

UNITED STATES OF AMERICA
BEFORE THE U.S. NUCLEAR REGULATORY COMMISSION

)	
In the Matter of)	
Virginia Electric Power Co.)	Docket Nos. 50-338/339 SLR
North Anna Power Station Units 1 & 2)	
)	

**MOTION BY BEYOND NUCLEAR AND SIERRA CLUB
FOR WITHDRAWAL OF PREMATURE HEARING NOTICE**

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323 and the Commission’s decision in *Duke Energy Carolinas, LLC* (Oconee Nuclear Station, Units 1, 2, and 3), *et al.*, CLI-22-3, 95 N.R.C. 40 (2022) (“CLI-22-3”), Petitioners Beyond Nuclear and the Sierra Club request the Commissioners of the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”) to order the Secretary of the Commission to withdraw the prematurely issued hearing notice issued in this proceeding for subsequent license renewal (“SLR”) of Virginia Electric and Power Co’s (“VEPCO’s”) operating licenses for North Anna Power Station Units 1 and 2.¹

PETITIONERS’ STANDING

Petitioners were found to have representational standing in the previous SLR proceeding for North Anna Units 1 and 2. *Virginia Electric and Power Co.* (North Anna Power Station, Units 1 and 2), LBP-21-4, 93 N.R.C. 179, 196-97 (2021). They continue to have representational standing to make this request for delay of the hearing process, as demonstrated by the attached updated declarations of Beyond Nuclear member Jerry Rosenthal and Sierra Club member John Cruickshank.

¹ See Virginia Electric and Power Company; North Anna Power Station Units 1 and 2; Draft Environmental Impact Statement; Request for comment; public comment meetings; opportunity to request a hearing and to petition for leave to intervene, 89 Fed. Reg. 960 (Jan. 8, 2024).

BACKGROUND

This proceeding arises from two 2024 decisions by the Commission: *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 3 and 4), CLI-22-2, 95 N.R.C. 26 (2024) (“CLI-22-2”) and CLI-22-3. In CLI-22-2, the Commission found that 10 C.F.R. § 51.53(c)(3) applies only to initial license renewal and therefore SLR applications must consider environmental impacts designated as “Category 1” in Appendix B to 10 C.F.R. Part 51. In CLI-22-3, the Commission then set forth procedures for preparing an updated Generic Environmental Impact Statement (“GEIS”) for subsequent license renewal as well as site-specific environmental impact statements (“EISs”) for licensees in five pending SLR proceedings who did not wish to await the publication of a GEIS.² The Commission also dismissed all motions and appeals in the then-pending SLR proceeding for North Anna Units 1 and 2 and terminated the proceeding.³

“[I]n accordance with” CLI-22-2 and CLI-22-3, the NRC staff has prepared a site-specific Draft Environmental Impact Statement (“DEIS”) for subsequent renewal of the North Anna operating licenses.⁴ And in the January 8, 2024, Federal Register notice, the NRC Staff has offered both an opportunity to comment on the Draft EIS and the opportunity to request a hearing.⁵ As discussed below, however, only the notice of opportunity to comment on the Draft EIS is appropriate at this time. Pursuant to CLI-22-3, the hearing notice is premature and should be withdrawn.

² 95 N.R.C. at 42. These pending applications are for North Anna Units 1 and 2, Oconee Units 1, 2, and 3, and Peach Bottom Units 2 and 3, Turkey Point Units 3 and 4, and Point Beach Units 1 and 2.

³ 95 N.R.C. at 43.

⁴ 89 Fed. Reg. at 961.

⁵ 89 Fed. Reg. at 960.

DISCUSSION

In CLI-22-3, the Commission established special procedures for the conduct of site-specific environmental reviews for the five nuclear plants covered by that decision, should any of those licensees choose to undergo a site-specific review. In establishing those specific procedures, the Commission contemplated that hearings on site-specific EISs for SLR applications -- including the SLR application for North Anna -- must await completion of the entire environmental review process:

All of the pending matters include a challenge to the sufficiency of the Staff's environmental review. Through the orders we issue today, we acknowledge that the environmental review is incomplete in these cases and are separately directing the Staff to cure the NEPA deficiencies. The public, including the intervenors and petitioners in the above-captioned proceedings, and applicants will be afforded an opportunity to comment on the upcoming revision to the GEIS and the associated rulemaking through the normal agency processes. [footnote omitted] The public will also have an opportunity to comment during the development of the site-specific environmental impact statements. *After each site-specific review is complete, a new notice of opportunity for hearing — limited to contentions based on new information in the site-specific environmental impact statement — will be issued.*⁶

Consistent with this requirement, the Commission also stated:

The public, including the intervenors and petitioners in the above-captioned proceedings, and applicants will be afforded an opportunity to comment on the upcoming revision to the GEIS and the associated rulemaking through the normal agency processes. [footnote omitted] The public will also have an opportunity to comment during the development of the site-specific environmental impact statements. *After each site-specific review is complete, a new notice of opportunity for hearing — limited to contentions based on new information in the site-specific environmental impact statement — will be issued.* This approach will not require intervenors to meet heightened pleading standards in 10 C.F.R. § 2.309(c) for newly filed or refiled contentions.⁷

The Commission's repeated use of the word "complete" to describe the status of the environmental review demonstrates unequivocally that the Commission did not intend the

⁶ 95 N.R.C. at 42 (emphasis added).

⁷ *Id.* (emphasis added).

hearing process for these particular site-specific environmental reviews to begin until after publication of a final EIS.

By issuing a hearing notice in the middle of the environmental review process, the NRC Staff violated the requirements of CLI-22-3. Therefore, Petitioners ask the Commission to correct the erroneously premature publication of the hearing notice by ordering the Secretary to withdraw it. Only the notice of opportunity to comment on the Draft EIS should remain.

Respectfully submitted,

 /signed electronically by/

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.
1725 DeSales Street N.W., Suite 500
Washington, D.C. 20036
240-393-9285
dcurran@harmoncurran.com

January 18, 2024

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

I certify that on January 17, 2024, I contacted counsel for VEPCO and the NRC Staff in a sincere effort to resolve the issues raised in this motion. Counsel for VEPCO stated that VEPCO opposes the motion and reserves the right to respond. Counsel for the Staff stated that the Staff opposes this motion and will respond to it when filed.

 /signed electronically by/

Diane Curran

UNITED STATES OF AMERICA
BEFORE THE U.S. NUCLEAR REGULATORY COMMISSION

_____)
In the Matter of)
Virginia Electric Power Co.) Docket Nos. 50-338/339 SLR
North Anna Power Station Units 1 & 2)
_____)

UPDATED DECLARATION BY JERRY ROSENTHAL

Under penalty of perjury, I, Jerry Rosenthal, declare as follows:

1. On December 6, 2020, I submitted a declaration in the previous subsequent license renewal proceeding for the North Anna nuclear power station Units 1 and 2. A copy of that declaration is attached.
2. The statements I made in the attached declaration of December 6, 2020 continue to be correct.
3. Therefore, I have authorized Beyond Nuclear, Inc. to represent my interests in the current subsequent license renewal proceeding for North Anna Units 1 and 2.

Electronically signed pursuant to 10 C.F.R. § 2.304(d) by:

Jerry Rosenthal

January 17, 2024

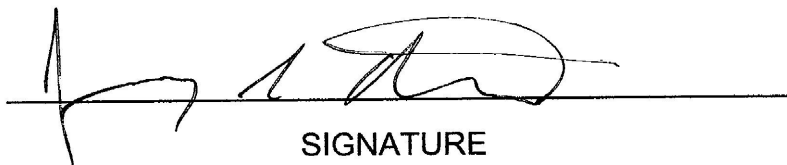
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

IN THE MATTER OF)
VIRGINIA ELECTRIC POWER COMPANY) DOCKETS 05000338 & 05000339
NORTH ANNA POWER STATION)
UNITS 1 & 2)

DECLARATION OF JERRY ROSENTHAL

Under penalty of perjury, I, Jerry Rosenthal, declare as follows:

- 1) My name is Jerry Rosenthal. I am a member of Beyond Nuclear, Inc.
- 2) I have two properties in the vicinity of the nuclear power station where one property is located at 877 Holland Creek Road, Louisa, VA, 23093 and my principle place of residency is located at 1213 Belleview Avenue, Charlottesville, VA, 22091.
- 3) My home is located within the 50-mile emergency planning zone (EPZ) of the North Anna Nuclear Power Station, for which Virginia Electric Power Company has submitted an application to the US Nuclear Regulatory Commission for the Subsequent License Renewal of its operating license. Both North Anna units have previously received a 20-year license extension on their original 40-year operating licenses period, which now expire in 2038 and 2040, respectively.
- 4) Based on the historical experience of nuclear power stations, I believe that these facilities are inherently dangerous. Continued operations of North Anna Nuclear Power Station Units 1 and 2 for an additional 20-years beyond 2038 and 2040 could cause a severe nuclear accident in the reactor(s) and/or irradiated fuel storage pool(s) thereby causing death, injury, illness, dislocation, and economic damage to me and my family. It could also cause devastating environmental damage.
- 5) I believe that Virginia Electric Power Company's application to extend operations of North Anna Units 1 and 2 from 60- to 80-years is inadequate to reasonably assure the protection of my health, safety and the environment. Therefore, I have authorized Beyond Nuclear to represent my interests in this proceeding.


SIGNATURE


DATE

UNITED STATES OF AMERICA
BEFORE THE U.S. NUCLEAR REGULATORY COMMISSION

_____))
In the Matter of))
Virginia Electric Power Co.) Docket Nos. 50-338/339 SLR
North Anna Power Station Units 1 & 2))
_____))

UPDATED DECLARATION BY JOHN A. CRUICKSHANK

Under penalty of perjury, I, John A. Cruickshank, declare as follows:

1. On December 8, 2020, I submitted a declaration in the previous subsequent license renewal proceeding for the North Anna nuclear power station Units 1 and 2. A copy of that declaration is attached.
2. The statements I made in the attached declaration of December 8, 2020 continue to be correct.
3. Therefore, I have authorized the Sierra Club to represent my interests in the current subsequent license renewal proceeding for North Anna Units 1 and 2.

Electronically signed pursuant to 10 C.F.R. § 2.304(d) by:

John A. Cruickshank

January 17, 2024

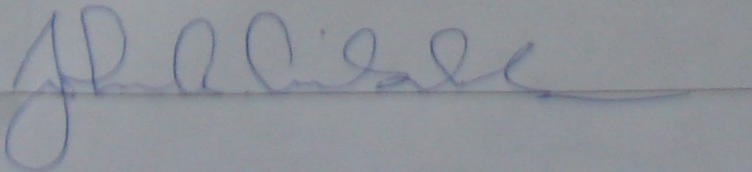
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

_____)
In the Matter of)
Virginia Electric Power Co.) Docket Nos. 05000338 & 05000339
North Anna Atomic Power Station,)
Units 1 & 2)
_____)

DECLARATION OF John A. Cruickshank

Under penalty of perjury, John A. Cruickshank declares as follows:

- 1) My name is John A. Cruickshank. I am a member of the Sierra Club.
- 2) I live at 700 Spring Lake Drive, Earlysville, VA, 22936.
- 3) My home is located within the 50-mile emergency planning zone (EPZ) of the North Anna Nuclear Power Station, for which Virginia Electric Power Company has submitted an application to the US Nuclear Regulatory Commission for the Subsequent License Renewal of its operating license. Both North Anna units have previously received a 20-year license extension on their original 40-year operating licenses, which now expire in 2038 and 2040, respectively.
- 4) Based on the historical experience of nuclear power stations, I believe that these facilities are inherently dangerous. Continued operations of North Anna Nuclear Power Station Units 1 and 2 for an additional 20 years beyond 2038 and 2040 could cause a severe nuclear accident in the reactor(s) and/or irradiated fuel storage pool(s) thereby causing death, injury, illness, dislocation, and economic damage to me and my family. It could also cause devastating environmental damage.
- 5) I believe that Virginia Electric Power Company's application to extend operations of North Anna Units 1 and 2 from 60 to 80 years is inadequate to reasonably assure the protection of my health, safety and the environment. Therefore, I have authorized the Sierra Club to represent my interests in this proceeding.



12/8/20
Date

CERTIFICATE OF SERVICE

I certify that on January 18, 2024, I posted Motion by Beyond Nuclear and Sierra Club for Withdrawal of Premature Hearing Notice and the attached updated declarations of Jerry Rosenthal John Cruickshank on the NRC's Electronic Information Exchange.

 /signed electronically by/
Diane Curran