

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

In the Matter of  
NEXTERA ENERGY SEABROOK, LLC  
(Seabrook Station, Unit 1)

Docket No. 50-443-LA-2

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

June 7, 2019

ORDER

(Ruling on NextEra's Motion in Limine)

On April 23, 2019, NextEra Energy Seabrook, LLC (NextEra) filed a motion in limine (Motion) to exclude certain testimony and exhibits concerning Structure Deformation Monitoring at Seabrook Station, Unit 1 (Seabrook).<sup>1</sup> On May 3, 2019, C-10 Research and Education Foundation (C-10) and the NRC Staff (Staff) both filed timely responses<sup>2</sup> in opposition to NextEra's motion, arguing that NextEra's motion is premature because C-10 has not yet submitted any testimony or exhibits that the Board may review for relevance to the admitted contention.

For the reasons explained below, the Board will defer ruling on the issues raised by the Motion until it has an adequate evidentiary record to review. At that time, the Board will be in a

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<sup>1</sup> NextEra's Motion in Limine to Exclude Testimony and Exhibits Regarding Structure Deformation Monitoring (April 23, 2019) [hereinafter Motion].

<sup>2</sup> C-10 Research and Education Foundation's Opposition to NextEra's Motion in Limine (May 3, 2019) [hereinafter C-10 Opp.]; NRC Staff's Answer to NextEra's Motion in Limine (May 3, 2019) [hereinafter Staff Answer].

far better position to evaluate NextEra's argument that some of C-10's evidence falls outside the scope of the admitted contention.

## I. DISCUSSION

### A. Background

This proceeding arises from a license amendment request (LAR) filed by NextEra,<sup>3</sup> concerning the operating license for Seabrook, located in Seabrook, New Hampshire. The LAR sought to revise the Unit 1 Updated Final Safety Analysis Report (UFSAR) to include methods for analyzing the impact of concrete degradation caused by an alkali-silica reaction (ASR) affecting Seismic Category I reinforced concrete structures.<sup>4</sup> The LAR includes a monitoring

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<sup>3</sup> License Amendment Request 16-03, Revise Current Licensing Basis to Adopt a Methodology for the Analysis of Seismic Category I Structures with Concrete Affected by Alkali-Silica Reaction, 1–3 of 73 (unnumbered) (Aug. 1, 2016) (ADAMS Accession No. ML16216A240) [hereinafter Original LAR]. The Original LAR is a 73-page PDF with unnumbered pages that also contains the following documents:

1. Affidavit in Support of Application for Withholding Proprietary Information from Public Disclosure, pp. 4–5 of 73 (unnumbered) (Aug. 1, 2016);

2. SBK-L-16071 Enclosure 7, "NextEra Energy Seabrook's Evaluation of the Proposed Change (Non-Proprietary)," pp. 6–40 of 73 (unnumbered) (undated) [hereinafter Evaluation of Proposed Change];

3. SBK-L-16071 Enclosure 8, "Affidavit in Support of Application for Withholding Proprietary Information from Public Disclosure," pp. 41–42 of 73 (unnumbered) (undated);

4. Attachment 1, "Markup of UFSAR Pages," pp. 43–73 of 73 (unnumbered) (undated).

These documents are enclosures to the LAR and are considered part of the LAR. For ease of access to citations, we will cite to all documents included in the LAR package with the identified name above and the page number out of 73 unnumbered pages.

NextEra supplemented the Original LAR on September 30, 2016, (ADAMS Accession No. ML16279A048), October 3, 2017 (ADAMS Accession No. ML17277A337), October 17, 2017 (ADAMS Accession No. ML17291B136), December 11, 2017 (ADAMS Accession No. ML17345A641), and June 7, 2018 (ADAMS Accession No. ML18158A540). Collectively, the Original LAR and all supplements, plus all enclosures and attachments constitute the "LAR."

<sup>4</sup> See Evaluation of Proposed Change at p. 7 of 73. ASR is a chemical reaction in susceptible concrete that causes the concrete to expand which potentially reduces the capacity of the concrete structures. The chemical reaction produces an alkali-silicate gel that expands as it absorbs moisture. The expansion exerts stress on the surrounding concrete and results in cracking.

program comprised of: (1) “periodic measurement of ASR expansion” (ASR Expansion Monitoring); and (2) “periodic inspections of ASR-affected structures to identify and trend building deformation” (Structural Deformation Monitoring).<sup>5</sup>

C-10 filed a petition challenging the LAR, which included ten contentions.<sup>6</sup> One of those contentions (Contention D) alleged that the Large Scale Test Program, undertaken for NextEra at the Ferguson Structural Engineering Laboratory (FSEL), produced data not representative of the progression of ASR in Seabrook concrete.<sup>7</sup> The Board concluded that if Contention D were to be proven, “the LAR’s reliance on the test program to support the monitoring program, acceptance criteria, and inspection intervals would be undermined.”<sup>8</sup> The Board therefore concluded that Contention D was admissible.<sup>9</sup> The Board also determined that Contention D should be combined with the portions of Contentions A, B, C, and H that allege defects in the LAR’s monitoring program, acceptance criteria, and inspection intervals.<sup>10</sup> Those five contentions were therefore reformulated by the Board into a single admitted contention:

The large-scale test program, undertaken for NextEra at the FSEL, has yielded data that are not “representative” of the progression of ASR at Seabrook. As a result, the proposed monitoring, acceptance criteria, and inspection intervals are not adequate.<sup>11</sup>

In the Motion, NextEra contends that the Board’s reformulated contention challenges only the ASR Expansion Monitoring portion of the LAR, not the Structure Deformation

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<sup>5</sup> Original LAR § 3.5.

<sup>6</sup> C-10 Research and Education Foundation, Inc. Petition for Leave to Intervene: Nuclear Regulatory Commission Docket No. 50-443 at 2–3 (April 10, 2017).

<sup>7</sup> Id. at 8–11.

<sup>8</sup> LBP-17-7, 86 NRC 59, 114 (2017).

<sup>9</sup> Id. at 121.

<sup>10</sup> Id. at 127.

<sup>11</sup> Id. The Board concluded that C-10’s other contentions were inadmissible. Id. at 131–37.

Monitoring portion.<sup>12</sup> NextEra argues that C-10's pleadings and the Board's admissibility order clearly define and limit "the scope of the admitted contention as a challenge to only: (1) the 'representativeness' of the [Ferguson Structural Engineering Laboratory] FSEL<sup>13</sup> testing, and (2) certain aspects of the ASR Expansion Monitoring portion of the LAR."<sup>14</sup> NextEra asserts that recent filings by C-10 indicate that it may attempt to also challenge the Structure Deformation Monitoring section of the LAR at the upcoming hearing.<sup>15</sup> Specifically, NextEra cites the Emergency Petition<sup>16</sup> filed by C-10 with the Commission, which contained several requests and demands related to "[the] LAR proceeding, the previously-terminated Seabrook license renewal proceeding, various Staff actions, and other issues related to rulemaking and generic Commission determinations."<sup>17</sup> Included as part of its filing, C-10 filed a report prepared by Dr. Victor Saouma (Saouma Report).<sup>18</sup> NextEra asserts that the commentary on Structure Deformation Monitoring within the Saouma Report, specifically as it relates to the discussion of finite element analysis, also referred to as the "finite element model" (FEM),<sup>19</sup> is beyond the

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<sup>12</sup> Motion at 2, 9.

<sup>13</sup> Original LAR § 3.2.

<sup>14</sup> Motion at 10.

<sup>15</sup> Id. at 2.

<sup>16</sup> See Emergency Petition by C-10 Research and Education Foundation for Exercise of Commission's Supervisory Authority to Reverse No Significant Hazards Determination and Immediately Suspend License Amendment and License Renewal Decisions (Feb. 13, 2019) [hereinafter Emergency Petition].

<sup>17</sup> Motion at 2.

<sup>18</sup> Emergency Petition at 3 n.3. C-10 relies on portions of Dr. Saouma's Declaration and expert report attached to his declaration as Exhibit 4. However, it includes proprietary information and was submitted to the docket as a non-public document, available only to the Commission, the Board, and the parties to the proceeding. A non-proprietary summary of Dr. Saouma's conclusions is attached to his declaration as Exhibit 4a.

<sup>19</sup> Evaluation of Proposed Change at pp. 24–26 of 73. FEM, as laid out in the LAR, is part of the methodology used at Seabrook to gauge structural deformation. It is used in the "Stage Two-Analytical Evaluation" and "Stage Three-Detailed Evaluation" portions of the program. FEM reconciles the original design analysis of the structure with the deformation field measurements at Seabrook.

scope of the single contention as pled and admitted for the hearing because it only refers to deformation evaluations conducted under the Structure Deformation Monitoring portion of the LAR.<sup>20</sup> NextEra argues that based on “C-10’s statements and the prevalence of the out-of-scope arguments in the Saouma Report”<sup>21</sup> there is a good faith basis to believe that C-10 and its expert Dr. Saouma intend to submit such irrelevant direct testimony and exhibits in this proceeding<sup>22</sup> and urges the Board to preemptively exclude all direct testimony and exhibits challenging the Structure Deformation Monitoring section of the LAR.<sup>23</sup>

C-10 opposes the Motion, arguing that it is premature.<sup>24</sup> C-10 further maintains that Structure Deformation Monitoring and finite element analysis are “intertwined with the FSEL test results,” and thus are not clearly irrelevant or immaterial to the admitted contention.<sup>25</sup> According to the admitted contention, the FSEL test program has yielded data that are not representative of the progression of ASR at Seabrook and therefore fails to provide a sufficient basis for the monitoring, acceptance criteria, and inspection intervals proposed in the LAR.<sup>26</sup> If C-10’s criticism of the FSEL test data is correct and the Structure Deformation Monitoring and finite element analysis are indeed “intertwined with the FSEL test results,” then the admitted contention is applicable to Structure Deformation Monitoring as well as to ASR Expansion Monitoring. As C-10 puts it, its claims “generally express concern about the lack of representativeness of FSEL test results for purposes of establishing monitoring, inspection

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<sup>20</sup> Motion at 3, 10–11.

<sup>21</sup> Id. at 3 n.14.

<sup>22</sup> See id.; see also id. at n.14. In its Motion, NextEra acknowledges that the Saouma Report was prepared specifically for the Emergency Petition, and consequently the author may not have intended to limit his opinions to the parameters of the admitted contention.

<sup>23</sup> Id. at 11.

<sup>24</sup> C-10 Opp. at 5–6.

<sup>25</sup> Id. at 5.

<sup>26</sup> See LBP-17-7, 86 NRC at 127.

criteria, and inspection intervals; and do not distinguish between their applications to any particular monitoring methodology.”<sup>27</sup>

The Staff also maintains that the Motion is premature.<sup>28</sup> It observes that orders in limine are appropriate to exclude direct testimony or exhibits that are not relevant to a proceeding.<sup>29</sup> But the Staff also points out that, to properly weight the relevance of submitted direct testimony or exhibits, the presiding officer must be able to determine their content.<sup>30</sup> In this proceeding, C-10 has not submitted any direct testimony or exhibits.<sup>31</sup> As nothing has been submitted, the Board is unable to review the relevance of any direct testimony or exhibits as they relate to the admitted contention.

B. Legal Standard

The Board may exclude or strike evidence which is irrelevant, immaterial, unreliable, duplicative or cumulative, either on motion or on its own initiative.<sup>32</sup> A Board has significant discretion in making its evidentiary determinations.<sup>33</sup>

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<sup>27</sup> C-10 Opp. at 6.

<sup>28</sup> Staff Answer at 2.

<sup>29</sup> See, e.g., Entergy Nuclear Operations, Inc. (Indian Point, Units 2 & 3), CLI-15-6, 81 NRC 340, 374, 377–78 (2015) (ruling that a Board erred in denying motions in limine that sought to exclude testimony and exhibits regarding emergency planning issues as outside the scope of the license renewal proceeding).

<sup>30</sup> See, e.g., Bailey v. Formosa Plastics Corp., USA, No. CIV. A. 94-1449, 1997 WL 417297, at \*1 (E.D. La. July 23, 1997) (“The Court finds that this motion in limine is premature in that defendant’s concerns are speculative and may not be borne out by the witnesses’ actual testimony.”); King v. Martin, No. 10-1774, 2012 WL 6087536, at \*1 (W.D. La. Dec. 6, 2012) (“As Tooley-Knoblett has not yet been deposed, this court cannot ascertain the content of her proposed testimony, and therefore, cannot determine whether she will attempt to offer inadmissible legal opinions solely on the basis of her expert report.”).

<sup>31</sup> Per the revised scheduling order issued by the Board, C-10’s deadline to submit direct testimony is June 10, 2019.

<sup>32</sup> 10 C.F.R. § 2.319(d)–(e).

<sup>33</sup> Duke Energy Corp. (Catawba Nuclear Station, Units 1 & 2), CLI-04-21, 60 NRC 21, 27 (2004).

The evidentiary hearing in this case is limited to the admitted contention. The “reach of a contention necessarily hinges upon its terms coupled with its stated bases.”<sup>34</sup> Intervenors are not required to prove their case at the contention stage, nor are they required to “provide an exhaustive list of possible bases” at that time.<sup>35</sup> On the other hand, an intervenor “may not freely change the focus of an admitted contention at will” to add a host of new issues and objections that could have been raised at the outset.<sup>36</sup> When an intervenor’s testimony or exhibits are alleged to fall outside the scope of an admitted contention, the board must decide whether the proffered evidence is within the “reasonably inferred bounds” of the admitted contention.<sup>37</sup> Information offered in evidence, even if not specifically stated in the original contention and bases, may be relevant if it falls within the “envelope,” “reach,” or “focus” of the contention when read with the original bases offered for it.<sup>38</sup>

C. Board Ruling

As explained above, NextEra anticipates that, because the expert report submitted with C-10’s emergency motion with the Commission challenged the adequacy of the Structure Deformation Monitoring section of the LAR, C-10’s testimony and exhibits for the evidentiary hearing will likely contain the same or equivalent evidence. A motion in limine may be filed to allow the trial court to rule in advance of trial on the admissibility and relevance of certain

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<sup>34</sup> Entergy Nuclear Generation Co. (Pilgrim Nuclear Power Station), CLI-10-11, 71 NRC 287, 309 (2010) (citing Pub. Serv. Co. (Seabrook Station, Units 1 & 2), ALAB-899, 28 NRC 93, 97 (1988), aff’d sub nom. Massachusetts v. NRC, 924 F.2d 311 (D.C. Cir.), cert. denied, 502 U.S. 899 (1991)).

<sup>35</sup> La. Energy Servs., L.P. (National Enrichment Facility), CLI-04-35, 60 NRC 619, 623 (2004).

<sup>36</sup> Duke Energy Corp. (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), CLI-02-28, 56 NRC 373, 386 (2002).

<sup>37</sup> Pilgrim, CLI-10-11, 71 NRC at 309.

<sup>38</sup> Duke Energy Corp. (Catawba Nuclear Station, Units 1 & 2), LBP-04-12, 59 NRC 388, 391 (2004).

forecasted evidence.<sup>39</sup> Thus, NextEra appropriately submitted the Motion in advance of the filing of C-10's anticipated evidence.

Nevertheless, in order for the Board to grant the Motion, we would have to conclude on the limited record before us that the challenged evidence would necessarily fall outside the "reasonably inferred bounds" of the admitted contention.<sup>40</sup> Even assuming that C-10 will file testimony and exhibits challenging the Structure Deformation Monitoring section of the LAR (as appears likely), we do not agree that any such challenge will necessarily fall outside those boundaries. Whether it will do so will depend in large part upon whether C-10 can provide sufficient factual or expert support for its claim that the LAR relied on the allegedly defective data from the FSEL test program data not only for the ASR expansion monitoring program, but also for the challenged aspects of the Structure Deformation Monitoring Program.

C-10 maintains that it can provide that support. According to C-10, NextEra's own documents show that NextEra

has relied on the FSEL large-scale test results for ASR expansion monitoring methodologies, and structural deformation monitoring. They also show that the finite element analysis[,] which NextEra claims 'solely relates to deformation evaluations performed under the Structure Deformation Monitoring portion of the LAR[,] ...relies explicitly on FSEL test results to establish thresholds for structure deformation monitoring. FSEL test results are relied on to assume that monitoring is not necessary until these thresholds are exceeded.<sup>41</sup>

C-10 maintains, for example, that "the UFSAR attached to the LAR . . . demonstrates that monitoring of the crack indices established by the FSEL tests sets a threshold for structural monitoring and analysis."<sup>42</sup> C-10 also cites documents that it believes show "that the results of

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<sup>39</sup> Luce v. United States, 469 U.S. 38, 40 n.2 (1984); Palmieri v. Defaria, 88 F.3d 136, 141 (2d Cir. 1996).

<sup>40</sup> Pilgrim, CLI-10-11, 71 NRC at 309.

<sup>41</sup> C-10 Opp. at 6–7 (citing portions of NextEra's Motion found on pages 10–11).

<sup>42</sup> Id. at 7.

the FSEL test program are incorporated into the finite element analysis (and therefore the Structure Deformation Monitoring Program) as assumptions.”<sup>43</sup> Thus, according to C-10, the FSEL test “results provide input to and assumptions for the finite element analysis relied on by NextEra for its methodology for ASR assessment and monitoring, including structural deformation. Accordingly, NextEra is incorrect in arguing that the Structure Deformation Monitoring Program and finite element analysis have no relevance to C-10’s contentions.”<sup>44</sup>

C-10’s claims regarding Structural Deformation Monitoring fall within the literal terms of the admitted contention, to the extent those claims are based on the alleged inadequacy of the FSEL test data. The admitted contention alleges that the FSEL test data fail to adequately represent the progression of ASR at Seabrook, and therefore fail provide an adequate basis for establishing monitoring, inspection criteria, and inspection intervals. On its face, the admitted contention does not distinguish between the application of the FSEL test result to any particular monitoring program or methodology. Instead, the implication of the admitted contention is that any monitoring, inspection criteria, or inspection interval based on the FSEL test data is inadequate.

Despite the breadth of the admitted contention, NextEra emphasizes that the C-10’s petition for hearing and request to intervene made only limited reference to the Structure Deformation Monitoring program, and it therefore concludes that such issues are entirely outside the scope of the admitted contention.<sup>45</sup> But, as NextEra acknowledges, an intervenor is not required to provide an exhaustive list of all possible bases of its contentions at the

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<sup>43</sup> Id. at 8.

<sup>44</sup> Id. at 9.

<sup>45</sup> Motion at 8.

contention admissibility stage.<sup>46</sup> C-10's evidence concerning Structure Deformation Monitoring may be admitted if it is within the "reasonably inferred bounds" of the admitted contention.<sup>47</sup>

C-10's claims regarding structural deformation monitoring based on the alleged inadequacy of the FSEL test data may reasonably be inferred from Contention D. Contention D alleged that the FSEL test data fail to adequately represent the progression of ASR at Seabrook. Quoting the LAR, Contention D emphasized that "[a]pplication of the results of the [large-scale] test program requires that the test specimens be representative of reinforced concrete at Seabrook Station and that expansion behavior of concrete at the plant be similar to that observed in the test specimens."<sup>48</sup>

Like the admitted contention, Contention D does not distinguish between the application of the FSEL test results to any particular monitoring program or methodology. On the contrary, it implies that the allegedly inadequate test data fails to provide a sufficient basis for establishing any monitoring program or methodology. It therefore supports C-10's argument that its contentions "generally express concern about the lack of representativeness of FSEL test results for purposes of establishing monitoring, inspection criteria, and inspection intervals; and do not distinguish between their applications to any particular monitoring methodology."<sup>49</sup>

As the foregoing discussion makes clear, resolution of the Motion turns on whether C-10 can substantiate its claim that Structure Deformation Monitoring and finite element analysis are

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<sup>46</sup> Id. at 5.

<sup>47</sup> Pilgrim, CLI-10-11, 71 NRC at 309.

<sup>48</sup> Petition at 9 (quoting MPR Associates, MPR-4273, "Seabrook Station –Implications of Large-Scale Test Program Results on Reinforced Concrete Affected by Alkali-Silica Reaction," July 2016 at 6-3 (rev. 0, July 2016) (ADAMS Accession No. ML16216A242). MRP-4273 is Enclosure 3 (Non-Proprietary) and Enclosure 6 (Proprietary) to the LAR.

<sup>49</sup> Id. at 6.

“intertwined with the FSEL test results.”<sup>50</sup> NextEra appears to dispute that claim.<sup>51</sup> At bottom, the limited record currently before the Board is not sufficient to permit resolution of this technical issue. The Board therefore defers ruling on the Motion until it has an adequate evidentiary record.<sup>52</sup>

We do not believe deferring our ruling will result in substantial prejudice to any party. A motion in limine is ordinarily used to prevent a jury from becoming aware of potentially prejudicial evidence that may ultimately be ruled inadmissible. By filing a motion in limine, the party opposing admission of the evidence may obtain a ruling in advance of trial, or at least outside of the presence of the jury. In administrative proceedings such as this, where no jury is involved, no such threat of prejudice is present, and accordingly there is no compelling need for a ruling on the admissibility of challenged evidence before the hearing.<sup>53</sup> NextEra complains that without a Board ruling, it and the Staff will have to respond to irrelevant testimony, and the

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<sup>50</sup> C-10 Opp. at 5.

<sup>51</sup> See Motion at 6–8.

<sup>52</sup> We disagree with NextEra’s claim that the Board previously determined, in its ruling on standing and contention admissibility, that “C-10’s Petition ‘does not challenge’ the Structure Deformation Monitoring portion of the LAR.” Motion at 2 (quoting LBP-17-7, 86 NRC at 124). In fact, the cited statement concerns a narrow issue related only to Contention H. LBP-17-7, 86 NRC at 124. Contention H alleged that the ASR monitoring intervals in Table 5 of the LAR were too long, given the uncertainty about the rate of progression of concrete degradation caused by ASR. Id. at 121-22. In disputing the admissibility of Contention H, NextEra criticized C-10 for failing to address guidance from the Federal Highway Administration cited in the LAR. The Board concluded that NextEra’s argument missed the point of Contention H because the LAR referred to the guidance in support of the Structure Deformation Monitoring intervals in Table 6 of the LAR, while Contention H challenged the ASR monitoring intervals in Table 5. Id. at 124. This limited ruling on one narrow issue cannot plausibly be read as we held that the entire deformation monitoring section of the LAR is outside the scope of the admitted contention.

<sup>53</sup> Licensing Board Order (Granting in Part and Denying in Part NRC Staff’s Motion in Limine), Calvert Cliffs 3 Nuclear Project, L.L.C. (Combined License Application for Calvert Cliffs Unit 3), No. 52-016-COL (Jan. 17, 2012) at 3 (unpublished) (ADAMS Accession No. ML12017A200) (citing Pub. Serv. Co. of N.H. (Seabrook Station, Units 1 & 2), ALAB-520, 9 NRC 48, 50 n.2 (1979)).

Board would have to expend resources reviewing irrelevant materials.<sup>54</sup> If the merits of the Motion were clear, that would be a persuasive reason for the Board to rule on the Motion now. But for the foregoing reasons we have explained, the Board requires further factual development to resolve the Motion.<sup>55</sup>

II. CONCLUSION

For the reasons stated above, the Board will exercise its discretion by deferring ruling on the Motion until it has an adequate evidentiary record to review.

IT IS SO ORDERED

THE ATOMIC SAFETY  
AND LICENSING BOARD

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Ronald M. Spritzer, Chairman  
ADMINISTRATIVE JUDGE

*/RA/*

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Nicholas G. Trikouros  
ADMINISTRATIVE JUDGE

*/RA/*

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Dr. Sekazi K. Mtingwa  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
June 7, 2019

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<sup>54</sup> Motion at 4.

<sup>55</sup> If the Board can resolve the Motion based solely on C-10's direct testimony and exhibits, it will so advise the parties.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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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 (Ruling on NextEra's Motion in Limine)** 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 (Ruling on NextEra’s Motion in Limine)**

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[Original signed by Clara Sola \_\_\_\_\_]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 7<sup>th</sup> day of June 2019