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Via electronic submission

UNITED STATES NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

C-10 Research and Education Foundation, Inc. response to U.S. NRC staff's motion to strike portions C-10 Foundation's reply to NRC's motion to dismiss C-10's petition for leave to intervene:

Nuclear Regulatory Commission Docket No. 50-443 LA2 - NextEra Energy Seabrook LLC, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Pursuant to 10 C.F.R. § 2.309(i), the C-10 Research and Education Foundation, Inc. ("C-10") hereby files its response to U.S. Nuclear Regulatory Commission ("NRC") staff ("Staff") 5/22/17 Motion to Strike Portions of C-10's Reply, relative to C-10's initial 4/10/17 motion to intervene in the license amendment request ("LAR") 16-03 from NextEra Energy Seabrook, LLC ("NextEra") to adopt a methodology to minimize the impacts of alkali-silica reaction ("ASR") on concrete structures at Seabrook Station, Unit No. 1 ("Seabrook").

The argument central to the U.S. Nuclear Regulatory Commission staff's motion to strike portions of C-10 Foundation's reply is the notion that C-10 "cannot expand the scope of the arguments set forth in the original hearing request." In their May 22 motion, staff states, "The purpose of this restriction is to ensure the fundamental fairness of the Commission's proceedings for all participants because "allowing new claims in a reply... would unfairly deprive other participants of an opportunity to rebut the new claims." (Docket No. 50-443-LA2, p.5)

The first point we offer is that the "scope" of the arguments set forth in the original hearing request has not expanded; we have only given details called for by NRC and NextEra response to our April 10 petition to intervene. Since C-10 has sought a fair hearing with NRC for our concerns regarding the avoidance by NextEra of thorough petrographic analysis of the in-situ concrete at NextEra's atomic reactor here in Seabrook since at least 2014, it is troubling that Staff would recommend we be denied "standing" on the very issue that we, as a citizens' group headquartered within the Emergency Planning Zone ("EPZ"), have persistently raised with NRC for many years.

C-10 believes that both NRC and NextEra have had plenty of opportunity, and have taken that opportunity, to try to rebut C-10's arguments at every turn. Therefore, the statement "... allowing new claims in a reply... would unfairly deprive other participants of an opportunity to rebut the new claims" is very clearly a false argument. To the extent that this phrase is cited by NRC as precedent-setting based on past litigation, C-10 would argue in response that the enforcement of "Jim Crow" laws in the South had "precedent," as did denying women the right to vote. Simply making a claim of precedent as justification for support of Staff's argument is not sufficient in itself—if that precedent is either not applicable, not reasonable, or both.

Furthermore, a claim made by NRC Staff that C-10 has inappropriately rebutted NextEra's and NRC's rebuttals by giving detail necessary to make that rebuttal, is worrisome as it relates to the whole process enshrined by the NRC and protected by Staff—especially as it relates to "fairness" in this instance. For Staff to assert that C-10 giving detail necessary to defend its "standing" on the ASR issue, after being



rebutted by both Staff and NextEra, is in any way out of line, or expanding the “scope” of our arguments, is not just, in our estimation.

We see no reason that Staff, the NRC, and NextEra should not consider the entire petition for leave to intervene, signed and sent by myself: Natalie Hildt Treat, C-10’s Executive Director, on April 10, 2017 — as the affidavit necessary to establish both my direct risk, and indirectly the C-10 board members who authorized my signature, and the members who ask us to represent their best interests in this matter.

If the members that C-10 represents — those who live, work in the EPZ — do not have standing to come before the Atomic Safety and Licensing Board, then who would? The citizens that the NRC relies upon to protect their health and safety are the ones forced to assume the risks associated with Seabrook.

Per NRC’s mission statement on your website:

“The NRC licenses and regulates the Nation’s civilian use of radioactive materials to protect public health and safety, promote the common defense and security, and protect the environment.”

C-10 Foundation shares your goals of protecting public health, safety and the environment. We urge you to hold this mission in mind when considering the consequences of your regulatory efforts, and to remember that C-10 Foundation is a group of citizens concerned for the safety of those who live and work near Seabrook Station, and in ensuring that the place we call home is safe and habitable for future generations.

While we respect the importance of the regulatory process, we believe the substance of our contentions should be given significant weight in the Board’s decision of whether or not to grant our petition for intervenor status in Docket No. 50-443 LA2.

On behalf of the board of directors and members of the C-10 Foundation, thank you for the opportunity to file our reply comments.

Sincerely,

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