

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

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Michael F. Kennedy
Dr. Sue H. Abreu

In the Matter of

EXELON GENERATION COMPANY, LLC

(Peach Bottom Atomic Power Station, Units 2
and 3)

Docket Nos. 50-277-SLR and 50-278-SLR

ASLBP No. 19-960-01-SLR-BD01

February 28, 2019

ORDER
(Scheduling Oral Argument)

On November 19, 2018, petitioner Beyond Nuclear, Inc. (Beyond Nuclear) filed a petition requesting a hearing regarding the subsequent license renewal of Exelon Generating Company, LLC's (Exelon) Peach Bottom Atomic Power Station Units 2 and 3 (Peach Bottom).¹ Beyond Nuclear's petition includes two proposed contentions, which read as follows:

Contention 1: Failure to Satisfy NRC Regulations for Aging Management Programs

Exelon's subsequent license renewal application fails to comply with NRC safety regulation 10 C.F.R. § 54.21(a)(3), nor does it meet the NRC's standards for renewal of an operating license in 10 C.F.R. §§ 54.29(a)(1) and 54.31(a)(1), because its aging management programs for the subsequent license renewal term do not address any of the following issues:

- (a) The degree to which Exelon's aging management programs depend on external operating experience,
- (b) How Exelon will determine what amount of operating experience information is sufficient, and
- (c) How operating experience will be augmented if it is deemed insufficient.

¹ Beyond Nuclear, Inc.'s Hearing Request and Petition to Intervene (Nov. 19, 2018).

Exelon's license for Peach Bottom Units 2 and 3 should not be renewed until these actions have been taken.²

Contention 2: Failure to Address Environmental Impacts of Operating Aging Reactor Equipment During a Second License Renewal Term

Exelon's Environmental Report for [Peach Bottom] violates the National Environmental Policy Act ("NEPA") and NRC implementing regulation 10 C.F.R. § 51.53(c)(2) by failing to address the accident risks posed by operating aging reactor equipment during a second license renewal term. Exelon incorrectly claims that the risk of operating Peach Bottom with aging equipment is a "Category 1" issue and therefore exempt from consideration under 10 C.F.R. § 51.53(c)(3) and 10 C.F.R. Part 50, Appendix A. In taking this position, Exelon disregards the plain language of § 51.53(c)(3), which states that the regulation applies only to "initial" operating license renewal applications. Exelon's application is governed by 10 C.F.R. § 51.53(c)(2), which contains no such exemption.

Exelon also violates NEPA by failing to review and evaluate the existing body of literature regarding reactor aging phenomena and their effects beyond 60 years. Here, there can be no question that the accident risk posed by operating Peach Bottom for an additional twenty years is a relevant environmental consideration. But Exelon does not address the significant body of studies raising concerns about how much is still unknown about the effects of aging on reactor safety equipment.

Exelon's Environmental Report should also address the environmental implications of reactor aging issues identified by the NRC Staff in SECY-14-0016. These issues, characterized by the Staff as "the most significant technical issues challenging [reactor] operation beyond 60 years," include reactor pressure vessel embrittlement; irradiation-assisted stress corrosion cracking of reactor internals, concrete structures and containment degradation; and electrical cable qualification and condition assessment. As stated by senior NRC management, "it is the industry's responsibility to resolve these and other issues to provide the technical bases to ensure safe operation beyond 60 years." Beyond Nuclear is aware of no determination that these issues have been resolved since publication of SECY-14-0016. The Environmental Report should address the degree to which a lack of information regarding the effects of aging on reactor systems and components affects the environmental risk posed by extended operation.

Finally, the environmental report [sic] should address the significance of the declining amount of external operating experience available to Exelon to assist and increase its understanding of age-related environmental risks during the subsequent license renewal term.³

On December 14, 2018, the NRC Staff and Exelon filed respective answers arguing that both of Beyond Nuclear's proffered contentions fail to meet the NRC's contention admissibility

² Id. at 4.

³ Id. at 6–8 (internal citations and references omitted).

standard.⁴ On December 21, 2018, Beyond Nuclear submitted a consolidated reply to the NRC Staff's and Exelon's respective answers.⁵

The Board hereby schedules an oral argument on standing and contention admissibility to be held on Wednesday, March 27, 2019, at the ASLBP Hearing Room in Rockville, Maryland. The argument will commence at 9:00 AM EST. The Board anticipates that the argument will be completed by 5:00 PM EST that same day. Only authorized representatives or counsel for Beyond Nuclear, Exelon, and the NRC Staff who have entered written notice of appearance pursuant to 10 C.F.R. § 2.314(b) will be entitled to participate.

The sole purpose of the oral argument is to enable the Board to obtain the necessary factual and legal information to determine whether Beyond Nuclear has standing and whether its proffered contentions are admissible. Participants should be prepared to answer the Board's questions concerning all factual and legal issues raised in the pleadings. While this oral argument is open to the public, no witnesses, other representatives of the parties, or members of the public will be heard during the argument.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
February 28, 2019

⁴ NRC Staff Answer to Beyond Nuclear, Inc.'s Hearing Request and Petition to Intervene (Dec. 14, 2018); Exelon's Answer Opposing Beyond Nuclear, Inc.'s Hearing Request and Petition to Intervene (Dec. 14, 2018).

⁵ Beyond Nuclear's Reply to Exelon's and NRC Staff's Oppositions to Hearing Request and Petition to Intervene (Dec. 21, 2018).

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Units 2 and 3)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Scheduling Oral Argument)** have been served upon the following persons by Electronic Information Exchange.

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Peach Bottom, Units 2 & 3, Docket Nos. 50-277 & 50-278-SLR
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[Original signed by Diane B. Garvin ____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 28th day of February, 2019