

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)

ENTERGY OPERATIONS, INC.)

(River Bend Station, Unit 1))

) Docket No. 50-458-LR

) November 6, 2017

**ENTERGY'S ANSWER OPPOSING SIERRA CLUB'S PETITION TO INTERVENE
AND REQUEST FOR ADJUDICATORY HEARING**

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I. INTRODUCTION

In accordance with 10 C.F.R. § 2.309(i), Entergy Operations, Inc. (“Entergy”) submits this Answer opposing the “Petition to Intervene and Request for Adjudicatory Hearing” (“Petition”)¹ filed by Sierra Club on October 12, 2017, regarding the license renewal application (“LRA”)² for River Bend Station, Unit 1 (“River Bend”). The Petition proposes three contentions. The first two purport to challenge the Environmental Report (“ER”), claiming that the ER first does not “properly or adequately state a purpose and need”³ for license renewal and, second, “improperly failed to include renewable energy and energy efficiency as a consequence of the River Bend license not being renewed.”⁴ The third proposed contention claims that the LRA does not “undertake an adequate aging management review of the concrete on the containment vessel.”⁵

¹ Petition to Intervene and Request for Adjudicatory Hearing by Sierra Club (Oct. 12, 2017) (“Petition”).

² License Renewal Application, River Bend Station, Facility Operating License NPF-47 (May 2017) (ML17153A286) (“LRA”).

³ Petition at 6.

⁴ *Id.* at 8.

⁵ *Id.* at 30.

To be granted a hearing in this license renewal proceeding, Sierra Club must demonstrate standing and submit at least one admissible contention.⁶ Entergy does not challenge Sierra Club's standing. All of Sierra Club's proposed contentions, however, are inadmissible.

Contrary to the contention admissibility requirements in 10 C.F.R. § 2.309(f)(1), the proposed contentions raise issues outside the scope of this license renewal proceeding (including impermissible challenges to Nuclear Regulatory Commission ("NRC") regulations), are immaterial, are insufficiently supported, and/or fail to demonstrate a genuine dispute with the River Bend LRA. In particular, Sierra Club misconstrues the stated purpose and need specified in the ER, which fully complies with the National Environmental Policy Act ("NEPA"), relevant regulations, and the NRC's license renewal guidance; entirely ignores the detailed discussion of alternatives in the ER, including consideration of renewable energy and energy efficiency; refers to reports and other documents entirely irrelevant to license renewal—perhaps most egregiously simply copying their comments related to a new reactor licensing action at Turkey Point into the instant Petition; and again ignores information in the LRA that directly addresses their claimed omission regarding aging management of concrete on the containment vessel.

Accordingly, the Atomic Safety and Licensing Board ("Board") should deny Sierra Club's Petition in its entirety, as 10 C.F.R. § 2.309(a) requires that a petitioner submit at least one admissible contention—a requirement that remains unmet here.

II. BACKGROUND

River Bend is a single-unit boiling water reactor located in West Feliciana Parish, Louisiana, approximately 3 miles southeast of St. Francisville, Louisiana and approximately 24

⁶ See 10 C.F.R. § 2.309(a).

miles northwest of the city limits of Baton Rouge, Louisiana.⁷ On May 25, 2017, Entergy filed its LRA with the NRC to renew River Bend’s operating license (No. NPF-47), which is set to expire at midnight on August 29, 2025.⁸ The LRA seeks to extend the operating license for an additional 20-year term, to midnight on August 29, 2045.⁹ As part of the LRA, Entergy submitted an ER that considers the potential environmental impacts of license renewal.¹⁰

On August 14, 2017, the NRC published a *Federal Register* notice docketing the LRA and providing an opportunity to request a hearing on the River Bend LRA.¹¹ The notice required any requests for a hearing or petitions for leave to intervene to be filed by October 13, 2017.¹² On October 12, 2017, Sierra Club filed its Petition seeking to intervene in this license renewal proceeding, requesting a hearing, and proposing three contentions.¹³ On October 18, 2017, the Chief Administrative Judge established the Board for this proceeding.¹⁴

III. LEGAL STANDARDS

Under 10 C.F.R. § 2.309(f)(1), a hearing request “must set forth with particularity the contentions sought to be raised.” In addition, 10 C.F.R. § 2.309(f)(1) states that each contention must:

- (i) Provide a specific statement of the issue of law or fact to be raised or controverted;
- (ii) Provide a brief explanation of the basis for the contention;

⁷ LRA at 1-7.

⁸ See Letter from W. Maguire, Entergy, to NRC, License Renewal Application (May 25, 2017) (ML17153A285).

⁹ See *id.*

¹⁰ See LRA, App. E (ML17174A531) (“ER”).

¹¹ Entergy Operations, Inc.; River Bend Station, Unit 1, 82 Fed. Reg. 37,908, 37,908 (Aug. 14, 2017).

¹² *Id.*

¹³ See generally Petition.

¹⁴ Establishment of Atomic Safety and Licensing Board, ASLBP No. 17-956-01-LR-BD01 (Oct. 18, 2017) (ML17291A979).

- (iii) Demonstrate that the issue raised is within the scope of the proceeding;
- (iv) Demonstrate that the issue raised is material to the findings the NRC must make to support the action that is involved in the proceeding;
- (v) Provide a concise statement of the alleged facts or expert opinions, including references to the specific sources and documents that support the petitioner’s position and upon which the petitioner intends to rely; and
- (vi) Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.

Failure to comply with any one of these six admissibility requirements is grounds for rejecting a proposed contention.¹⁵ Indeed, these requirements are “strict by design.”¹⁶ The rules were “toughened . . . in 1989 because in prior years ‘licensing boards had admitted and litigated numerous contentions that appeared to be based on little more than speculation.’”¹⁷ The purpose of the six criteria is to “focus litigation on concrete issues and result in a clearer and more focused record for decision.”¹⁸ The Commission has explained that it “should not have to expend resources to support the hearing process unless there is an issue that is appropriate for, and susceptible to, resolution in an NRC hearing.”¹⁹

The petitioner alone bears the burden to meet the standards of contention admissibility.²⁰ Thus, where a petitioner neglects to provide the requisite support for its contentions, the Board

¹⁵ See Changes to Adjudicatory Process, 69 Fed. Reg. 2182, 2221 (Jan. 14, 2004); see also *Private Fuel Storage, L.L.C.* (Indep. Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999).

¹⁶ *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 249, 358 (2001).

¹⁷ *Id.* (citing *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, & 3), CLI-99-11, 49 NRC 328, 334 (1999)).

¹⁸ Changes to Adjudicatory Process, 69 Fed. Reg. at 2202; see also *Entergy Nuclear Operations, Inc.* (Indian Point, Units 2 & 3), LBP-08-13, 68 NRC 43, 61 (2008).

¹⁹ Changes to Adjudicatory Process, 69 Fed. Reg. at 2202.

²⁰ See *Entergy Nuclear Operations, Inc.* (Palisades Nuclear Plant), CLI-15-23, 82 NRC 321, 325, 329 (2015) (stating “[t]he proponent of a contention is responsible for formulating the contention and providing the necessary support to satisfy the contention admissibility requirements” and “it is Petitioners’ responsibility, not the Board’s, to formulate contentions and to provide ‘the necessary information to satisfy the basis

may not cure the deficiency by supplying the information that is lacking or making factual assumptions that favor the petitioner to fill the gap.²¹ A contention that merely states a conclusion, without reasonably explaining why the application is inadequate, cannot provide a basis for the contention.²² A “material issue” is one that would “make a difference in the outcome of the licensing proceeding.”²³ The petitioner must demonstrate that the subject matter of the contention would impact the grant or denial of a pending license application.²⁴

Of particular importance for this Answer, a contention that challenges an NRC rule is outside the scope of the proceeding because, absent a waiver, “no rule or regulation of the Commission . . . is subject to attack . . . in any adjudicatory proceeding.”²⁵ This includes contentions that advocate stricter requirements than agency rules impose or that otherwise seek to litigate a generic determination established by a Commission rulemaking.²⁶ Similarly, any contention that collaterally attacks applicable statutory requirements or the basic structure of the NRC regulatory process must be rejected by the licensing board as outside the scope of the proceeding.²⁷ Accordingly, a contention that simply states the petitioner’s views about

requirement’ for admission”); *see also DTE Elec. Co.* (Fermi Nuclear Power Plant, Unit 2), CLI-15-18, 82 NRC 135, 149 (2015) (“the Board may not substitute its own support for a contention”).

²¹ *See Palisades*, CLI-15-23, 82 NRC at 329; *Fermi*, CLI-15-18, 82 NRC at 149; *Ariz. Pub. Serv. Co.* (Palo Verde Nuclear Station, Units 1, 2, & 3), CLI-91-12, 34 NRC 149, 155 (1991).

²² *USEC, Inc.* (American Centrifuge Plant), CLI-06-10, 63 NRC 451, 472 (2006).

²³ *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3), CLI-99-11, 49 NRC 328, 333-34 (1999).

²⁴ *See Indian Point*, LBP-08-13, 68 NRC at 62.

²⁵ 10 C.F.R. § 2.335(a).

²⁶ *See Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), LBP-01-6, 53 NRC 138, 159-60, *aff’d*, CLI-01-17, 54 NRC 3 (2001) (rejecting the petitioner’s contention that a license renewal applicant was required to prepare a PRA, where the Commission’s license renewal regulations did not require a PRA).

²⁷ *Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant, Unit 1), LBP-07-11, 66 NRC 41, 57-58 (2007) (stating that a contention that attacks applicable statutory requirements “must be rejected by a licensing board as outside the scope of the proceeding”) (citing *Phila. Elec. Co.* (Peach Bottom Atomic Power Station, Units 2 & 3), ALAB-216, 8 AEC 13, 20 (1974)).

regulatory policy—or takes issue with the nature of existing regulations—does not present a litigable issue.²⁸

Equally important, the Commission has stated further that the petitioner must “read the pertinent portions of the license application . . . state the applicant’s position and the petitioner’s opposing view,” and explain why it disagrees with the applicant.²⁹ If a petitioner believes the license application fails to adequately address a relevant issue, then the petitioner is to “explain why the application is deficient.”³⁰ A contention that does not directly controvert a position taken by the applicant in the application is subject to dismissal.³¹ For example, if a petitioner submits a contention of omission, but the allegedly missing information is indeed in the license application, then the contention does not raise a genuine dispute.³²

IV. THE PETITION MUST BE DENIED FOR LACK OF AN ADMISSIBLE CONTENTION

A. Proposed Contention 1 Must Be Rejected Because It Challenges NRC Regulations and Raises Issues that Are Outside the Scope of this Proceeding, Immaterial, Unsupported, and that Fail to Demonstrate a Genuine Dispute with the LRA

Proposed Contention 1 states:

The environmental report submitted by Entergy Operations does not properly and adequately state a purpose and need for the relicensing of River Bend Station.³³

²⁸ See *Peach Bottom*, ALAB-216, 8 AEC at 20-21.

²⁹ Rules of Practice for Domestic Licensing Proceedings – Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168, 33,170 (Aug. 11, 1989); see also *Millstone*, CLI-01-24, 54 NRC at 358.

³⁰ Procedural Changes in the Hearing Process, 54 Fed. Reg. at 33,170; see also *Palo Verde*, CLI-91-12, 34 NRC at 156.

³¹ See *S.C. Elec. & Gas Co.* (Virgil C. Summer Nuclear Station, Units 2 & 3), CLI-10-1, 71 NRC 1, 21-22 (2010); *Tex. Utils. Elec. Co.* (Comanche Peak Steam Electric Station, Unit 2), LBP-92-37, 36 NRC 370, 384 (1992), *vacated as moot*, CLI-93-10, 37 NRC 192 (1993).

³² See *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), LBP-04-15, 60 NRC 81, 95 (2004); see also *Summer*, CLI-10-1, 71 NRC at 21-22.

³³ Petition at 6.

In support of this challenge, Sierra Club only cites to Entergy's statement for the purpose and need of the proposed action in ER Section 1.0,³⁴ and claims that Entergy improperly relies "on an NRC guidance document that says the purpose and need for a license renewal will be determined by decisionmakers other than the NRC."³⁵ Sierra Club asserts that "[r]eliance on other decisionmakers to determine purpose and need is an abdication of the NRC's duty under NEPA and contrary to the requirements of NEPA."³⁶

But Sierra Club has misread Entergy's purpose and need statement. As explained below, Entergy has properly stated the purpose and need for the proposed action, and Sierra Club's assertions challenge NRC regulations and are outside the scope of this proceeding, immaterial, and unsupported. Quite simply, Sierra Club has failed to demonstrate a genuine dispute with the LRA. Accordingly, proposed Contention 1 is inadmissible and should be rejected because it fails to satisfy the requirements of 10 C.F.R. §§ 2.309(f)(1)(iii)-(vi).

By way of background, applications to renew operating licenses are subject to an environmental review under Section 102 of NEPA and the NRC's implementing regulations in 10 C.F.R. Part 51.³⁷ These regulations require license renewal applicants to submit ERs that address the environmental impacts of the proposed action and compare those impacts to the impacts of reasonable alternatives.³⁸ To facilitate this review, 10 C.F.R. § 51.45(b) states that an

³⁴ As discussed further below, Entergy stated in ER Section 1.0 that the purpose and need for the proposed action "is to provide an option that allows for baseload power generation capability beyond the term of the current nuclear power plant operating license to meet future system generating needs."

³⁵ Petition at 6.

³⁶ *Id.*

³⁷ *NextEra Energy Seabrook, LLC* (Seabrook Station, Unit 1), CLI-12-5, 75 NRC 301, 304-05 (2012).

³⁸ *See* 10 C.F.R. § 51.53(c)(2); *see also FirstEnergy Nuclear Operating Co.* (Davis-Besse Nuclear Power Station, Unit 1), CLI-12-8, 75 NRC 393, 397 (2012).

ER “shall contain a description of the proposed action, [and] a statement of its purposes”³⁹

The NRC’s rulemaking for the environmental review of license renewal applications generically established the purpose and need for license renewal. It stated that “the Commission has clarified the purpose and need for license renewal . . . as follows”:

The purpose and need for the proposed action (renewal of an operating license) is to provide an option that allows for power generation capability beyond the term of a current nuclear power plant operating license to meet future system generating needs, as such needs may be determined by State, utility, and, where authorized, Federal (other than NRC) decisionmakers.⁴⁰

The NRC has included this stated purpose and need in its regulatory guidance documents as well. For example, NRC guidance in Regulatory Guide 4.2, Supplement 1, identifies a specific statement of purpose and need to be included in license renewal ERs that is consistent with the above statement from the Part 51 rulemaking.⁴¹

Consistent with NEPA, the NRC regulations, the Part 51 rulemaking, and the relevant regulatory guidance, Entergy identified the purpose and need for River Bend license renewal in ER Section 1.0. Section 1.0 explains that the proposed action is to renew the River Bend operating license, “which would *preserve the option* for Entergy to continue to operate [River

³⁹ As referenced by Sierra Club, Petition at 6, the Council on Environmental Quality (“CEQ”) regulations also state: “The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” 40 C.F.R. § 1502.13.

⁴⁰ Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. 28,467, 28,472 (June 5, 1996); *see also id.* (“This definition of purpose and need reflects the Commission’s recognition that, absent findings in the safety review required by the Atomic Energy Act of 1954, as amended, or in the NEPA environmental analysis that would lead the NRC to reject a license renewal application, the NRC has no role in the energy planning decisions of State regulators and utility officials.”).

⁴¹ NRC Regulatory Guide 4.2, Supplement 1, Preparation of Environmental Reports for Nuclear Power Plant License Renewal Applications, at 11 (Rev. 1, June 2013). A similar statement is provided in NRC’s Generic Environmental Impact Statement. *See* NUREG-1437, Vol. 1, Generic Environmental Impact Statement for License Renewal of Nuclear Plants at S-3, 1-3, 1-4 (Rev. 1, June 2013).

Bend] to provide reliable base-load power throughout the 20-year license renewal period.”⁴² ER

Section 1.0 further states:

The purpose and need for the proposed action (i.e., issuance of a renewed nuclear plant operating license) is to *provide an option that allows for baseload power generation capability beyond the term of the current nuclear power plant operating license to meet future system generating needs*. Such needs may be *determined by other energy-planning decisionmakers*, such as State, utility, and, where authorized, Federal agencies (other than the NRC). Unless there are findings in the safety review required by the Atomic Energy Act or the National Environmental Policy Act (NEPA) environmental review that would lead the NRC to deny a license renewal application, the NRC does not have a role in the energy-planning decisions of whether a particular nuclear power plant should continue to operate.⁴³

Contrary to Sierra Club’s claims, the above excerpt from ER Section 1.0 does not state or imply that decisionmakers other than the NRC will decide the purpose and need of the proposed action. Rather, the purpose and need of River Bend’s license renewal is clear – to provide an option for future baseload power generation beyond the current license term. This purpose and need directly relates to the proposed action that is before the NRC and is consistent with the regulatory history of and requirements in Part 51.

According to Sierra Club, “it seems that the purpose and need for the relicensing of River Bend is – the relicensing of River Bend.”⁴⁴ Again, that is not what is stated in ER Section 1.0.

As quoted above, the purpose and need of the River Bend license renewal is to “provide an option that allows for baseload power generation capability beyond the [current] term”⁴⁵

Sierra Club’s misreading or misunderstanding of the stated purpose and need is not material and

⁴² ER at 1-1 (emphasis added).

⁴³ *Id.* (emphasis added).

⁴⁴ Petition at 7.

⁴⁵ ER at 1-1.

does not demonstrate a genuine dispute with the LRA. NRC case law explains that “[a] petitioner’s imprecise reading of a reference document cannot serve to generate an issue suitable for litigation.”⁴⁶

Sierra Club’s arguments regarding Entergy’s stated purpose and need for River Bend license renewal also impermissibly challenge NRC regulations. The “needs” in the ER Section 1.0 quotation above that will be determined by decisionmakers other than the NRC are the future system generating needs. Those power generation “needs” are separate from the “purpose and need” for the requested license renewal.⁴⁷ And 10 C.F.R. § 51.53(c)(2) directly states that a license renewal ER “is not required to include discussion of need for power.”⁴⁸ Sierra Club argues, however, that “[t]he real purpose and need should be *to provide* the citizens of Louisiana with safe, clean, and affordable *power*.”⁴⁹ Claims by Sierra Club that the NRC should be deciding whether generation from River Bend is needed is an impermissible challenge to the regulation on need for power, contrary to 10 C.F.R. § 2.335, and therefore outside the scope of this proceeding, contrary to 10 C.F.R. § 2.309(f)(1)(iii).

A purpose and need to provide Louisiana citizens with power of any kind would diverge from the proposed action before the NRC, and would seek actions beyond the NRC’s jurisdiction. Indeed, the license renewal environmental review rulemaking stated: “The NRC acknowledges the primacy of State regulators and utility officials in defining energy

⁴⁶ See *Ga. Inst. of Tech.* (Ga. Tech Research Reactor, Atlanta, Ga.), LBP-95-6, 41 NRC 281, 300 (1995), *aff’d*, CLI-95-12, 42 NRC 111, 124 (1995); see also *Private Fuel Storage, LLC* (Indep. Spent Fuel Storage Installation), CLI-04-22, 60 NRC 125, 136 (2004).

⁴⁷ In fact, in the NRC’s rulemaking for the environmental review for license renewal, the NRC explained that the “statement of purpose and need” (which it describes as “preserving the option of license renewal for future decisionmakers”) is consistent with its decision that “the issue of need for power and generating capacity will no longer be considered in NRC’s license renewal decisions.” Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. at 28,468.

⁴⁸ 10 C.F.R. § 51.53(c)(2).

⁴⁹ Petition at 8 (emphasis added).

requirements and determining the energy mix within their jurisdictions. Therefore, the issue of need for power and generating capacity will no longer be considered in NRC’s license renewal decisions.”⁵⁰

Moreover, Sierra Club is further challenging regulations that state that the NRC’s environmental review is to determine whether to preserve the option of license renewal for energy planning decisionmakers—the very purpose and need specified in ER Section 1.0. As explained above, this purpose and need was defined by the NRC in the Part 51 rulemaking governing the environmental review for license renewal, and is expressed in multiple Part 51 regulations. Specifically, 10 C.F.R. § 51.95(c)(4) states that “the NRC staff, adjudicatory officers, and Commission shall determine whether or not the adverse environmental impacts of license renewal are so great that *preserving the option of license renewal for energy planning decisionmakers* would be unreasonable.”⁵¹ Similarly, 10 C.F.R. § 51.103(a)(5) states that in the record of decision for a licensing action “the Commission shall determine whether or not the adverse environmental impacts of license renewal are so great that *preserving the option of license renewal for energy planning decisionmakers* would be unreasonable.” Sierra Club’s arguments against Entergy’s stated purpose and need that would preserve the option of River Bend for future energy planning decisionmakers directly challenge these NRC regulations, contrary to 10 C.F.R. § 2.335, and are outside the scope of this proceeding.

⁵⁰ See, e.g., Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. at 28,468; see also *id.* at 28,467 (“The amendment also eliminates consideration of the need for generating capacity and of utility economics from the environmental reviews because these matters are under the regulatory jurisdiction of the States and are not necessary for the NRC’s understanding of the environmental consequences of a license renewal decision.”); *id.* at 28,472 (“With respect to the States’ concerns regarding need for generating capacity analysis, the NRC will neither perform analyses of the need for power nor draw any conclusions about the need for generating capacity in a license renewal review.”).

⁵¹ (Emphasis added).

Proposed Contention 1 further concludes that the statement of purpose and need is important because it dictates the range of reasonable alternatives and it must not be so narrowly defined such that only one alternative would accomplish the purpose.⁵² This conclusion raises no genuine dispute because the River Bend ER indeed evaluates a range of alternatives fully consistent with these statements. As discussed in more detail in response to proposed Contention 2, ER Section 2.6 and Chapter 7 address alternatives to the proposed action. Those sections evaluate a wide variety of alternatives, including the renewable energy and energy efficiency options identified by Sierra Club, and identify a number of reasonable alternatives.

ER Section 2.6.2, for example, identifies at least 18 alternatives that were considered, including four determined to be reasonable and subject to further analysis. This is hardly the “one alternative” scenario postulated by Sierra Club.⁵³ Remarkably, Sierra Club does not reference, much less challenge, those portions of the ER. The Commission has stated that “general assertions, without some effort to show why the assertions undercut findings or analyses in the [application], fail to satisfy the requirements of Section 2.309(f)(1)(vi).”⁵⁴ These unsupported arguments also are immaterial and lack the requisite basis and specificity to support an admissible contention, contrary to 10 C.F.R. §§ 2.309(f)(1)(iv)-(v).

For these many reasons, proposed Contention 1 is inadmissible and should be rejected for failure to satisfy the requirements of 10 C.F.R. §§ 2.309(f)(1)(iii)-(vi).

B. Proposed Contention 2 Also Must Be Rejected Because It Raises Issues that Are Outside the Scope of this Proceeding, Immaterial, Unsupported, and that Fail to Demonstrate a Genuine Dispute with the LRA

Proposed Contention 2 states:

⁵² See Petition at 7-8.

⁵³ See *id.* at 8.

⁵⁴ See *Summer*, CLI-10-1, 71 NRC at 21-22.

In examining the no action alternative, the ER improperly failed to include renewable energy and energy efficiency as a consequence of the River Bend license not being renewed.⁵⁵

Plainly read, Sierra Club is claiming that the River Bend ER does not address renewable energy and energy efficiency as part of the no-action alternative analysis. As explained below, however, Sierra Club has entirely ignored the detailed discussion in the ER that addresses this exact issue. Entergy has fully considered the no-action alternative, including whether renewable energy and energy efficiency are reasonable alternatives. For this and other reasons addressed below, Sierra Club's claims challenge NRC regulations and are outside the scope of this proceeding, immaterial, and unsupported, and fail to demonstrate a genuine dispute with the LRA. Accordingly, proposed Contention 2 is inadmissible and should be rejected because it fails to satisfy the requirements of 10 C.F.R. §§ 2.309(f)(1)(iii)-(vi).

1. Proposed Contention 2 Fails to Challenge the ER

NRC regulations require that license renewal ERs include an alternatives analysis that “considers and balances . . . the environmental impacts of alternatives to the proposed action.”⁵⁶ Contrary to Sierra Club's claims, Entergy's ER considers a full range of alternatives for replacement power—including wind, solar, and energy efficiency—in the event that the River Bend operating license is not renewed (*i.e.*, the no action alternative).

Specifically, the River Bend ER includes the following detailed discussions of reasonable alternatives:

- ER Section 2.6 addresses alternatives to the proposed action (renewal of the River Bend operating license). This includes the no-action alternative of not renewing the River Bend operating license, which would presumably result in a need for new electricity generating capacity in the region. ER Section 2.6.1 addresses the criteria Entergy used to determine reasonable alternatives. ER Section 2.6.2 discusses the alternatives

⁵⁵ Petition at 8.

⁵⁶ 10 C.F.R. § 51.45(c).

considered, including wind, solar, demand side management (which includes energy efficiency), and a combination of alternatives (part of which comes from demand side management).

- ER Chapter 7 further addresses the alternatives to the proposed action.
- ER Section 7.1 provides a more detailed evaluation of replacement power alternatives, including those considered reasonable and not reasonable.
 - ER Section 7.1.1.4 evaluates a combination of alternatives, including demand side management (which includes energy efficiency) providing 105 MWe. Because this was determined to be a reasonable alternative, the environmental impacts are addressed in more detail in ER Section 7.1.3.4.
 - ER Section 7.1.2.1.3 evaluates conservation or demand side management (including energy efficiency). The section concludes that only 403 MW of project supply would be available in 2025, which would be insufficient to meet River Bend output.
 - ER Section 7.1.2.2.1 evaluates wind power. This section rejects both land and offshore wind, because there is insufficient energy storage to use wind for baseload power, offshore wind power in the area is low quality, and the environmental impacts of wind power are higher than River Bend license renewal.
 - ER Section 7.1.2.2.2 evaluates solar power. This section rejects solar power as an alternative because there are insufficient available sources and the environmental impacts of solar power are higher than River Bend license renewal.
- ER Section 7.3 provides additional discussion of the no-action alternative.
- ER Chapter 8 compares the environmental impacts of the proposed action against the alternatives determined to be reasonable under the no-action alternative. This includes Table 8.0-1, which provides an environmental impacts comparison summary.

Strikingly, not once in the entirety of proposed Contention 2 does Sierra Club reference or discuss, much less challenge, this significant information in the River Bend ER on the no-action alternative, including consideration of renewable energy and energy efficiency. In proffering a contention, a petitioner must “read the pertinent portions of the license application, . . . state the applicant’s position and the petitioner’s opposing view,” and explain why it

disagrees with the applicant.⁵⁷ The Commission has stated further that “general assertions, without some effort to show why the assertions undercut findings or analyses in the [application], fail to satisfy the requirements of Section 2.309(f)(1)(vi).”⁵⁸ Because Sierra Club has failed to address the information in the ER directly relevant to the issues it raises in proposed Contention 2, this contention must be found inadmissible.

2. Proposed Contention 2 Improperly Seeks a Need for Power Analysis

At least a portion of the proposed contention appears to be seeking an evaluation of the need for power from River Bend—much as its sibling proposed Contention 1 suggests the same. Specifically, Sierra Club claims that “the ER must discuss whether the River Bend Station is needed to produce the power required to serve the people of Louisiana.”⁵⁹

Such a requirement does not exist. As explained above, NRC regulations governing the content of an ER for license renewal, 10 C.F.R. § 51.53(c)(2), directly state that the ER “is not required to include discussion of need for power.”⁶⁰ Any claim that the need for power from River Bend must be addressed in the ER is an improper challenge to Section 51.53(c)(2), contrary to 10 C.F.R. § 2.335, and outside the scope of this proceeding, contrary to 10 C.F.R. § 2.309(f)(1)(iii). Moreover, requiring a need for power analysis or otherwise requiring the NRC to determine appropriate generation sources for Louisiana would exceed the NRC’s jurisdiction.⁶¹

⁵⁷ Procedural Changes in the Hearing Process, 54 Fed. Reg. at 33,170; *see also Millstone*, CLI-01-24, 54 NRC at 358.

⁵⁸ *See Summer*, CLI-10-1, 71 NRC at 21-22.

⁵⁹ Petition at 9.

⁶⁰ *See also* Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. at 28,484 (stating that the “Commission has concluded that, for license renewal, the issues of need for power . . . should be reserved for State and utility officials to decide” and “the NRC will not conduct an analysis of these issues in the context of license renewal”).

⁶¹ *See, e.g., id.* at 28,467-468, 28,472.

3. Proposed Contention 2 Improperly Challenges Consideration of Baseload Power in the Alternatives Analysis

Sierra Club improperly attacks the use of baseload⁶² power generation capability in considering reasonable alternatives to a proposed action.⁶³ River Bend ER Section 2.6.1 states that alternative energy sources are considered reasonable if they can replace the quantity of baseload generation from River Bend, are available in the 2025-2045 timeframe, are available by the time the River Bend operating license expires, and are technically feasible and commercially viable. Therefore, a generation source is considered a reasonable alternative in the ER only if it can provide baseload power.

Sierra Club appears to take issue with such an approach, claiming:

The electric utilities and energy companies assert that in order to provide baseload power they have to use coal, natural gas or nuclear power. The GEIS adopts this assertion. But baseload as viewed by the utilities and power companies is an outdated concept. They are stuck in the narrow view of electric power coming from power plants. But rather than referring to the term baseload we are really talking about energy and capacity.⁶⁴

Consistent with this view, the vast majority of proposed Contention 2 addresses energy sources that do not provide baseload power, including wind and solar.⁶⁵ Sierra Club makes a passing reference to a publication on interconnected wind farms providing baseload power, *Supplying Baseload Power and Reducing Transmission Requirements by Interconnecting Wind Farms*, but

⁶² “Baseload” power has a very specific meaning. The U.S. Court of Appeals for the Seventh Circuit defined baseload power as “energy intended to continuously produce electricity at or near full capacity, with high availability.” *Env’tl. Law & Policy Ctr. v. NRC*, 470 F.3d 676, 679 (2006); *see also Consumers Power Co.* (Midland Plant, Units 1 and 2), ALAB-452, 6 NRC 892, 951 n.272 (1977) (“‘Baseload’ units are designed to run continuously (except for maintenance) to meet that constant portion of the utility’s load. Intermediate and peaking units are utilized to meet the intermittent demand, with intermediate units generally being used to meet demand that is continuous for 12 or more hours and peaking units being used to meet demand that is less than 12 hours in duration.” (citations omitted)).

⁶³ *See* Petition at 21-22.

⁶⁴ *Id.*

⁶⁵ *See id.* at 10-30.

Sierra Club does not even allege that these wind farms could replace River Bend’s baseload power, much less provide the requisite basis and specificity to support an admissible contention.⁶⁶ One of the many block quotations in proposed Contention 2 also makes reference to “energy storage,” but this is not discussed further by Sierra Club.⁶⁷ The quotation also makes it clear that these energy storage technologies need to be researched and developed further, and therefore are not currently available.⁶⁸

Sierra Club’s apparent challenge to using baseload capability in identifying reasonable alternatives and their focus on non-baseload renewables is directly contrary to controlling Commission and Federal Court case law. As one example, the Commission held in the *Davis-Besse* license renewal proceeding that: “For an alternative energy source to be considered reasonable for purpose of this proceeding, the alternative should be commercially viable and technically capable of producing 908 MWe of *baseload power* now or in the near future—in this case, no later than 2017, the expiration date of the current Davis-Besse operating license.”⁶⁹ The materials referenced by Sierra Club in proposed Contention 2 do not address baseload power.

Similarly, in the *Seabrook* license renewal proceeding, the Commission stated that “to submit an admissible contention on energy alternatives in a license renewal proceeding, a petitioner ordinarily must provide ‘alleged facts or expert opinion’ sufficient to raise a genuine dispute as to whether the best information available today suggests that commercially viable alternative technology (or combination of technologies) is available now, or will become so in

⁶⁶ *See id.* at 10. As discussed below, the Commission already has considered that same publication in the *Davis-Besse* license renewal proceeding and rejected interconnected wind as a reasonable alternative for license renewal. *Davis-Besse*, CLI-12-8, 75 NRC at 401-02. The Commission concluded that interconnected wind was not commercially viable as a source of baseload power. *Id.* at 402.

⁶⁷ *See* Petition at 21.

⁶⁸ The River Bend ER also discusses energy storage in the form of Compressed Air Energy Storage, but that portion of the ER is not identified or challenged by Sierra Club. *See* ER at 7-6 to 7-7.

⁶⁹ *Davis-Besse*, CLI-12-8, 75 NRC at 400 (emphasis added).

the near future, *to supply baseload power.*⁷⁰ Once again, Sierra Club has failed to identify a baseload generation source at all, much less one that has not been addressed by Entergy, thus rendering the proposed contention inadmissible.

Furthermore, in the *Clinton* Early Site Permit proceeding, the Commission upheld another licensing board's exclusion of consideration of non-baseload generating options, such as solar and wind power, in part because: "Intervenors' various claims fail to come to grips with fundamental points that can't be disputed: solar and wind power, by definition, are not always available" ⁷¹ This ruling was upheld by the U.S. Court of Appeals for the Seventh Circuit, which agreed with "the Board's adoption of baseload energy generation as the purpose behind the [Early Site Permit]." ⁷² Here again, controlling precedent supports the exclusion of non-baseload generation sources, including wind and solar, as reasonable alternatives to nuclear power. Sierra Club's reliance on these sources must be rejected.

For the above reasons, proposed Contention 2 is immaterial and does not demonstrate a genuine dispute with the River Bend LRA, contrary to 10 C.F.R. §§ 2.309(f)(1)(iv) and (vi).

4. Proposed Contention 2 References Do Not Support an Admissible Contention

Sierra Club devotes over 20 pages of its Petition to the claim that "renewable energy (primarily wind and solar) and energy efficiency are viable alternatives to nuclear power that must be considered in a discussion of the no action alternative."⁷³ These many pages include numerous citations and block quotations aimed at initiating a policy debate between reliance on nuclear power versus renewable energy. In addition to the fatal flaws discussed above of (1)

⁷⁰ *Seabrook*, CLI-12-5, 75 NRC at 342.

⁷¹ *Exelon Generation Co., LLC* (Early Site Permit for Clinton ESP Site), CLI-05-29, 62 NRC 801, 810-11 (2005).

⁷² *Envtl. Law & Policy Ctr.*, 470 F.3d at 684.

⁷³ Petition at 10.

never challenging the actual information included in the ER on these topics, and (2) relying on non-baseload power generation, Sierra Club’s arguments also do not raise a material issue and do not provide adequate support for the proposed contention itself, contrary to the requirements of 10 C.F.R. §§ 2.309(f)(1)(iv) and (v).

Although Sierra Club cites numerous articles and reports, it utterly fails to explain the relevance of these various reports or their content to the analysis of renewable energy or energy efficiency in the ER. Of particular note, Sierra Club copies almost the entirety of proposed Contention 2 from comments that it submitted to the NRC on the Draft Environmental Impact Statement in the Turkey Point Units 6 & 7 new reactor licensing proceeding.⁷⁴ The Turkey Point (new reactor) and River Bend (license renewal) proceedings are two completely separate and distinct proposed major federal actions under NEPA with differing environmental considerations and impacts. This disjuncture explains various nonsensical statements in proposed Contention 2 that reference “previous comments”⁷⁵—yes, previous comments submitted to the NRC in a totally unrelated new reactor licensing proceeding. But the disjuncture also explains why much of the discussion in proposed Contention 2 is irrelevant to license renewal. Many issues raised under NEPA in a new reactor licensing proceeding related to a construction project of that nature (*e.g.*, environmental impacts of construction) are simply outside the narrow scope of issues relevant to the renewal of an operating license for a facility that has long been constructed and operated safely by Entergy.⁷⁶

⁷⁴ Compare Petition at 9-29 with Letter from W. Taylor to NRC, at 9-26 (July 13, 2015) (ML15294A378). These comments were considered by the NRC, but did not affect the conclusions of the Environmental Impact Statement for Turkey Point Units 6 & 7. See NUREG-2176, Supp. 1, Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Nuclear Plant Units 6 and 7 (Dec. 2016).

⁷⁵ See, *e.g.*, Petition at 11.

⁷⁶ As one example, the proposed contention repeatedly refers to the impacts from construction of a new reactor project or a decision to construct renewable energy sources over construction of a new reactor. See, *e.g.*, *id.* at 11 (“emissions include . . . those due to construction”); *id.* at 13 (“nuclear energy results in 9-25

Putting aside the blatant attempt to piggyback off of irrelevant comments filed in the Turkey Point new reactor proceeding, proposed Contention 2 itself raises numerous issues that are unrelated to Turkey Point yet equally irrelevant to River Bend license renewal. These include broad policy discussions about non-proliferation and the expansion of nuclear power programs around the world⁷⁷; uranium availability⁷⁸; replacement of fossil fuels⁷⁹; carbon caps⁸⁰; subsidies for biofuels⁸¹; demonstration and pilot plants for new technologies⁸²; bans sought on coal-fired power plants⁸³; necessary legislation for energy efficiency standards for appliances, buildings, and vehicles⁸⁴; federal contracting procedures⁸⁵; Environmental Protection Agency committees⁸⁶; transmission policies and planning⁸⁷; and costs of renewables.⁸⁸ Sierra Club has not tied any of these topics to the content of the River Bend ER, and such broad-based policy discussion points are irrelevant to River Bend license renewal and are outside the scope of this proceeding.

Moreover, the Commission already has considered and rejected some of Sierra Club's referenced documents as support for alternative energy contentions in another license renewal

times more carbon emissions than wind energy, in part due to . . . reactor construction, in part due to the longer time required to site, permit, and construct a nuclear plant compared with a wind farm"); *id.* at 15 ("new generation sources"). This simply ignores the reality of renewing an operating license for an already constructed nuclear power plant.

⁷⁷ *See* Petition at 12-13.

⁷⁸ *See id.* at 14.

⁷⁹ *See id.*

⁸⁰ *See id.* at 17.

⁸¹ *See id.*

⁸² *See id.* at 17-18.

⁸³ *See id.* at 18.

⁸⁴ *See id.*

⁸⁵ *See id.*

⁸⁶ *See id.*

⁸⁷ *See id.* at 18-19.

⁸⁸ *See id.* at 22-25.

proceeding. Specifically, in the *Davis-Besse* license renewal proceeding, petitioners cited *Supplying Baseload Power and Reducing Transmission Requirements by Interconnecting Wind Farms* and *Carbon-Free and Nuclear-Free: A Roadmap for U.S. Energy Policy* as support for proposed contentions arguing that renewables can provide baseload power as an alternative to nuclear plant license renewal.⁸⁹ The Commission considered these publications on appeal of the contentions and concluded that they did not lay a foundation for petitioners' claim that wind and solar combined with energy storage could supply baseload demand to support replacement of Davis-Besse generation by the time the original operating license ended.⁹⁰ For these same reasons, those references and the similar sources identified by Sierra Club do not support renewable energy and energy storage supplying baseload demand as a reasonable alternative to River Bend license renewal, and therefore do not support an admissible contention in this proceeding. Sierra Club also has failed to link the reports to the content of the ER.

Additionally, despite Sierra Club's reference to numerous publications and repetition of large quotations from those publications, it never actually addresses whether any renewable energy source could function as an alternative for providing baseload power specifically to replace generation from River Bend itself—under the conditions specified by the Commission in *Davis Besse*. Sierra Club only provides a brief discussion specific to Louisiana that discusses a 2004 study of the potential for offshore wind projects, economics of offshore wind, and developments in the solar industry.⁹¹ None of this information, however, controverts information in the River Bend ER or otherwise supports new energy alternatives as a reasonable alternative to River Bend license renewal now or in the near future. Nor does it demonstrate that

⁸⁹ See *Davis-Besse*, CLI-12-8, 75 NRC at 400-04, 401 n.44, 404 n.65.

⁹⁰ See *id.*

⁹¹ See Petition at 29-30.

these sources could provide baseload power on the same magnitude as River Bend. As noted above, the River Bend ER provides extensive discussion of alternatives, including renewable energy and energy efficiency. Because Sierra Club never explains how any of the publications refute that information in the ER, those publications cannot support an admissible contention.

Finally, as shown in ER Table 8.0-1, the environmental impacts for the proposed River Bend license renewal are SMALL/NO EFFECT/NO ADVERSE EFFECT for all resources areas. Sierra Club does not challenge those determinations in the ER. Energy efficiency, wind, and solar are either not available in sufficient quantity in the area or the environmental impacts are higher than those for the proposed action.⁹² Indeed, even though wind and solar were deemed to not be reasonable alternatives, the ER nonetheless considered some of the environmental impacts from those generation sources and concluded that construction of wind and solar would have greater impacts than the proposed action.⁹³ Sierra Club and the multitude of references in proposed Contention 2 never challenge this information or the ER's conclusions, and therefore they do not adequately support an admissible contention.

In summary, Sierra Club's arguments and information in proposed Contention 2 are not material to the findings to be made in this proceeding, as required by 10 C.F.R. § 2.309(f)(iv), and do not provide the required alleged facts or expert opinions, as required by 10 C.F.R. § 2.309(f)(1)(v). This information fails to support Sierra Club's position that Entergy has not adequately considered renewable energy and energy efficiency. Sierra Club bears the burden of

⁹² See ER §§ 7.1.2.1.3, 7.1.2.2.1, 7.1.2.2.2.

⁹³ See *id.* §§ 7.1.2.2.1, 7.1.2.2.2.

providing sufficient factual basis or expert opinion “indicating that a further inquiry is appropriate,” and it has not done so here.⁹⁴

C. Proposed Contention 3 Must Be Rejected Because It Raises Issues that Are Immaterial, Unsupported, and that Fail to Demonstrate a Genuine Dispute with the LRA

Proposed Contention 3 states:

The LRA does not undertake an adequate aging management review of the concrete on the containment vessel.⁹⁵

More specifically, Sierra Club claims the purported inadequacy is that the LRA “does not include *any* discussion of [alkali-silica reaction (ASR)]-induced degradation.”⁹⁶ In other words, Sierra Club is proffering a contention of omission. These assertions are unsupported, demonstrably incorrect, and disregard, rather than dispute, the plain text of the LRA.

Accordingly, proposed Contention 3 is inadmissible and should be rejected because it fails to satisfy the requirements of 10 C.F.R. §§ 2.309(f)(1)(iv)-(vi).

First, proposed Contention 3 is inadmissible because Sierra Club fails to provide sufficient support for its allegations. Sierra Club makes bare assertions about the River Bend concrete drywell and ASR-induced concrete degradation.⁹⁷ However, Sierra Club offers no support, whatsoever, for these assertions. Commission regulations require a petitioner to “[p]rovide a concise statement of the alleged facts or expert opinions which support the . . . petitioner’s position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the . . . petitioner intends to rely

⁹⁴ *Yankee Atomic Elec. Co. (Yankee Nuclear Power Station)*, CLI-96-7, 43 NRC 235, 249 (citing Procedural Changes in the Hearing Process, 54 Fed. Reg. at 33,171 (requiring “some factual basis” for a contention)).

⁹⁵ Petition at 30.

⁹⁶ *Id.* at 32 (emphasis added).

⁹⁷ *Id.* at 31-32.

to support its position on the issue.”⁹⁸ Sierra Club has not done this. Indeed, the LRA states that River Bend “has not identified operating experience [for Reaction with Aggregates].”⁹⁹

“Reaction with Aggregates” includes ASR.¹⁰⁰ Thus, Sierra Club’s assertions are unsupported.

Additionally, Sierra Club asserts proposed Contention 3 is supported by Information Notice (“IN”) 2011-20.¹⁰¹ Specifically, Sierra Club argues this document stands for the proposition that “ASR-induced degradation *must* be considered in the context of a license renewal.”¹⁰² IN 2011-20 makes no such statement. Moreover, this claim also is demonstrably false to the extent it asserts IN 2011-20 imposes a regulatory requirement. The document explicitly states, on the very first page, “suggestions contained in this IN are not NRC requirements; therefore, no specific action or written response is required.”¹⁰³ NRC case law explains that “[a] petitioner’s imprecise reading of a reference document cannot serve to generate an issue suitable for litigation.”¹⁰⁴

Next, Sierra Club’s unsupported and inaccurate claims do not otherwise demonstrate a genuine material dispute with the LRA. Sierra Club does not assert that ASR has ever been identified at River Bend; nor could it. And Sierra Club does not explain how its demand that the LRA include a “discussion of ASR-induced degradation” (which has not been identified at River

⁹⁸ 10 C.F.R. § 2.309(f)(1)(v).

⁹⁹ See LRA §§ 3.5.2.2.2.1, Item (2), 3.5.2.2.2.3, Item (2).

¹⁰⁰ The GALL Report defines the term “Reaction with aggregate” as: “The presence of reactive alkalis in concrete can lead to subsequent reactions with aggregates that may be present. . . . These reactions include alkali-silica reactions, cement-aggregate reactions, and aggregate-carbonate reactions. . . .” NUREG-1801, Generic Aging Lessons Learned (GALL) Report, at IX-36 (Rev. 2, Dec. 2010).

¹⁰¹ Petition at 31 (referencing NRC Information Notice 2011-20, Concrete Degradation by Alkali-Silica Reaction (Nov. 18, 2011) (ML112241029) (“IN 2011-20”).

¹⁰² *Id.* (emphasis added).

¹⁰³ IN 2011-20 at 1.

¹⁰⁴ See *Ga. Tech Research Reactor*, LBP-95-6, 41 NRC at 300; see also *Private Fuel Storage*, CLI-04-22, 60 NRC at 136.

Bend) is material to any finding the NRC Staff must make to grant the application.¹⁰⁵

Particularly given that its cited source document, IN 2011-20, does not identify a regulatory requirement—much less one Entergy purportedly has not satisfied—Sierra Club has failed to demonstrate materiality for proposed Contention 3, as required by 10 C.F.R. § 2.309(f)(1)(iv).

Moreover, the LRA *does*, in fact, contain discussions related to ASR-induced degradation. For example, the LRA explicitly includes a section on “Cracking due to Expansion from Reaction with Aggregate.”¹⁰⁶ Other sections likewise address reaction with aggregates.¹⁰⁷ Sierra Club appears to be unaware these sections even exist; and even if it is aware, it certainly has not acknowledged, much less challenged them in the Petition. As the Commission has explained, “[w]hen submitting a contention, an intervenor must read all pertinent portions of the document it is challenging and state both the challenged position and the intervenor’s opposing view.”¹⁰⁸ Ultimately, Sierra Club’s demonstrably incorrect contention of omission fails to identify a genuine dispute with the application, as required by 10 C.F.R. § 2.309(f)(1)(vi).

Finally, even if Sierra Club’s claims in proposed Contention 3 could be generously interpreted to assert a deficiency on the basis that the LRA “does not include *any* discussion of” inspection and monitoring methods for detecting the (unlikely) onset of “ASR-induced degradation” at some point in the future, the assertion still would be inaccurate. As explained in IN 2011-20,¹⁰⁹ and acknowledged by Petitioner,¹¹⁰ visual inspections can identify the presence of

¹⁰⁵ As the Commission has observed, “[t]he dispute at issue is ‘material’ if its resolution would ‘make a difference in the outcome of the licensing proceeding.’” *Oconee*, CLI-99-11, 49 NRC at 333-34 (citing Procedural Changes in the Hearing Process, 54 Fed. Reg. at 33,172).

¹⁰⁶ LRA § 3.5.2.2.1.8.

¹⁰⁷ *See id.* §§ 3.5.2.2.2.1, Item (2), 3.5.2.2.2.3, Item (2).

¹⁰⁸ *Millstone*, CLI-01-24, 54 NRC at 358. The Commission has stated that “general assertions, without some effort to show why the assertions undercut findings or analyses in the [application], fail to satisfy the requirements of Section 2.309(f)(1)(vi).” *See Summer*, CLI-10-1, 71 NRC at 21-22.

¹⁰⁹ IN 2011-20 at 3.

ASR; and, as the NRC notes, these inspections are typically described in a licensee's structural monitoring program.¹¹¹ For River Bend license renewal, the LRA sections mentioned above that address reaction with aggregates explicitly state that any related aging effects will be managed by Entergy's Structures Monitoring Program.¹¹² That Structures Monitoring Program is described in the LRA.¹¹³ Sierra Club does not acknowledge or reference, let alone dispute, Entergy's Structures Monitoring Program. Accordingly, even a generous construction of proposed Contention 3 would not articulate a genuine dispute with the LRA.

For these many reasons, proposed Contention 3 is inadmissible and should be rejected for failure to satisfy the requirements of 10 C.F.R. §§ 2.309(f)(1)(iv)-(vi).

V. CONCLUSION

For all of the above reasons, Sierra Club has not submitted an admissible contention. Accordingly, the Petition should be denied in its entirety.

¹¹⁰ Petition at 32.

¹¹¹ IN 2011-20 at 3-4.

¹¹² See LRA §§ 3.5.2.2.1.8, 3.5.2.2.2.1, Item (2), 3.5.2.2.2.3, Item (2).

¹¹³ See *id.*, App. A § A.1.41; *id.*, App. B § B.1.41.

Respectfully submitted,

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

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November 6, 2017

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)

ENTERGY OPERATIONS, INC.)

(River Bend Station, Unit 1))
_____)

) Docket No. 50-458-LR

) November 6, 2017

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, copies of the foregoing “Entergy’s Answer Opposing Sierra Club’s Petition to Intervene and Request for Adjudicatory Hearing” were 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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