UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	Docket Nos.:
EXELON GENERATION COMPANY, LLC; EXELON CORPORATION; EXELON FITZPATRICK, LLC; NINE MILE POINT NUCLEAR STATION, LLC; R. E. GINNA NUCLEAR POWER PLANT, LLC; and CALVERT CLIFFS NUCLEAR POWER PLANT, LLC	)	STN 50-456, STN 50-457, 72-73, STN 50-454, STN 50-455, 72-68, 50-317, 50-318, 72-8, 50-461, 72-1046, 50-10, 50-237, 50-249, 72-37, 50-333,
(Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Clinton Power Station, Unit No. 1; Dresden Nuclear Power Station, Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Nine Mile Point Nuclear Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2, and 3; Quad Cities Nuclear Power Station, Units 1 and 2; R. E. Ginna Nuclear Power Plant; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Three Mile Island Nuclear Station, Unit 1; Zion Nuclear Power Station, Units 1 and 2; and Associated Independent Spent Fuel Storage Installations)	)	72-12, 50-373, 50-374, 72-70, 50-352, 50-353, 72-65, 50-220, 50-410, 72-1036, 50-171, 50-277, 50-278, 72-29, 50-254, 50-265, 72-53, 50-244, 72-67, 50-272, 50-311, 72-48, 50-289, 72-77, 50-295, 50-304, and 72-1037 -LT
	)	July 12, 2021

EXELON'S ANSWER OPPOSING THE PETITION OF ERIC JOSEPH EPSTEIN AND THREE MILE ISLAND ALERT, INC. FOR LEAVE TO INTERVENE AND FOR A HEARING

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EXELON'S ANSWER OPPOSING THE PETITION OF ERIC JOSEPH EPSTEIN AND THREE MILE ISLAND ALERT, INC. FOR LEAVE TO INTERVENE AND FOR A HEARING

I. INTRODUCTION

Pursuant to 10 C.F.R. § 2.309, Exelon Generation Company, LLC ("Exelon Generation"), on behalf of itself and Exelon Corporation; Exelon FitzPatrick, LLC; Nine Mile Point Nuclear Station, LLC ("NMP LLC"); R. E. Ginna Nuclear Power Plant, LLC ("Ginna LLC"); and Calvert Cliffs Nuclear Power Plant, LLC ("Calvert LLC") (collectively, "Exelon") submit this Answer opposing the Petition for Leave to Intervene and for a Hearing ("Petition") filed by Eric J. Epstein on behalf of himself and as Chairman of Three Mile Island Alert, Inc.

("TMIA," and collectively, with Mr. Epstein, "Petitioners") on June 14, 2021.[1] Petitioners request a hearing and seek to intervene in the proceeding associated with Exelon Generation's February 25, 2021, license transfer application ("LTA" or "Application").[2] The Petition contains two contentions that focus exclusively on one or more of Exelon Generation's nuclear plants located in Pennsylvania.

As explained below, both of Petitioners' contentions are inadmissible because they satisfy none of the six elements in 10 C.F.R. § 2.309(f)(1). In general, the proposed contentions allege that the LTA violates Pennsylvania law. Questions of state laws and regulations are outside the NRC's jurisdiction and beyond the scope of this proceeding. Petitioners also fail to support their contentions with factual information or reasoned explanations, and fail to demonstrate a genuine dispute with any specific portion of the LTA. Because Petitioners failed to submit an admissible contention, the Petition must be denied.

Even if Petitioners had submitted an admissible contention—which they have not, for the reasons explained below—the Petition must also be rejected because Petitioners have not demonstrated standing. The Petition claims that Mr. Epstein is entitled to standing as an individual and that TMIA is entitled to representational standing on behalf of its members. However, Petitioners mistakenly rely on the "proximity presumption" as their purported basis for standing, which, according to the Commission, is inapplicable to indirect license transfer proceedings like this. Petitioners otherwise fail to demonstrate "traditional" standing. In the

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1 Petition of Eric Joseph Epstein and Three Mile Island Alert, Inc. for Leave to Intervene and for a Hearing (June 14, 2021) (ML21165A196) ("Petition").

2 *See* Letter from J. Bradley Fewell, Exelon Generation Company, LLC, to NRC Document Control Desk, "Application for Order Approving License Transfers and Proposed Conforming License Amendments," Encl. 1 (Feb. 25, 2021) (ML21057A272) (Proprietary Version) (ML21057A273) (Non-Proprietary Version) ("LTA").

alternative, Petitioners request the Commission to grant them discretionary intervention but fail to provide a colorable justification.

In sum, each contention fails to satisfy even one of the six admissibility criteria in 10 C.F.R. § 2.309(f)(1), and Petitioners have not demonstrated standing. Accordingly, pursuant to 10 C.F.R. § 2.309(a), the Commission must deny the Petition.

II. BACKGROUND

A. The LTA

Exelon Generation filed the LTA on February 25, 2021, requesting certain written approvals from the NRC to support a proposed transaction in which Exelon Corporation will transfer its 100% ownership of Exelon Generation to a newly created subsidiary that will then be spun-off to Exelon shareholders, becoming Exelon Generation's new ultimate parent company ("Spin Transaction").[3] As part of the Spin Transaction, Exelon Generation will remain the same Pennsylvania limited liability company, but will be renamed (consistent with its complete separation from Exelon Corporation).[4] The *new name* of Exelon Generation is yet to be determined and, therefore, it is described using the generic name "SpinCo."[5]

Specifically, Exelon Generation seeks NRC approval of the following, as applicable to the Petition's focus on Exelon Generation's nuclear plants in Pennsylvania:

- The indirect transfer of Exelon Generation's respective ownership interests in the Facilities[6] to a newly-created holding company that will become the parent company of

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3 *See id.* (cover letter at 3).

4 *See id.*

5 *See id.*

6 As of the date of the LTA, Exelon Generation is the licensed operator and a full or partial direct or indirect owner of the following facilities and their corresponding Independent Spent Fuel Storage Installations ("ISFSIs"): Braidwood Station, Units 1 and 2 ("Braidwood"); Byron Station, Units 1 and 2 ("Byron"); Calvert Cliffs Nuclear Power Plant, Units 1 and 2 ("Calvert Cliffs"); Clinton Power Station, Unit 1 ("Clinton"); Dresden Nuclear Power Station, Units 1, 2, and 3 ("Dresden"); James A. Fitzpatrick Nuclear Power Plant ("FitzPatrick"); LaSalle County Station, Units 1 and 2 ("LaSalle"); Limerick Generating Station, Units 1 and 2 ("Limerick"); Nine Mile Point Nuclear Station, Units 1 and 2 ("NMP"); Peach Bottom Atomic Power Station,

Exelon Generation. In the LTA, Exelon Generation stated that the name of the new holding company is yet to be determined and therefore is described using the generic name "HoldCo." Exelon Corporation will then spin-off HoldCo and its subsidiaries (including Exelon Generation/SpinCo) as a publicly-held company. At the time of the spin-off, the shareholders of HoldCo will be the same as the shareholders of Exelon Corporation. After the spin-off, HoldCo and its subsidiaries will no longer be affiliates of Exelon Corporation.

B. Procedural History

The NRC accepted the LTA for review on March 24, 2021.[7] On March 25, 2021, Exelon supplemented the LTA with markups of the licenses for each of the facilities, showing the proposed changes to each license.[8]

The NRC published a notice in the *Federal Register* on May 3, 2021, informing the public that it is considering the LTA for approval, providing an opportunity for the public to submit written comments on the LTA, and offering an opportunity for persons whose interests may be affected by the approval of the LTA to file (within 20 days of the notice—i.e., by May 24, 2021) hearing requests and intervention petitions ("Hearing Opportunity Notice").[9] On May

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Units 1, 2, and 3 ("Peach Bottom"); Quad Cities Nuclear Power Station, Units 1 and 2 ("Quad Cities"); R.E. Ginna Nuclear Power Plant ("Ginna"); and Three Mile Island Nuclear Station, Unit 1 ("TMI"), a shutdown unit. Exelon Generation also is a partial direct owner, but not the licensed operator, of the following facilities and their corresponding ISFSI: Salem Generating Station, Units 1 and 2 ("Salem"). Prior to the closing of the Spin Transaction, Exelon Generation is expected to be the direct owner and licensed operator with possession, maintenance, and decommissioning authority of the generally licensed ISFSI on the site of the former: Zion Nuclear Power Station, Units 1 and 2 ("Zion") (ISFSI only site). Collectively, these are referred to as the "Facilities."

7 *See* Email from B. Purnell, NRC, to B. Fewell, Exelon Generation Company, LLC, "Exelon Generation Company, LLC – Acceptance of License Transfer Application (EPID L-2021-LLM-0000)" (Mar. 24, 2021) (ML21084A253).

8 *See* Letter from D. Helker, Exelon Generation Company, LLC, to NRC Document Control Desk, "Supplemental Information Regarding Application for Order Approving Transfers and Proposed Conforming License Amendments," Encl. 1-15 (Mar. 25, 2021) (ML21084A165).

9 Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Clinton Power Station, Unit No. 1; Dresden Nuclear Power Station, Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Nine Mile Point Nuclear Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2, and 3; Quad Cities Nuclear Power Station, Units 1 and 2; R. E. Ginna Nuclear Power Plant; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Three Mile Island Nuclear Station, Unit 1; Zion Nuclear Power Station, Units 1 and 2; and the Associated Independent Spent Fuel Storage Installations; Consideration of Approval of

24, 2021, the NRC Secretary issued an order extending that deadline for three weeks, until June 14, 2021.[10] Petitioners filed their Petition on June 14, 2021.[11] On July 6, 2021, the NRC Secretary issued an order extending the deadline for Exelon Generation to respond to the Petition to July 12, 2021.[12] Exelon Generation timely files this Answer opposing the Petition according to the provisions of 10 C.F.R. § 2.309(i)(1).

The Hearing Opportunity Notice also contemplated that potential parties may need access to the Sensitive Unclassified Non-Safeguards Information ("SUNSI")[13] in the LTA for contention drafting purposes. Thus, it directed those potential parties to request access from Exelon or file a motion with the Commission.[14] Exelon and Petitioners jointly moved that Petitioners' representative, Eric J. Epstein, be authorized to access SUNSI, and the NRC Secretary issued a Protective Order granting that request on May 17, 2021.[15] Consistent with the Protective Order, Exelon provided Mr. Epstein with access to unredacted versions of pages 1 and 2 of Enclosure 6A, "Projected Financial Statements for SpinCo Consolidated (Proprietary Version)" to the LTA.

Transfer of Licenses and Conforming Amendments, 86 Fed. Reg. 23,437 (May 3, 2021) ("Hearing Opportunity Notice").

10 NRC Secretary Order at 2 (May 24, 2021) (unpublished) (ML21144A125).

11 *See* Petition.

12 NRC Secretary Order at 2 (July 6, 2021) (unpublished) (ML21187A285).

13 SUNSI, in this context, includes any proprietary commercial information that an applicant requests to be withheld from public disclosure.

14 *See* Hearing Opportunity Notice at 23,440.

15 Order (Granting Joint Motion for a Protective Order) (May 17, 2021) (unpublished) (ML21137A314) as revised by the Corrected Order (Granting Joint Motion for Entry of a Protective Order) (May 19, 2021) (unpublished) (ML21139A325).

C. Regulatory Framework for NRC License Transfers

Under Section 184 of the Atomic Energy Act of 1954, as amended ("AEA"),[16] an NRC reactor license, or any right under it, may not be "transferred, assigned[,] or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of [the] license to any person," unless the NRC first gives its written approval.[17] This statutory requirement is codified in 10 C.F.R. § 50.80 and applies to both direct and indirect license transfers.[18] Transferring control may involve either the licensed operator or any individual licensed owner of the facility.[19] The NRC review focuses on the "potential impact on the licensee's ability both to maintain adequate technical qualifications and organizational control and authority over the facility[,] and to provide adequate funds for safe operation and decommissioning."[20]

To grant a license transfer application, the NRC must find a "reasonable assurance" of financial qualifications.[21] License transfer applicants for reactors that will be permanently shut down at the time of the transfer may rely *solely* on the adequacy of the NDT to demonstrate reasonable assurance.[22] Longstanding Commission precedent makes clear that the reasonable

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16 Atomic Energy Act of 1954, Pub. L. No. 83-703, 68 Stat. 919 (codified as amended at 42 U.S.C. §§ 2011, *et seq*.).

17 *Id.* § 184 (codified as amended at 42 U.S.C. § 2234).

18 *See* NRC Backgrounder, "Reactor License Transfers," at 1-2 (Jan. 2020) (ML040160803). A direct license transfer occurs when an entity seeks to transfer a license it holds to a different entity (*e.g*., when a plant is to be sold or transferred to a new licensee in whole or part). *See id*. An indirect license transfer takes place when there is a transfer of "control" of the license or of a license holder (*e.g.*, as a result of a merger or acquisition at high levels within or among corporations). *See id.*

19 *See id.* at 2.

20 Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry, 62 Fed. Reg. 44,071, 44,077 (Aug. 19, 1997); 10 C.F.R. §§ 50.80(b)(1)(i), (c)(1); *see also* NUREG-1577, Rev. 1, Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (Feb. 1999) (ML013330264).

21 10 C.F.R. § 50.33(f)(2).

22 *See, e.g.*, Oyster Creek License Transfer Safety Evaluation Report at 7-10 (June 20, 2019) (ML19095A457); Pilgrim License Transfer Safety Evaluation Report at 7-15 (Aug. 23, 2019) (ML19235A300).

assurance standard does not require an applicant to meet an "absolute" or "beyond a reasonable doubt" standard.[23] In other words, "reasonable assurance" is not synonymous with "absolute assurance." The NRC has historically interpreted "reasonable assurance" with the understanding that "some risks may be tolerated and something less than absolute protection is required."[24] As particularly relevant here, "the mere casting of doubt" on some aspect of an application is legally insufficient "to defeat a finding of reasonable assurance."[25]

The AEA requires that the NRC offer an opportunity for hearing on a license transfer.[26] But Subpart M of 10 C.F.R. Part 2 (10 C.F.R. §§ 2.1300 to 2.1331) authorizes the NRC to use a streamlined license transfer process with informal legislative-type hearings, rather than formal adjudicatory hearings.[27] Subpart M covers direct or indirect license transfers for which NRC approval is required, including those transfers that require license amendments and those that do not.[28] Section 2.1315 codifies the Commission's generic determination that any conforming amendment to an operating license that only reflects the license transfer action involves a "no

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23 *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-09-7, 69 NRC 235, 262-63 (2009); *Commonwealth Edison Co.* (Zion Station, Units 1 & 2), ALAB-616, 12 NRC 419, 421 (1980); *N. Anna Envtl. Coal. v. NRC*, 533 F.2d 655, 667-68 (D.C. Cir. 1976) (rejecting the argument that reasonable assurance requires proof beyond a reasonable doubt and noting that the licensing board equated "reasonable assurance" with the preponderance standard).

24 Memorandum from F. Brown, Director, Office of New Reactors to New Reactor Business Line, "Expectations for New Reactor Reviews," at 4 (Aug. 29, 2018) (ML18240A410).

25 *Private Fuel Storage, LLC* (Indep. Spent Fuel Storage Installation), CLI-00-13, 52 NRC 23, 31 (2000) (citing *La. Energy Servs.* (Claiborne Enrichment Center), CLI-97-15, 46 NRC 294 (1997); *N. Atl. Energy Serv. Corp.* (Seabrook Station, Unit 1), CLI-99-6, 49 NRC 201, 222 (1999).

26 AEA § 189.a(1)(A) (codified as amended at 42 U.S.C. § 2239(a)(1)(A)) ("In any proceeding under this chapter, for . . . application to transfer control, . . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding.").

27 *See* Streamlined Hearing Process for NRC Approval of License Transfers; Final Rule, 63 Fed. Reg. 66,721, 66,722 (Dec. 3, 1998) ("Subpart M Rule"); *see also* Changes to Adjudicatory Process; Final Rule, 69 Fed. Reg. 2,182, 2,214 (Jan. 14, 2004) (retaining streamlined process under Subpart M for license transfers without substantive changes).

28 *See* Subpart M Rule, 63 Fed. Reg. at 66,727.

significant hazards consideration."[29] That same regulation provides that "[a]ny challenge to the administrative license amendment is limited to the question of whether the license amendment accurately reflects the approved transfer."[30]

D. Decommissioning Funding Mechanism for Plants Previously Owned by PECO Energy Company

As noted in the Exelon's February 24, 2021 decommissioning funding status report, referenced in the LTA,[31] financial assurance for decommissioning of the seven units previously owned by PECO Energy Company ("PECO"), *i.e.*, Limerick Units 1 & 2, Peach Bottom Units 1, 2 & 3, and Salem Units 1 & 2 ("Former PECO Units"), is provided by the external sinking fund method, coupled with an external trust fund. More specifically, "[t]he funding mechanism being used as the source of revenues for the external sinking funds is a non-bypassable charge approved by the Pennsylvania Public Utilities Commission [("PA PUC")] authorizing PECO [] to continue to collect decommissioning funds for [Exelon Generation]."[32]

This arrangement was necessitated when Pennsylvania deregulated its electric utility sector in 1996, which required (among other things) that PECO separate its electric generation business from its transmission and distribution business.[33] The restructuring created certain

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29 10 C.F.R. § 2.1315(a).

30 *Id.* § 2.1315(b). 10 C.F.R. § 51.22(c)(21) also categorically excludes from environmental review "[a]pprovals of direct or indirect transfers of any license issued by [the] NRC and any associated amendments of license required to reflect the approval of a direct or indirect transfer of an NRC license." This regulation reflects the NRC's finding that license transfers do not "individually or cumulatively have a significant effect on the human environment." *See* Subpart M Rule, 63 Fed. Reg. at 66,728.

31 LTA, Encl. 1 at 12 (citing Letter from Patrick R. Simpson, Report on Status of Decommissioning Funding for Reactors and Independent Spent Fuel Storage Installations (Feb. 24, 2021) (ML21055A776) ("Decommissioning Funding Report")).

32 Decommissioning Funding Report, Attachs. 15-16 (Limerick), 20-22 (Peach Bottom), 26-27 (Salem).

33 *See generally* 66 PA. CONS. STAT. § 2801, *et seq.* PECO's ownership in these units as of December 31, 1999 was: Peach Bottom Unit 1 – 100%; Peach Bottom Unit 2 – 42.49%; Peach Bottom Unit 3 – 42.49%; Salem Unit 1 – 42.59%; Salem Unit 2 – 42.59%; Limerick Unit 1 – 100%; and Limerick Unit 2 – 100%. PECO Energy Company, Electric Service Tariff, PA PUC No. 6, Supplement 46 at [PDF page 41] (Effective March 1, 2021), *available at* https://www.peco.com/SiteCollectionDocuments/CurrentTariffElec.pdf.

"stranded costs" including "the unfunded portion of [PECO's] projected nuclear generating plant decommissioning costs."[34] The PA PUC approved a restructuring plan allowing PECO (the regulated transmission and distribution utility) to recover from ratepayers—through a non-bypassable charge—its nuclear decommissioning expenses for the Former PECO Units,[35] and requiring PECO to transfer those monies to the electric generation entity (now Exelon Generation) to be deposited into the respective nuclear decommissioning trusts.[36] The PA PUC also approved a Nuclear Decommissioning Cost Adjustment ("NDCA") clause for PECO to either increase or decrease the amount of that non-bypassable charge every five years, subject to PA PUC approval.[37]

This nuclear decommissioning funding mechanism was reaffirmed a few years later when PECO sought PA PUC approval of a corporate restructuring that included the formation of a holding company (Exelon) and merger with Unicom Corporation. In that proceeding, PECO reached a settlement agreement with various parties, including Mr. Epstein ("Settlement Agreement"). The joint settlement reaffirmed the validity and applicability of PECO's recovery of its legacy nuclear decommissioning costs through its distribution charges and the use of the NDCA, and provided for Mr. Epstein's participation in certain NDCA proceedings before the PA PUC.[38]

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34 66 PA. CONS. STAT. § 2803 (subpart (1) of the definition of "Transition or stranded costs").

35 Opinion and Order, *Application of PECO Energy Co. for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code and Joint Petition for Partial Settlement; Petition of Enron Energy Services Power, Inc. for Approval of an Electric Competition and Choice Plan and for Authority Pursuant to Section 2807(E)(C) of the Public Utility Code to Serve as the Provider of Last Resort in the Service Territory of PECO Energy Co.,* Docket Nos. R-00973953 and P-00971265, 1997 Pa. PUC LEXIS 51, *116-120 (Order Entered Dec. 23, 1997) ("Restructuring Order"); Opinion and Order, *Investigation into PECO Energy Company's Electric Service Tariff PA PUC No. 4*, Docket No. I-2009-2101331, 2010 Pa. PUC LEXIS 3082, *1-3 (Order entered July 22, 2010) ("Investigation Order").

36 *See* Restructuring Order at *119 (describing these as "an annuity payment to the trust fund").

37 *See* Investigation Order at *8-11 (discussing purpose of the NDCA clause).

38 *See id.* at *10-13 (discussing the relevant terms of the settlement).

III. THE PETITION MUST BE DENIED BECAUSE PETITIONERS HAVE NOT PROPOSED AN ADMISSIBLE CONTENTION

To grant the Petition, the Commission must find that Petitioners have submitted at least one proposed contention that satisfies all six admissibility criteria in 10 C.F.R. § 2.309(f)(1). Here, Petitioners propose two contentions. As detailed below, neither satisfies the contention admissibility criteria. Accordingly, both must be rejected as inadmissible, and the Petition must be denied.

A. Contention Admissibility Standards

Petitions to intervene must "set forth with particularity" the contentions to be litigated.[39] The requirements for an admissible contention are set forth in 10 C.F.R. § 2.309(f)(1)(i)-(vi) and also described in the Hearing Opportunity Notice.[40] The Commission's contention admissibility requirements are "strict by design."[41] They seek "to ensure that NRC hearings 'serve the purpose for which they are intended: to adjudicate *genuine, substantive safety . . . issues* placed in contention by qualified intervenors.'"[42] The requirements thus reflect a "deliberate effort to prevent the major adjudicatory delays caused in the past by ill-defined or poorly-supported contentions that were admitted for hearing although 'based on little more than speculation.'"[43] To warrant an adjudicatory hearing, the NRC requires proposed contentions to have "some

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39 *PPL Susquehanna, LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), CLI-15-8, 81 NRC 500, 503-04 (2015) (quoting 10 C.F.R. § 2.309(f)(1)); *Susquehanna Nuclear, LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), CLI-17-4, 85 NRC 59, 74 (2017).

40 *See* Hearing Opportunity Notice, 86 Fed. Reg. at 23,439.

41 *Dominion Nuclear Conn., Inc*. (Millstone Nuclear Power Station, Units 2 & 3), CLI-01-24, 54 NRC 349, 358 (2001).

42 *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Unit 2), CLI-03-14, 58 NRC 207, 213 (2003) (quoting *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, & 3), CLI-99-11, 49 NRC 328, 334 (1999)) (emphasis added) (internal citation omitted).

43 *Susquehanna*, CLI-15-8, 81 NRC at 504 (quoting *Oconee*, CLI-99-11, 49 NRC at 334).

reasonably specific factual or legal basis."[44] The petitioner alone bears the burden to meet the standards of contention admissibility.[45]

Under 10 C.F.R. § 2.309(f)(1), a petitioner must explain the basis for each proffered contention by stating alleged facts or expert opinions that support the petitioner's position and on which the petitioner intends to rely in litigating the contention at the hearing.[46] To be admissible, the issue raised must fall within the scope of the proceeding and be material to the findings that the NRC must make with respect to the Application.[47] Contentions that challenge NRC regulations,[48] seek to impose requirements stricter than those imposed by the agency,[49] or opine on how Staff should conduct its review[50] are all outside the scope of NRC adjudicatory proceedings.

A contention also must provide sufficient information to show a genuine dispute with the applicant on a material issue of law or fact.[51] The contention must refer to the "specific portions of the Application . . . that the petitioner disputes," along with the "supporting reasons for each dispute; or, if the petitioner believes that an application fails altogether to contain information

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44 *Id.* (quoting *Millstone*, CLI-03-14, 58 NRC at 213).

45 *See Entergy Nuclear Operations, Inc.* (Palisades Nuclear Plant), CLI-15-23, 82 NRC 321, 325, 329 (2015) ("[I]t is Petitioners' responsibility … to formulate contentions and to provide 'the necessary information to satisfy the basis requirement' for admission") (internal citation omitted).

46 10 C.F.R. § 2.309(f)(1)(ii), (v).

47 *Id*. § 2.309(f)(1)(iii)-(iv); *Susquehanna*, CLI-17-4, 85 NRC at 74.

48 10 C.F.R. § 2.335 (a).

49 *See Entergy Nuclear Vt. Yankee, LLC* (Vt. Yankee Nuclear Power Station), LBP-15-4, 81 NRC 156, 167 (2015); *NextEra Energy Seabrook, LLC* (Seabrook Station, Unit 1), CLI-12-5, 75 NRC 301, 315 (2012); *GPU Nuclear, Inc.* (Oyster Creek Nuclear Generating Station), CLI-00-06, 51 NRC 193, 206 (2000); *Curators of the Univ. of Mo.* (TRUMP-S Project), CLI-95-1, 41 NRC 71, 170 (1995).

50 *See, e.g.*, *Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), CLI-01-17, 54 NRC 3, 25 (2001) (quoting *Balt. Gas & Elec. Co.* (Calvert Cliffs Nuclear Power Plant, Units 1 & 2), CLI-98-25, 48 NRC 325, 350 (1998), *aff'd sub nom Nat'l Whistleblower Ctr. v. NRC*, 208 F.3d 256 (D.C. Cir. 2000), *cert. denied,* 531 U.S. 1070 (2001)) ("'[I]t is the license application, not the NRC Staff review, that is at issue in our adjudications.'").

51 10 C.F.R. § 2.309(f)(1)(vi); *Susquehanna*, CLI-17-4, 85 NRC at 74.

required by law, the petitioner must identify each failure, and provide supporting reasons for the petitioner's belief."[52]

Petitioners may not incorporate by reference voluminous documents or affidavits with conclusory assertions to support a contention. As the Commission explained:

> Commission practice is clear that a petitioner may not simply incorporate massive documents by reference as the basis for or as a statement of his contentions. . . . Such a wholesale incorporation by reference does not serve the purposes of a pleading. . . . The Commission expects parties to bear their burden and to clearly identify the matters on which they intend to rely with reference to a specific point. The Commission cannot be faulted for not having searched for a needle that may be in a haystack.[53]

In short, the Commission has refused to "sift through the parties' pleadings to uncover and resolve arguments not advanced by the litigants themselves."[54]

B. Contention 1 Is Inadmissible

As formulated by Petitioners, Contention 1 asserts:

> The License Transfer Agreement Violates the Electric Competition Act of 1996[,] PECO'[s] Electric Service Tariff, Supplement No, 48 to Electric PA P.C.C., No 6, Tariff, Effective April 1, 2021, and creates a corporate vehicle for a non-regulated entity to collected [*sic*] a non-bypassable tariff.[55]

The only reasonable reading of this proposed contention is a claim that the LTA would somehow alter the decommissioning funding mechanism for the Former PECO Units (as described above in Section II.D.), whereby, following the Spin Transaction, SpinCo—as a non-PA PUC-regulated entity—will attempt to collect decommissioning monies directly from

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52 *Susquehanna*, CLI-17-4, 85 NRC at 74 (citing 10 C.F.R. § 2.309(f)(1)(vi)).

53 *Pub. Serv. Co. of N.H.* (Seabrook Station, Units 1 & 2), CLI-89-03, 29 NRC 234, 240-41 (1989) (citations omitted).

54 *Pac. Gas & Elec. Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), CLI-02-16, 55 NRC 317, 337 (2002) (quoting *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 & 2), CLI-99-4, 49 NRC 185, 194 (1999)).

55 Petition at 43.

ratepayers. Such a claim is fundamentally incorrect. Exelon Generation has not proposed any change to the existing decommissioning funding mechanism for the Former PECO Units. Thus, the proposed contention is wholly without basis and therefore inadmissible in this proceeding.

As explained in detail below, Petitioners' conclusory claims are unsupported, factually inaccurate, and provide no basis for a contention, and should be rejected on those grounds alone. Furthermore, Petitioners neither cite any specific provision(s) of the Application that they dispute nor any NRC requirements that the LTA allegedly does not satisfy. Thus, Proposed Contention 1 also should be rejected because it lacks the requisite specificity and fails to identify a genuine dispute with the LTA. Instead, Petitioners claim—vaguely and incorrectly—that the Application does not comply with Pennsylvania state laws and state regulatory requirements. Thus, even if the proposed contention satisfied the requirements for basis, specificity, and adequate support, and demonstrated a genuine dispute with the LTA, it still must be rejected because these state-law issues are outside the scope of this proceeding and immaterial to the NRC's review of the LTA. In sum, the proposed contention is inadmissible because it fails to satisfy even one, much less all, of the requirements in 10 C.F.R. § 2.309(f)(1).

1. The Proposed Contention Lacks the Basis and Specificity Required by 10 C.F.R. § 2.309 (f)(1)(i)-(ii)

As a general matter, speculative claims cannot provide the basis for a contention.[56] Rather, a petitioner must provide some "minimal basis indicating the potential validity of the contention."[57] Mere references to documents, without any explanation as to their relevance or

[56] *Millstone*, CLI-01-24, 54 NRC at 359-60.

[57] *PPL Bell Bend LLC* (Bell Bend Nuclear Power Plant), LBP-09-18, 70 NRC 385, 403 (2009) (quoting Final Rule, "Rules of Practice for Domestic Licensing Proceedings, Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168, 33,170 (Aug. 11, 1989)), *aff'd on other grounds*, CLI-10-07, 71 NRC 133 (2010).

applicability, are insufficient to satisfy the basis requirement for an admissible contention.[58] Here, Petitioners offer nothing more than a vague claim that the LTA violates the Pennsylvania Electric Competition Act of 1996 and PECO's electric tariff approved by the PA PUC.[59] Missing from the contention, however, is any specification of a basis to conclude the Application fails to satisfy some *NRC* requirement applicable to license transfer applications.

Petitioners seem to raise an issue about "rate and regulation issues in the Commonwealth of Pennsylvania."[60] Petitioners recite a portion of Section 2804 of Pennsylvania's Public Utility Code about utility restructuring,[61] point to a settlement agreement between Mr. Epstein and non-party, non-licensee PECO,[62] and cite a supplement to PECO's electric tariff.[63] But Petitioners never *explain* how these references support the proposed contention or are relevant to the LTA or the NRC's review. Nor do Petitioners connect these references to an NRC requirement.[64] Petitioners' proposed contention is a mere conclusory statement about Pennsylvania law. But a petition that only states a conclusion, without reasonably explaining why the application is inadequate, cannot provide a basis for the contention.[65] Ultimately, Petitioners' failure to meaningfully engage with the relevant portions of the LTA and the Commission's regulations

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58 *See Calvert Cliffs*, CLI-98-25, 48 NRC at 348 ("Mere reference to documents does not provide and adequate basis for a contention" when the petitioner "provides no explanation . . . how or why [the documents] are germane" to the contention.); *Fansteel, Inc.* (Muskogee, Okla. Site), CLI-03-13, 58 NRC 195, 204-05 (2003) (stating that a petitioner has an obligation to "provide analysis" as to why a document provides a basis for a contention).

59 Petition at 43.

60 *Id.* at 47.

61 *Id.* at 44.

62 *Id.* at 45.

63 *Id.* at 46-47.

64 Petitioners discuss several NRC regulations—10 C.F.R. §§ 50.76, 2.323(c), 2.1325(b), and 2.307—in their section on "Reactor License Transfers." *See* Petition at 11, 13. But Petitioners' contentions do not mention these, or any other NRC regulations, nor allege any noncompliance with them. And as discussed in Section III.D, *infra*, these regulations do not apply to or have any bearing on the LTA.

65 *USEC, Inc.* (Am. Centrifuge Plant), CLI-06-10, 63 NRC 451, 472 (2006).

shows that they failed to provide an adequate basis for the contention.[66] Accordingly, the contention fails to satisfy even the minimal basis and specificity requirements in 10 C.F.R. § 2.309(f)(1)(i)-(ii).

2. The Proposed Contention Raises Immaterial State Law Issues Outside the Scope of This Proceeding, Contrary to 10 C.F.R. § 2.309 (f)(1)(iii)-(iv)

The scope of this proceeding, as defined by the Hearing Opportunity Notice, is the NRC's approval of an indirect license transfer and approval of administrative amendments to the licenses to reflect the proposed transfer, as described in the LTA.[67] Before approving the license transfer, the NRC must "determine[] that the proposed transfer will not affect the qualifications of the licensee, and that the transfer is otherwise consistent with applicable provisions of law, regulations [*i.e.*, 10 C.F.R. §§ 50.80 and 72.50], and orders issued by the Commission."[68] In other words, the scope of this proceeding is the LTA and its compliance with the applicable provisions of the AEA and NRC regulations. In contrast, Proposed Contention 1 goes far beyond this narrow scope, purporting to raise issues regarding Pennsylvania law and PA PUC requirements.

Given its focused jurisdiction, the NRC has long refrained from resolving questions of state law and matters under the jurisdiction of state utility commissions.[69] As the Commission

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66 *See Fansteel,* CLI-03-13, 58 NRC at 204-05 (discussing the requirement for petitioners to refer to specific portions of an application they are challenging to provide a basis for their contention); *see also Consumers Energy Co.* (Palisades Nuclear Power Plant), CLI-07-18, 65 NRC 399, 414 (2007) (stating that "'[g]eneral assertions or conclusions will not suffice"' to admit a contention. (citation omitted))

67 Hearing Opportunity Notice, 86 Fed. Reg. at 23,437. "All proffered contentions must be within the scope of the proceeding as defined by the Commission in its initial hearing notice." *PPL Susquehanna LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), LBP-07-10, 66 NRC 1, 23 (2007) (citing *Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), CLI-00-23, 52 NRC 327, 329 (2000)) (other citations omitted).

68 Hearing Opportunity Notice, 86 Fed. Reg. at 23,437.

69 *See, e.g.*, *N. States Power Co.* (Tyrone Energy Park, Unit 1), ALAB-464, 7 NRC 372, 375 (1978) ("The requirements of State law are beyond our ken; such matters are for the State regulatory commission.") (citing *Cleveland Elec. Illuminating Co.* (Perry Nuclear Power Plant, Units 1 & 2), ALAB-443, 6 NRC 741 (1977)).

noted, involving itself in state regulatory matters "runs the risk of Commission interference or oversight in areas outside its domain. Nothing in our statute or rules contemplates such a role for the Commission."[70] Indeed, the Commission has previously rejected a contention similar to Proposed Contention 1 as beyond the scope of a license transfer proceeding, holding that requests to examine contracts or to rule on state regulatory authorities are not within its jurisdiction and are not issues "the NRC need decide in considering [a license] transfer application."[71]

Given the Commission's rejection of a similar contention that Mr. Epstein posed in a different proceeding, he should be well aware that the NRC lacks jurisdiction to hear disputes over state utility laws and regulations.[72] Nevertheless, Petitioners now seek to have the NRC admit a contention based on their interpretation of Pennsylvania's Electric Competition Act of 1996, certain electric tariffs approved by the PA PUC, and an agreement between Mr. Epstein and non-party, non-licensee PECO.[73] Simply put, these state regulatory issues are far beyond the scope of this AEA-based proceeding, which "is simply not the appropriate forum" for litigating questions under state-law.[74]

The proposed contention also fails to demonstrate materiality to the NRC's review. To be material, a contention must allege errors in an application and provide some significant link to

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70 *Hydro Res. Inc.* (Albuquerque, NM), CLI-98-16, 48 NRC 119, 120 (1998); *see also Consol. Edison Co. of N.Y.* (Indian Point, Units 1 & 2), CLI-01-19, 54 NRC 109, 140 (2001) (rejecting contention that asked the NRC to adjudicate a dispute under New York law).

71 Diablo Canyon, CLI-02-16, 55 NRC at 341 (2002).

72 *See PPL Susquehanna LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), CLI-07-25, 66 NRC 101 (2007) (denying an appeal from Mr. Epstein in which he argued that the NRC should concern itself with matters of jurisdiction of other regulatory bodies).

73 Petition at 44-47.

74 *Indian Point*, CLI-01-19, 54 NRC at 140.

the Commission's review.[75] Proposed Contention 1 does neither. For example, Petitioners claim that the LTA "fails to acknowledge or respect Pennsylvania statutes, the Joint Settlement Agreement or the specific terms contained in Supplemental Tariff #48" and that "the LTA failed to address rate and regulation issues in the Commonwealth of Pennsylvania."[76] But Petitioners identify no NRC requirement to "acknowledge" or "address" these topics in an NRC license transfer application. Nor could they, because no such NRC requirement exists.

To be clear, no approval from the PA PUC is needed here. Neither Exelon Generation nor its affiliates are proposing any changes to the decommissioning funding mechanism described in Section II.D, above, or to the terms of the PA PUC-approved Settlement Agreement referenced by Mr. Epstein. But even assuming, *arguendo*, that such approval was required, the NRC relies on the state to handle such issues.[77] In short, the state law issues raised by Petitioners are immaterial to the NRC's review of the LTA and beyond the scope of this proceeding.

3. The Proposed Contention Is Unsupported and Fails to Raise a Genuine Material Dispute with the Application as Required by 10 C.F.R. § 2.309 (f)(1)(v)-(vi)

Finally, Petitioners' claims are entirely unsupported and fail to engage with—much less dispute—any specific portion of the LTA. Indeed, Proposed Contention 1 contains numerous assertions that are substantively baseless and factually incorrect. For example, Petitioners claim the LTA creates "a vehicle for a non-regulated entity to collect tariffs from hostage rate payers."[78] Petitioners, however, fail to cite any support for their suggestion that SpinCo would

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75 *Susquehanna*, LBP-07-10, 66 NRC at 24 (citations omitted); *see also Bell Bend*, LBP-09-18, 70 at 430 (rejecting as immaterial Mr. Epstein's proposed environmental justice contention on the potential effects on 'aging populations'), *affirmed by* CLI-10-07, 71 NRC 133 (2010).

76 Petition at 47.

77 *Id.*

78 *Id.* at 43, 47.

somehow seek to "collect tariffs" directly from ratepayers. Pursuant to existing PA PUC orders, PECO (a regulated entity) collects funds from ratepayers to cover its legacy decommissioning obligations, and then transfers them to Exelon Generation (a non-regulated entity) for deposit into the appropriate nuclear decommissioning trusts, as has been done for roughly two decades.[79] The LTA does not seek any change to this funding mechanism, nor is any change necessary to consummate the Spin Transaction as described in the LTA. At bottom, Petitioners' baseless assertions are unsupported and factually incorrect.

Furthermore, Petitioners fail to discuss or engage with the LTA itself, much less identify any specific alleged deficiency therein. To be admissible, a proposed contention must refer to the "specific portions of the Application . . . that the petitioner disputes," along with the "supporting reasons for each dispute; or, if the petitioner believes that an application fails altogether to contain information required by law, the petitioner must identify each failure, and provide supporting reasons for the petitioner's belief."[80] Petitioners have not done so here. Instead, the contention raises the type of "generalized" claims that the Commission has found do not demonstrate "the existence of a genuine dispute of fact or law" with an application.[81] In short, the proposed contention is unsupported and fails to demonstrate a genuine dispute.

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Accordingly, Proposed Contention 1 should be rejected for failure to satisfy each requirement in 10 C.F.R. §§ 2.309(f)(1)(i)-(vi).

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79 *See supra* Section II.D.

80 *Susquehanna*, CLI-17-4, 85 NRC at 74 (citing 10 C.F.R. § 2.309(f)(1)(vi)).

81 *U.S. Dep't of Energy* (High-Level Waste Repository), CLI 09-14, 69 NRC 580, 588 (2009).

C. Contention 2 Is Inadmissible

As formulated by Petitioners, Proposed Contention 2 asserts: "[t]he license transfer application violates the joint petition for negotiated settlement of the application of PECO Energy Company."[82] This contention appears to reference, and allege a violation of, the Settlement Agreement described in Section II.D, above. However, this contention is inadmissible for all of the same reasons as Proposed Contention 1.

First, Petitioners claim that the LTA somehow "violates" the joint petition for negotiated settlement; but, they provide no basis or support for this claim. Petitioners provide almost no substantive discussion of the Settlement Agreement—and do not even claim that any NRC-licensed entity is a party to it. Petitioners make no attempt to explain how a settlement with PECO (who is a non-Applicant and non-licensee), allowing Mr. Epstein to participate in certain state-regulatory proceedings related to the NDCA, is in any way relevant to this NRC proceeding. Simply put, Proposed Contention 2 lacks the requisite basis and specificity necessary for an admissible contention.

Second, Petitioners also argue that the proposed contention is "material because in order [to] receive a construction permit and/or license to operate a nuclear reactor, the applicant must demonstrate compliance with . . . the joint settlement" and claim the contention is "squarely within the scope of this proceeding since applicants must demonstrate compliance and enforce the terms [of the Settlement Agreement]."[83] But *saying* a proposed contention is "material" and "within the scope of this proceeding" does not make it so. Here, Petitioners have not *demonstrated* either of those things, which clearly is their burden.

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82 Petition at 48.

83 *Id.* at 48-49.

Indeed, it is not remotely clear how the Settlement Agreement is even relevant to this proceeding. Petitioners cite no NRC regulation that requires Exelon Generation's LTA to "demonstrate compliance" with a PA PUC Settlement Agreement. And as a general matter, this unexplained assertion directly contradicts longstanding Commission case law providing that state regulatory requirements simply are not within the scope of a license transfer proceeding.[84]

Finally, Petitioners argue that the proposed contention raises "a genuine dispute . . . as to a material issue of law or fact" because only "PECO can complete decommissioning under rate regulated protocol."[85] Contrary to Petitioners' claim, there is no genuine dispute here. As discussed above, the PA PUC authorized PECO to collect decommissioning funds for its legacy decommissioning obligations and requires them to be deposited in the appropriate decommissioning trusts held by Exelon Generation (which will remain the same entity, but with a different name, after the Spin Transaction). The LTA—which Petitioners wholly disregard in Proposed Contention 2—seeks no change to this mechanism, which will continue to operate as it has for nearly two decades. Petitioners provide no support for their contrary claim.

In sum, Proposed Contention 2 is factually unsupported, lacks an adequate basis, is outside the scope of this proceeding, fails to raise a material issue, and does not raise a genuine dispute with the application, and therefore is inadmissible for failure to satisfy any and all of the requirements in 10 C.F.R. §§ 2.309(f)(1)(i)-(vi).

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84 *See Indian Point*, CLI-01-19, 55 NRC at 140 (stating that "the enforcement of [an agreement] between private parties, even when the private parties are within the regulatory authority of the NRC, is not within the jurisdiction of the NRC" and "an NRC adjudicatory proceeding is simply not the appropriate forum for examining a contractual agreements legality.").

85 Petition at 50.

D. Petitioners' Other Arguments Are Inadmissible

Although not styled as contentions, Petitioners intermixed other vague arguments and conclusory assertions about the LTA with their background on "Reactor License Transfers."[86] These arguments are as follows:

- "PECO is bound by [10 C.F.R. §] 50.76 and has failed to provide legal justification to 'spin' a rate[] regulated utility into a private collection agency for NDCA tariffs [from] Peach Bottom, Limerick, and Salem."[87]

- "Pursuant to 10 C.F.R. §§ 2.323(c), 2.1325(b), and 2.307, Exelon Generation Company LLC . . . on behalf of itself and Exelon Corporation, but exclusive of the Pennsylvania Public Utility Commission and the signatories [to] the Joint Petition to Settlement regulating to NDCA obligations, seeks to transfer power they do not possess, and 'spin' their licenses into non-regulated, rate collecting entities."[88]

- "[T]he Application fails to address the applicable financial standards to provide 'reasonable assurance' of financial qualification for either HoldCo or SpinCo to operate or decommission nuclear generating stations."[89]

- "The technical and financial qualifications of the proposed transferees of HoldCo or SpinCo have not been demonstrated."[90]

- "The financial structure and necessary assurances, guarantees, and sureties are lacking in the proposed [LTA]."[91]

These arguments, even if they were considered as contentions, could not be admitted because they fail to meet the contention admissibility standards in 10 C.F.R. § 2.309(f)(1)(i)-(vi). What is more, Petitioners' claims about certain regulatory requirements are simply wrong. Take

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86 *Id.* at 9-13.

87 *Id.* at 11.

88 *Id.* at 13.

89 *Id.* at 10.

90 *Id.* at 10.

91 *Id.* at 11. Petitioners also repeat arguments made in their two proposed contentions that the LTA would abrogate and dissolve the settlement agreement and is counter to PA PUC regulations and Pennsylvania. Law. Petition at 11, 12, 13. For the reasons addressed in Sections III.B and III.C, *supra*, these arguments are not admissible as contentions, and will not be addressed further.

Petitioners claim that *PECO* is bound by 10 C.F.R. § 50.76.[92] Section 50.76 applies to "electric utility licensees holding an operating license."[93] But PECO is not a licensee and holds no operating licenses. By its plain terms, this section does not apply to PECO and has no bearing on the Application. So too with Petitioners' claim that Exelon is using 10 C.F.R. §§ 2.323(c), 2.1325(b), and 2.307 to transfer some unstated power and "spin" the licenses into "non-regulated, rate collecting entities." These three regulations provide procedures in adjudicatory proceedings and pertain to answers to motions, motions in Subpart M proceedings, and extensions of time. These regulations are not cited in the Application and have nothing to do with the NRC staff's review of the LTA or the Commission's consideration of the Petition.

In sum, Petitioners' arguments lack any basis, explanation, or support, and fail to show a genuine dispute with the Application. Petitioners again fail to identify or discuss *how* or *what* specific portions of the LTA are lacking, ignore the relevant portions of the LTA, and identify no NRC requirements that the LTA allegedly does not meet. These additional baseless and unexplained claims, therefore, do not satisfy any part of 10 C.F.R. § 2.309(f)(1) and should be rejected.

IV. THE PETITION MUST BE DENIED BECAUSE PETITIONERS HAVE NOT DEMONSTRATED STANDING

The Commission need not evaluate standing because each of Petitioners' contentions are inadmissible.[94] But, even if the Commission examines Petitioners' standing arguments, it can conclude that Petitioners lack standing. Petitioner Eric Epstein claims he has "standing to

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92 Petition at 11.

93 10 C.F.R. § 50.76.

94 *See Susquehanna*, CLI-15-8, 81 NRC at 503 n.19 ("Because [the petitioner's] contentions all fall far short of our contention admissibility standards, we need not address his standing to intervene.").

intervene as an individual in this proceeding."[95] Petitioner TMIA claims it has standing in a "representational capacity."[96] Petitioners seem to suggest that they also should be granted discretionary intervention under 10 C.F.R. § 2.309(e).[97] As shown below, Petitioners have not established standing to intervene in this proceeding as a matter of right under 10 C.F.R. § 2.309(d). Nor have they satisfied the strict requirements for discretionary intervention under 10 C.F.R. § 2.309(e). Because Petitioners failed to demonstrate standing in this proceeding, their Petition must be denied.[98]

A. Legal Standards For Standing

To determine whether a petitioner presents a cognizable interest to intervene in a proceeding, the Commission applies contemporaneous judicial concepts of standing.[99] The petitioner bears the burden to provide facts sufficient to establish standing.[100] As relevant here, a petitioner may satisfy that burden in one of three ways.

1. Traditional Standing

First, a petitioner may demonstrate traditional standing. This requires a showing that a person or organization has suffered or might suffer a concrete and particularized injury that is: (1) fairly traceable to the challenged action; (2) likely redressable by a favorable decision; and

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95 Petition at 15.

96 *Id*. The Petition does not assert that TMIA has organizational standing.

97 *Id*. (claiming that Petitioners' participation would "assist in developing a sound record" because of unspecified "unavoidable and extreme circumstances").

98 10 C.F.R. § 2.309(a).

99 *Fla. Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 & 4), CLI-15-25, 82 NRC 389, 394 (2015) (citation omitted).

100 *See U.S. Enrichment Corp*. (Paducah, Kentucky Gaseous Diffusion Plant), CLI-01-23, 54 NRC 267, 272 (2001) (citing *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 & 2), CLI-00-05, 51 NRC 90, 98 (2000)).

(3) arguably within the zone of interests protected by the governing statutes—here, the AEA.[101] These criteria are known as injury-in-fact, causality, and redressability. Although a petitioner need not show that the injury flows directly from the challenged action, it must still show that the "chain of causation is plausible."[102] Finally, a petitioner must show that "its actual or threatened injuries can be cured by some action of the tribunal."[103]

An organization seeking to intervene in its own right must satisfy the same standing requirements as an individual.[104] To address the injury requirement, an organization such as TMIA must show that the license transfer "would constitute 'a threat to its organizational interests.'"[105]

2. Representational Standing

An organization may seek to establish representational standing based on the standing of one or more individual members. To establish representational standing, an organization must: (1) show that the interests it seeks to protect are germane to its own purpose; (2) identify at least one member who qualifies for standing in his or her own right; (3) show that it is authorized by that member to request a hearing on his or her behalf; and (4) show that neither the claim asserted nor the relief requested require an individual member's participation in the

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101 *Calvert Cliffs 3 Nuclear Project, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 915 (2009).

102 *Sequoyah Fuels Corp.* (Gore, Okla. Site), CLI-94-12, 40 NRC 64, 75 (1994); *see also Crow Butte Res., Inc.* (In-Situ Leach Facility, Crawford, Nebraska), CLI-09-09, 69 NRC 331, 345 (2009).

103 *Sequoyah Fuels Corp.* (Gore, Okla. Site), CLI-01-02, 53 NRC 9, 14 (2001).

104 *FirstEnergy Nuclear Operating Co.* (Beaver Valley Power Station, Units 1 & 2; Davis-Besse Nuclear Power Station, Unit 1; Perry Nuclear Power Plant, Unit 1), CLI-20-5, 91 NRC 214, 219 (2020) (citing *Palisades*, CLI-07-18, 65 NRC at 411).

105 *Id.* at 219-20 (quoting *Crow Butte Res., Inc*. (Marsland Expansion Area), CLI-14-2, 79 NRC 11, 18 (2014); *Ga. Inst. of Tech.* (Ga. Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995)); *see also Int'l Uranium (USA) Corp.* (White Mesa Uranium Mill), CLI-01-21, 54 NRC 247, 252 (2001).

organization's legal action.[106] If the affidavit of the member lacks a statement that the member wants and has authorized the organization to represent his or her interests, the presiding officer should not infer that authorization.[107]

3. Proximity-Based Standing

Proximity-based standing is not available in this indirect license transfer proceeding. In some proceedings, a petitioner may rely on a Commission-created standing shortcut known as the "proximity presumption." For example, in proceedings that involve construction or operation of a nuclear power plant, the Commission has found standing based solely on a petitioner's residence within a 50-mile radius of the site.[108] But in other cases, including license transfers, the Commission determines, "on a case-by-case basis whether the proximity presumption should apply, considering the 'obvious potential for offsite [radiological] consequences,' or lack thereof, from the application at issue."[109]

However, the Commission has "consistently held that indirect license transfers involving 'no change in the operator, no change in the direct owner, and no change in the physical plant . . . create[] no obvious source of actual or potential harm.'"[110] Accordingly, because the LTA does not propose to change the licensed operator, any of the direct owners, or any of the physical plants, proximity-based standing is not available in this proceeding.

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106 *Palisades*, CLI-07-18, 65 NRC at 409 (citation omitted).

107 *Duquesne Light Co.* (Beaver Valley Power Station, Unit 2), LBP-84-6, 19 NRC 393, 411 (1984).

108 *Calvert Cliffs*, CLI-09-20, 70 NRC at 915.

109 *Consumers Energy Co.* (Big Rock Point Indep. Spent Fuel Storage Installation), CLI-07-19, 65 NRC 423, 426 (2007); *see Exelon Generation Co., LLC & PSEG Nuclear, LLC* (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-05-26, 62 NRC 577, 580-81 (2005).

110 *El Paso Elec. Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, & 3), CLI-20-07, 92 NRC __, __ (Sept. 15, 2020) (slip op. at 8-9) (quoting *Entergy Nuclear Operations, Inc. and Entergy Nuclear Palisades, LLC* (Palisades Nuclear Plant), CLI-08-19, 68 NRC 251, 260 (2008) (emphasis added)).

4. Discretionary Intervention

Pursuant to 10 C.F.R. § 2.309(e), the Commission may consider a request for discretionary intervention when a party lacks standing to intervene as a matter of right under 10 C.F.R. § 2.309(d)(1). However, discretionary intervention may be granted only when at least one petitioner has established standing and at least one contention has been admitted for hearing.[111] In addition to addressing the factors in 10 C.F.R. § 2.309(d)(1), a petitioner who seeks intervention as a matter of discretion (if it is determined that standing as a matter of right is not demonstrated) must specifically address in his or her initial petition the six factors set forth in 10 C.F.R. § 2.309(e), which the Commission will consider and balance.[112] Of the six factors, primary consideration is given to the first factor—assistance in developing a sound record.[113] The petitioner has the burden to establish that the factors in favor of intervention outweigh those against intervention.[114]

B. Mr. Epstein Has Not Demonstrated Individual Standing

Mr. Epstein claims he has individual standing because he lives and works in close proximity to Three Mile Island Nuclear Station ("TMI"), engages in various activities in the area surrounding TMI, has intervened in prior NRC adjudicatory proceedings, and is a signatory to a

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111 10 C.F.R. § 2.309(e). *See also Susquehanna*, LBP-07-10, 66 NRC at 21 n.14 ("[D]iscretionary standing [is] only appropriate when one petitioner has been shown to have standing as of right and [there is an] admissible contention so that a hearing will be conducted.").

112 Factors weighing in *favor* of allowing intervention include: (i) the extent to which the petitioner's participation would assist in developing a sound record; (ii) the nature of petitioner's property, financial or other interests in the proceeding; and (iii) the possible effect of any decision or order that may be issued in the proceeding. *See* 10 C.F.R. § 2.309(e)(1)(i)-(iii). Conversely, factors weighing *against* allowing intervention include: (i) the availability of other means whereby the petitioner's interest might be protected; (ii) the extent to which petitioner's interest will be represented by existing parties; and (iii) the extent to which petitioner's participation will inappropriately broaden the issues or delay the proceeding. *See id*. § 2.309(e)(2)(i)-(iii).

113 *See Gen. Pub. Utils. Nuclear Corp.* (Oyster Creek Nuclear Generating Station), LBP-96-23, 44 NRC 143, 160 (1996).

114 *See Nuclear Eng'g Co., Inc.* (Sheffield, Ill., Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737, 744 (1978) (requiring potential discretionary intervenor to show "that it is both willing and able to make a valuable contribution to the full airing of the issues . . . in this proceeding").

state contractual agreement with PECO.[115] However, none of these claims are sufficient to demonstrate standing to intervene in this indirect license transfer proceeding.

1. Prior Participation in NRC Proceedings Does Not Confer Standing

Mr. Epstein suggests that, because he has intervened in other NRC adjudicatory proceedings, he is entitled to standing here.[116] However, the mere fact that the Commission may have granted Mr. Epstein, TMIA, or both, standing in prior NRC proceedings is irrelevant to whether he has made the requisite standing demonstration in *this* proceeding. Mr. Epstein should be well aware that his claim in this regard is incorrect because the Commission has previously rejected identical arguments from Mr. Epstein in other proceedings, explaining that he "could not rely on other boards' findings of standing," and instructing him on the need to "make a fresh standing demonstration in *each* proceeding."[117] The same holds true here. Mr. Epstein's prior participation in past adjudicatory proceedings has no bearing on whether he has standing to intervene in the instant proceeding.

2. Proximity-Based Standing Does Not Apply

Mr. Epstein also claims that he has standing based on his "proximity to Three Mile Island."[118] But mere proximity to a facility is insufficient to demonstrate standing here because, as noted above, proximity-based standing is unavailable in indirect license transfer proceedings

115 *See* Petition at 19, 21, 24, and 27.

116 *See, e.g.*, *id.* at 20.

117 *Bell Bend,* CLI-10-07, 71 NRC at 138 (emphasis in original); *see also id.* ("[T]he Board correctly found that it may focus only on the support Mr. Epstein presented with respect to *this proceeding* in ruling on his standing to intervene.") (emphasis in original). *See also Exelon Gen. Co., LLC* (Three Mile Island Nuclear Station, Units 1 & 2), LBP-20-2, 91 NRC 10, 29 (2020) ("Mr. Epstein's prior participation in other NRC proceedings does not, a priori, grant him standing in this case.").

118 Petition at 19.

like this one. In fact, the Commission has "never granted proximity-based standing to a petitioner in an indirect license transfer adjudication."[119]

The Commission's recent ruling in the *Palo Verde* proceeding is instructive here. Like this proceeding, *Palo Verde* involved approval of an indirect license transfer, and a petitioner sought to establish standing based on "close proximity" to the facility.[120] As the Commission explained:

> We have consistently held that indirect license transfers involving "no change in the operator, no change in the direct owner, and no change in the physical plant…create[] no obvious source of actual or potential harm." Consequently, we have not extended proximity standing in such cases, and we see no reason to deviate from our practice here.[121]

That is exactly the case here. The LTA does not propose to change the licensed operator, any of the direct owners, or any of the physical plants. Accordingly, proximity-based standing is simply not available to Mr. Epstein.

3. Mr. Epstein Has Not Demonstrated Traditional Standing

Because proximity-based standing is unavailable in this proceeding, the standing inquiry reverts to a "'traditional standing' analysis of whether the petitioner has made a specific showing of injury, causation, and redressability."[122] As explained below, Mr. Epstein also has not made the requisite showing to establish traditional standing.

First, Mr. Epstein's alleged harms are not concrete and particularized injuries that would be certainly impending, or that would be likely to occur, as a result of an NRC decision to grant

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119 *Susquehanna Nuclear, LLC* (Susquehanna Steam Electric Station, Units 1 & 2), LBP-16-12, 84 NRC 148, 159 (2016) (quoting *Palisades*, CLI-08-19, 68 NRC at 269 (emphasis added)).

120 *Palo Verde*, CLI-20-07, 92 NRC at __ (slip op. at 8).

121 *Id.* at __ (slip op. at 8-9) (quoting *Palisades*, CLI-08-19, 68 NRC at 260).

122 *Peach Bottom*, CLI-05-26, 62 NRC at 581.

the LTA. Although the Petition focuses on multiple Exelon Generation nuclear plants in Pennsylvania, Mr. Epstein's traditional standing claim focuses on TMI. Mr. Epstein claims that his interests might be harmed if somehow the TMI decommissioning trust funds became underfunded at some unspecified future time, and if that speculative underfunding somehow resulted in a radiological release, and if that speculative release somehow resulted in an unspecified offsite consequence, and if that speculative consequence somehow found its way to Mr. Epstein.[123] And these speculative incidents occur at a reactor—TMI-1—which permanently shut down in September 2019.[124]

Mr. Epstein does not offer any explanation as to how this attenuated chain of speculation satisfies the traditional standing requirements. And, indeed, it does not. Courts have found less-layered speculation insufficient to demonstrate traditional standing.[125] To constitute an adequate showing of injury-in-fact, "pleadings must be something more than an ingenious academic exercise in the conceivable"; rather, a petitioner "must allege that he has or will in fact be perceptibly harmed by the challenged agency action, not that he can imagine circumstances in

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123 *See* Petition at 36. *See also id.* at 37 ("*If* Limerick, Peach Bottom, Salem, and Three Mile Island are not properly decommissioned, Mr. Epstein…will be exposed to environmental, financial, health, and public safety risks" and "*[i]f* the [decommissioning trust] funds were to be mismanaged or diverted to uses other than decommissioning, the fund will be depleted prematurely.") (emphasis added).

124 *See* https://www.exeloncorp.com/locations/three-mile-island-decommissioning#:~:text=Three%20Mile%20Island%20Generating%20Station,and%20service%20to%20the%20community.&text=Exelon%20Generation%20owns%20TMI%20Unit,operating%20on%20September%202%2C%201974.

125 *See, e.g.*, *Reilly v. Ceridian Corp.*, 664 F.3d 38, 43 (3d Cir. 2011) (holding that because plaintiff began describing the injury with the word "if", the allegations were too attenuated to establish standing); *Storino v. Borough of Point Pleasant Beach*, 322 F.3d 293, 297-98 (3d Cir. 2003) (holding that an injury does not meet the imminence requirement if "one cannot describe how [they] will be injured without beginning the explanation with the word "'if'").

which he could be affected."[126] Mr. Epstein's alleged injury, here, is merely "conjectural" or "hypothetical," and thus is "too speculative" to demonstrate traditional standing.[127]

Second, the bulk of Mr. Epstein's concerns about decommissioning funding is not even relevant to this proceeding. In his Petition, Mr. Epstein states that he "has a direct, immediate, and proximate interest in the proposed application to directly transfer the NRC Possession-Only License No. DPR-73 for TMI-2, currently held by the FirstEnergy Companies"[128] and voices his "vested interest" in ensuring that the "TMI-2 decommissioning fund is adequate to complete a full and complete decommissioning"[129] But TMI-2 is not part of this proceeding. Exelon does not own TMI-2 (as Mr. Epstein acknowledges when he mentions "FirstEnergy Companies"), nor have decommissioning liability for TMI-2, so any concern Mr. Epstein has about the TMI-2 decommissioning is irrelevant here and cannot provide a basis for standing. This also is an indirect license transfer proceeding, not a direct license transfer proceeding; so, again, Mr. Epstein is focused on the wrong legal principles for standing.

Third, Mr. Epstein's academic interest in decommissioning matters also is insufficient to demonstrate traditional standing. Mr. Epstein once sought to intervene in a license transfer proceeding involving Peach Bottom Atomic Power Station ("Peach Bottom"). To demonstrate standing, Mr. Epstein pointed to his involvement in various activities related to Peach Bottom, including his participation in various organizations. But the Commission ruled that his personal

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126 *Nuclear Fuel Services, Inc.* (Erwin, Tenn.), CLI-04-13, 59 NRC 244, 248 (2004) (citing *United States v. Students Challenging Regulatory Agency Procedures* (SCRAP), 412 U.S. 669, 688-89 (1973)) (emphasis added).

127 *Sequoyah*, CLI-94-12, 40 NRC at 72 ("The alleged injury, which may be either actual or threatened, must be both concrete and particularized, not "conjectural" or "hypothetical." As a result, standing has been denied when the threat of injury is too speculative."). *See also TMI*, LBP-20-2, 91 NRC at 26-27 (quoting *Zion*, CLI-99-4, 49 NRC at 188) (rejecting Mr. Epstein's vague "general objections" regarding insufficient decommissioning funds in another recent proceeding).

128 Petition at 24.

129 *Id*.

involvement or his involvement through various organizations involving Peach Bottom "do[es] not demonstrate injury."[130] Instead, all they showed was Mr. Epstein's "general interest in electric and nuclear issues and his particular interest in the Peach Bottom facility."[131] Because Mr. Epstein "never squarely address[ed]" the requirement to show "that the proposed [license transfer] would injure his financial, property, or other interests," the Commission found that Mr. Epstein "lacks standing to intervene in this proceeding."[132]

Here, as in *Peach Bottom*, Mr. Epstein simply reasserts his "intellectual" interest in this proceeding. But as the Commission has explained, "[i]t is well established that mere intellectual or academic interest in a facility or proceeding is insufficient" to confer standing.[133] Accordingly, the purported academic "interest" is not sufficient for traditional standing in this proceeding.

Finally, Mr. Epstein claims he will be harmed because the LTA will "unilaterally abrogate and dissolve" the Settlement Agreement between Mr. Epstein and non-Applicant, non-licensee PECO.[134] But, as explained above, this claim is baseless and factually incorrect and, in any event, the NRC lacks jurisdiction over state regulatory matters. The Commission has found that "[a]n NRC adjudicatory proceeding is simply not the appropriate forum for examining" legal agreements under state law.[135] Accordingly, even if this claim were correct, it could not be redressed in this NRC proceeding, and therefore cannot provide a basis for standing.

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130 *Peach Bottom*, CLI-05-26, 62 NRC at 580.

131 *Id.*

132 *Id.* at 579.

133 *Id.* at 579-80 (citations omitted) ("Although these kinds of involvement demonstrate both Mr. Epstein's general interest in electric and nuclear issues and his particular interest in the Peach Bottom facility, they do not demonstrate injury.").

134 *Id.*

135 *Indian Point*, CLI-01-19, 54 NRC at 140.

* * *

In sum, the Petition fails to demonstrate that Mr. Epstein will suffer a concrete and particularized injury, caused by, and redressable in, *this* indirect license transfer proceeding.

C. TMIA Has Not Demonstrated Representational Standing

Petitioners claim that TMIA has representational standing to intervene in this proceeding because its members' interests allegedly will "be affected by the transfer of control of Three Mile Island Unit-1 and Peach Bottom, Units 1, 2 and 3."[136] Petitioners also claim that the "interests of TMIA's members extend to all aspects of decommissioning" because the "proposed license transfer raises significant environmental, financial, health, and public safety concerns for Mr. Epstein and TMIA members."[137] Petitioners also assert that the "risk to their health and safety, and to the environment, if the site is not fully cleaned up, has been ongoing for 41 years."[138]

TMIA's representational standing claim is lacking in multiple respects. First, TMIA failed to identify a member, let alone attach a letter or affidavit from any member indicating their authorization for TMIA to represent their interests in this proceeding.[139] All of the members are generically referred to and, therefore, are unidentified and unspecified. Second, TMIA failed to demonstrate that at least one member qualifies for standing in his or her own right,[140] and Mr. Epstein does not qualify for standing for the reasons set forth above. Accordingly, TMIA has not satisfied any of the criteria for representational standing.

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136 Petition at 33.

137 *Id.* at 35.

138 *Id.* at 36.

139 *Palisades*, CLI-07-18, 65 NRC at 409 (to establish representational standing, an organization "must demonstrate that the member has (preferably by affidavit) authorized the organization to represent him or her and to request a hearing on his or her behalf") (citation omitted).

140 *Id.*

D. Petitioners Have Not Demonstrated Entitlement to Discretionary Intervention

The Commission must also reject Petitioners' alternative request for discretionary intervention under 10 C.F.R. § 2.309(e).[141] Under Section 2.309(e), the Commission may consider a request for discretionary intervention when a party lacks standing to intervene as a matter of right. But discretionary intervention may be granted only when at least one petitioner has established standing and at least one contention has been admitted for hearing.[142] But that fundamental pre-condition has not been satisfied here; as Exelon has explained in each of its Answers filed in this proceeding, no petitioner has proffered an admissible contention. Accordingly, discretionary intervention is unavailable to Petitioners.

Even if that pre-condition had been satisfied, Petitioners should not be granted discretionary intervention because they failed to address each of the six factors enumerated in Section 2.309(e),[143] and failed to argue that a balancing of those factors favor the Commission's exceptional granting of discretionary intervention status.[144] Instead, Petitioners offer a bare conclusory assertion that their participation "will assist in developing a sound record."[145] Petitioners do not try to explain why that is the case. If Petitioners are unable to tailor their standing arguments (which are largely borrowed from other proceedings involving reactors that are not at issue here),[146] and proposed contentions (which pertain to state regulatory matters), to

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141 *See* Petition at 15.

142 10 C.F.R. § 2.309(e); *see also Susquehanna*, LBP-07-10, 66 NRC at 21 n.14 ("[D]iscretionary standing [is] only appropriate when one petitioner has been shown to have standing as of right and [there is an] admissible contention so that a hearing will be conducted.").

143 *See* note 111, *supra*.

144 *See Sheffield*, ALAB-473, 7 NRC at 744 (requiring potential discretionary intervenor to show "that it is both willing and able to make a valuable contribution to the full airing of the issues . . . in this proceeding").

145 Petition at 15.

146 *See, e.g.*, Petition of Eric Joseph Epstein and Three Mile Island Alert, Inc. for Leave to Intervene and for a Hearing [in TMI-2 license transfer proceeding] (Apr. 15, 2020) (ML20106F216).

this proceeding, then it is unlikely they could help develop a "sound" record here. Instead, it seems Petitioners seek to participate in this proceeding to re-litigate agreements that are outside the NRC's jurisdiction and mainly focus on issues involving TMI-2, which is neither owned by Exelon nor part of the LTA filed by Exelon Generation. A record littered with such matters would not be "sound." In fact, it would conflict with the Commission's goal of adjudicatory efficiency. In fact, it would "inappropriately broaden" the proceeding, which is one of the factors counseling *against* discretionary intervention.[147]

Petitioners also fail to demonstrate any subject matter expertise on decommissioning or indirect license transfers.[148] Petitioners address none of the other discretionary intervention factors specified in Section 2.309(e). The burden of convincing the Commission that a petitioner can make a valuable contribution to the agency's decision-making process lies with the petitioner.[149] Petitioners have not come remotely close to meeting that burden here.

V. CONCLUSION

As established above, Petitioners' two contentions fail to satisfy the criteria in 10 C.F.R. § 2.309(f)(1), and Petitioners have not demonstrated standing to intervene. Accordingly, 10 C.F.R. § 2.309(a) requires that the Commission deny the Petition for both of these reasons.

147 10 C.F.R. § 2.309(e)(2)(iii).

148 *See, e.g.*, Petition at 39-40 (failing to understand that Exelon does not own TMI-2).

149 *See Sheffield*, ALAB-473, 7 NRC at 744.

Respectfully submitted,

Executed in Accord with 10 C.F.R. § 2.304(d)

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Dated at Washington, D.C.
this 12th day of July, 2021

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	Docket Nos.:
EXELON GENERATION COMPANY, LLC; EXELON CORPORATION; EXELON FITZPATRICK, LLC; NINE MILE POINT NUCLEAR STATION, LLC; R. E. GINNA NUCLEAR POWER PLANT, LLC; and CALVERT CLIFFS NUCLEAR POWER PLANT, LLC	)	STN 50-456, STN 50-457, 72-73, STN 50-454, STN 50-455, 72-68, 50-317, 50-318, 72-8, 50-461, 72-1046, 50-10, 50-237, 50-249, 72-37, 50-333,
(Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Clinton Power Station, Unit No. 1; Dresden Nuclear Power Station, Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Nine Mile Point Nuclear Station, Units 1 and 2; Peach Bottom Atomic Power Station, Units 1, 2, and 3; Quad Cities Nuclear Power Station, Units 1 and 2; R. E. Ginna Nuclear Power Plant; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Three Mile Island Nuclear Station, Unit 1; Zion Nuclear Power Station, Units 1 and 2; and Associated Independent Spent Fuel Storage Installations)	)	72-12, 50-373, 50-374, 72-70, 50-352, 50-353, 72-65, 50-220, 50-410, 72-1036, 50-171, 50-277, 50-278, 72-29, 50-254, 50-265, 72-53, 50-244, 72-67, 50-272, 50-311, 72-48, 50-289, 72-77, 50-295, 50-304, and 72-1037 -LT
	)	July 12, 2021

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I certify that, on this date, a copy of the foregoing "Exelon's Answer Opposing the Petition of Eric Joseph Epstein and Three Mile Island Alert, Inc. for Leave to Intervene and for a Hearing" was served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned docket.

Signed (electronically) by Grant W. Eskelsen

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