

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

In the Matter of)	
)	
Exelon Generation Company, LLC)	Docket Nos. 50-277-SLR
)	50-278-SLR
Peach Bottom Atomic Power Station,)	
Units 2 and 3)	

**EXELON’S ANSWER OPPOSING BEYOND NUCLEAR’S MOTION
FOR LEAVE TO FILE REPLY TO OPPOSITIONS TO
MOTION TO REOPEN THE RECORD**

Pursuant to 10 C.F.R. § 2.323(c), Exelon Generation Company, LLC (“Exelon”) submits this Answer opposing Beyond Nuclear, Inc.’s Motion for Leave to Reply to Oppositions to its Motion to Reopen the Record.¹ Beyond Nuclear may reply “only in *compelling circumstances*,” including where it “demonstrates that it could not reasonably have anticipated the arguments to which it seeks leave to reply.”² Beyond Nuclear fails to demonstrate any circumstances necessitating a reply, and therefore the Motion should be denied.

Beyond Nuclear claims that it could not have anticipated the legal arguments made by both the NRC Staff and Exelon regarding the judicial precedents at issue and “Exelon’s interpretation” of the relevant Commission precedent contained in *Virginia Elec. and Power Co.* (North Anna Power Station, Unit 3), CLI-12-14, 75 N.R.C. 692, 700 (2012), which Beyond Nuclear failed to address in its initial motion. Beyond Nuclear’s assertion that it could not have anticipated the NRC Staff’s and Exelon’s discussion of precedents—including Commission

¹ Beyond Nuclear Inc.’s Motion for Leave to File Reply to Oppositions to Motion to Reopen the Record of Proceeding for Subsequent License Renewal of Peach Bottom Operating License (Oct. 21, 2019) (ADAMS Accession No. ML19294C303) (“Motion for Leave to Reply”).

² 10 C.F.R. § 2.323(c).

precedent directly on point and dispositive—is remarkable and meritless. Beyond Nuclear should have fully briefed the relevant judicial precedents and dispositive Commission precedent in its initial motion, and it was Beyond Nuclear that chose not to do so. Beyond Nuclear should not be permitted to submit sparse and incomplete motions without a comprehensive discussion of relevant precedent and subsequently fix its mistakes in an impermissible reply.

Beyond Nuclear also “seeks an opportunity to address” the gravity of its failure to file the motion to reopen in a timely fashion. Again, Beyond Nuclear should have addressed the lateness of its motion, and the consequences thereof, in its original filing. Beyond Nuclear does not even attempt to claim that it could not have anticipated this argument, nor could it. A motion to reopen must be timely in accordance with 10 C.F.R. § 2.326(a)(1), and it is obvious that Exelon and the NRC Staff would address the criteria in the rule in response. Beyond Nuclear cannot reasonably claim that it could not have anticipated such an argument based on the criteria in the rule, thus it cannot establish compelling circumstances justifying a reply.

For the forgoing reasons, Beyond Nuclear’s Motion for Leave to Reply should be denied.

Respectfully submitted,

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Counsel for Exelon

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Exelon’s Answer Opposing Beyond Nuclear’s Motion for Leave to Reply has been served through the E-Filing system on the participants in the above-captioned proceeding this 31st day of October, 2019.

/signed electronically by Anne R. Leidich/

Anne R. Leidich