

September 13, 2011

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of

NextEra Energy Seabrook, LLC

(Seabrook Nuclear Station, Unit 1)

Docket No. 50-443-LR

ASLBP No. 10-906-02-LR

**INTERVENORS' REPLY AND MEMORANDUM IN REPLY TO NEXTERA  
AND NRC STAFF OPPOSITIONS TO ADMISSION OF FRIENDS OF THE  
COAST AND NEW ENGLAND COALITION'S CONTENTION REGARDING  
NEPA REQUIREMENT TO ADDRESS SAFETY AND ENVIRONMENTAL  
IMPLICATIONS OF THE FUKUSHIMA TASK FORCE REPORT**

Pursuant to 10 C.F.R. § 2.309(h)(2), the Intervenor, Friends of the Coast and New England Coalition ("Friends/NEC") hereby reply to the oppositions submitted by the applicant, NextEra Energy Seabrook, LLC ("NextEra") and the U.S. Nuclear Regulatory Commission ("NRC") Staff to Intervenor's new contention seeking consideration of the environmental implications of the Fukushima Task Force Report. Friends/NEC respectfully submits that the arguments by applicant and the NRC Staff regarding the timeliness and admissibility of the contention are without merit and the contention should be admitted.

The arguments raised by the applicant and the NRC Staff in response to the Intervenor's contention are similar or identical to arguments made by the applicant and staff in response to Fukushima Task Force Report-related contentions that were filed in other reactor licensing proceedings on the same day. Intervenor attaches and incorporates by reference the attached Reply Memorandum, which addresses the most common

arguments that are made in the responses and was prepared by counsel for intervenors in several of the cases.<sup>1</sup> The Reply Memorandum also discusses the effect of the NRC Commissioners' recent decision regarding the Emergency Petition that was submitted by Friends/NEC and many other intervenors and petitioners in April 2011. *Union Electric Co., d/b/a/ Ameren Missouri (Callaway Plant, Unit 2) et al., CLI-11-05, \_\_\_ NRC \_\_\_* (Sept. 9, 2011) ("CLI-11-05").<sup>2</sup>

Friends/NEC directly replies to the answers of NRC Staff and NextEra ("NRC/NextEra") with specific regard to the above captioned matter: The objections to admission of Friends/NEC's new proposed contention, are treated in common inasmuch as the answer from NRC Staff appears to bound in its entirety the answer from NextEra. NRC/NextEra argues that the proposed contention is beyond the scope of the proceeding, because, it is claimed, the contention inadmissibly challenges certain regulations and generic determinations. It does not. Licensees are specifically required to analyze and apply lessons learned from industry experience to their operations. Friends/NEC contends that NRC has never articulated that this requirement does not extend to licensing or to proposed operations practices in a proposed period of extended operation. Further, the intervenors invoke and not challenge NEPA a regulation to which NRC claims to adhere. If there is a conflict between the requirements NEPA and the Commission's Regulations

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<sup>1</sup> The Reply Memorandum was prepared by Diane Curran (counsel for the intervenor in the Diablo Canyon license renewal proceeding and Watts Bar operating license proceeding), Mindy Goldstein (counsel for some of the intervenors in the Vogtle and Turkey Point COL proceedings), and Jason Totoui (counsel for some of the intervenors in the Turkey Point COL proceeding).

<sup>2</sup> Because the applicant and the NRC Staff have not had an opportunity to address the effect of CLI-11-05 on the timeliness and admissibility of Intervenors' contention, Friends/NEC would not object to a response by the applicant and the Staff to their arguments regarding the relevance of CLI-11-05 to their contention.

in 10 C.F.R. §§ 51.45(c) and 51.53(c), it is inherent in the overwhelming portent of information emerging from the Fukushima experience and it is no doing of the intervenors, save to point to what NRC and the nuclear industry should have realized from the onset: traditional assumptions regarding the mechanisms and environmental impacts of nuclear reactor accidents are rendered absurd in the light of the unanticipated melt-throughs, hydrogen explosions, wide-spread heavy contamination, and entirely unprecedented estimated clean-up and recovery costs.

Nor, as NRC/NextEra claims, are Emergency Planning Issues Raised by the Contention are Beyond the Scope of this Proceeding

But for the whims of wind direction, the Japanese would have faced the astounding task of evacuating 10 to 12 million people in the Tokyo area; more than comparable to just a fraction of the contamination spread at Seabrook requiring the evacuation of the Boston metropolitan area. While the Commission dithers, most practical observers know that all bets are off on both risk and consequence until all of the information is in, confirmed, and analyzed.

Contrary to NRC/NextEra claims, The Contention Does Raise a Material Issue and in a timely way. The Commission and its Atomic Safety and Licensing Boards must consider all significant nuclear safety issues affecting the ER and the DEIS that come before them; no matter the source. Intervenors are not obliged to act on information that is less than authoritative. In this case intervenors are relying on the NRC Fukushima Task Force, which took 90 days to build their report. Intervenors have filed within 30 days of the release of that report ; the first comprehensive set of factual assertions endorsed by

NRC and in that sense, the first report considered by the intervenors to be authoritative and an adequate basis for a contention

Friends/NEC's demand has yet to be satisfied in any respect. Neither the NRC nor NextEra has prepared a single document under the National Environmental Policy Act that addresses the environmental implications of the Fukushima accident or the Task Force Report. Unless and until the NRC or NextEra makes some attempt to satisfy NEPA, the Friends/NEC contention of omission is admissible.

Respectfully submitted this 13th day of September 2011.

Electronically signed  
*Raymond Shadis*

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