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Title: NextEra Energy Seabrook
Seabrook Station Unit 1

Docket Number: 50-443-LA-2

ASLBP Number: 17-953-02-LA-BD01

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 ATOMIC SAFETY AND LICENSING BOARD PANEL

5 + + + + +

6 HEARING

7 -----x

8 In the Matter of: : Docket No.

9 NEXTERA ENERGY : 50-443-LA-2

10 SEABROOK, LLC : ASLBP No.

11 (Seabrook Station, : 17-953-02-LA-BD01

12 Unit 1) :

13 -----x

14 Thursday, May 16, 2019

16 Teleconference

18 BEFORE:

19 RONALD M. SPRITZER, Chair

20 NICHOLAS G. TRIKOUROS, Administrative Judge

21 SEKAZI K. MTINGWA, Administrative Judge

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P R O C E E D I N G S

(2:04 p.m.)

JUDGE SPRITZER: This is Judge Ronald Spritzer. We are here in the matter of NextEra Energy Seabrook. This is our Docket Number 50-443-LA-2. And we are having a conference call to discuss our plans for a tour of the Seabrook Plant later this year, June, July, or August. And the parties have been -- the staff at NextEra have provided us with a joint proposal regarding the plant tour, and we're going to review that.

Let me first say thank you for your efforts on this and your proposal -- and addresses most of what we're interested in seeing. Judge Mtingwa had a few questions about possible -- why don't we go around before we get to that, though. Let's go around and get everybody who's -- get everybody identified on the record. C-10, can you tell us who's here representing --

(Simultaneous speaking.)

MS. CURRAN: Yes. Yes. This is Diane Curran and with me is Natalie Treat representing C-10.

JUDGE SPRITZER: All right. Again, in for NextEra?

MR. BESSETTE: Yes, Your Honor. This is

1 Paul Bessette. And on the line also is Steve Hamrick
2 from NextEra.

3 JUDGE SPRITZER: And the NRC staff?

4 MR. WACHUTKA: This is Jeremy Wachutka.
5 I'm counsel for the NRC staff and I'm joined by my
6 fellow counsel, Anita Ghosh Naber and Jennifer Scro.

7 JUDGE SPRITZER: Very good. And I take it
8 that covers everybody who's on the line. So, Judge
9 Mtingwa, why don't you describe the additional issues
10 or areas that you're interested in seeing that aren't
11 in the joint proposal, as far as you can tell.

12 JUDGE MTINGWA: Okay. There are four
13 things that I'd like to see. One are the anchors that
14 are loaded and tensioned used to close to cracks.
15 That's number one. Number two, I'd like to see an
16 explicit demo of the crack index measurements and how
17 you go about doing that measurement.

18 Another things is that there are these --
19 you have these torn seismic gaps seals. They're
20 identified in 2017 between the containment enclosure
21 building and the containment building. If it's at all
22 possible to see that, it would be good.

23 And finally, the -- you have cracking. To
24 determine if it's ASR- induced, you have to do a
25 petrographic analysis. And it would be just informal

1 to -- for us to see cracking that is mapping itself so
2 we can sort of see what it looks like to the visual
3 eye, basically, that's ASR-induced. So, those are the
4 four things.

5 JUDGE SPRITZER: By the way, the staff at
6 NextEra may need to go back and talk with, you know,
7 technical people. Some of you may already be covered
8 and just wasn't clear in your proposal or some of them
9 may or may not be possible to see. Do you want to --
10 you have any thoughts now or do you want to get back
11 to us on --

12 MR. BESSETTE: This is Paul Bessette. We
13 will have to get back to you on it, but I just want to
14 make sure I fully understand the request. The first
15 one was for anchors that are -- a viewing of an anchor
16 used to close a crack. Also, the -- I didn't fully
17 hear the second on the crack index management. You
18 were looking for application of that, or?

19 JUDGE MTINGWA: Yes, the application.
20 Just to see how you do it.

21 MR. BESSETTE: Okay. You're looking at --
22 for an example of a torn seismic gap. And the fourth
23 one would be any cracking that is not ASR. Are you
24 looking for that in a petrographic sample or in situ?

25 JUDGE MTINGWA: No. In situ.

1 MR. BESSETTE: In situ, okay. Your Honor,
2 we'll have to confer with site folks on those. I'm
3 sure we can get back to this group fairly quick with
4 answer, but any recommendations how you would like us
5 to do that? Just a -- perhaps a note to the clerk?

6 JUDGE SPRITZER: Yeah. I think that would
7 be fine. Or you could send, just, an addendum to the
8 proposal. I think we'll go ahead and schedule time
9 and address any other, you know, issues that we need,
10 and you can simply let us know the extent to which you
11 can cover those issues either by looking at them on-
12 site or in the post-tour discussion or maybe just
13 isn't possible to address all of them, but just let us
14 know. I guess the best thing would be the short
15 filing as an amendment or addendum to your joint
16 proposal.

17 MR. BESSETTE: Yes, Your Honor.

18 JUDGE SPRITZER: Okay. Before we get to
19 the question of dates, I'm just curious. The staff
20 inspector, on-site inspectors played some role in
21 developing the proposal. Are they going to be
22 involved in either the tour or the post-tour
23 discussion to any extent?

24 MR. WACHUTKA: Your Honor, this is Jeremy
25 Wachutka from the NRC staff. Yes, the -- we have the

1 resident inspector and other knowledgeable staff
2 members assist with the tour agenda. They don't
3 intend to be tour guides or anything like that, and
4 they wouldn't be part of the staff membership on the
5 tour. But the resident inspector, obviously, may --
6 they may be observing this and I would expect that
7 they probably will.

8 JUDGE SPRITZER: Okay. All right. As to
9 dates, looks like -- let me ask C-10. We mentioned in
10 the last memorandum we issued July -- maybe it was my
11 email, but July 21st and August 2nd were the best
12 dates for us. They're not necessarily the only dates
13 the judges can make it. Are either of those
14 acceptable for C-10?

15 MS. CURRAN: Well, you -- did you really
16 mean June 21st, because that's --

17 (Simultaneous speaking.)

18 JUDGE SPRITZER: I'm sorry. June.
19 June 21st, that's right.

20 MS. CURRAN: Yeah.

21 JUDGE SPRITZER: June 21st and August 2nd.

22 MS. CURRAN: Out of those two days,
23 June 21st is better for us. And I'm trying to work it
24 so Dr. Saouma can come. He's going to be going to
25 Europe and he's going to be gone for the month. But

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1 he could change his plans if he needed to for the
2 early August date.

3 JUDGE SPRITZER: He's planning to go to
4 Europe on -- in August or in June?

5 MS. CURRAN: Yeah. In August, so
6 June 21st is the better date.

7 (Simultaneous speaking.)

8 JUDGE SPRITZER: Okay. And, obviously,
9 that works for NextEra and the staff, and it works for
10 the judges.

11 MS. CULLER: Ladies and gentlemen, if when
12 you speak, if you could mention your name first so
13 that the court reporters, if he's transcribing, knows
14 who's speaking, that would be great. Thanks very
15 much.

16 JUDGE SPRITZER: I am particularly at
17 that. This is Ron Spritzer. Okay. So, June 21st,
18 sounds like would be best. And --

19 MS. CURRAN: Judge Spritzer, this is Diane
20 Curran. Just before you get off that topic, if
21 there's any way -- I noticed that the proposal was to
22 have the tour in the morning, and I can imagine
23 morning is, in some respects, better. I'm going to be
24 trying -- I have a meeting the night before, and I'm
25 trying to figure out how I'm going to get there in

1 time. And is there any possibility, I wonder, of
2 doing the tour after noon?

3 JUDGE SPRITZER: I'd have to ask NextEra
4 and the staff. We could do it morning or afternoon,
5 I think. But we can stay overnight if we need to with
6 a tour. But would that be an issue for -- as far as
7 conducting the tour for NextEra or the staff?

8 MR. BESSETTE: Your Honor, we'll have to
9 confirm with the site, but we intend -- because the
10 site is about at least an hour from Logan Airport, we
11 planned a morning trip tour so that folks would --
12 this would not interfere with all the folks' weekends,
13 which would require either a late Friday night travel
14 or overnight on a Saturday.

15 So, frankly, I think we would -- if Mr.
16 Curran couldn't make it, I think we would prefer not
17 inconveniencing all the parties and maintaining a
18 morning tour date.

19 JUDGE SPRITZER: What about the -- she
20 had -- Ms. Curran, I think you had originally proposed
21 the 26th or the 27th. The 27th is a Thursday. Does
22 that still work for you and Dr. Saouma or not?

23 MS. CURRAN: Yes. The 27th or the 28th
24 would work for us.

25 JUDGE SPRITZER: Okay.

1 MS. TREAT: Not so much the 28th now --
2 well, possibly.

3 MS. CURRAN: Oh, okay. 27th's better,
4 but --

5 JUDGE SPRITZER: Is that possible for
6 NextEra to do -- we could do it on the morning, then,
7 of the 27th -- Thursday the 27th. And that would be
8 all right for you, Ms. Curran?

9 MS. CURRAN: Yes.

10 JUDGE SPRITZER: And your expert? Is
11 that -- again, this is Ron Spritzer. Is that all
12 right with -- will that work for NextEra and the
13 staff, Thursday the 27th of June?

14 MR. BESSETTE: Yeah, Your Honor, we have
15 not asked about that. The site -- as we noted, we try
16 to accommodate whatever the Board wishes. But to
17 facilitate getting through security and everything,
18 you know, our proposal was going to be off Fridays, so
19 we'll have to confer with the site again.

20 JUDGE SPRITZER: Okay. All right. Why
21 don't you let us know, then, about either of those
22 possibilities, either the afternoon of June 21st or
23 the morning of June 27th -- or, let's cover all bases.
24 Morning of June 26th. Ms. Curran, does that still
25 work for you and Dr. Saouma?

1 MS. CURRAN: Yes. The 26th would work.

2 JUDGE SPRITZER: And that -- we could do
3 that in the morning, also.

4 MS. CURRAN: Yes.

5 JUDGE SPRITZER: All right. So why
6 don't --

7 MR. BESSETTE: How about the August 2nd
8 date, Ms. Curran?

9 MS. CURRAN: August 2nd is -- it's going
10 to be very difficult for us.

11 JUDGE SPRITZER: All right. Well, why
12 don't we stick with the June dates, then. This is Ron
13 Spritzer again. Why don't we stick with the June
14 dates. June 21st, 26th, or 27th, and for the 21st
15 possibly in the afternoon, early in the morning. And
16 if NextEra could get back to us on that, we will
17 initiate appropriate order so that the tour -- I guess
18 the one other remaining issue is number of
19 participants.

20 To me, the NextEra's proposal of two
21 representatives from each party sounds find and is
22 consistent with what we intended here, which was that
23 it was to be a tour for the Board with -- allowing the
24 parties to attend so it's not an ex parte proceeding,
25 of course. But a general, you know, tour for anybody

1 that might be interested.

2 So, I think that's pretty much what we
3 intend to stick with. But if C-10 has any further --
4 anything further on that, I will hear what you have to
5 say.

6 MS. CURRAN: Yes. Thank you very much,
7 Judge Spritzer. We're hoping that we could get one
8 more person from C-10 onto this tour, and here's our
9 reasons. We think it's really important that C-10 --
10 that our -- that I and Dr. Saouma and hopefully a C-10
11 representative could just see and hear the same things
12 that the Board is seeing and hearing because, you
13 know, this may come up at the hearing. It's going to
14 affect how you perceive these issues.

15 And in C-10's case, we've got an unusual
16 situation where the interveners has been participating
17 pro se pretty much since the beginning of the case,
18 since I got here. I mean, I got here relatively
19 recently and they still have a license amendment team
20 that meets regularly and works on these technical
21 issues.

22 And we are -- I and Dr. Saouma and the LAR
23 team, we work together on this. It's a real
24 collaboration and, you know, I think this is one of
25 the things that's anticipated by the NRC, that citizen

1 participation in these hearings. So, I don't -- I
2 really -- we've talked about how we really don't want
3 to add another tour group because our purpose is just
4 to make sure that our representatives see and hear
5 what you're seeing and hearing. And we just like to
6 ask if there is a possibility of adding one more C-10
7 representative to the tour.

8 JUDGE SPRITZER: Okay. Well, perhaps Mr.
9 Bessette can include that when he gets back to us
10 about the tour dates, limited to Ms. Curran; Dr.
11 Saouma, I presume it'd be the expert; and Ms. Treat,
12 did you say, for -- is your client representative?

13 MS. CURRAN: It would probably be either
14 Ms. Treat or Chris Nord.

15 JUDGE SPRITZER: Okay. All right. But as
16 far as technical experts, it would be limited to Dr.
17 Saouma. You would be the legal representative. And
18 the client representative would be one of those two
19 individuals. If you could get --

20 MS. CURRAN: Correct.

21 JUDGE SPRITZER: We would like to keep
22 it -- it kind of defeats the purpose of the tour --
23 the reason we have the parties on the tour, as I
24 mentioned, as Ms. Curran said, this is not an ex parte
25 proceeding -- see and hear what we see and hear. So

1 breaking it up into groups is not going to work, I
2 don't think. That kind of defeats the purpose of
3 inviting the parties and all. So, if we could add one
4 more person to (telephonic interference) without
5 creating a major (telephonic interference) that would
6 be helpful. So, Mr. Bessette, can you get back to us
7 about that as well?

8 MR. BESSETTE: Yes, Your Honor. One thing
9 that would be helpful is, you know, we had counted
10 that it would be three of Your Honors and two law
11 clerks, because we do have to count for tour ratio
12 escort. Is that a correct assumption?

13 JUDGE SPRITZER: We can limit it to one
14 law clerk if that can help with -- issue about this.

15 MR. BESSETTE: All right. We'll put that
16 on the list to get back to you.

17 JUDGE SPRITZER: Okay. Well, yes. Three
18 judges, for sure.

19 MR. BESSETTE: I understand that. Yeah.

20 JUDGE SPRITZER: Okay. Anything else
21 related to the tour that we need to discuss? Okay.
22 The only other issue I thought I would mention is
23 where we are as far as the site for the hearing. We
24 pretty much narrowed it down to the Newburyport Town
25 Hall. That seems to be the best facility as far as

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1 being able to accommodate the number of people we
2 think might be there, at least for the early part of
3 the hearing as well as our limited appearance session.

4 We haven't actually signed it; we're still
5 working on the details of the contract, but we're
6 getting pretty close to having that resolved. So
7 that's it by way of information, that we hope to have
8 that resolved shortly. We certainly would advise you
9 when this -- we finally have that nailed down. Any
10 questions related to that or anything else that we can
11 talk about here today related to hearing procedure?

12 MS. TREAT: Judge Spritzer, this is
13 Natalie with C-10. Thank you. That's good to hear
14 about the hearing location. I just -- any more
15 details that you can provide on -- we understand the
16 hearing will begin, then, on the -- Tuesday the 24th
17 with some open-to-the-public session. Do you know
18 anything more about how that might go?

19 JUDGE SPRITZER: Well, we're going to have
20 to sit down with -- once we start getting -- the
21 problem is going to be is once you get testimony and
22 exhibits. But given the possibility of -- that some
23 testimony or exhibits would include protected
24 information, we may have to -- we probably will have
25 to have some way of either halting the hearing and

1 removing the audience, or maybe if we can do this in
2 advance setting up, you know, a particular time where
3 we would get into protected information. I don't know
4 whether that's going to be possible or we're just
5 going to have to deal with this as the hearing
6 progresses.

7 But that's certainly something the parties
8 could be thinking that -- we will have a pre-hearing
9 conference. I don't -- we don't, obviously, have a
10 date for that, but it'll be in advance of the hearing,
11 I'm going to assume, and we could try and figure out
12 the best way to handle that. Anybody has any
13 suggestions in the meantime, it would be -- this has
14 come up and this is certainly not the first case the
15 licensing board has handled that involved protected or
16 confidential or secret information, so we do have some
17 experience dealing with that.

18 There will undoubtedly be periods of the
19 hearing where the public can't be present. We'll try
20 and keep that to a minimum, but that's probably going
21 to happen, I think.

22 MR. BESSETTE: And, Your Honor, this is
23 Paul Bessette. In recent hearings and oral arguments,
24 we've been somewhat surprised by last-minute requests
25 for live-streaming or sometimes not even requests,

1 where parties just live-stream it. Because it will
2 involve proprietary information, we're going to have
3 to request that -- restrictions on that or guidance be
4 placed on that.

5 JUDGE SPRITZER: Okay. That's good to
6 know.

7 MS. TREAT: And I think -- again, this is
8 Natalie. One way to get around that is if the public
9 knew that there was a -- I don't know. A short
10 session for --

11 JUDGE SPRITZER: We lost audio there.

12 MS. TREAT: You lost me? If there was a
13 short session, say, at the beginning of the hearing
14 that was only non-proprietary and the public knew that
15 they -- that were -- if they were going to attend,
16 that would be the best time to go and not be, you
17 know, shuttled out of the room while proprietary
18 portions were handles. That might be good, I think,
19 from the public's point of view.

20 JUDGE SPRITZER: All right. And that may
21 be -- on the other hand, what often happens is a
22 witness just asked a question and it becomes obvious
23 that he's going to get into proprietary information,
24 at which point counsel for whichever party involved
25 will alert us to that.

1 So, we can't always -- we certainly can,
2 for opening statements, for example, we'll probably
3 have at the beginning and there we can -- I think, you
4 know, counsel can limit themselves to non-proprietary
5 information and we can, you know, make that available.
6 But, you know, there is going to be the possibility,
7 I think, that you would come to some point where you
8 just have to has, sorry, folks. You have to leave for
9 the next half hour, or whatever.

10 Another possibility -- and I'm just saying
11 this is a possibility, not things that we're going to
12 do. If there is a room that we could go into and the
13 party, that is the witnesses, counsel, court reporter,
14 and the judges, so we don't have to remove 50 or 100
15 people from the -- where we're holding the hearing.
16 That's another possibility. I'm just not sure that
17 there's a room that, I guess, could accommodate that.

18 We'll just have to work on that as an issue we're
19 going to have to deal with going forward.

20 But that's, again, something -- certainly
21 something for everyone to think about. For live-
22 streaming, I haven't heard anything indicating that
23 that's going to happen. We'll certainly let you know
24 if it is.

25 (Simultaneous speaking.)

1 MS. CURRAN: Judge Spritzer, this is Diane
2 Curran. I've been involved in a couple oral arguments
3 recently where the NRC hasn't made any provisions for
4 live-streaming and, therefore -- well, there was one
5 where there was no provision and the petitioners came
6 in and brought their own capacity to do it. There was
7 another where the Board didn't want to go to the
8 location of the plant and that -- therefore, they
9 decided it was better for them if the NRC sponsored
10 the live-streaming where they were.

11 I just think -- you know, I worked on the
12 Yucca Mountain case where live-streaming was supposed
13 to be, you know, the new thing that was done all the
14 time by the NRC. And it just seems, in this era, that
15 it ought to be something that is considered and done
16 as possible. And I understand what Mr. Bessette is
17 saying, but it seems to me what you were saying, too,
18 that the hearing can be managed in a way so that a lot
19 of it can be public.

20 So, I guess, I really appreciate your
21 proposal to have a pre-hearing conference and I hope
22 maybe we can talk about some of these things and work
23 them out in advance.

24 JUDGE SPRITZER: Okay. Yeah. I know C-10
25 is certainly familiar with Newburyport Town Hall, so

1 you may have some suggestions as to how we could
2 manage this. And it would great if in the pre-hearing
3 conference -- it would probably be somewhere in the
4 area of 30 days before the hearing. So, bearing that
5 in mind, you might want to think about ways to manage
6 this that would be -- that would allow us to have the
7 public attendance without infringing on protected
8 information.

9 MS. TREAT: Sure. This is Natalie. I
10 know that Ms. Curran is in touch directly with the
11 mayor's aid on this side. I mean, probably best for
12 her to handle directly. I'm happy to be of assistance
13 if needed.

14 JUDGE SPRITZER: Okay. One thought on --
15 from what we know about the Town Hall -- we haven't
16 actually been there, or at least I haven't. There was
17 a room for the judges to be separately. We understand
18 there are two other breakout rooms, but not three. We
19 have three parties. C-10, how close is your -- we
20 know your office is somewhere near --

21 (Simultaneous speaking.)

22 MS. CURRAN: It's about a block away.

23 JUDGE SPRITZER: Oh, okay. So that might
24 solve our problems far as --

25 MS. CURRAN: Yep.

1 JUDGE SPRITZER: -- getting you a separate
2 breakout room, at least, if it's not snowing. Okay.
3 Anything else we can talk about today that would be
4 useful? All right. So, we'll wait to hear back from
5 NextEra and staff as to the -- you know, particularly
6 NextEra as to the dates. And the possibility of C-10
7 having a client representative other than Ms. Curran
8 present. And then at that point, we'll send out an
9 order that will memorialize the specifics of the tour.

10 All right. Thank you for your
11 participation and for a very useful joint proposal and
12 plant tour, and we'll get adjudged. Thank you.

13 MS. CURRAN: Thank you, Judge.

14 MS. TREAT: Thank you.

15 (Whereupon, the above-entitled matter went
16 off the record at 2:29 p.m.)
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