

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Ronald M. Spritzer, Chairman
Nicholas G. Trikouros
Dr. Sekazi Mtingwa

In the Matter of

NEXTERA ENERGY SEABROOK, LLC

(Seabrook Station, Unit One)

Docket No. 50-443-LA2

ASLBP No. 17-953-02-LA-BD01

June 6, 2017

ORDER

(Granting the NRC Staff's Motion to File a Reply to NextEra's Response)

In this proceeding, the C-10 Research and Education Foundation, Inc. (C-10) has filed a Petition challenging a license amendment request submitted by NextEra Energy Seabrook, LLC (NextEra), for Seabrook Station, Unit 1, located in Seabrook, New Hampshire. The NRC Staff filed its answer to the Petition on May 5, 2017 (the NRC Staff Answer).¹ On May 12, NextEra filed an unopposed motion seeking leave to reply to the NRC Staff Answer, arguing that fairness required an opportunity for NextEra to respond to new arguments raised in the NRC Staff Answer when the NRC Staff reformulated portions of C-10's contentions into a new contention.² On May 26, 2017, the Board granted NextEra's motion, ordering the NRC Staff and C-10 to file any response to new arguments raised by Next Era in its reply within ten days, accompanied by

¹ NextEra also filed an answer to the petition on May 5, 2017. See NextEra's Answer Opposing C-10 Research & Education Foundation's Petition for Leave to Intervene and Hearing Request on NextEra Energy Seabrook, LLC's License Amendment Request 16-03 (May 5, 2017).

² NextEra's Motion for Leave to File a Reply to NRC Staff's Answer to C-10's Petition for Leave to Intervene (May 12, 2017).

a motion seeking leave to file the response.³

On June 5, 2017, the NRC Staff timely filed a Motion for leave to respond to NextEra's reply.⁴ In it, the NRC Staff argues that NextEra raised "a number of new arguments that could not have been reasonably anticipated by the Staff" in the NRC Staff Answer.⁵

As noted in our order granting NextEra's motion, under 10 C.F.R. § 2.309(i), only the participant who filed a hearing request may file a reply to an answer, unless otherwise permitted by the Commission, Board, or presiding officer "where necessity or fairness dictates."⁶ In this instance, given that the NRC Staff did not have an opportunity to address NextEra's response to the arguments raised in the NRC Staff Answer, and that the Staff's Motion is unopposed, the Board grants the NRC Staff's Motion.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ronald M. Spritzer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 6, 2017

³ Licensing Board Order (Granting NextEra's Motion to File a Reply) (May 26, 2017) at 2 (unpublished) (hereinafter Order Granting NextEra's Motion).

⁴ NRC Staff's Motion for Leave to File a Sur-Reply to NextEra's Reply to NRC Staff's Answer to C-10's Petition for Leave to Intervene (June 5, 2017). The motion was accompanied by the NRC Staff's sur-reply. See NRC Staff's Sur-Reply to NextEra's Reply to NRC Staff's Answer to C-10's Petition for Leave to Intervene (June 5, 2017). C-10 did not file a response to NextEra's reply.

⁵ Id. at 2.

⁶ U.S. Dep't of Energy (High-Level Waste Repository), CLI-08-12, 67 NRC 386, 393 (2008).

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In the Matter of)
)
NEXTERA ENERGY SEABROOK, LLC) Docket No. 50-443-LA-2
(Seabrook Station, Unit 1))
)
(License Amendment))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting the NRC Staff's Motion to File a Reply to NextEra's Responses)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33 n
Washington, DC 20555-0001
Hearing Docket
hearingdocket@nrc.gov

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

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-14A44
Washington, DC 20555-0001

Ronald M. Spritzer, Chair
Administrative Judge
ronald.spritzer@nrc.gov

Catherine Scott, Esq.
Catherine.Scott@nrc.gov

Beth Mizuno, Esq.
beth.mizuno@nrc.gov

Nicholas G. Trikouros
Administrative Judge
nicholas.trikouros@nrc.gov

Anita Ghosh, Esq.
anita.ghosh@nrc.gov

Brian Harris, Esq.
brian.harris@nrc.gov

Dr. Sekazi K. Mtingwa
Administrative Judge
sezaki.mtingwa@nrc.gov

Jeremy Wachutka, Esq.
jeremy.wachutka@nrc.gov

John Tibbetts – Paralegal
John.Tibbetts@nrc.gov

OGC Mail Center: Members of this office have received a copy of this filing by EIE service.

**NEXTERA ENERGY SEABROOK, LLC (Seabrook Station Unit 1) – Docket No. 50-443-LA-2
ORDER (Granting the NRC Staff’s Motion to File a Reply to NextEra’s Responses)**

NextEra Energy Seabrook, LLC
801 Pennsylvania Avenue, N.W., #220
Washington, DC 20004

C-10 Research & Education Foundation
44 Merrimac Street
Newburyport, Mass. 01950

Steven C. Hamrick, Esq.
steven.hamrick@fpl.com

Natalie Hildt Treat
natalie@c-10.org

NextEra Energy Seabrook, LLC
700 Universe Boulevard
Juno Beach, FL 33408

William Blair, Esq.
william.blair@fpl.com

NextEra Energy Seabrook, LLC
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington, DC 20004

Paul M. Bessette, Esq.
paul.bessette@morganlewis.com

Ryan K. Lighty, Esq.
ryan.lighty@morganlewis.com

[Original signed by Brian Newell _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 6th day of June, 2017