

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

_____	)	
In the Matter of	)	
Exelon Generation Company, LLC	)	Docket Nos. 50-277/278 SLR
Peach Bottom Atomic Power Station,	)	September 23, 2019
Units 2 & 3	)	
_____	)	

**BEYOND NUCLEAR, INC.’S MOTION TO REOPEN THE RECORD  
FOR PURPOSES OF CONSIDERING AND ADMITTING A NEW  
CONTENTION BASED ON DRAFT SUPPLEMENT 10 TO GENERIC  
ENVIRONMENTAL IMPACT STATEMENT FOR SUBSEQUENT LICENSE  
RENEWAL OF PEACH BOTTOM OPERATING LICENSE  
AND REQUEST FOR CONSIDERATION OF SOME ELEMENTS OF THE  
MOTION OUT OF TIME**

**I. INTRODUCTION**

Pursuant to 10 C.F.R. § 2.326, Beyond Nuclear, Inc. (“Beyond Nuclear”) hereby moves to reopen the record of this proceeding for consideration by the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”) of Exelon Generation Co., L.L.C.’s (“Exelon’s”) application for subsequent license renewal (“SLR”) of its operating license for the Peach Bottom Units 2 and 3 nuclear power plant. This motion supplements Beyond Nuclear’s Motion for Leave to File New Contention Based on Draft Supplement 10 to Generic Environmental Impact Statement for Subsequent License Renewal of Peach Bottom Operating License [(“Draft GEIS Supp. 10”)] (Sept. 3, 2019) (“Motion to Admit Contention 3”). Contention 3 challenges the Draft GEIS Supp. 10 to satisfy the National Environmental Policy Act (“NEPA”) and NRC implementing regulations because it lacks an adequate discussion of the environmental impacts of design-basis accidents.

This Motion is organized as follows:

- In Section II, Beyond Nuclear addresses the jurisdictional question raised by the apparent incompatibility of 10 C.F.R. § 2.318(a) with the ASLB’s recent order terminating this proceeding, *Exelon Generation Co., LLC* (Peach Bottom Atomic Power Station, Units 2 & 3), LBP-19-05 \_\_ N.R.C. \_\_ (June 20, 2019) (“LBP-19-05”). In light of that question, this Motion is being filed before both the ASLB and the Commission.<sup>1</sup>
- In Section III, Beyond Nuclear provides factual background for this motion.
- In Section IV, Beyond Nuclear addresses the NRC’s standard for reopening the record and NRC standing requirements, demonstrating that in these circumstances, NRC regulations and applicable judicial precedents allow Beyond Nuclear to satisfy the standard for reopening the record by meeting the requirements of 10 C.F.R. § 2.309(c), by demonstrating that its contention raises new issues rather than new arguments or facts, and by renewing its demonstration of standing.
- In Section V, Beyond Nuclear seeks leave to file, out of time, its demonstration that its contention raises new issues rather than new arguments or facts, and by renewing its demonstration of standing.
- In Section VI, Beyond Nuclear’s counsel provides a declaration pursuant to 10 C.F.R. § 2.326(b).

## **II. JURISDICTION**

In LBP-19-05, the ASLB denied Beyond Nuclear’s initial hearing request and terminated this proceeding. *Id.*, slip op. at 24. Thus, LBP-19-05 appears to have ended the ASLB’s jurisdiction over any new or supplemental hearing requests, including this one. However, Beyond Nuclear

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<sup>1</sup> The same question was raised in Beyond Nuclear’s Motion to Admit Contention 3. *Id.*, Section II.

has appealed LBP-19-05 to the NRC Commissioners and no final decision has issued yet. Therefore, 10 C.F.R. § 2.318(a) appears to countermand the ASLB and give the Presiding Officer continuing jurisdiction to consider new contentions up until the time of a decision by the Commissioners.<sup>2</sup> *See also USEC, Inc. (American Centrifuge Plant), Order (Regarding Jurisdiction)* (Unpublished, Oct. 20, 2005) (NRC Accession No. ML052930319). Under the circumstances, and in an abundance of caution, Beyond Nuclear has filed this motion before both the ASLB and the Commission in order to ensure that the motion is considered by the appropriate body.

### **III. FACTUAL BACKGROUND**

#### **A. Beyond Nuclear's Initial Hearing Request**

On November 19, 2018, Beyond Nuclear submitted a timely hearing request setting forth two contentions relating to the safety and environmental risks posed by aging equipment at the Peach Bottom reactors during the SLR term. Beyond Nuclear's Hearing Request and Petition to Intervene ("Hearing Request"). Beyond Nuclear's environmental contention -- Contention 2 -- charged that Exelon's Environmental Report failed to satisfy NEPA or its implementing regulations because it erroneously relied on the analysis of design basis accidents in NUREG-1437, Rev. 1, the License Renewal Generic Environmental Impact Statement (2013) ("2013 License Renewal GEIS") for its analysis of the environmental impacts of design basis accidents. Beyond Nuclear asserted that Exelon incorrectly interpreted 10 C.F.R. § 51.53(c)(3) to allow it to designate design basis accidents as a "Category 1" issue, exempt from consideration under Table

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<sup>2</sup> As stated in the regulation: "The presiding officer's jurisdiction in each proceeding terminates when the period within which the Commission may direct that the record be certified to it for final decision expires, when the Commission renders a final decision, or when the presiding officer withdraws from the case upon considering himself or herself disqualified, whichever is earliest."

B-1 of 10 C.F.R. Part 51, Appendix A (“Table B-1”). Hearing Request at 11 (citing Environmental Report at 4-12). By its plain language, 10 C.F.R. § 51.53(c)(3) applies only to “initial” license renewal, not to subsequent license renewal. Therefore, Exelon’s application is governed by 10 C.F.R. § 51.53(c)(2), which contains no such exemption. *Id.*

In addition, Contention 2 asserted that Exelon violates NEPA by failing to review and evaluate the existing body of literature regarding reactor aging phenomena and their effects beyond 60 years. Hearing Request at 7. The Environmental Report was deficient, according to Beyond Nuclear, because it did not address the significant body of studies raising concerns about how much is still unknown about the effects of aging on reactor safety equipment. Relevant studies include, for instance, the Expanded Materials Degradation Assessment (EMDA), a five-volume report prepared by the NRC and the U.S. Department of Energy (“DOE”), NUREG/CR-7153, ORNL/TM-2013/532, Oct. 2014) (“EMDA Report”). In addition, Beyond Nuclear contended that Exelon’s Environmental Report should also address the environmental implications of unresolved reactor aging issues identified by the NRC Staff as “the most significant technical issues challenging [reactor] operation beyond 60 years.” Hearing Request at 7-8 (citing SECY-14-0016, Memorandum from Mark A. Satorius, NRC Executive Director of Operations, to NRC Commissioners, re: Ongoing Staff Activities to Assess Regulatory Considerations for Power Reactor Subsequent License Renewal (Jan. 31, 2014) (NRC ADAMS Accession No. ML14050A306) (“SECY-14-0016”). These issues 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. *Id.* (citing SECY-14-0016, Enclosure 1 at 2-3). 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.” *Id.* Beyond Nuclear asserted that 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. Hearing Request at 8 (citing 40 C.F.R. § 1502.22).

### **B. LBP-19-05**

On June 20, 2019, the ASLB issued LBP-19-05, granting Beyond Nuclear standing, but denying admission of both contentions. With respect to Contention 2, the ASLB declined to address the question of whether 10 C.F.R. § 51.53(c)(3) applied to Exelon’s Environmental Report, but found instead that Exelon was permitted to incorporate the 2013 License Renewal GEIS by reference under 10 C.F.R. § 51.53(a). Beyond Nuclear appealed LBP-19-05 on July 15, 2019. The appeal is pending before the Commission.

### **C. Draft GEIS Supp. 10**

The NRC Staff published Draft GEIS Supp. 10 in July 2019, and Beyond Nuclear received notice of its availability on August 3, 2019. Motion to Admit Contention 3 at 15. Like Exelon’s Environmental Report, the Draft GEIS Supp. 10 relied on the Category 1 designation for design-basis accidents in Table B-1 to avoid a complete discussion of those impacts. But there were several differences between the Draft GEIS Supp. 10 and the GEIS. First, the Draft GEIS Supp. 10 was prepared by the NRC Staff, not the applicant, Exelon. Second, the regulations applicable to the Draft GEIS Supp. 10 and the Environmental Report were different: while the Environmental Report had relied on 10 C.F.R. § 51.53(c)(3) for the Category 1 designation of design-basis accidents, the Draft GEIS Supp. 10 relied on 10 C.F.R. § 51.95(c). Finally, unlike the Environmental Report – which had no discussion at all of the environmental impacts of design-basis accidents – Appendix E of the Draft GEIS Supp. 10 contained a brief discussion of

the findings of the 1996 License Renewal GEIS and the 2013 Revised License Renewal GEIS in relation to Peach Bottom. *Id.* at E-1 – E-3.

#### **D. Contention 3**

On September 3, 2019, Beyond Nuclear submitted its Motion to Admit Contention 3. Contention 3 challenges the Draft GEIS Supp. 10’s reliance on Table B-1 as impermissible under NRC regulations for EISs; and also challenges the adequacy of Supp. 10’s very limited discussion of the environmental impacts of design-basis accidents. The contention asserts as follows:

The Draft GEIS Supp. 10 violates NEPA and NRC implementing regulation 10 C.F.R. § 51.71 in three significant ways:

1. The GEIS purports to rely on the Category 1 determination that design-basis accidents have no significant impacts, as set forth in Table B-1 of 10 C.F.R. Part 51, Subpart A, Appendix A. *Id.* at 4-99 (“[T]he GEIS (NRC 2013a) addresses design-basis accidents as a Category 1 issue and concludes that the environmental impacts of design-basis accidents are of SMALL significance for all nuclear power plants.”). Table B-1, however, applies only to initial license renewal and not to subsequent license renewal. *See* Section III.B.2 below. Thus, NEPA requires that the Draft GEIS Supp. 10 must present a full discussion that “considers and weighs the environmental effects” of operating Peach Bottom Units 2 and 3 for an additional twenty years. 10 C.F.R. § 51.71(d). *See also Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989) (NEPA requires a federal agency to take a “hard look” at potential environmental consequences by preparing an EIS prior to any “major Federal action[] significantly affecting the quality of the human environment.”).
2. Because it relies on Category 1 and Table B-1, the Draft GEIS Supp. 10 does not claim to have incorporated the 1996 License Renewal GEIS and the 2013 Revised License Renewal GEIS by reference pursuant to 10 C.F.R. § 51.71(a). If the Staff intends to incorporate the 1996 and 2013 environmental analyses into Draft GEIS Supp. 10, it should explicitly make that assertion and follow NRC regulations and guidance for incorporation by reference. *See Florida Power & Light Co. (Turkey Point Nuclear Generating, Units 3 and 4)*, LBP-16-08, 83 N.R.C. 417, 432 and n. 98 (2016), *aff’d on other grounds*, CLI-16-18, 84 N.R.C. 167 (2016) (holding that to incorporate another environmental study by reference, an environmental document must (1) make specific reference to the material incorporated, (2) consider environmental changes that occurred after the incorporated study was prepared, and (3) consider the environmental effects of the specific license at issue.). *See also* 40 C.F.R. § 1502.21 (adopted in 10 C.F.R. Part 51, Subpart A, App. A § 1(b)); and NUREG-1555, Standard Review Plans for Environmental

Reviews for Nuclear Power Plants (Oct. 1999)) (the Staff's own guidance for preparing environmental impact statements).

3. Appendix E of Draft GEIS Supp. 10 does contain one brief and specific discussion of the findings of the 1996 License Renewal GEIS and the 2013 Revised License Renewal GEIS in relation to Peach Bottom:

As stated in Section 5.3.2 of the 1996 GEIS, the NRC staff assessed the environmental impact from design-basis accidents in the individual plant-specific EISs at the time of the initial license application review. Since the licensee is required to maintain the plant within acceptable design and performance criteria, including during any license renewal term, the NRC staff would not expect environmental impacts to change significantly. Therefore, additional assessment of the environmental impacts from design-basis accidents is not necessary (NRC 2013a).

*Id.* at E-2. However, this discussion is legally deficient in the following respects:

- a. First, Draft GEIS Supp. 10 does not address significant developments that have occurred since the 2013 Revised License Renewal GEIS was issued. *Florida Power & Light Co.*, 83 N.R.C. at 432, or even claim to have surveyed the current level of knowledge regarding accident risks posed by operating nuclear reactor safety equipment beyond 60 years. The NRC has expended considerable time and resources studying the effects of long-term aging on the safety of nuclear reactor operation, and have found significant uncertainties in current understanding of how aging may affect the safety of reactor operation in the future. Yet, the Draft GEIS Supp. 10 contains no mention of this work. Studies that should have been addressed, for example, include a five-volume report issued by the NRC in 2014, the Expanded Materials Degradation Assessment (“EMDA”). NUREG/CR-7153, ORNL/TM-2013/532, Oct. 2014) (“EMDA Report”). The EMDA Report identifies multiple examples of knowledge deficiencies regarding management of aging reactor safety equipment. *See* Section III.B.3 below for greater factual detail. Similarly, the Draft GEIS Supp. 10 fails to address the environmental implications of reactor aging issues identified by the NRC Staff in SECY-14-0016, Memorandum from Mark A. Satorius, NRC Executive Director of Operations, to NRC Commissioners, re: Ongoing Staff Activities to Assess Regulatory Considerations for Power Reactor Subsequent License Renewal (Jan. 31, 2014) (NRC ADAMS Accession No. ML14050A306). 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. *Id.*, Enclosure 1 at 2-3. 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.” *Id.* at 3.

Beyond Nuclear is aware of no determination that these issues have been resolved since publication of SECY-14-0016.

- b. By stating that the NRC's regulatory requirements for safe operation under the Atomic Energy Act will ensure that no changes occur in the severity of environmental impacts of design-basis accidents at Peach Bottom Units 2 and 3, the NRC Staff confuses Atomic Energy Act compliance with NEPA compliance. It is well-established that NEPA's requirements are independent of other statutes and must be complied with "unless specifically excluded by statute or existing law makes compliance impossible." *Limerick Ecology Action v. NRC*, 869 F.2d 719, 729 (3rd Cir. 1989) (citing *Public Service Co. of New Hampshire v. NRC*, 582 F.2d 77, 81 (1st Cir. 1978)). Both the EMDA Report and SECY-14-0016 identify significant uncertainties regarding the safety of operating nuclear reactors during a second license renewal term, due to a lack of knowledge regarding the behavior of safety components that have aged more than sixty years. Any "reasonable assurance" finding made by the NRC under the Atomic Energy Act regarding the safety of operating Peach Bottom for more than sixty years "does not describe a probability of failure so low as to dismiss the potential consequences of such a failure." *State of New York v. NRC*, 681 F.3d 471, 478 (D.C. Cir. 2012). In *State of New York*, the court found that a "reasonable assurance" finding regarding the likelihood that permanent spent fuel storage will be available was "a far cry from finding the likelihood of nonavailability to be 'remote and speculative.'" See also 40 C.F.R. § 1502.22, which provides "guidance" to the NRC (74 NRC at 444) that "when an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking."

Here, having identified significant and unresolved uncertainties regarding the safety of operating nuclear reactors far into the future with aging equipment, the NRC has no basis for equating a reasonable assurance finding with a finding of no significant environmental impacts.

Motion to Admit Contention 3 at 2-7.

In the basis statement of Contention 3, Beyond Nuclear argued that the NRC's regulations for EISs for license renewal, 10 C.F.R. §§ 51.71(d) and 51.95(c), apply only to proposed initial license renewal decisions and not SLR decisions. As a result, the "Category 1" categorical exemptions in Table B-10 to 10 C.F.R. Part 51, Subpart A, do not apply to generic EISs for subsequent license renewal, including the Draft GEIS Supp. 10. As a result, the Draft GEIS Supp. 10 is governed by 10 C.F.R. §§ 51.71(d), which does not reference Table B-1 and



therefore requires the NRC Staff to address the environmental impacts of design-basis accidents in the Draft GEIS Supp. 10. Motion to Admit Contention 3 at 9-12.

In addition to raising this legal dispute with the NRC Staff, Beyond Nuclear argued that the Draft GEIS Supp. 10 violated NEPA and NRC implementing regulations by failing to address the EMDA Report and SECY-14-0016. Beyond Nuclear argued that the uncertainties raised by the EMDA Report and SECY-14-0016 regarding the risks of design-basis accidents must be addressed in order to satisfy NEPA. Motion to Admit Contention 3 at 12-14.

Finally, Beyond Nuclear demonstrated that it satisfied the NRC's standard in 10 C.F.R. § 2.309(c) for admission of contentions beyond the initial deadline for filing hearing requests including a demonstration of timeliness and that the information in Contention 3 was "materially different" from information that was previously available. Motion to Admit Contention 3 at 14-15.

#### **IV. BEYOND SATISFIES THE NRC'S STANDARD FOR MOTIONS TO REOPEN THE RECORD IN ALL RESPECTS OTHER THAN TIMELINESS.**

##### **A. Under Applicable Judicial Precedents, Beyond Nuclear's Motion to Admit Contention 3 Satisfied Most of the Elements of the NRC's Standard for Reopening the Record.**

NRC regulations require that a motion to reopen the record must be timely; it must address a "significant safety or environmental issue;" and it must "address a significant safety or environmental issue." 10 C.F.R. § 2.326(a). A motion to reopen also must be "accompanied by affidavits that set forth the factual and/or technical bases" for the movant's claim to have satisfied those criteria. 10 C.F.R. § 2.326(a).

Beyond Nuclear respectfully submits that under applicable judicial precedents, a contention contesting an Environmental Impact Statement ("EIS"), submitted after the record has closed, must be admitted if it meets the requirements of application of 10 C.F.R. § 2.309(c); if the

petition demonstrates that the contention raises new issues (rather than new arguments or evidence); and if the petitioner demonstrates standing. In *Union of Concerned Scientists v. NRC*, 735 F.2d 1445-44 (D.C. Cir. 1984) (“*UCS I*”), the U.S. Court of Appeals held that the NRC may not establish a regulation denying the right to a hearing across-the-board on an issue it deems necessary to a licensing determination. In *Union of Concerned Scientists v. NRC*, 920 F.2d 50, 55 (D.C. Cir. 1990) (“*UCS II*”), the court clarified *UCS I* with respect to the acceptable standard for admission of timely filed contentions or motions to reopen the record to admit new contentions based on an EIS. The court found that if the contention raised a new issue that was material to the licensing decision, the NRC could not erect barriers to its admission, other than barring issues that were already being litigated by another party, or that were not truly new “issues” but instead amounted only to new evidence or arguments. *Id.* (observing that a contention raises a new “issue” “only when *the argument itself (as distinct from its chances of success)* was not apparent at the time of the application.” *Id.* (emphasis in original)).

Here, consistent with *UCS I* and *UCS II*, Beyond Nuclear’s Motion to Amend Contention 3 demonstrated that Contention 3 is admissible under 10 C.F.R. § 2.309(f)(2) and that it satisfies the requirements of 10 C.F.R. § 2.309(c) for timeliness and for challenging “new information” that could not have been raised previously. By addressing this standard, Beyond Nuclear also demonstrated that Contention 3 raised materially different *issues*, not just new information:

Draft Supp. 10 and the Environmental Report are materially different in the respect that they *rely on different regulations* to justify the applicability of Table B-1; and because the Draft GEIS Supp. 10 *contains a discussion of the environmental impacts of design-basis accidents that did not appear in the Environmental Report.*

Motion to Admit Contention 3 at 15 (emphasis added). *See also* Motion to Admit Contention 3 at 9-12 (discussion of different applicable regulations in Contention 3’s basis statement). Thus, because Beyond Nuclear’s initial Hearing Request and the Motion to Admit Contention 3

involved different parties whose conduct was governed by different regulatory obligations, *i.e.*, new issues. Under *UCS II*, the requirements of 10 C.F.R. § 2.326 must be interpreted to be satisfied by such a showing. In addition, by including a discussion of the environmental impacts of design-basis accidents – which had not appeared at all in the Environmental Report – the NRC Staff created a new legal and factual issue of adequacy of the environmental discussion, rather than whether a discussion had been omitted entirely. *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 & 2; Catawba Nuclear Station, Units 1 & 2), CLI-02-28, 56 NRC 373, 383 (2002).

Thus, Beyond Nuclear timely addressed virtually all issues relevant to reopening this proceeding, with two exceptions: a demonstration of standing and a supporting affidavit or declaration pursuant to 10 C.F.R. § 2.326(b). Beyond Nuclear has attached herewith the declarations of Ernest Eric Gyll and John S. Adams, which demonstrate Beyond Nuclear's standing to request a new hearing on the Draft GEIS Supp. 10. In addition, Beyond Nuclear's counsel has signed this pleading with a declaration, pursuant to 10 C.F.R. § 2.304(d) that these representations of this motion are true and correct to the best of her knowledge.

## **V. REQUEST TO FILE A PORTION OF THIS MOTION OUT OF TIME**

Beyond Nuclear acknowledges that the last two elements of this motion were not included in its Motion to Amend Contention 3 and therefore were not timely filed within 30 days of receiving notice of the Draft GEIS Supp. 10. Therefore, Beyond Nuclear seeks leave to file those elements out of time, on the following grounds:

- As demonstrated in Section II above, NRC regulations governing the raising of issues after an ASLB has made a decision on contention admissibility are not clear. If, as provided by the regulations, the ASLB retains jurisdiction over a proceeding while it is

on appeal to the Commission, it also appears that the proceeding before the NRC does not terminate until the Commissioners resolve the appeal. Beyond Nuclear's counsel has now researched the issue and found precedents holding that a party seeking new raise a new contention after a hearing request has been denied must file a motion to reopen the record. Beyond Nuclear's counsel respectfully submits that her error in not filing a motion to reopen the record is excusable, given the regulations' lack of clarity.

- Beyond Nuclear's counsel has taken steps to ensure that her error does not have a prejudicial effect on this proceeding or the parties to the proceeding, by filing this motion within a week of discovering her error. In addition, if either of the parties needs or wants additional time to respond to this motion beyond the time period allowed for responding to Beyond Nuclear's Motion to Admit Contention 3, Beyond Nuclear will agree to it.
- Beyond Nuclear's error does not have a significant effect on this proceeding, because the Motion to Admit Contention 3 already addresses the principal standards that must govern this motion to reopen under *UCS I* and *UCS II*: 10 C.F.R. §§ 2.309(c) and 2.309(f)(2).
- The aspects of Beyond Nuclear's motion to reopen the record that are not timely do not affect the consideration of the admissibility or timeliness of Contention 3 or whether it raises new issues. And moreover, they do not raise any significant new issues. The standing declarations submitted with this motion are virtually identical to standing declarations deemed adequate in LBP-19-05. *See id.*, slip op. at 1 and 5. And the declaration by undersigned counsel, while it is required by 10 C.F.R. § 2.326(b), does not make representations to any factual issues that are not already included in the pleadings, the Draft GEIS Supp. 10, or NRC regulations.

**V. DECLARATION PURSUANT TO 10 C.F.R. § 2.326(b)**

Pursuant to 10 C.F.R. §§ 2.304(d) and 2.326(b), and under penalty of perjury, I, Diane Curran, certify that the factual statements in this motion are true and correct to the best of my knowledge, and the legal conclusions are based on my best understanding of applicable regulations and judicial precedents as they apply to the Draft GEIS Supp. 10. I further certify that I am competent to make these representations as Beyond Nuclear's attorney.

          /signed electronically by/            
Diane Curran

**VI. CONCLUSION**

For the foregoing reasons, the ASLB or the Commission should reopen the record of this proceeding and admit Contention 3.

Respectfully submitted,

          /signed electronically by/            
Diane Curran  
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.  
1725 DeSales Street N.W., Suite 500  
Washington, D.C. 20036  
240-393-9285  
[dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

September 23, 2019<sup>3</sup>

**CERTIFICATE OF COUNSEL PURSUANT TO 10 C.F.R. § 2.323(b)**

I certify that on September 20, 2019, I contacted counsel for Exelon and the NRC in a sincere effort to resolve the issues raised in this motion. Counsel for Exelon stated that Exelon will oppose the motion. I was unable to reach counsel for the NRC Staff in time to file this motion.

          /signed electronically by/            
Diane Curran

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<sup>3</sup> Beyond Nuclear notes that this motion is dated September 23, 2019, but is being filed on September 22, 2019 because counsel for Beyond Nuclear will be traveling on September 23 and therefore unable to file it that day.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD  
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In the Matter of	)	
Exelon Generation Company, LLC	)	Docket Nos. 50-277/278 SLR
Peach Bottom Atomic Power Station,	)	
Units 2 & 3	)	
_____	)	

**CERTIFICATE OF SERVICE**

I certify that on September 22, 2019, I posted copies of the foregoing BEYOND NUCLEAR, INC.'S MOTION TO REOPEN THE RECORD FOR PURPOSES OF CONSIDERING AND ADMITTING A NEW CONTENTION BASED ON DRAFT SUPPLEMENT 10 TO GENERIC ENVIRONMENTAL IMPACT STATEMENT FOR SUBSEQUENT LICENSE RENEWAL OF PEACH BOTTOM OPERATING LICENSE AND REQUEST FOR CONSIDERATION OF SOME ELEMENTS OF THE MOTION OUT OF TIME on the NRC's Electronic Information Exchange System.

          /signed electronically by/            
Diane Curran

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

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In the Matter of )

Exelon Generation Company, LLC )

Peach Bottom Atomic Power Station, )

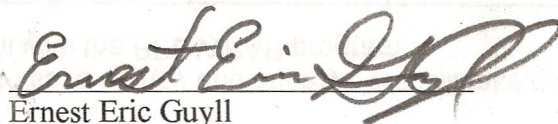
Units 2 & 3 )  
\_\_\_\_\_)

Docket Nos. 50-277/278 SLR

**DECLARATION OF ERNEST ERIC GUYLL**

Under penalty of perjury, Ernest Eric Guyll declares as follows:

1. My name is Ernest Eric Guyll. I am a member of Beyond Nuclear, Inc. (Beyond Nuclear).
2. I live at 471 Kirks Mill Road, Nottingham, Pennsylvania 19362. My home is located within the ten-mile radiological Emergency Planning Zone (EPZ) of the Peach Bottom Atomic Power Station Units 2 and 3, for which Exelon Generation Company, LLC has applied to the United States Nuclear Regulatory Commission (NRC) for a second license renewal of its operating license. The NRC has previously renewed the operating license for Peach Bottom Atomic Power Station Units 2 and 3 for an additional 20-years beyond the original 40-year licenses which will now expire in 2033 and 2034, respectively. If the NRC grants Exelon's subsequent License Renewal (SLR) Application, the new expiration dates for Exelon's operating license will be 2053 for Unit 2 and 2054 for Unit 3.
3. Based on the historical experience of nuclear power plants, I believe that these facilities are inherently dangerous. Continued operation of Peach Bottom Units 2 and 3 for an additional twenty years beyond 2033 and 2034 could cause a severe nuclear accident in the reactor(s) and/or irradiated fuel storage ponds), thereby causing death, injury, illness, dislocation and economic damage to me and my family. It could also cause devastating environmental damage.
4. I believe Exelon's SLR Application for Peach Bottom Units 2 and 3 is inadequate to reasonably ensure the protection of my health, safety and the environment. Therefore, I have authorized Beyond Nuclear to represent my interests by intervening in the licensing proceeding for Peach Bottom Units 2 and 3, including seeking admission of a new contention that challenges the adequacy of the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 10, Second Renewal, Regarding Subsequent License Renewal for Peach Bottom Atomic Power Station, Units 2 and 3 (NUREG-1437, Supp. 10, Second Renewal, Draft Report for Comment) (July 2019) to address accident risks at Peach Bottom.

  
Ernest Eric Guyll

9/19/19  
Date

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

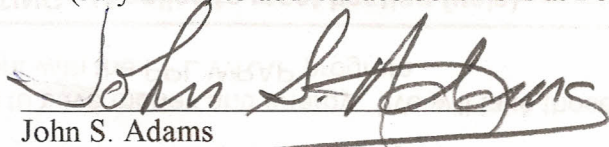
In the Matter of  
Exelon Generation Company, LLC  
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) Docket Nos. 50-277/278 SLR  
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**DECLARATION OF JOHN S. ADAMS**

Under penalty of perjury, John S. Adams declares as follows:

1. My name is John S. Adams. I am a member of Beyond Nuclear, Inc. (Beyond Nuclear).
2. I live at 1464 Silver Spring Road, Drumore, PA 17518. My home is located within the ten-mile radiological Emergency Planning Zone (EPZ) of the Peach Bottom Atomic Power Station Units 2 and 3, for which Exelon Generation Company, LLC has applied to the United States Nuclear Regulatory Commission (NRC) for a second license renewal of its operating license. The NRC has previously renewed the operating license for Peach Bottom Atomic Power Station Units 2 and 3 for an additional 20-years beyond the original 40-year licenses which will now expire in 2033 and 2034, respectively. If the NRC grants Exelon's subsequent License Renewal (SLR) Application, the new expiration dates for Exelon's operating license will be 2053 for Unit 2 and 2054 for Unit 3.
3. Based on the historical experience of nuclear power plants, I believe that these facilities are inherently dangerous. Continued operation of Peach Bottom Units 2 and 3 for an additional twenty years beyond 2033 and 2034 could cause a severe nuclear accident in the reactor(s) and/or irradiated fuel storage ponds), thereby causing death, injury, illness, dislocation and economic damage to me and my family. It could also cause devastating environmental damage.
4. I believe Exelon's SLR Application for Peach Bottom Units 2 and 3 is inadequate to reasonably ensure the protection of my health, safety and the environment. Therefore, I have authorized Beyond Nuclear to represent my interests by intervening in the licensing proceeding for Peach Bottom Units 2 and 3, including seeking admission of a new contention that challenges the adequacy of the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 10, Second Renewal, Regarding Subsequent License Renewal for Peach Bottom Atomic Power Station, Units 2 and 3 (NUREG-1437, Supp. 10, Second Renewal, Draft Report for Comment) (July 2019) to address accident risks at Peach Bottom.

  
John S. Adams

  
Date