

August 9, 2011

**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))	

NextEra Energy Seabrook, LLC’s Motion to Amend the Initial Scheduling Order

NextEra Energy Seabrook, LLC (hereinafter “NextEra”), hereby moves the Atomic Safety and Licensing Board (“Board”) to amend its April 4, 2011 Initial Scheduling Order to modify the deadline for initial disclosures from October 3, 2011, to April 2, 2012. The NRC Staff’s recent notification of an eleven-month extension of its safety review schedule alleviates the Board’s valid concern about the effects of a discovery deferral on the original hearing schedule and counsels in favor of a limited extension of the current disclosure deadline.

On February 17, 2011, NextEra, with the consent of the other parties, moved the Board to defer all initial disclosures required by 10 C.F.R. § 2.336 and the NRC Staff’s provision of the hearing file required by 10 C.F.R. § 2.1203 until after disposition of its petitions for review of the Board’s February 15, 2011 Memorandum and Order (Ruling on Petitions for Intervention and Requests for Hearing), LBP-11-02. At that time, the issuance of the Staff’s Safety Evaluation Report (“Final SER”) was scheduled for January

2012.¹ During the March 14, 2011 prehearing conference, the Board expressed concern that an open-ended stay of discovery could adversely affect the hearing schedule.² Accordingly, the Board's Initial Scheduling Order requires disclosure within 30 days of a Commission disposition of the pending appeals, but in no event after October 3, 2011. Initial Scheduling Order at 3. This ruling allowed for only three months between the initial disclosure deadline and the then-scheduled issuance of the Final SER.

Recently, the NRC Staff notified the Board that the scheduled date for the issuance of the Final SER had been changed from January 2012 to December 2012, an eleven-month extension of the schedule.³ This allows for a modification of the Initial Scheduling Order that would meet the parties' stated desire to avoid costly and potentially unnecessary discovery activities, while also protecting against potential delays to the hearing schedule.

Given the change in the schedule, the Board's concern about the potential impact to the hearing schedule from an open-ended deferral of discovery has been all but eliminated. However, NextEra proposes only a limited extension, patterned after the procedure in the Board's Initial Scheduling Order. Under this proposal, paragraph A.1. of the Initial Scheduling Order would be amended to replace "October 3, 2011" with "April 2, 2012." This request is a modest change under the circumstances; a six-month stay compared to the eleven-month extension for the Final SER. Thus, the requested change would allow a full eight months between the initial disclosure deadline and the scheduled issuance of the Final SER, five months longer than the Board allowed for in its

¹ Letter from Mary B. Spencer to Administrative Judges, "Projected Schedule for Completion of the Safety and Environmental Evaluations," March 7, 2011.

² Transcript of Pre-Hearing Telephone Conference, Mar. 14, 2011 at 184-85.

³ Letter from Mary B. Spencer to Administrative Judges, "Changes to Projected Schedule for Completion of Safety Evaluations," July 14, 2011.

Initial Scheduling Order. In any event, this extension should allow ample time for the Commission to issue its decision on the pending appeals, such that the new April deadline would be rendered unnecessary.

NextEra requests that the Board approve this alteration of the schedule pursuant to 10 C.F.R. §§ 2.319(k), 2.332(c), and 2.336(a).

In accordance with 10 C.F.R. § 2.323(b), NextEra has consulted with the other parties on this motion. The NRC Staff has no objection to the motion. Massachusetts has no objection to the motion, subject to review of the motion as filed. NEC/ Friends of the Coast is in agreement with the motion, so long as the post-SER portion of the hearing schedule is not shortened. Beyond Nuclear, Seacoast Anti-Pollution League, and the New Hampshire Sierra Club join in NEC's response.

Respectfully Submitted,

/Signed electronically by Steven Hamrick/

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “NextEra Energy Seabrook, LLC’s Motion to Amend the Initial Scheduling Order,” were provided to the Electronic Information Exchange for service to those individuals listed below and others on the service list in this proceeding, this 9th day of August, 2011.

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