

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of	)	
PSEG POWER, LLC AND PSEG	)	Docket No. 52-043-ESP
NUCLEAR, LLC	)	
(Early Site Permit Application)	)	November 13, 2015
	)	

**JOINT COMMENTS ON DRAFT INITIAL SCHEDULING ORDER**

On November 4, 2015, the Atomic Safety and Licensing Board (“Board”) held a scheduling conference related to the mandatory hearing for the early site permit (“ESP”) application submitted by PSEG Power, LLC and PSEG Nuclear, LLC (collectively, “PSEG”). The Board subsequently issued an order on November 9, 2015 requesting comments by PSEG and the Nuclear Regulatory Commission (“NRC”) Staff (collectively, the “parties”) on an attached draft Initial Scheduling Order (“ISO”) for the mandatory hearing.<sup>1</sup>

The parties jointly submit the following comments on the draft ISO for the Board’s consideration:

1. *Draft ISO, page 3* – The NRC Staff posted the Final Environmental Impact Statement (“FEIS”) for the PSEG ESP on the NRC’s webpage ahead of schedule on November 13, 2015. It is available online at ADAMS Accession Nos. ML15316A283, ML15316A072, and ML15317A455. The NRC Staff expects to provide four paper copies to the Board on November 16. The NRC Staff also expects that the Environmental Protection Agency will publish a notice of

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<sup>1</sup> Licensing Board Order (Concerning Draft Initial Scheduling Order) (Nov. 9, 2015) (unpublished) (providing the draft ISO as Attachment 1).

availability for the FEIS in the *Federal Register* on November 20, 2015.

Therefore, the last sentence of Section I and the entirety of Section II.A of the draft ISO should be deleted.

2. *Draft ISO, page 3* – Editorial – In footnote 5, change “52.16(c)” to “52.17(c).”
3. *Draft ISO, pages 5-6* – The parties propose that the Board revise the schedule in the draft ISO to address a couple of changes. First, the parties request that the Board separate the deadlines for question responses and identification of areas for prefiled testimony for the safety and environmental issues (without bifurcating the hearing). This should spread out the burden of the parties preparing the question responses and prefiled testimony, and the Board reviewing the question responses and identifying areas for prefiled testimony. Additionally, with the separation of these safety and environmental filings, the parties believe that it would be efficient and manageable to make a few modest reductions to some of the deadlines between the Board questions and the in-person hearing. All of these changes are illustrated in the following revised schedule:

September 29, 2015	SER issued.
November 16, 2015	FEIS provided to Board.
December 17, 2015	Board issues first set of questions (on SER).
January 11, 2016	Board issues second set of questions (primarily on FEIS).
January 14, 2016	Parties submit responses to Board’s questions on SER.
January 28, 2016	Parties submit responses to Board’s questions on FEIS.
January 28, 2016	Board enters order identifying areas for prefiled testimony on SER.
February 11, 2016	Board enters order specifying date(s) for oral hearing and identifies areas for prefiled testimony on FEIS.
February 25, 2016	Parties submit prefiled testimony and exhibits.
March 24, 2016	Mandatory hearing.
April 15, 2016	Proposed findings of fact and conclusions of law (if necessary).
May 13, 2016	Board issues Initial Decision.

4. *Draft ISO, Attachment A* – Editorial – In paragraph (1) of Section A, change “[AEA]” to “Act,” because “AEA” is not defined and “Act” is used in other parts of the quoted regulation.
5. *Draft ISO, Attachment A* – Editorial – In paragraph (1) of Section B, change “the [10 C.F.R. Part 51, Subpart A] regulations have” to “the regulations in [10 C.F.R. Part 51, Subpart A] have.”

For the reasons discussed above, the parties respectfully request that the Board make the identified changes to the draft ISO.

Respectfully submitted,

*Executed in Accord with 10 C.F.R. § 2.304(d)*

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*Executed in Accord with 10 C.F.R. § 2.304(d)*

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*Counsel for NRC Staff*

Dated in Washington, DC  
this 13th day of November 2015

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**CERTIFICATE OF SERVICE**

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, a copy of the foregoing “Joint Comments on Draft Initial Scheduling Order” was served upon the Electronic Information Exchange (the NRC’s E-Filing System) in the above-captioned proceeding.

*Signed (electronically) by Stephen J. Burdick*  
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