

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 1)

Docket No. 50-443-LA-2

ASLBP No. 17-953-LA-BD01

May 23, 2019

ORDER  
(Providing Case Management Instructions)

This Order provides instruction for the filing of exhibits and written testimony, including a new procedure requiring a cover/title page for exhibits. It also addresses other matters related to the evidentiary hearing scheduled for September 24–27, 2019.<sup>1</sup> The Order does not change any of the dates in the Board's scheduling order.<sup>2</sup>

I. Prefiled Exhibits and Testimony

A. Ordering and Numbering. To expedite electronic processing for the contested proceeding, each party must number their pre-filed exhibits in a format that consists of a three-character party designation, followed by a three-character zero-filled number. The three-character designation to be used by each of the parties is as follows: NRC Staff – NRC; NextEra– NER; Intervenors – INT. Exhibit numbering should be consecutive.

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<sup>1</sup> Licensing Board Order (Scheduling Evidentiary Hearing) (April 5, 2019) (unpublished).

<sup>2</sup> Licensing Board Memorandum and Order (Revised Scheduling Order) (Feb. 15, 2018) at 3 (unpublished).

Consistent with the provisions of Subpart L, 10 C.F.R. § 2.1207(b)(2), the testimony of each witness should be submitted as a separate prefiled exhibit, numbered as directed above. The Board recommends that each party's first numbered exhibit(s) should consist of its witness testimony, to be followed by that party's document exhibits. To the extent possible, the parties should order and number their document exhibits in the sequence the parties refer to those exhibits in their prefiled testimony.

B. Exhibit Cover Sheet. In this proceeding, the Board will employ a new prefiled exhibit labeling process.<sup>3</sup> Each prefiled exhibit (whether testimony or a document) must have a cover sheet, the templates for which will be provided by the Board's law clerk. In the case of the initial version of an exhibit, the cover sheet is a fillable PDF form with fields for an exhibit number and exhibit title that should be appended to the front of the exhibit so that it is part of the PDF file for that exhibit when it is submitted via the E-Filing system. With the exhibit number on

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<sup>3</sup> Although the cover sheet portion of this new exhibit labeling process described in the text following this footnote has been used in the recent Crow Butte Marsland in situ uranium recovery (ISR) proceeding and in the ongoing Powertech ISR case, recent changes to the agency's ADAMS system will allow this new exhibit labeling process to be fully implemented for the first time in this proceeding. As a consequence, each item submitted by a party as a prefiled exhibit and identified for the evidentiary record will be in ADAMS only once with only one ADAMS accession number, as opposed to two documents with different ADAMS accession numbers that previously existed for such materials (i.e., one for the prefiled exhibit and one for the exhibit identified for the evidentiary record). In addition, the new exhibit labeling process implemented in this case will discontinue the use of a document stamp on the first page of an identified exhibit reflecting its status in the evidentiary record. Instead, a new metadata field is being added to ADAMS entitled "Exhibit Status" that will be used to record the status of the document in the evidentiary record, along with the date of any Board actions relative to the exhibit (e.g., Identified, 5/22/2019; Admitted, 5/22/2019). The "Exhibit Status" field for each exhibit reflecting that information can be found in the Electronic Hearing Docket (EHD) by right clicking on the exhibit's EHD listing, clicking "Properties" in the dialog box that appears, and then choosing the "Custom" tab under the "Document Properties" dialog box that opens. In addition, the Licensing Board at the end of the evidentiary hearing will prepare and provide for the docket a listing of all exhibits identified as part of the evidentiary record that will record this status information.

Any questions about this new marking system, or any other question concerning procedures for filing exhibits, should be directed to the Board's law clerk Molly Mattison at [Molly.Mattison@nrc.gov](mailto:Molly.Mattison@nrc.gov) or 301-415-0181.

the cover sheet, it is no longer necessary to place the exhibit number on the first page of the exhibit.

C. Large Exhibits. If a party finds that it needs to break a document into several segments to ensure it does not exceed the agency's guidance on recommended file sizes for submissions,<sup>4</sup> each of the segments should be labeled by placing an alpha designation next to the number of the exhibit in a way that will reflect the relationship of that part to the other parts of the document. For example, if a NRC Staff exhibit that would otherwise have the number NRC001 were submitted in three parts because of the file size, each portion would have a different exhibit number in the following sequence: NRC001A, NRC001B, and NRC001C.

D. Revised Exhibits. If a party needs to provide a revised version of a previously filed exhibit, the party should use the cover sheet template for a revised exhibit that will be supplied by the Board's law clerk. The exhibit should be refiled with the designation "-R" placed after the exhibit number in the revised exhibit number field. Thus, for example, a revised version of NRC Staff exhibit NRC001 would be designated NRC001-R. In addition, the cover sheet fields for the exhibit revision date (which would generally be the date when the revised exhibit is submitted to the proceeding's docket) and the revised exhibit title should be completed.

If a subsequent revision is necessary, the exhibit should be refiled using the revised exhibit cover sheet with the revised exhibit number field reflecting a sequential number immediately after the letter "R," e.g., NRC001-R2.

E. Exhibit List. At the time it submits the prefiled exhibits associated with its prefiled testimony, each party should also submit a list of its prefiled exhibits via the E-Filing system in

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<sup>4</sup> See Guidance for Electronic Submissions to the NRC (rev. 8 May 18, 2017) at 6 (ADAMS Accession No. ML13031A056).

PDF format. In addition, concurrent with the filing of any additional or revised evidentiary materials, each party should file an updated exhibit list in PDF format via the E-Filing system.

The parties should utilize an exhibit list similar to the one included as Appendix A to this issuance, which Ms. Mattison will make available in Word format upon request. For each exhibit listing, the parties must provide (1) the exhibit number; (2) the exhibit title (consistent with the guidance in the next section); and (3) the ADAMS accession number, to the extent an ADAMS accession number is available for the document (or portion of the document) that is being proffered.<sup>5</sup> Also, for any exhibit having a confidential/sensitive status that would preclude public disclosure, the listed information should be set forth in **bold** type.

F. Document Titles. The NRC's E-Filing system that will be used by the parties to submit their prefiled testimony and supporting materials only supports a document title of up to 200 characters. Accordingly, document titles must not exceed 200 characters. Further, to ensure continuity and ease of identification, the document title assigned to any particular prefiled testimony/exhibit in an E-Filing submission (and on its cover sheet) and the description provided for that document in the exhibit list submitted in accordance with section I.E must be identical and should reflect as close as practicable the actual title of the document (rather than a short-hand reference).

G. Duplicate Exhibits. To the extent possible, the parties should avoid submitting pre-filed exhibits that have been submitted by another party. Thus, if the Intervenor pre-files a certain portion of a report, the other parties should not submit the same portion of the report. Instead, the other parties should rely on the document already proffered by the Intervenor. Because the NRC Staff and NextEra will file their exhibits on the same day, the Board encourages them to confer in order to minimize the filing of duplicate exhibits.

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<sup>5</sup> Parties should not add the ADAMS Accession Number to the exhibit title.

The Board intends to utilize electronic exhibit display during the evidentiary hearing. Therefore, assuming that the witness testimony and supporting exhibits are properly prefiled using the agency's E-Filing system,<sup>6</sup> it should not be necessary for the parties to provide the Board or counsel for the other parties with any paper copies of their evidentiary materials (including testimony).

H. Exhibits Containing Proprietary Information. The Protective Order entered in this proceeding, paragraph 16, directs that documents containing information protected under the Order be filed electronically using the NRC's E-Filing system.<sup>7</sup> The person filing the document must use the "Non-Public Submission" option to prevent the document from being filed in the public docket. Only members of the Atomic Safety and Licensing Board Panel, NRC Staff counsel, and authorized persons should be "checked" as recipients on the electronic service list.<sup>8</sup> Any party filing an exhibit containing protected information should also ensure that it uses the appropriate Exhibit Cover Sheet, which will be provided by the Board's law clerk per Paragraph I.B above, so as to indicate that the exhibit contains protected information.

## II. Other Matters

A. Admission of Exhibits at the Evidentiary Hearing. At the beginning of the evidentiary hearing, the Board will ask each party to move the exhibits on their exhibit list into evidence in a block. The Board will rule on any stated objections at that time. The Board encourages the parties to resolve any issues related to exhibits prior to the hearing.

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<sup>6</sup> For assistance with the agency's E-filing system, please contact the Electronic Filing Helpdesk by visiting their webpage (<https://www.nrc.gov/site-help/e-submittals/contact-us-eie.html>), calling (866) 672-7640 between the hours of 9:00 am to 6:00 pm Eastern time, Monday through Friday (excluding Government holidays), or sending an e-mail to [Meta\\_System\\_Help\\_Desk.Resource@nrc.gov](mailto:Meta_System_Help_Desk.Resource@nrc.gov). Additional help regarding form and format of electronically submitted documents can be found in the "Guidance for Electronic Submission to the NRC" document (<https://www.nrc.gov/docs/ML1303/ML13031A056.pdf>).

<sup>7</sup> Licensing Board Protective Order (Governing Non-Disclosure of Protected Information) (Jan. 19, 2018) at 6.

<sup>8</sup> Id.

B. Copies of Transcripts. The Board does not anticipate using overnight transcript service for this hearing. The Board will, however, request that each hearing session be transcribed within three business days.

C. Submission of Proposed Cross-Examination Questions.

1. Pre-Hearing Proposed Questions

To maintain the confidentiality of each party's proposed cross-examination questions pending a Board initial decision, see 10 C.F.R. § 2.1207(a)(3)(iii), the proposed questions should be submitted directly to the Board by employing the E-Filing system's "In Camera Submission" functionality. Those questions should not be filed in the agency docket for this proceeding using the E-Filing system's "Public Submission" or "Non-Public Submission" functionalities.

2. Proposed Questions Submitted during Ongoing Hearing

The Board contemplates breaking at appropriate intervals to allow the parties to compile and submit proposed examination questions based on the information the Board elicits during its questioning of a particular witness or witness panel. The parties should come to the hearing prepared logistically to generate their proposed questions in a manner that will be both efficient (i.e., will not require extended breaks) and effective (i.e., decipherable by the Board).

D. Opening Statements by Counsel.

To the extent a party wishes to do so, at the outset of the hearing the Board will afford one counsel for each of the parties making an evidentiary presentation a total of fifteen minutes to present a summary of that party's anticipated evidentiary presentation. The order of party opening statements will be C-10, NextEra, and the NRC Staff.

E. Page Number References in Prefiled Testimony and at Hearing. When referring to/citing page numbers for exhibits, parties should reference the actual page number of the document and not the page number of the electronic document (i.e., not the PDF page number, which would have the party-appended cover sheet as the "first" page). If the document lacks

pagination, the PDF page number can be referenced. The Board anticipates that all prefiled testimony will employ pagination, beginning with page one on the first page of the testimony.

F. Party Comments. Party comments regarding any aspect of this Order should be filed promptly. Additionally, if any party believes a telephone conference would be useful in the near term to discuss any of the provisions of this order or any other matters regarding the upcoming evidentiary hearing, it should so indicate in a filing or to the Board's law clerk. The Board intends to conduct a telephone prehearing conference in August or early September to further review the logistics associated with the evidentiary hearing.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

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Ronald M. Spritzer, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
May 23, 2019

**APPENDIX A: NextEra Energy Seabrook, LLC, Docket No. 50-443-LA-2  
September 2019 Evidentiary Hearing Exhibits**

<b>[Party] Exh. No.</b>	<b>Witness/ Panel</b>	<b>Exhibit Title/Description</b>	<b>ADAMS Accession No.</b>

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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 (Providing Case Management Instructions)** have been served upon the following persons by Electronic Information Exchange.

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NEXTERA ENERGY SEABROOK, LLC (Seabrook Station Unit 1) – Docket No. 50-443-LA-2  
**ORDER (Providing Case Management Instructions)**

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[Original signed by Herald M. Speiser ]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 23<sup>rd</sup> day of May 2019