UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	
VIRGINIA ELECTRIC AND POWER COMPANY and OLD DOMINION ELECTRIC COOPERATIVE	)	Docket Nos. 50-338-SLR and 50-339-SLR
(North Anna Power Station, Units 1 & 2)	)	October 25, 2021

APPLICANTS' ANSWER OPPOSING MOTION TO AMEND CONTENTION OUT OF TIME AND MOTION TO REOPEN THE RECORD BY BEYOND NUCLEAR, SIERRA CLUB, AND ALLIANCE FOR PROGRESSIVE VIRGINIA

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I. INTRODUCTION

Pursuant to 10 C.F.R. §§ 2.309(i)(1) and 2.323(c), and the U.S. Nuclear Regulatory Commission ("NRC") Secretary's Order of October 8, 2021,[1] Virginia Electric and Power Company ("Dominion Virginia Power" or "Dominion"), on behalf of itself and Old Dominion Electric Cooperative (collectively, "Applicants") submit this Answer opposing the combined Motion filed by Beyond Nuclear, Inc., Sierra Club, Inc., and Alliance for a Progressive Virginia, Inc. (collectively, "Movants") for leave to amend their contention out of time ("Motion for Leave") and to reopen the record ("Motion to Reopen") (collectively, the "Motion").[2]

Movants previously petitioned to intervene, requested a hearing, and proffered one proposed contention in the above-captioned proceeding. In LBP-21-4, issued March 29, 2021,

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1 NRC Secretary Order at 1 (Oct. 8, 2021) (unpublished) (ML21281A250).

2 Beyond Nuclear, Inc., Sierra Club, Inc., and Alliance for a Progressive Virginia, Inc. Motion to Amend Contention Out of Time and to Reopen the Record (Sept. 29, 2021) (ML21272A386) ("Motion"). Despite this caption, Movants do not seek to amend their previously-rejected *contention*. Rather, they only seek to amend its *basis statement*. As an initial matter, it is unclear whether the Commission's regulations provide for a motion to admit an "amended basis statement" for a rejected contention, and Movants cite no authority for doing so.

the Atomic Safety and Licensing Board ("Board") denied those requests, finding that the proposed contention was inadmissible, and terminated the proceeding.[3]

The Motion asks to reopen the record of that terminated proceeding and for leave to amend the "basis statement" of the rejected contention. The proposed amendment relates to allegedly new information in the NRC Staff's August 2021 draft supplemental environmental impact statement ("DSEIS").[4] As explained below, the Motion must be rejected because it fails to satisfy the Commission's strict standards for reopening the record and contentions out of time.

The Motion could be "diplomatically described . . . as 'less than optimally organized or articulated.'"[5] In more direct terms, the Motion consists primarily of a recitation of the procedural posture of the case and repetition of Movants' original arguments (which the Board rejected). Movants provide only a cursory discussion of the relevant legal standards. The crux of Movants' argument (*i.e.*, the factual predicate for the Motion and the additional "basis" statement they seek to add) is an assertion that, in the DSEIS, the NRC Staff allegedly announced a sweeping new regulatory position claiming that the NRC "expects" "many" design-basis accidents to occur. However, the DSEIS says no such thing. In fact, it says the *opposite*. As explained below, Movants' strained reading of the DSEIS is wholly unsupported and does not remotely satisfy the Commission's stringent requirements for reopening and filing contentions out of time. Even assuming *arguendo* that Movants' reading of the DSEIS were correct—and it clearly is not—Movants offer no cogent explanation as to how this statement regarding *design*

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3 *Va. Elec. & Power Co.* (North Anna Power Station, Units 1 & 2), LBP-21-04, 93 NRC __ (Mar. 29, 2021) (slip op.) (ML21088A364) as modified by the Licensing Board's Memorandum and Order (Correcting Text of Decision) (Mar. 31, 2021) (ML21090A099).

4 NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 7, Second Renewal, Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment" (Aug. 2021) (ML21228A084) ("DSEIS").

5 *Crow Butte Res., Inc.* (N. Trend Expansion Proj.), CLI-09-12, 69 NRC 535, 552 (2009) (citation omitted).

basis accidents is remotely relevant (much less "material") to the previously-rejected contention, which referenced a *beyond* design basis event. Thus, for any or all of these reasons, the Motion should be summarily denied.

II. PROCEDURAL HISTORY

On August 24, 2020, Applicants filed with the NRC a subsequent license renewal application ("SLRA") to renew the operating licenses for North Anna Power Station, Units 1 and 2 ("North Anna") for an additional 20-year period.[6] On December 14, 2020, Movants filed their Petition seeking to intervene in this proceeding, requesting a hearing, and proposing a single contention challenging Applicants' Environmental Report ("ER").[7] The proposed contention alleged that the ER and the NRC's license renewal Generic Environmental Impact Statement ("GEIS")[8] discussion of Design Basis Accidents failed to consider the environmental significance of a 2011 earthquake in Mineral, Virginia that exceeded North Anna's seismic design basis.[9] Because the analysis of this issue was conducted generically by the NRC in the GEIS, and those findings were codified in NRC regulations, Movants also requested a waiver under 10 C.F.R. § 2.335(b) to challenge those regulations ("Waiver Request").[10] Following

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6 *See* Letter from M. Sartain, Virginia Electric and Power Company, to NRC Document Control Desk, "Virginia Electric and Power Company, North Anna Power Station Units 1 and 2, Application for Subsequent Renewed Operating Licenses" (Aug. 24, 2020) (Package ML20246G703). The application package contains multiple enclosures. The SLRA is Enclosure 3, which consists of two files: the Main Report and Appendices A-D (ML20246G696) and Appendix E, which is the Environmental Report ("ER") (ML20246G698).

7 *See generally* Hearing Request and Petition to Intervene by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia and Petition for Waiver of 10 C.F.R. §§ 51.53(c)(3)(i), 51.71(d), and 51.95(c)(1) to Allow Consideration of Category 1 NEPA Issues (Dec. 14, 2020) (ML20349D952) ("Petition").

8 *See* NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996); Vol. 1, Main Report (ML040690705) ("1996 GEIS"); NUREG-1437, Rev. 1, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (June 2013); Vol. 1, Main Report (ML13106A241) ("GEIS").

9 Petition at 13-14.

10 *Id.* at 30-37.

briefing[11] and oral argument,[12] the ASLB denied the Hearing Request and the Waiver Request and terminated the proceeding.[13] In doing so, the Board found that Petitioners' challenge to the Design Basis Accidents issue "misinterprets the scope of the GEIS" because *beyond* design basis events (such as the Mineral earthquake) were evaluated under the GEIS Severe Accidents issue, which Petitioners failed to dispute.[14] Movants filed an Appeal of LBP-21-04 on April 23, 2021,[15] and Applicants and the Staff both filed briefs opposing that Appeal.[16] On September 29, 2021, while the Appeal is pending before the Commission, Movants filed the instant Motion. On October 8, 2021, the NRC Secretary clarified that the deadline for Answers to the Motion was October 25, 2021.[17] Applicants hereby timely file their Answer.

III. THE COMMISSION SHOULD DENY THE MOTION BECAUSE MOVANTS HAVE NOT SATISFIED THE COMMISSION'S STRICT STANDARDS

The Motion is subject to two sets of standards: those for motions to reopen, under 10 C.F.R. § 2.326, and those for contentions out of time, under 10 C.F.R. § 2.309(c). Given Movant's submission of a combined Motion, the discussion below addresses these standards

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11 Applicants' Answer Opposing Request for Hearing, Petition to Intervene, and Petition for Waiver Submitted by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia (Jan. 8, 2021) (ML21008A531) ("Applicants' Answer to Petition"); NRC Staff Answer to Hearing Request, Petition to Intervene and Petition for Waiver Filed by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia (Jan. 8, 20201) (ML21008A593); Reply by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia to Oppositions to Hearing Request and Waiver Petition (Jan. 15, 2021) (ML21015A605).

12 Official Transcript of Proceedings (proceedings held Feb. 4, 2021, transcript served Feb. 8, 2021) (ML21039A546), as modified by the Licensing Board's Memorandum and Order (Adopting Transcript Corrections for Initial Prehearing Conference) (Feb. 25, 2021) (unpublished) (ML21056A213) ("Tr."); *see also* Joint Motion for Correction of the Transcript for the Oral Argument Held on February 4, 2021 (Feb. 18, 2021) (ML21049A129).

13 *North Anna*, LBP-21-04, 93 NRC at __ (slip op. at 36).

14 *Id.* at __ (slip op. at 25).

15 Brief on Appeal of LBP-21-04 by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia (Apr. 23, 2021) (ML21113A317) ("Appeal").

16 Applicants' Brief in Opposition to Appeal of LBP-21-4 by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia (May 18, 2021) (ML21138A894); NRC Staff's Brief in Response to Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia's Appeal of LBP-21-4 (May 18, 2021) (ML21138A942).

17 NRC Secretary Order at 1 (Oct. 8, 2021) (unpublished) (ML21281A250).

jointly. As a general matter, the Commission considers reopening the record to be an "extraordinary" action.[18] As a result, the Commission imposes a "deliberately heavy" burden upon a participant seeking to reopen a closed record.[19] As the Commission noted, "[t]he level of support required for a motion to reopen is greater than that required for a contention under the general admissibility requirements of 10 C.F.R. § 2.309(f)(1)."[20] "Bare assertions and speculation," even those supplied by an expert in an affidavit, "do not supply the requisite support" for such motions.[21] As explained below, none—and certainly not all—of the standards applicable to the instant Motion are satisfied here.

A. The Motion Is Not Accompanied by an Affidavit

Section 2.326(b) specifies that reopening motions must be:

> accompanied by affidavits that set forth the factual and/or technical bases for the movant's claim that the criteria of paragraph (a) of this section have been satisfied. Affidavits must be given by competent individuals with knowledge of the facts alleged, or by experts in the disciplines appropriate to the issues raised. Evidence contained in affidavits must meet the admissibility standards of this subpart. Each of the criteria must be separately addressed, with a specific explanation of why it has been met. When multiple allegations are involved, the movant must identify with particularity each issue it seeks to litigate and specify the factual and/or technical bases which it believes support the claim that this issue meets the criteria in paragraph (a) of this section.[22]

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18 *Entergy Nuclear Vt. Yankee, LLC* (Vt. Yankee Nuclear Power Station), CLI-11-2, 73 NRC 333, 337-38 (2011) (quotations and citation omitted).

19 *Id*. (quoting *AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-08-28, 68 NRC 658, 674 (2008)). *See also AmerGen Energy Co., LLC* (Oyster Creek Nuclear Generating Station), CLI-09-7, 69 NRC 235, 287 (2009) (citing *La. Power & Light Co.* (Waterford Steam Elec. Station, Unit 3), CLI-86-1, 23 NRC 1, 5 (1986)).

20 *DTE Elec. Co.* (Fermi Nuclear Power Plant, Unit 2), CLI-17-07, 85 NRC 111, 116 (2017).

21 *Oyster Creek*, CLI-08-28, 68 NRC at 674.

22 10 C.F.R. § 2.326(b).

No such affidavit accompanies the Motion here.[23] Accordingly, on its face, and pursuant to the plain text of the regulation, the Motion must be denied for this reason alone.[24]

Movants purport to satisfy Section 2.326(b) through a cursory statement from counsel, in the Motion itself, that "the factual statements…are true and correct…and the legal conclusions are based on [Counsel's] best understanding of applicable regulations and judicial precedents[.]"[25] This cursory statement, however, does not remotely satisfy the NRC's requirement for a competent and substantive technical or factual affidavit. As a general matter, the statement of counsel does little more than attest to the fact that counsel has read certain documents and (not surprisingly) agrees with her own statements and legal conclusions. Moreover, this statement: fails to "separately address" each of the reopening criteria; does not remotely meet the admissibility standards in 10 C.F.R. § 2.337; and is not of sufficient quality as to be admissible into evidence at an evidentiary hearing. All of these things are required by Section 2.326(b),[26] but remain unsatisfied here. Accordingly, the Motion must be denied.

B. <u>The Motion Is Untimely</u>

Motions to reopen and motions for leave to file new or amended contentions out of time must be "timely."[27] As Movants correctly explain, timeliness in this context generally requires that a motion be filed within 30 days of the "availability" of the information upon which the

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23 The standing declarations attached to the Motion (*see* Motion at 13-14; *id*., Attachs. 1-8) do not purport to "set forth the factual and/or technical bases for" the Motion under 10 C.F.R. § 2.326(b).

24 *See, e.g.*, *DTE Elec. Co.* (Fermi Nuclear Power Plant, Unit 2), LBP-17-1, 85 NRC 3, 11 (2017) ("Given that [the movant] attached no affidavit addressing the criteria in section 2.326(a), the Board must deny its Motion to Reopen"), *petition for review denied*, CLI-17-07, 85 NRC 111 (2017).

25 Motion at 12.

26 *See, e.g.*, *Holtec Int'l* (HI-STORE Consolidated Interim Storage Facility), LBP-20-10, 92 NRC __, __ (Sept. 3, 2020) (slip op. at 6).

27 10 C.F.R. §§ 2.326(a)(1), 2.309(c)(1)(iii).

filing is based.[28] Movants assert that their Motion is timely because it was submitted on September 29, 2021, within 30 days of "receiving" an e-mailed copy of the DSEIS from someone at the NRC on August 30, 2021.[29] However, timeliness is not measured against the subjective threshold of when a movant "received" or became aware of the subject information—rather, it is measured against the "availability"[30] of that information. Under this well-settled standard, the Motion is untimely.

More specifically, the NRC publicly issued the DSEIS on August 19, 2021. According to the NRC's Agencywide Documents Access and Management System ("ADAMS"), the DSEIS became publicly available that day.[31] Even generously assuming the appropriate timeliness trigger was the NRC's publication of the *Federal Register* notice on August 25, 2021, announcing the public availability of the DSEIS,[32] corresponding motions were due no later than September 25, 2021. In contrast, Movants did not file their Motion until September 29, 2021. By either measure, the Motion is untimely.

Thus, the untimeliness of the Motion, coupled with the fact that Movants are represented by experienced nuclear counsel and do not allege any "extraordinary and unanticipated circumstances" that prevented timely filing, compels its rejection for failure to satisfy 10 C.F.R. §§ 2.309(c)(1)(iii) and 2.326(a)(1).

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28 Motion at 10 (quoting 10 C.F.R. § 2.309(c)(1)(iii) and citing *Entergy Nuclear Vt. Yankee* (Vt. Yankee Nuclear Power Station), LBP-07-15, 66 NRC 261, 266 n.11 (2007)).

29 *Id.* The referenced e-mail does not appear to be publicly available.

30 10 C.F.R. § 2.309(c)(1)(iii).

31 *See* ADAMS profile for Accession No. ML21228A084 ("Date Added" field).

32 Virginia Electric and Power Company, Dominion Energy Virginia, North Anna Power Station, Unit Nos. 1 and 2, Draft supplemental environmental impact statement, request for comment; 86 Fed. Reg. 47,525 (Aug. 25, 2021).

C. The Motion Fails to Demonstrate That It Is Based on Any Information That Is Both "New" and "Materially Different," Much Less That It Raises a "Significant" Environmental Issue

Motions for leave to file new or amended contentions must be based on "new" information that is "materially different" from information previously available.[33] And motions to reopen "must address a significant safety or environmental issue."[34] To make the latter demonstration, a movant must show that the issue is so "significant" as to paint a "*seriously* different picture of the environmental landscape."[35] The Motion does none of these things.

Movants claim satisfaction of these requirements based on certain language in the following paragraph that appears in a "Background" discussion regarding "Design-Basis Accidents" in Appendix F of the DSEIS:

> Design-basis accidents are postulated accidents that a nuclear facility must be designed and built to withstand without loss to the systems, structures, and components necessary to ensure public health and safety. Planning for design-basis accidents ensures that the proposed plant can withstand normal transients (e.g., rapid changes in the reactor coolant system temperature or pressure, or rapid changes in reactor power), as well as a broad spectrum of postulated accidents without undue hazard to the health and safety of the public. Many of these design-basis accidents may occur, but are unlikely to occur, even once during the life of the plant; nevertheless, carefully evaluating each design-basis accident is crucial to establishing the design basis for the preventive and mitigative safety systems of the proposed nuclear power plant. Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of 5 Production and Utilization Facilities," and 10 CFR Part 100, "Reactor Site Criteria," describe the 6 NRC's acceptance criteria for design-basis accidents.[36]

More specifically, Movants rely on the following selective quotation of a partial sentence as the basis for their Motion: "Many of these design-basis accidents may occur, but are unlikely to

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33 10 C.F.R. § 2.309(c)(1)(i)-(ii).

34 *Id*. § 2.326(a)(2).

35 *Private Fuel Storage, LLC* (Indep. Spent Fuel Storage Installation), CLI-06-3, 63 NRC 19, 28 (2006) (quotations and citation omitted) (emphasis in original); *see also Entergy Nuclear Generation Co.* (Pilgrim Nuclear Power Station) LBP-11-23, 74 NRC 287, 301 (2011).

36 DSEIS, App. F at F-1 to F-2.

occur, even once during the life of the plant . . . ." According to Movants, this phrase reveals that the NRC Staff has departed from decades of regulatory precedent and now takes the position that "many" design basis accidents are "expected to occur."[37] But Movants' reading of the selected text is baseless—and plainly incorrect. Indeed, the quoted language states precisely the opposite—that design basis accidents are "*unlikely* to occur, *even once* during the life of the plant." Far from representing a startling new position that "many" such accidents are "expected," as Movants claim, this background discussion squarely confirms that they are highly "unlikely."

Movants also claim that the "NRC has never stated, in either the context of NEPA or its Atomic Energy Act-based regulatory scheme, that it *expects* design-basis accidents to occur."[38] This may be true, but Movants are incorrect to imply that the NRC has done so in the DSEIS.

Even assuming *arguendo* that Movants' reading of the DSEIS were correct—and it clearly is not—Movants offer no comprehensible explanation as to how that partial sentence in the "Background" section of the DSEIS discussion of "Design Basis Accidents" is remotely relevant, much less "material," to the previously-rejected contention. As is clear from the record of this proceeding, the issues raised in that contention related to *beyond* design basis external events (which is covered by a separate "Severe Accidents" discussion in the GEIS, not the "Design Basis Accidents" Movants discuss here). Any purported connection certainly remains unexplained here.

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37 Motion at 5.

38 *Id.* at 6 (emphasis added). *See also id.* at 11 (arguing that there is a significant environmental issue because the amended basis "challenge[d] the legal validity of the NRC's key rationale for refusing to address the environmental significance of the 2011 Mineral Earthquake" and "by challenging a self-serving attempt by the NRC Staff to rewrite the NRC's well-established environmental analysis, inserting a whole new conceptual analytical approach that is neither consistent with the previous versions of the License Renewal GEIS or with the NRC's Atomic Energy Act-based regulatory regime for licensing of nuclear reactors.").

By any reasonable measure, the DSEIS language does not identify any "new" information, much less anything "materially different" from previously available information. And it certainly does not raise a "significant" environmental issue capable of painting a "seriously different picture of the environmental landscape." If anything, it paints the *same* picture presented in the GEIS, which is that design basis accidents are unlikely to occur during the life of an operating plant.[39] At bottom, Movants' flawed interpretation of a partial background statement regarding design basis accidents in the DSEIS is wholly insufficient to justify the "extraordinary" action of reopening the record and admitting an "amended basis" for a previously-rejected contention regarding beyond design basis accidents. Thus, the Motion must be denied for failure to satisfy 10 C.F.R. §§ 2.309(c)(1)(i)-(ii) and 2.326(a)(2).

D. The Motion Fails to Demonstrate That the Board Would Have Reached a Materially Different Result or That the Previously-Rejected Contention Is Somehow Now Admissible

Finally, any motion to reopen "must demonstrate that a materially different result would be or would have been likely had the newly proffered evidence been considered initially."[40] In the present context, this requirement largely parallels the corollary requirement that motions for leave to file new or amended contentions out of time include an admissible contention that meets all of the admissibility criteria in 10 C.F.R. § 2.309(f).[41] Here, Movants do not advance any cogent arguments to make these mandatory demonstrations.

First, Movants fail to even *address* the requirement in 10 C.F.R. § 2.309(c)(4) to proffer an admissible contention that satisfies all six admissibility criteria in 10 C.F.R. § 2.309(f). They

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39 *See also* 1996 GEIS at 5-1 (noting that the likelihood of beyond-design-basis events is "lower" than design basis events, thereby making clear that the GEIS has long acknowledged that the likelihood of design basis accidents, while exceptionally low, is not absolute zero as Movants appear to suggest).

40 10 C.F.R. § 2.326(a)(3).

41 *Id*. § 2.309(c)(4).

neither acknowledge the admissibility criteria nor explain how the previously-rejected contention, as supplemented by the "amended basis," somehow satisfies each and every one of them. Movants bear the burden of demonstrating satisfaction of this requirement,[42] yet make no *attempt* to provide that demonstration here.

Second, the only claim Movants offer towards satisfaction of the requirement to demonstrate a "materially different result" is that their amended basis would "prevent the Commission from relying on a legally erroneous rationale to excuse the Staff from conducting a complete and thorough evaluation of the environmental significance of the Mineral Earthquake[.]"[43] The meaning of this statement is not clear to Applicants, and Movants certainly offer no explanation.

What *is* clear, however, is that Movants have not remotely demonstrated the likelihood of a "*different* result" (much less a material one) because they fail entirely to address the *original* result in LBP-21-4. Movants neither: acknowledge nor engage with the multitude of reasons the Board denied the contention in the first place;[44] offer a single explanation as to how the Board's analysis purportedly would change based on Movants' flawed interpretation of the DSEIS; nor explain how those revised analyses somehow would be sufficient to alter the Board's ultimate contention admissibility conclusion. And, as with their original petition, Movant's provide no supporting factual or expert opinion to support their motion.

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42 *Oyster Creek*, CLI-09-7, 69 NRC at 287 (internal quotations and citation omitted).

43 Motion at 12.

44 *See, e.g.*, *North Anna*, LBP-21-04, 93 NRC at __ (slip op. at 32-33) (finding that because Applicants' "ER did consider the environmental effects of design-basis and beyond-design-basis earthquakes in the SLR term and determined . . . that there was no post-2013 Revised GEIS new and significant information to incorporate into the ER that would change the GEIS conclusion that the environmental impacts of design-basis and severe accidents would be small . . . Petitioners' generalized claims of missing or inadequate discussion, unsupported by any relevant technical analysis, fails to cross the threshold of providing sufficient factual or expert opinion support or of establishing a material dispute with the application[.]") (citations omitted).

Indeed, given the principle that "licensing boards admit contentions, not bases[,]"[45] it is unclear how either standard could be satisfied here. The Motion seeks only to "amend the basis statement" of the Movants' contention,[46] *not* the contention itself.[47] Because the Board rejected the *contention*—and "it is the admissibility of the *contention*, not the *basis*, that must be determined"[48]—then, as a logical matter, an amended *basis statement* lacks the capacity to alter the admissibility determination. Movants certainly have not demonstrated otherwise. Accordingly, the Motion must be rejected for the additional reason that it fails to satisfy 10 C.F.R. §§ 2.309(c)(4) and 2.326(a)(3).

IV. CONCLUSION

For the reasons set forth above, the Commission should deny the Motion for failure to meet the strict requirements of 10 C.F.R. §§ 2.326 and 2.309(c).

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45 *Duke Energy Carolinas, LLC* (William States Lee III Nuclear Station, Units 1 & 2), LBP-08-17, 68 NRC 431, 447 (2008) (citing *Entergy Nuclear Vt. Yankee* (Vt. Yankee Nuclear Power Station), LBP-04-28, 60 NRC 548, 557 (2004)). *See also NextEra Energy Seabrook, LLC* (Seabrook Station, Unit 1), LBP-11-02, 73 NRC 28, 56 (2011) (same).

46 Motion at 1.

47 *See id.* at 7 ("[Movants] do not change their contention").

48 *Lee*, LBP-08-17, 68 NRC at 447 (quoting *Vt. Yankee*, LBP-04-28, 60 NRC at 557) (emphasis added).

Respectfully submitted,

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Dated in Washington, D.C.
this 25th day of October 2021

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, a copy of "Applicants' Answer Opposing Motion to Amend Contention Out of Time and Motion to Reopen the Record by Beyond Nuclear, Sierra Club, and Alliance for Progressive Virginia" was filed through the e-Filing system.

Signed (electronically) by Ryan K. Lighty

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