

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chair
Dr. Sue H. Abreu
Dr. Arielle J. Miller

In the Matter of

DUKE ENERGY CAROLINAS, LLC

(Oconee Nuclear Station, Units 1, 2, and 3)

Docket Nos. 50–269-SLR-2, 50–270-SLR-2, and 50–287-SLR-2

ASLBP No. 24-985-03-SLR-BD01

June 12, 2024

MEMORANDUM AND ORDER
(Scheduling Initial Prehearing Conference)

In this 10 C.F.R. Part 54 subsequent license renewal (SLR) proceeding for Oconee Nuclear Station, Units 1, 2, and 3 (ONS), with the submission of the June 7, 2024 reply of petitioners Beyond Nuclear, Inc., and the Sierra Club, Inc., (jointly Petitioners) to the May 31, 2024 answers of applicant Duke Energy Carolinas, LLC, (Duke) and the Nuclear Regulatory Commission (NRC) Staff, the briefing process contemplated under 10 C.F.R. § 2.309(a), (i) regarding Petitioners' April 29, 2024 hearing petition, as corrected, is complete.¹ The Licensing Board indicated previously that it was considering convening an initial prehearing

¹ See Reply by [Petitioners] to Oppositions to Their Hearing Request and Petition to Intervene (June 7, 2024); see also Hearing Request and Petition to Intervene by [Petitioners] (corrected May 1, 2024) [hereinafter Corrected Hearing Request]; [Duke's] Answer Opposing the Hearing Request and Petition to Intervene Filed by [Petitioners] (May 31, 2024) [hereinafter Duke Answer]; NRC Staff Answer to Hearing Request and Petition to Intervene by [Petitioners] (May 31, 2024) [hereinafter NRC Staff Answer].

conference/oral argument in this proceeding during late June or early July 2024.² Based on the scheduling information provided by the participants, the Board will conduct an initial prehearing conference in this proceeding in the Atomic Safety and Licensing Board Panel's hearing room, located on the third floor of the Two White Flint North Building, 11545 Rockville Pike, Rockville, Maryland, on Monday, June 24, 2024, beginning at 1:30 p.m. Eastern Time (ET) to hear oral argument regarding the admissibility of Petitioners' three proffered contentions.

Set forth below are details on public access and administrative matters relevant to the conduct of the conference.

A. Public Access Matters

Members of the public may observe the initial prehearing conference in the Licensing Board Panel's Hearing Room.³ Alternatively, members of the public may listen to the oral argument on a listen-only telephone line by dialing (301) 576-2978 and entering passcode 974 482 132#. After successful entry of the passcode, the following message will be heard: "You are not allowed to unmute. To raise your hand press *5." Please note that this listen-only telephone line is not being monitored and pressing "*5" will not allow participation in the conference.

B. Administrative Matters

The oral argument's primary purpose is to allow the Board to obtain information and ask questions concerning the admissibility under the standards outlined in 10 C.F.R. § 2.309(f)(1) of Petitioners' three contentions challenging the sufficiency of aspects of the NRC Staff's February

² See Licensing Board Memorandum and Order (Initial Prehearing Order) (May 8, 2024) at 6–7 (unpublished).

³ Anyone attending the oral argument in-person must enter the NRC's headquarters complex through the main entrance of the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland. Anyone not an NRC employee must have a valid government-issued picture ID and is required to submit to a security screening process to gain entrance to the building. Given the time needed for security screening and to be escorted to the hearing room, anyone attending the oral argument in person should plan to arrive at the main entrance to One White Flint North no later than 1:00 p.m. ET.

2024 National Environmental Policy Act-related draft ONS site-specific supplemental environmental impact statement.⁴ Petitioners will have 30 minutes to present their arguments on the admissibility of their contentions, with the NRC Staff and Duke each allotted 20 minutes to respond. Petitioners may reserve up to 10 minutes of their prescribed time for rebuttal. No other rebuttal will be permitted.

In general, in their oral presentations participants' counsel should not merely repeat arguments presented in their written filings. Instead, they should focus on (1) identifying the principal points in controversy and the information that supports or rebuts their legal and/or factual claims regarding those matters; and (2) responding to the Board's questions. And because the argument is not an evidentiary hearing, the participants should not attempt to introduce evidence during the argument. Consequently, material that has not already been cited in the participants' pleadings before the Board should not be used.

Finally, the Board is amenable to having an appropriately prepared new/junior attorney participate in the argument, including allowing the new/junior attorney to handle a discrete part of the argument, e.g., one of Petitioners' three contentions, with a more experienced lawyer

⁴ See Corrected Hearing Request at 1–2; see also Office of Nuclear Material Safety and Safeguards, NRC, NUREG-1437, Site-Specific Environmental Impact Statement for License Renewal of Nuclear Plants, Supp. 2, Second Renewal, Regarding [SLR] for [ONS] (draft Feb. 2024) (Agencywide Documents Access and Management System Accession No. ML24033A298).

Petitioners' standing, which is not contested, see NRC Staff Answer at 12; Duke Answer at 1 & n.2 (recognizing Petitioners' standing showing, but raising no objection to the sufficiency of that showing), will not be a subject of the argument. In addition, the Staff has indicated it anticipates that a recent Commission-approved final rule adopting a generic environmental impact statement applicable to SLR proceedings will not become effective until September 2024. See NRC Staff Answer, attach. A at 50 (Response to May 21, 2024 Licensing Board Order) (indicating final rule will be transmitted to the Federal Register for publication in August 2024 and will become effective 30 days after issuance). Since this means that in all probability the rule will not be effective so as to apply to Petitioners' hearing request and their contentions prior to the Board making its determination on contention admissibility, see 10 C.F.R. § 2.309(j) (indicating presiding officer shall issue a decision on a hearing request within 45 days of initial prehearing conference), the matter of the rule's applicability to this proceeding also will not be a subject of the argument.

handling the balance of the argument. So that the Board will be apprised of who will be participating in the argument, on or before noon ET on Tuesday, June 18, 2024, each of the three participants should provide Licensing Board Panel administrative assistant Sara Culler, sara.culler@nrc.gov, and the other participants' counsel with an e-mail specifying the name of those counsel who will be making a presentation on behalf of that participant. Additionally, in that e-mail each participant should provide the names of any other individuals that will be attending the prehearing conference in-person on behalf of that participant, which will be used to make entries in the agency's visitor access system to expedite entry into the agency's White Flint North headquarters complex.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland

June 12, 2024

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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) 50-287 SLR-2
)
(Oconee Nuclear Station Units 1, 2, and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Scheduling Initial Prehearing Conference)** have been served upon the following persons by Electronic Information Exchange.

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**Duke Energy Carolinas, LLC (Oconee Nuclear Station Units 1, 2, and 3, Docket Nos. 50-269, 50-270, and 50-287 SLR-2)
MEMORANDUM AND ORDER (Scheduling Initial Prehearing Conference)**

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 12th day of June 2024.