

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Emily I. Krause, Chair  
E. Roy Hawken  
Dr. David A. Smith

In the Matter of

CONSTELLATION ENERGY GENERATION, LLC

(Peach Bottom Atomic Power Station,  
Units 2 and 3)

Docket Nos. 50-277-SLR-2  
50-278-SLR-2

ASLBP No. 25-989-01-SLR-BD01

September 17, 2025

MEMORANDUM AND ORDER  
(Ruling on Hearing Request)

This proceeding concerns the second renewal of the operating licenses for Peach Bottom Atomic Power Station, Units 2 and 3. Beyond Nuclear, Inc. and the Sierra Club, Inc. (Petitioners) filed a hearing request with a single contention, along with a request to hold this proceeding in abeyance. Separately, Petitioners filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit challenging the NRC's 2024 License Renewal Rule and the associated Generic Environmental Impact Statement for License Renewal (2024 GEIS). With their contention, Petitioners seek to ensure that a decision in their favor in the D.C. Circuit is applied to this proceeding. For the reasons set forth below, we deny the hearing request, deny the request to hold the proceeding in abeyance, and terminate the proceeding.

## I. BACKGROUND

In July 2018, Exelon Generation Company, LLC (now Constellation Energy Generation, LLC (Constellation)) applied to renew the operating licenses for Peach Bottom Units 2 and 3 for an additional twenty years, until August 8, 2053, and July 2, 2054, respectively.<sup>1</sup> Because the Peach Bottom licenses have already been renewed once beyond their initial forty-year terms, the application is considered a “subsequent” license renewal.

Beyond Nuclear requested a hearing on the application at that time, and a different licensing board determined that Beyond Nuclear had demonstrated standing but had not proffered an admissible contention.<sup>2</sup> The board therefore denied the hearing request,<sup>3</sup> and Beyond Nuclear appealed the board’s decision.<sup>4</sup> On March 5, 2020, the NRC Staff issued the renewed licenses.<sup>5</sup>

In early 2022, the Commission determined that the Staff’s environmental review of the Peach Bottom subsequent license renewal application did not satisfy the agency’s obligations under the National Environmental Policy Act (NEPA).<sup>6</sup> The Commission concluded that the

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<sup>1</sup> Constellation Energy Generation, LLC; Peach Bottom Atomic Power Station Units 2 and 3; Draft Supplement to Environmental Impact Statement, 90 Fed. Reg. 23,075, 23,076 (May 30, 2025) (Hearing Opportunity Notice).

<sup>2</sup> Exelon Generation Co., LLC (Peach Bottom Atomic Power Station, Units 2 and 3), LBP-19-5, 89 NRC 483, 487 (2019).

<sup>3</sup> Id. at 487, 506.

<sup>4</sup> See Exelon Generation Co., LLC (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-20-11, 92 NRC 335, 336–37, 347 (2020) (affirming LBP-19-5 with respect to Contention 2—the only contention before the Commission on appeal).

<sup>5</sup> Exelon Generation Company, LLC and PSEG Nuclear, LLC; Peach Bottom Atomic Power Station, Units 2 and 3, 85 Fed. Reg. 14,247, 14,247 (Mar. 11, 2020).

<sup>6</sup> Exelon Generation Co., LLC (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-22-4, 95 NRC 44, 45 (2022); see also Duke Energy Carolinas, LLC (Oconee Nuclear Station, Units 1, 2, and 3), CLI-22-3, 95 NRC 40, 41–43 (2022) (addressing the Oconee, Peach Bottom, Turkey Point, Point Beach, and North Anna subsequent license renewal proceedings); Florida Power &

2013 Generic Environmental Impact Statement for License Renewal (2013 GEIS), upon which the Peach Bottom environmental review had relied, did not address the environmental impacts of subsequent license renewal.<sup>7</sup> Accordingly, the Commission directed the Staff to remedy the deficient environmental reviews for Peach Bottom and four similarly situated subsequent license renewal proceedings.<sup>8</sup> Specifically, the Commission directed the Staff to review and update the 2013 GEIS to cover the subsequent license renewal term and to take appropriate action with respect to the pending proceedings.<sup>9</sup> The Commission allowed the subsequent renewed licenses to remain in place, but it directed the Staff to reinstate the prior license expiration dates: August 8, 2033, for Peach Bottom Unit 2, and July 2, 2034, for Peach Bottom Unit 3.<sup>10</sup>

In response to the Commission's direction, the Staff prepared, and in August 2024 the Commission issued, the final License Renewal Rule, which updated the agency's environmental review regulations.<sup>11</sup> The 2024 GEIS, issued at the same time, provides the technical basis for

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Light Co. (Turkey Point Nuclear Generating Units 3 and 4), CLI-22-2, 95 NRC 26, 31 (2022), rev'g CLI-20-3, 91 NRC 133 (2020).

<sup>7</sup> Peach Bottom, CLI-22-4, 95 NRC at 45 & n.9.

<sup>8</sup> See id. at 46 & n.13; Oconee, CLI-22-3, 95 NRC at 41–42.

<sup>9</sup> Oconee, CLI-22-3, 95 NRC at 41–42; see also Staff Requirements—SECY-21-0066—Rulemaking Plan for Renewing Nuclear Power Plant Operating Licenses—Environmental Review (RIN 3150-AK32; NRC-2018-0296) (Feb. 24, 2022) (ADAMS Accession No. ML22053A308).

<sup>10</sup> Constellation Energy Generation, LLC (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-22-7, 95 NRC 116, 122 (2022), aff'g CLI-22-4, 95 NRC at 46.

<sup>11</sup> See Final Rule, Renewing Nuclear Power Plant Operating Licenses—Environmental Review, 89 Fed. Reg. 64,166, 64,167 (Aug. 6, 2024) (2024 License Renewal Rule). The rule applies to applications for the first two renewals of a nuclear power plant's operating license. It sets forth generic ("Category 1") environmental impact findings that must be incorporated into the environmental reviews for these applications, along with any new and significant information. Environmental issues that are not assessed in the rule ("Category 2" issues) must be assessed on a site-specific basis. See 10 C.F.R. pt. 51, subpt. A, app. B; 2024 License Renewal Rule, 89 Fed. Reg. at 64,166, 64,171.

the rule.<sup>12</sup> Petitioners' petition for review of the rule and the 2024 GEIS is pending before the D.C. Circuit.<sup>13</sup>

The Staff incorporated new information from the rule and the 2024 GEIS into a draft supplemental environmental impact statement (Draft SEIS) for the Peach Bottom subsequent license renewal.<sup>14</sup> This proceeding commenced with the Staff's publication of the notice of opportunity to request a hearing on the Draft SEIS.<sup>15</sup> Petitioners' hearing request followed on July 29, 2025, along with the Staff's and Constellation's answers on August 22, 2025, and August 25, 2025, respectively, and Petitioners' reply on September 2, 2025.<sup>16</sup> This Board was established on August 5, 2025.<sup>17</sup>

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<sup>12</sup> See 2024 License Renewal Rule, 89 Fed. Reg. at 64,167, 64,171, 64,187.

<sup>13</sup> Petitioners include their final opening brief before the D.C. Circuit as an attachment to their hearing request. See Hearing Request, Petition to Intervene, and Request to Hold Proceeding in Abeyance by Beyond Nuclear, Inc. and the Sierra Club, Inc. (July 29, 2025) at 1–2 (Hearing Request); id. attach. 3, Petitioners' Final Opening Brief, Beyond Nuclear, Inc. v. NRC, No. 24-1318 (D.C. Cir. June 13, 2025).

<sup>14</sup> See Hearing Opportunity Notice, 90 Fed. Reg. at 23,077 (“[T]he draft supplement includes the . . . evaluation of new information available since the issuance of the 2020 final SEIS. This new information includes the . . . [License Renewal Rule].”).

<sup>15</sup> See id. at 23,076; see also Oconee, CLI-22-3, 95 NRC at 42 (directing the issuance of a new notice of opportunity to request a hearing “[a]fter each site-specific review is complete”); Peach Bottom, CLI-22-7, 95 NRC at 122 (terminating the first Peach Bottom subsequent license renewal proceeding). The Staff published the final supplemental environmental impact statement for Peach Bottom on August 21, 2025. See Constellation Energy Generation, LLC; Peach Bottom Atomic Power Station Units 2 and 3; Final Supplement to Environmental Impact Statement, 90 Fed. Reg. 42,278, 42,278 (Aug. 29, 2025).

<sup>16</sup> Hearing Request at 1; NRC Staff Answer Opposing the Beyond Nuclear and Sierra Club Hearing Request, Petition to Intervene, and Request to Hold Proceeding in Abeyance (Aug. 22, 2025), at 1 (Staff Answer); Constellation's Answer Opposing Beyond Nuclear and Sierra Club's Hearing Request, Petition for Leave to Intervene, and Request to Hold Proceeding in Abeyance (Aug. 25, 2025), at 1; Reply by Beyond Nuclear, Inc. and the Sierra Club, Inc. to Oppositions to Their Hearing Request, Petition to Intervene, and Request to Hold Proceeding in Abeyance (Sept. 2, 2025), at 1.

<sup>17</sup> See Constellation Energy Generation, LLC; Establishment of Atomic Safety and Licensing Board, 90 Fed. Reg. 38,513, 38,514 (Aug. 8, 2025).

## II. ANALYSIS

Petitioners state that the “sole purpose” in submitting their hearing request “is to clearly establish that any decision by the [D.C. Circuit] in the pending Beyond Nuclear [case] . . . that may reverse, vacate or otherwise modify the conclusions of the 2024 License Renewal Rule . . . and the [2024 GEIS] . . . will be applied to the Peach Bottom [subsequent license renewal] proceeding despite the fact that the NRC approved Constellation’s [subsequent license renewal application] in 2020.”<sup>18</sup> In their contention, Petitioners argue that the Peach Bottom Draft SEIS is inadequate to satisfy NEPA because it relies on the 2024 License Renewal Rule and 2024 GEIS, which are themselves purportedly deficient.<sup>19</sup> Petitioners incorporate by reference their comments on the proposed license renewal rule and draft GEIS and the claims in their brief before the D.C. Circuit.<sup>20</sup> Petitioners request that their contention be admitted and the proceeding held in abeyance pending the outcome of the D.C. Circuit litigation on the 2024 License Renewal Rule and 2024 GEIS.<sup>21</sup>

The Commission’s rules of practice in 10 C.F.R. Part 2 govern the admissibility of contentions.<sup>22</sup> Of material significance here is the Commission’s express prohibition on challenges to an agency rule or regulation in an adjudication absent a petition for, and the grant

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<sup>18</sup> Hearing Request at 1–2. Petitioners state that “[i]f the Commission denies admission of [their] contention, . . . [they] intend to appeal the decision to the [D.C. Circuit] and ask the Court to consolidate it with Beyond Nuclear.” Id. at 2 n.2.

<sup>19</sup> Id. at 2, 4–5. According to Petitioners, the 2024 License Renewal Rule and 2024 GEIS fail to assess how climate change and the deterioration of safety components might impact the likelihood and consequences of nuclear reactor accidents during the subsequent license renewal term. Id. at 4–5. Petitioners also argue that the 2024 License Renewal Rule and 2024 GEIS should have categorized climate change as an issue requiring a site-specific, rather than a generic, analysis. Id. at 5.

<sup>20</sup> See id. at 5–6.

<sup>21</sup> Id. at 6.

<sup>22</sup> See 10 C.F.R. §§ 2.309(f), 2.335(a).

of, a waiver.<sup>23</sup> At its core, Petitioners' contention challenges the 2024 License Renewal Rule and 2024 GEIS, and for that reason, we conclude that it is inadmissible.<sup>24</sup>

The Commission rejected a substantively similar contention in the Callaway license renewal proceeding.<sup>25</sup> In that proceeding, a petitioner sought to challenge the environmental impact statement for the Callaway plant, arguing that it was "inherently flawed" because it relied on an NRC rule and the analysis underpinning that rule, both of which the petitioner had challenged in federal court.<sup>26</sup> The petitioner's stated reason for filing its contention was "to ensure that any court decision resulting from its . . . challenge to [the rule] . . . also [would] be applied to the individual Callaway proceeding."<sup>27</sup> The Commission concluded that the

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<sup>23</sup> See id. § 2.335(a); Exelon Generation Co., LLC (Limerick Generating Station, Units 1 and 2), CLI-12-19, 76 NRC 377, 380 (2012).

<sup>24</sup> Because Petitioners' contention is plainly inadmissible, we need not address standing. See 10 C.F.R. § 2.309(a); PPL Susquehanna, LLC (Susquehanna Steam Electric Station, Units 1 and 2), CLI-15-8, 81 NRC 500, 503 n.19 (2015) ("Because [petitioner's] contentions all fall far short of our contention admissibility standards, we need not address his standing to intervene."). But we observe that in every subsequent license renewal proceeding to date, licensing boards have applied, without Commission objection, the fifty-mile proximity presumption that serves as a shorthand for the agency's standing analysis in certain proceedings. See, e.g., Peach Bottom, CLI-20-11, 92 NRC at 336 n.6 (acknowledging the board's standing analysis in the first Peach Bottom subsequent license renewal proceeding). From the face of Petitioners' hearing request and the declarations from their members, Petitioners appear to have made a case for application of the proximity presumption in this proceeding. See Hearing Request at 4, attach. 1 & 2 (asserting that Petitioners' representational standing is demonstrated by the declarations of their members, which provide home addresses within ten miles of the plant and raise concerns regarding the NRC's NEPA compliance). See Calvert Cliffs 3 Nuclear Project LLC, and UniStar Nuclear Operating Services, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-09-20, 70 NRC 911, 915–18 & n.28 (2009) (affirming the Commission's use of the proximity presumption in certain construction and operating license proceedings and rejecting a contention-based standing analysis).

<sup>25</sup> Union Electric Co. (Callaway Plant, Unit 1), CLI-15-11, 81 NRC 546 (2015).

<sup>26</sup> Id. at 548–49.

<sup>27</sup> Id.

contention was inadmissible because it impermissibly challenged an agency regulation.<sup>28</sup> The rationale in Callaway controls here and mandates that we reject Petitioners' contention.<sup>29</sup>

Because we do not admit Petitioners' contention, their request to hold the proceeding in abeyance is moot.

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<sup>28</sup> Id. at 549.

<sup>29</sup> Petitioners express concern that the Commission will be unable to take appropriate action to address a decision favorable to Petitioners in the D.C. Circuit if this proceeding is closed. See Hearing Request at 7 (citing Peach Bottom, CLI-22-4, 95 NRC at 46; Turkey Point, CLI-22-2, 95 NRC at 30). They assert that language in the Commission's Peach Bottom and Turkey Point decisions could be read to suggest "that after an operating license has been issued or [renewed], [the Commission] would not necessarily revisit the decision unless a related adjudicatory or other administrative proceeding remained open." Id. We note, however, that the Staff, referencing the Commission's decision in Callaway, has taken the position that the Commission will ensure compliance with NEPA whether the proceeding is open or closed. See Staff Answer at 13 (asserting that "regardless of whether this proceeding is open or closed, the injuries the Petitioners seek to avoid will not come about" because "as the Commission has stated, '[s]hould the D.C. Circuit find any infirmities in the . . . GEIS, [the Commission] would take appropriate action consistent with the court's direction.'" (quoting Callaway, CLI-15-11, 81 NRC at 549–50) (alterations in original)).

### III. CONCLUSION

For these reasons, we (1) deny the hearing request for failure to raise an admissible contention; (2) deny as moot the request to hold the proceeding in abeyance; and (3) terminate the proceeding.

Any appeals from this memorandum and order must be taken in accordance with 10 C.F.R. § 2.311.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

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Emily I. Krause, Chair  
ADMINISTRATIVE JUDGE

*/RA/*

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E. Roy Hawkens  
ADMINISTRATIVE JUDGE

*/RA/*

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Dr. David A. Smith  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 17, 2025



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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| In the Matter of                       | ) |                          |
|  | ) |                          |
| CONSTELLATION ENERGY GENERATION, LLC.) | ) | Docket Nos. 50-277-SLR-2 |
|  | ) | 50-278-SLR-2             |
| (Peach Bottom Atomic Power Station,    | ) |                          |
| Units 2 and 3)                         | ) |                          |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Ruling on Hearing Request) (LBP-25-07)** have been served upon the following persons by Electronic Information Exchange or by e-mail.

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PEACH BOTTOM, UNITS 2 AND 3, Docket Nos. 50-277-SLR-2 and 50-278-SLR-2  
**MEMORANDUM AND ORDER (Ruling on Hearing Request) (LBP-25-07)**

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 17<sup>th</sup> day of September 2025.