would have an opportunity to address its testimony in writing. In addition, if the Commonwealth elects to participate by submission of testimony on any contention, it should complete disclosure on each such contention 30 days after the Trigger Date, including the identity of experts under 10 C.F.R. § 2.336(a)(1).

In accordance with the Board’s Order, NextEra made a good-faith effort to resolve this concern with the other participants in order to submit a joint proposal. Counsel for the NRC Staff supported NextEra’s proposal, but counsel for the Commonwealth did not. Counsel for the Commonwealth did indicate, however, that it would be amenable to a proposal allowing NextEra to respond to its evidentiary submission with leave of the Board. NextEra appreciates this accommodation, but maintains that the ability to respond to an evidentiary submission should be a matter of right built into the schedule as reflected in NextEra’s proposal. The representatives for Beyond Nuclear and Friends of the Coast/ New England Coalition did not respond to NextEra’s proposal.

Sincerely,

*/Signed electronically by Steven Hamrick/*

Steven Hamrick  
Counsel for NextEra Energy Seabrook, LLC

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
NextEra Energy Seabrook, LLC	)	Docket No. 50-443-LR
	)	
(Seabrook Station)	)	
	)	ASLBP No. 10-906-02-LR
(Operating License Renewal)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing letter, dated March 30, 2011, were provided to the Electronic Information Exchange for service to those individuals listed below and others on the service list in this proceeding, this 30th day of March, 2011.

Administrative Judge  
Paul S. Ryerson, Esq., Chair  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Email: psr1@nrc.gov

Administrative Judge  
Dr. Michael Kennedy  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Email: michael.kennedy@nrc.gov

Administrative Judge  
Dr. Richard E. Wardwell  
Atomic Safety and Licensing Board  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Email: richard.wardwell@nrc.gov

Secretary  
Att'n: Rulemakings and Adjudications Staff  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
hearingdocket@nrc.gov

Office of Commission Appellate Adjudication  
Mail Stop O-16 C1  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: OCAAMAIL@nrc.gov

Mary Spencer, Esq.  
Maxwell C. Smith, Esq.  
Emily L. Monteith, Esq.  
Megan Wright, Esq.  
Office of the General Counsel  
Mail Stop O-15 D21  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: mary.baty@nrc.gov

Raymond Shadis  
New England Coalition  
Post Office Box 98  
Edgecomb, Maine 04556  
E-mail: shadis@prexar.com

Kurt Ehrenberg  
New Hampshire Sierra Club  
40 N. Main Street  
Concord, NH 03301  
E-mail: Kurt.Ehrenberg@sierraclub.org

Paul Gunter, Reactor Oversight Project  
Beyond Nuclear  
6930 Carroll Avenue, Suite 400  
Takoma Park, MD 20912  
E-mail: paul@beyondnuclear.org

Doug Bogen  
Executive Director  
Seacoast Anti-Pollution League  
PO Box 1136  
Portsmouth, NH 03802  
E-mail: bogen@metrocast.net

Matthew Brock  
Assistant Attorney General  
Environmental Protection Division  
Office of the Attorney General  
One Ashburton Place, 18th Floor  
Boston, Massachusetts 02108  
matthew.brock@state.ma.us

/Signed electronically by Steven Hamrick/

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Steven Hamrick