

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

Michael M. Gibson, Chair
Dr. Gary S. Arnold
Nicholas G. Trikouros

In the Matter of:

VIRGINIA ELECTRIC AND POWER
COMPANY

(North Anna Power Station Units 1 & 2)

Docket Nos. 50-338-SLR-2
50-339-SLR-2

ASLBP No. 24-984-02-SLR-BD01

May 7, 2024

MEMORANDUM AND ORDER

(Granting Joint Intervenors' Motion to Amend Contention 3)

This proceeding concerns the twenty-year subsequent renewal of the licenses for North Anna Power Station Units 1 and 2, which currently authorize Virginia Electric and Power Company (VEPCO) to operate North Anna Power Station, Units 1 and 2, located in Louisa County, Virginia, until, respectively, April 1, 2038 and August 21, 2040. On January 8, 2024, a notice was published in the Federal Register announcing the opportunity to request a hearing on the draft site-specific environmental impact statement issued by the Nuclear Regulatory Commission Staff (NRC Staff).¹ Beyond Nuclear, Inc. (Beyond Nuclear) and the Sierra Club, Inc. (Sierra Club) submitted a hearing request through the agency's E-Filing system on March 28, 2024.² On April 3, 2024, this Licensing Board was established to rule on standing and contention admissibility matters and to preside at any hearing.³

¹ See 89 Fed. Reg. 960 (Jan. 8, 2024).

² See Hearing Request and Petition to Intervene by Beyond Nuclear and the Sierra Club (Mar. 28, 2024).

³ See Establishment of Atomic Safety and Licensing Board (April 3, 2024).

Subsequently, on April 11, 2024, Beyond Nuclear and the Sierra Club submitted a motion to amend their Contention 3 to “cite a recent report by the General Accounting Office (“GAO”): GAO-106326, “Nuclear Power Plants: NRC Should Take Actions to Fully Consider the Potential Effects of Climate Change (April 2024).”⁴ More specifically, Petitioners seek to amend Section B, the Basis Statement for Contention 3, by adding several “observations and conclusions that support Petitioner’s Contention 3.”⁵ Petitioners also submit that they satisfy the “good cause” standard in 10 C.F.R. § 2.309(c)(i)–(iii) for their amended contention, namely that (1) the information upon which the filing is based was not previously available, (2) the information upon which the filing is based is materially different from information previously available, and (3) the filing has been submitted in a timely fashion based on the availability of the subsequent information.⁶

In its Answer, VEPCO opposes the motion and argues that it should be denied for a lack of demonstrating good cause.⁷ While the NRC Staff does not directly oppose the motion, it maintains that the amendment still does not make Contention 3 admissible under 10 C.F.R. § 2.309(f)(1)(i)–(vi).⁸

The Board finds that, contrary to VEPCO’s assertion, Petitioners have satisfied the “good cause” standard in 10 C.F.R. § 2.309(c)(i)–(iii), as the GAO Report was issued after the petition was filed and so Petitioners could not have included the information therein in their

⁴ See Motion by Beyond Nuclear and the Sierra Club to Amend Their Contention 3 Regarding Failure to Consider Environmental Impacts of Climate Change at 1 (Apr. 11, 2024).

⁵ Id. at 3.

⁶ See id. at 6–7.

⁷ See Applicants’ Answer to the Hearing Request and Petition to Intervene and Motion for Leave to Amend Contention 3 Filed by Beyond Nuclear and Sierra Club at 42 (May 6, 2024).

⁸ See NRC Staff Answer in Opposition to Petition for Leave to Intervene Filed by Beyond Nuclear Inc. and Sierra Club, Inc. at 33–44 (May 6, 2024).

basis statement. Accordingly, the Board grants the Petitioners' motion to amend their Contention 3.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chair
ADMINISTRATIVE JUDGE

/RA/

Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

/RA/

Nicholas G. Trikouros
ADMINISTRATIVE JUDGE

Rockville, Maryland

May 7, 2024

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
VIRGINIA ELECTRIC AND POWER COMPANY) Docket Nos. 50-338-SLR-2
) 50-339-SLR-2
(North Anna Power Station, Units 1 and 2))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Granting Joint Intervenor's Motion to Amend Contention 3)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail.resource@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001
Michael M. Gibson, Chair, Administrative
Judge
Nicholas G. Trikouros, Administrative Judge
Dr. Gary S. Arnold, Administrative Judge
Emily Newman, Law Clerk
E-mail: michael.gibson@nrc.gov
nicholas.trikouros@nrc.gov
gary.arnold@nrc.gov
emily.newman@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
David E. Roth, Esq.
Sherwin E. Turk, Esq.
Susan H. Vrahoretis, Esq.
Reuben I. Siegman, Esq.
Caitlin R. Byrd, Paralegal
Georgiann E. Hampton, Paralegal
E-mail: david.roth@nrc.gov
sherwin.turk@nrc.gov
susan.vrahoretis@nrc.gov
reuben.siegman@nrc.gov
caitlin.byrd@nrc.gov
georgiann.hampton@nrc.gov

Counsel for Virginia Electric and Power
Company
Morgan, Lewis & Bockius, LLC
1111 Pennsylvania Ave NW
Washington, DC 20004
Paul Bessette, Esq.
Scott Clausen, Esq.
Ryan K. Lighty, Esq.
E-mail: paul.bessette@morganlewis.com
scott.clausen@morganlewis.com
ryan.lighty@morganlewis.com

**Virginia Electric and Power Company (North Anna Power Station, Units 1 and 2, Docket Nos. 50-338-SLR-2 and 50-339-SLR-2)
MEMORANDUM AND ORDER (Granting Joint Intervenors' Motion to Amend Contention 3)**

Counsel for Beyond Nuclear and
Sierra Club
Harmon, Curran, Spielberg, &
Eisenberg, LLP
1725 DeSales Street, N.W.
Suite 500
Washington, DC 20036
Diane Curran
E-mail: dcurran@harmoncurran.com

Beyond Nuclear
Reactor Oversight Project
7304 Carroll Avenue #182
Takoma Park, MD 20912
Paul Gunter
E-mail: paul@beyondnuclear.org

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of May 2024.