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

Before Administrative Judges:
Emily I. Krause, Chair
Dr. David A. Smith
Dr. Arielle J. Miller

In the Matter of:	)	
	)	
GLOBAL LASER ENRICHMENT, LLC	)	Docket No. 70-7033 ML
Paducah Laser Enrichment Facility	)	
	)	June 19, 2026

KENTUCKY RESOURCES COUNCIL, INC.'S ANSWER TO MOTION OF GLOBAL LASER ENRICHMENT, LLC TO STRIKE

Comes the Petitioner, Kentucky Resources Council, Inc. ("Council") by counsel, and pursuant to 10 C.F.R. 2.309, files this *Answer to Motion of Global Laser Enrichment to Strike* ("GLE Motion") in the above-captioned proceeding.

On June 8, 2026, in accordance with the scheduling order entered in this proceeding, the Council filed *Kentucky Resources Council, Inc.'s Reply in Support of Request for Hearing* ("*KRC Reply*") in this matter. On June 11, 2026, GLE filed *Global Laser Enrichment LLC's Motion to Strike Portions of Kentucky Resources Council, Inc.'s June 8, 2026 Reply.* According to the GLE Motion, the *KRC Reply* "impermissible raises new arguments outside of the scope of a reply," offers "untimely supplements to its contentions" and "inaccurately quotes its own Petition in violation of 10 C.F.R. [Section] 2.323(d)." *GLE Motion* at 1-2.

Respectfully, GLE's Motion should be rejected. Nothing in the *KRC Reply* raises any new contentions or arguments that were not already framed within the four corners of the *Petition for Hearing*. KRC's Reply responded directly to arguments posed by both the NRC

Staff, (which has neither joined in nor taken a position on the GLE Motion), and GLE. KRC's Reply was squarely addressed to the arguments raised by both GLE and NRC Staff both with respect to standing and the contentions. It was not intended or needed to bolster the original petition, which provided ample facts to support the preliminary threshold of 10 C.F.R. 2.309(a), of showing standing under the provisions of paragraph (d) of 10 C.F.R. 2.309 and "having proposed at least one admissible contention that meets the requirements of paragraph (f) of this section." **No** new bases for standing, and **no** new contentions or arguments were raised; rather, KRC replied to arguments and objections posed by NRC Staff and GLE.

A Petitioner need not prove the contentions at the admissibility stage, and instead the petitioner need only "proffer at least some minimal factual and legal foundation in support of their contentions." *Duke Energy Corp.,* 49 NRC at 334. 10 C.F.R. 2.309(f) does not provide for an adjudication on the merits of the contention at this preliminary stage and is not to be construed rigidly as a barrier to hearing, as KRC noted in the *KRC Reply.* The *Petition for Hearing* cleared that bar and provided allegations sufficient, if true, to demonstrate standing.

There **was** one innocent misquotation of a portion of one paragraph of the *Petition for Hearing,* for which KRC apologizes to this tribunal and the parties, but that misquotation had no effect on the arguments presented in the *KRC Reply.* KRC had already preserved in the original petition the question of whether the requested license could lawfully be issued; an issuance that occurs under the applicable law and all applicable regulations adopted by the agency.

KRC responds to each ground for GLE's motion in turn below.[1]

1. **Whether KRC Satisfied the "Proximity-Plus" Criteria Was Raised Initially By GLE and NRC Staff and KRC Properly Replied to the Arguments**

[1] KRC respectfully forswears the invitation to respond in like kind to the provocative rhetoric in the motion concerning KRC's motivations and intentions. Such flourishes add nothing to the record needed to support the licensing decision.

GLE first complains that "the Council neglected to assert 'proximity-plus' standing for Mr. Donham and suggested traditional standing through unsupported, hypothetical scenarios regarding potential radiological impacts to Mr. Donham and his property" and has cited to the GLE PLEF Environmental Report and draft Environmental Impact Statement in order to "remedy this shortcoming." GLE appears to believe that the application of the "proximity-plus" presumption must be pled to be considered or applied by the Commission, when that is not the case. The "proximity-plus" presumption was created by the Commission for its own use in determining under what circumstances the regulatory or constitutional criteria for standing would be *presumed.* The requirements for "standing" are set forth in 10 C.F.R. 2.309(d)(1) and nowhere is it required that a petition for hearing to state that the applicant seeks to have the Commission apply the "proximity-plus" standard, as a prerequisite to the Commission considering whether the facts justify the application of the presumption concerning the standing of the petitioner. Nor does "constitutional standing" require a petitioner to plead entitlement to the application of the presumption.

The *KRC Reply* discussed the application of that doctrine in this instance **because it had been raised both by KRC Staff and GLE:**

> NRC staff and GLE argue that Donham has not satisfied the "Proximity +" standard for presumed standing. KRC disagrees and believes that application of the presumption is appropriate in this case. However, even without application of the presumption, Donham (and by association KRC) have demonstrated constitutional standing.

KRC Reply at 10.

Both NRC Staff and GLE placed into contention the question of the application of the presumption to the facts of this case, and KRC simply responded to those arguments. The *KRC Reply* falls squarely within what the Commission recognized in *In re Nuclear Management Co. LLC,* 63 NRC 727 (2006) to be allowable in a reply:

> Replies must focus narrowly on the legal or factual arguments first presented in the original petition **or raised in the answers to it**.

In re Nuclear Mgmt. Co., LLC , 63 N.R.C. 727, 732 (2006)(Emphasis added).

The *KRC Reply* was focused entirely on the legal and factual arguments "raised in the answers to" the original petition. The Answers filed by NRC Staff and GLE placed in dispute the applicability of and KRC's entitlement to the "proximity-plus" presumption to the facts of the petition. KRC responded to those arguments "raised in the answers" to the original petition. Having placed in issue the question of KRC's entitlement to the "proximity-plus" presumption, GLE cannot be heard to complain when KRC disputes the argument so joined.

2. KRC Committed No Error in Responding to the Legal and Factual Arguments Concerning Standing That Were Raised in the Answers to the Original Petition

With respect to the reference to the "air quality control region" in which both the proposed GLE PLEF and Declarant Donham' residence are located, that reference was made in direct response to the argument by GLE that "the Council relies on speculative and unsupported assertions untethered from GLE's application, Environmental Report, or the DEIS" in the standing allegations and Donham Declaration.

The application for license (which is so heavily redacted as to provide **no** meaningful information on which any assessment of the scope or extent of off-site impacts could rest), the *GLE PLEF Environmental Report*, and the *GLE Paducah Laser Enrichment Facility, McCracken County, Kentucky Draft Environmental Impact Statement* ("dEIS") are all documents are in the record of this licensing proceeding; two of three of which were authored by or for the applicant GLE. Use of the Integrated Safety Analysis ("ISA") for Wilmington in the *KRC Reply* as well as the references to the Environmental Report and the dEIS, were in direct response to the argument that the standing allegations were hypothetical and ungrounded in the record. There is no surprise concerning the bases for standing claimed by KRC and member Donham, which were

unchanged, and citation to the record to rebut the argument that those contentions were not grounded in the record or were hypothetical is not prohibited by NRC procedural regulations. There was no allegation of a new interest or a new injury or other basis for standing in the *KRC Reply* that had not previously been presented in the petition and the attested declaration.

As to whether KRC "introduce[d] a new argument" in noting that Donham's property is located in the same air quality region as the GLE PLEF, the GLE PLEF Environmental Report at Section 4.6 acknowledges the location of the PLEF in an air quality "region that is in attainment with the [National Ambient Air Quality Standards] for all criteria pollutants." The same report presents a conclusion regarding the impact of construction and site preparation activities "on ambient air quality in the region." *Id.* at 4.6.2.1.2. The further identification of what "region" is being repeatedly referred to by GLE in the Environmental Report, is a matter of federal regulation. It is neither new information nor new evidence and is entirely consistent with the way the facility itself presented and assessed the range of any anticipated air quality impacts (i.e. in the region).

Donham repeatedly referred to air quality impacts in his declaration. GLE answered the *Petition for Hearing* arguing that those concerns were hypothetical, and the citations **to the record** were not intended (or needed for that matter) to "bolster" the standing allegations in the *Petition for Hearing* and *Declaration of Mark Donham*, which fully satisfied the constitutional test and regulatory requirements for standing recognized by the Commission and codified in its regulation. They were in direct response to a challenge that the allegations were not grounded in fact or in the record. Both NRC Staff and GLE disputed whether the allegations in the *Petition for Hearing* and the Donham Declaration satisfied the applicable standing criteria, and the *KRC Reply* introduced no new evidence but rather cited to the existing record and documents crafted by the license applicant or the NRC Staff to respond to challenges presented in the Answers.

The gravamen of GLE's motion appears to be a belief that the Reply cannot cite or mention any portion of the record that was not cited originally in the petition or by the license applicant or agency in answer to a petition for hearing. *GLE Motion* at 5, fn 22. Such a rule does not exist, and it is fully competent and permissible for a petitioner, in filing a reply, to cite to specific portions of the record before the Commission to respond to arguments presented in the Answer. As the Commission noted in the *Nuclear Management* Order*,* "[r]eplies must focus narrowly on the legal or factual arguments first presented in the original petition *or raised in the answers to it*." *In re Nuclear Mgmt. Co., LLC ,* 63 N.R.C. 727, 732 (2006)(Emphasis added). Citation to the record in direct response to factual and legal arguments presented in an Answer is entirely permissible. The *KRC Reply* neither introduced *new* arguments concerning standing nor introduced *new* evidence not already of record.

GLE also complains that KRC misstated Mr. Donham's concern that accidental releases of radionuclides may adversely affect "public health[,]" claiming that the phrase "appears nowhere in the Petition and should be struck[.]" *GLE Motion* at 5. In truth, the *Declaration of Mark Donham* which was made a part of the *Petition for Hearing,* plainly referenced a concern with the public's health in noting that:

> To my full faith and knowledge, *community members face elevated rates of cancer* in the area. And, while this could be the result of a number of factors, I am concerned that the risk of *radioactive pollution* from the GLE facility *will exacerbate that problem*.

Declaration of Mark Donham, at 4 (Emphasis added).

It is obvious that "elevated rates of cancer" affecting community members is a "public health" concern, and that in expressing concern that "the risk of radioactive pollution from the GLE facility will exacerbate that problem" Donham was expressed a concern with the health

of the public (i.e. public health) that radioactive pollution from the GLE facility will exacerbate that existing illness suffered by community members.

The KRC *Petition for Hearing,* including the *Declaration of Mark Donham* satisfied all regulatory requirements for standing. The *KRC Reply* responded directly to legal and factual arguments raised against individual and organizational standing and properly relied on the information already of record to demonstrate that the petition allegations were neither untethered nor unfounded and hypothetical. At this stage of the proceeding it is not required that the petitioner *prove* the standing allegations in the petition for hearing but instead to allege sufficient facts that, if true, would support standing under the regulatory criteria and constitutional requirements. The Answers filed in this case placed the truth of certain of the allegations into question, and relying solely on information already of record, KRC responded to the factual arguments raised in the Answers. The *GLE Motion* should be rejected.

A. The Council's Reply Introduces No New Arguments to Contention 1 and Did Not Intentionally Misquote its Own Petition

GLE accuses KRC of using "an inaccurate quote of its own Petition" and introducing "new arguments, bases, and support" in order to "remedy its insufficient arguments in Contention 1[.]" GLE is correct that the quotation was not entirely accurate, and on Line 5 of Page 27 of the *KRC Reply,* the phrase "any useful purpose" should instead read "the public interest" as the quotation appeared in the *Petition for Hearing* at 19-20.

KRC apologizes to all parties to the Board for the misquoting, which was inadvertent. To the extent the Board directs, KRC will file a corrected version of the *KRC Reply* correcting that error. The misquotation had no substantive effect on the Contention in the *Petition* nor in the *KRC Reply,* since the content and standards for issuance of the

requested NRC license under the Atomic Energy Act and 10 C.F.R. speak for themselves and have not changed since this proceeding began.

The *KRC Reply* did not add any new legal basis for Contention I, which challenged the authority of the NRC to issue the requested license when the very feedstock proposed to be authorized under the license for management and reprocessing might not legally be available; defeating the purpose of the license. It is entirely appropriate for a reply to "focus…on the legal or factual arguments first presented in the original petition **or raised in the answers to it**." *In re Nuclear Mgmt. Co., LLC* , 63 N.R.C. 727, 732 (2006).(Emphasis added). Both NRC Staff and GLE placed in issue whether the alleged lack of DOE authority complained of by petitioner has any bearing on the license application or licensing decision. NRC Staff argued that KRC had not demonstrated the issue to be within the scope of the proceedings or material to "the findings that the NRC must make in connection with this license application." The *KRC Reply* arguments directly responded to that challenge and were grounded in the standards, required findings, and requirements of 10 C.F.R. Part 70 regulations (including 10 C.F.R. 70.1(a), 10 C.F.R. 70.1(e), 10 C.F.R. 70.9(a), 10 C.F.R. 70.22(a)(2) and (4), 10 C.F.R. 70.22(b) and 10 C.F.R. 70.31(a)); all NRC regulations governing issuance of licenses such as the license sought by GLE.

As to the complaint that referencing the National Environmental Policy Act in connection with Contention I in the *KRC Reply* raised a new issue, it did not. The Answers placed in contention the question of whether DOE's authority to sell or transfer the DUF6 stockpile at Paducah Gaseous Diffusion Plant had any bearing on the NRC license issuance. The KRC reference to NEPA was intended to simply underscore and further illustrate the point that legal access to DOE's depleted uranium cylinders is central to the proposed activity and that a basic assumption underpinning all of the environmental, economic, cultural, and

other considerations under NEPA was that the facility would be located in the vicinity of the PGDP because that is where the feedstock is located. No new contention regarding the adequacy of the NEPA compliance was raised. The NEPA reference on pp. 33 of the *KRC Reply* is in direct response to the suggestion that the question of lawful access to the DOE stockpile is unrelated to the licensing decision. That the facility is proposed to be co-located in order to facilitate the transfer of that specific waste stream from DOE property to the GLE facility, and that much of the environmental, safety, operation, and decommissioning information and analysis is *premised* on the use of that waste depleted uranium feedstock for the GLE operation, is simply a fact. The NEPA reference was simply to illustrate that fact and to underscore that the environmental analysis accepted as a given that the license purpose was the reprocessing of a specific waste stream, so that the question of legal access to that specific waste stream was directly relevant to the license issuance.

Finally, GLE argues that KRC impermissibly introduces a new argument in Contention II regarding the use of certain findings in the GEIS. Yet KRC did raise in the *Petition for Hearing* the issue of NRC reliance on the referenced generic environmental impact statement is appropriate and complies with NEPA. A review of Paragraphs 53-57 of the *Petition for Hearing* where the issue was presented, makes clear that the issue *was* raised and presented for hearing. The *Petition for Hearing* explained that "[t]The contention relates to the failure to develop and provide sufficient site-specific analysis of the proposed facility, in contravention of NEPA and 10 C.F.R. Part 51, by substituting and utilizing the conclusions of a draft Generic Environmental Impact Statement (NUREG-2249) as a surrogate for required site-specific environmental analysis." *Id.,* Para. 54. The specific GEIS in dispute was mentioned.

While the *Petition for Hearing* challenged the use of the GEIS in part because it was a draft rather than final document, the *Petition* also identified as an issue the generic, rather than

draft, nature of the analysis, complaining that it would "sidestep site-specific analysis for 34 issues, even though the GEIS… by its very nature fails to account for the unique seismic and other conditions of the proposed facility and surrounding properties[.]" *Petition for Hearing,* Para. 54. In like manner, Numerical Paragraph 57 of the *Petition for Hearing* complained of the lack of "**site-specific analysis to support the 34 issues**," and sought to have the NRC "**conduct the requisite site-specific analysis**." *Petition for Hearing* at 24.

The *Petition for Hearing* identified the generic EIS upon which KRC proposed to rely and the reliance on which KRC believed to be insufficient to satisfy NEPA. The generic nature of the EIS and lack of site-specific analysis was plainly presented, in addition to the now-withdrawn aspect of Contention II that questioned the legality of reliance on a draft document. No new issue is presented in the *KRC Reply*, and Contention II as presented in the original petition and as clarified in direct response to the Answers of both NRC Staff and GLE, satisfies the requirements to be accepted for hearing.

CONCLUSION

For the foregoing reasons, Petitioner Kentucky Resources Council, Inc. respectfully requests that the GLE Motion to Strike be overruled, that the Petition for Hearing be granted as to standing and all contentions, and for any other relief to which it may be entitled.

Respectfully submitted, Dated: June 19, 2026

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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I hereby certify that, on June 19, 2026, copies of the foregoing were served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned docket.

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