

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

Before Administrative Judges:

Michael M. Gibson, Chair
Dr. Sue H. Abreu
Dr. Gary S. Arnold

In the Matter of
CONSTELLATION ENERGY GENERATION, LLC
(Christopher M. Crane Clean Energy Center)

Docket No. 50-289-LA
ASLBP No. 26-993-01-LA-BD01
June 29, 2026

MEMORANDUM AND ORDER
(Denying Petitioner’s Request for Hearing and Terminating Proceeding)

This proceeding concerns three requests filed by Constellation Energy Generation, LLC (Constellation) to amend its Renewed Facility Operating Licensing No. DPR-50 for the Christopher M. Crane Energy Center (CCEC) in Dauphin County, Pennsylvania. Constellation’s requests are related to its planned restart of power operations at CCEC. Before this Board is a petition for a hearing on these license amendment requests, submitted by Eric Joseph Epstein (Petitioner).¹ For the reasons set forth below, we conclude that Petitioner has demonstrated standing to intervene but his proposed contention is not admissible. As such, we must deny his hearing request and terminate this proceeding before this Licensing Board.

¹ Eric Joseph Epstein’s Petition to Intervene and Hearing Request (Apr. 27, 2026) (Petition).

I. BACKGROUND

On June 20, 2017, Exelon Generation Company, LLC (Exelon, now known as Constellation) certified to the NRC that, on or about September 30, 2019, it planned to permanently cease operations at the facility that was then called the Three Mile Island Nuclear Station, Unit 1 (TMI-1), but is now named CCEC.² Later, on September 26, 2019, Exelon certified to the NRC that it had permanently removed the fuel from the CCEC reactor vessel and ceased operations.³ In accordance with 10 C.F.R. § 50.82(a)(2), upon the NRC's docketing of these certifications, Exelon's license no longer authorized operation of the reactor.

Subsequently, however, Constellation opted to reverse its plans and sought to resume power operations at CCEC. Specifically, on November 19, 2024, Constellation sought an exemption from the decommissioning requirements in 10 C.F.R. § 50.82.⁴ Constellation's Exemption Request seeks a one-time exemption from 10 C.F.R. § 50.82(a)(2) to rescind the previously docketed certifications of cessation of operations and fuel removal.⁵ And, if the NRC approves the Exemption Request and grants the three license amendments that are discussed below, Constellation will be allowed to place fuel in the reactor and resume power operations at CCEC.⁶

² See Letter from J.B. Fewell, Exelon, Senior Vice President, Regulatory Affairs and General Counsel, to Nuclear Regulatory Commission (NRC) Document Control Desk (June 20, 2017) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17171A151).

³ See Letter from M.P. Gallagher, Exelon, Vice President, License Renewal & Decommissioning, to NRC Document Control Desk (Sept. 26, 2019) (ADAMS Accession No. ML19269E480).

⁴ See Letter from D.M. Gullott, Constellation, Vice President, Licensing & Regulated Programs, to NRC Document Control Desk (Nov. 19, 2024) (ADAMS Accession No. ML24324A048) (Exemption Request).

⁵ See id. at 1–2.

⁶ See id. at 2.

Because the facility's operating license previously had been revised to reflect CCEC's permanently defueled status,⁷ Constellation submitted a License Amendment Request (LAR) on July 31, 2025 (July 31, 2025 LAR) seeking to restore the operating reactor licensing basis for CCEC.⁸ This LAR proposes revisions to the current facility operating license and its technical specifications as one of the prerequisites for the resumption of commercial power operations at CCEC.⁹

However, Constellation's Exemption Request and its July 31, 2025 LAR alone are not sufficient to restart operations at CCEC. Consequently, Constellation also filed two additional LARs. The second LAR, first submitted to the NRC on October 24, 2025 and updated on January 21, 2026 (January 21, 2026 LAR), seeks to revise and reinstate CCEC's Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan.¹⁰ Currently, CCEC's security plans concern only CCEC's Independent Spent Fuel Storage Installation (ISFSI).¹¹ The January 21, 2026 LAR seeks to replace the current ISFSI-only plans with a comprehensive operating plant security program.¹²

⁷ See Letter from D. Moore, Constellation, Senior Manager, Licensing, to NRC Document Control Desk (July 31, 2025) (ADAMS Accession No. ML25212A076). The renewed operating license and technical specifications were previously applicable to the facility when it was called TMI-1. See id., attach. 1, at 2 n.1 (Evaluation of Proposed Change, [CCEC] Renewed Facility License No. DPR-50) (Proposed Change Evaluation for Renewed License).

⁸ See id.

⁹ See Proposed Change Evaluation for Renewed License at 9–15 tbl.3.2.1.1 (Summary of Proposed Changes to the CCEC License) (summarizing proposed changes to the CCEC license); id. at 18–44 tbl.3.2.2.1 (Proposed Changes to the CCEC Technical Specifications) (summarizing proposed changes to the CCEC technical specifications).

¹⁰ See Letter from D. Moore, Constellation, Senior Manager, Licensing, to NRC Document Control Desk (Oct. 24, 2025) (ADAMS Accession No. ML25300A118); Letter from D. Moore, Constellation, to NRC Document Control Desk (Jan. 21, 2026) (ADAMS Accession No. ML26021A039) (updated cover letter).

¹¹ January 21, 2026 LAR at 2.

¹² See id. at 3.

Constellation's third LAR, submitted on October 31, 2025 (October 31, 2025 LAR), seeks to revise CCEC's Site Emergency Plan and its Emergency Action Level scheme to support CCEC's return to full power operations.¹³ Constellation's October 31, 2025 LAR aims to reestablish CCEC's Emergency Response Organization¹⁴ and asks for the NRC's approval of several updates to modernize CCEC's emergency preparedness elements by, among other things, revising public alert and notification systems to use the Integrated Public Alert and Warning System.¹⁵

On February 24, 2026, the NRC Staff issued a notice in the Federal Register,¹⁶ affording interested persons the opportunity to request a hearing on the LARs but not on the Exemption Request. As grounds for excluding the Exemption Request from consideration at any such hearing, the NRC Staff stated that, "[c]onsistent with the Atomic Energy Act of 1954, as

¹³ See Letter from D. Moore, Constellation, Senior Manager, Licensing, to NRC Document Control Desk (Oct. 31, 2025) (ADAMS Accession No. ML25304A097, package) (ADAMS Accession No. ML25304A097 includes the cover letter, attach. 1 (regulatory commitment), and main body of attach. 2 (LAR evaluation)) (attach. 2 is accompanied by six enclosures with separate accession numbers; as relevant here, the Site Emergency Plan is provided as encl. 1A (redline markup, ADAMS Accession No. ML25304A099) and encl. 2A (clean version, ADAMS Accession No. ML25304A102)).

¹⁴ See id., attach. 1 (Summary of Regulatory Commitments, [CCEC] Renewed Facility License No. DPR-50) (providing commitment to conduct an emergency preparedness exercise in first quarter of 2027); see also id., attach. 2, at 2–3 (Evaluation of Proposed Changes, [CCEC] Renewed Facility License No. DPR-50) (summarizing exemption rescissions and amendment requests as they relate to emergency planning) (Proposed Changes Evaluation for Emergency Planning). We note that the proposed changes evaluation for emergency planning includes as enclosures redline and clean versions of the Site Emergency Plan. See Proposed Changes Evaluation for Emergency Planning, encl. 1A ([Constellation], [CCEC] Radiological Emergency Plan (rev. 1)) (redline markup) (ADAMS Accession No. ML25304A099); id., encl. 2A ([Constellation], [CCEC] Radiological Emergency Plan (rev. 1)) (clean version) (ADAMS Accession No. ML25304A102).

¹⁵ Proposed Changes Evaluation for Emergency Planning at 64.

¹⁶ [Constellation]; [CCEC]; Applications for Amendments to Renewed Facility License Involving Proposed No Significant Hazards Consideration Determination and Containing Safeguards Information and Order Imposing Procedures for Access to Safeguards Information, 91 Fed. Reg. 8,910 (Feb. 24, 2026).

amended (the Act), and the NRC's regulations, the NRC is not publishing a notice of opportunity for hearing on the exemption request."¹⁷

In response to this Federal Register Notice, Petitioner Eric Joseph Epstein filed a request for hearing with two contentions.¹⁸ On May 11, 2026, the Secretary of the Commission referred to the Atomic Safety and Licensing Board Panel only Contention 2 of Mr. Epstein's request for hearing. As grounds for this limited referral, the Secretary stated that Contention 1 facially "fails to comply with NRC pleading requirements and does not establish an arguable basis for further proceedings. Therefore, pursuant to my authority under 10 C.F.R. § 2.346(h), I deny the request for hearing with respect to the first contention as procedurally deficient."¹⁹

On May 12, the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel established this Board to rule upon the matters that were referred by the Secretary of the Commission.²⁰ On May 21, the NRC Staff filed an answer in which it asserts that Petitioner has standing but that Contention 2 is inadmissible.²¹ On May 22, Constellation filed its answer, arguing that Contention 2 is inadmissible. In addition, while Constellation concedes that Petitioner has standing under established Commission law that recognizes proximity

¹⁷ Id. at 8,911.

¹⁸ See supra note 1.

¹⁹ Order of the Secretary (May 11, 2026) at 2–3 (unpublished). Assuming the action of the Secretary of the Nuclear Regulatory Commission regarding Contention 1 is a Final Commission decision, Mr. Epstein's sole administrative remedy would have been to challenge the Secretary's determination by filing a petition for reconsideration with the Commission within 10 days of May 11, i.e., by May 21, 2026. 10 C.F.R. § 2.345(a)(1). Mr. Epstein did not file such a petition for reconsideration by that date.

²⁰ Establishment of Atomic Safety and Licensing Board (May 12, 2026).

²¹ NRC Staff Answer Opposing the Eric Joseph Epstein Hearing Request at 5 (May 21, 2026) (NRC Staff Answer).

presumption standing,²² it suggests nevertheless that this long-standing precedent should be scrapped.²³

Because only Contention 2 was referred to the Atomic Safety and Licensing Board Panel, this Board will only address (1) whether Mr. Epstein has standing to assert this challenge, and (2) whether Contention 2 is admissible.

II. STANDING

Section 189a of the Atomic Energy Act of 1954, as amended, mandates that the NRC “shall grant a hearing upon the request of any person whose interest may be affected by the proceeding”²⁴ The requirements a petitioner must demonstrate to establish standing are set forth in 10 C.F.R. § 2.309(d). Specifically, a petitioner must provide certain identifying information (name, address, and telephone number) and must state (1) the nature of their right under the Act to be made a party to the proceeding, (2) the nature and extent of their property, financial, or other interest in the proceeding, and (3) the possible effect on their interest of any decision or order that may be issued in the proceeding.²⁵

To determine whether a petitioner has met these standing requirements, the Commission and licensing boards apply contemporaneous judicial concepts of standing that require a petitioner to “(1) allege an injury in fact that is (2) fairly traceable to the challenged action and (3) is likely to be redressed by a favorable decision.”²⁶ However, the Commission has recognized a shortcut in certain power reactor proceedings, including construction permit and

²² See Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 & 2), ALAB-107, 6 AEC 188, 190–193 (1973).

²³ Constellation Energy Generation, LLC’s Answer to Eric Joseph Epstein’s Petition to Intervene and Hearing Request at 12–13 (May 22, 2026) (Constellation Answer).

²⁴ 42 U.S.C. § 2239(a)(1)(A).

²⁵ 10 C.F.R. § 2.309(d)(1).

²⁶ Sequoyah Fuels Corp. and General Atomics (Gore, Oklahoma Site), CLI-94-12, 40 NRC 64, 71–72 (1994) (internal quotation marks omitted).

operating license cases, in which standing is presumed when a petitioner lives within 50 miles of the facility in question. In proceedings such as license amendment requests, the Commission has found that standing can be based on proximity if there is an “obvious potential for offsite consequences.”²⁷ In these instances, the distance at which a petitioner can be presumed to be affected is based on “the nature of the proposed action and the significance of the radioactive source.”²⁸

Here, Petitioner states that he resides within twelve miles of the facility and asserts that restoring power to CCEC “is analogous to licensing a new nuclear power plant.”²⁹ In its Answer, the NRC Staff demonstrates why the Commission’s 50-mile proximity presumption applies here, given that “[r]estarting power operations at the CCEC entails an obvious potential for offsite radiological consequences within a 50-mile radius of the CCEC”³⁰ Constellation’s Answer concedes that Petitioner has standing under the current proximity presumption, but appears to urge the NRC to rethink or abandon this presumption, arguing that “[s]uch a change would be fully consistent with the procedural and efficiency-oriented reforms directed by Congress and the President in recent years.”³¹ Licensing boards, however, must apply current Commission precedent, and so we do not consider Constellation’s policy argument.³² Because Petitioner

²⁷ Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Units 1 & 2), CLI-89-21, 30 NRC 325, 329–30 (1989).

²⁸ Georgia Institute of Technology (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 116–17 (1995).

²⁹ Petition at 21, 26.

³⁰ NRC Staff Answer at 6.

³¹ Constellation Answer at 12–13.

³² See S.C. Elec. & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1), ALAB-710, 17 NRC 25, 28 (1983).

clearly lives within a 50-mile radius of the CCEC, we find that he has demonstrated standing to contest the Constellation LARs based on his proximity to the CCEC.³³

III. CONTENTION ADMISSIBILITY

A. Legal Standard

For a contention to be admissible, a petitioner must meet the six-factor contention admissibility test set forth in 10 C.F.R. § 2.309(f)(1). The contention must include (1) a specific statement of the issue of law or fact it seeks to raise³⁴ and (2) a brief explanation of the basis for the contention.³⁵ The petitioner must also demonstrate that the issue is (3) within the scope of the proceeding³⁶ and (4) “material to the findings the NRC must make to support the action that is involved in the proceeding.”³⁷ Additionally, the contention must include (5) “a concise statement of the alleged facts or expert opinions” supporting the petitioner’s position³⁸ and (6) “sufficient information to show that a genuine dispute exists . . . on a material issue of law or fact.”³⁹

B. Analysis

Petitioner’s Contention 2 states as follows:

The proposed amendment would revise the CCEC Radiological Emergency Preparedness Plan and Emergency Action Level scheme to support resumption of power operations at the CCEC. However, the plan is not in compliance with federal regulations, and [is] fatally flawed for failing to [adequately] account for special needs populations. [The CCEC] has no emergency evacuation plan in place, and has historically excluded plans for special populations from pre-K kids to non-ambulatory adults. Constellation’s emergency plan is in violation of Federal Regulations . . .

³³ Accord Holtec Decommissioning Int’l, LLC, and Holtec Palisades, LLC (Palisades Nuclear Plant), LBP-25-4, 101 NRC 133, 153 (2025).

³⁴ 10 C.F.R. § 2.309(f)(1)(i).

³⁵ Id. § 2.309(f)(1)(ii).

³⁶ Id. § 2.309(f)(1)(iii).

³⁷ Id. § 2.309(f)(1)(iv).

³⁸ Id. § 2.309(f)(1)(v).

³⁹ Id. § 2.309(f)(1)(vi).

because Pennsylvania has improperly planned for and/or left out special populations (day care centers and nursery schools)⁴⁰

The contention statement asserts that Constellation “has no emergency evacuation plan in place.” However, Petitioner’s discussion in Contention 2 appears to suggest there is some evacuation plan in place which fails to adequately protect certain special population groups and violates federal regulations, including 10 C.F.R. §§ 50.47 and 50.54.⁴¹ Petitioner also asserts that there are four mandatory components that Constellation failed to address.⁴²

As an initial matter, we note that Constellation is not required to develop an offsite evacuation plan. Rather, state and local governments have primary responsibility for developing the offsite evacuation plans, with the Federal Emergency Management Agency (FEMA)—and not the NRC—overseeing and approving the adequacy of the plans.⁴³

In support of his Contention 2, Petitioner quotes 10 C.F.R. § 50.47(a)(2).⁴⁴ That provision obligates the NRC to review FEMA’s “findings and determinations” in conjunction with offsite impacts from a radiological emergency.⁴⁵ In accordance with NRC’s regulations on emergency plans,⁴⁶ the NRC may not issue a license under Part 50 or Part 53 unless it makes a finding that

⁴⁰ Petition at 41.

⁴¹ Id. at 41, 46.

⁴² Id. at 45–46.

⁴³ 10 C.F.R. § 50.47(a)(2). We note, however, that the Commission has addressed the Petitioner’s concerns about offsite evacuation plans in the past. Petitioner co-signed a Petition for Rulemaking in 2005 requesting the NRC to “amend its regulations regarding offsite state and local government emergency plans for nuclear power plants to ensure that all daycare centers and nursery schools in the vicinity of nuclear power facilities are properly protected in the event of a radiological emergency.” Mr. Lawrence T. Christian, et al.; Denial of Petition for Rulemaking, 70 Fed. Reg. 75,085, 75,085 (Dec. 19, 2005). The Commission denied this petition, finding that “[t]he current regulatory structure already requires that daycare centers and nursery schools be included in the offsite emergency planning for nuclear power plants.” Id. at 75,087.

⁴⁴ Petition at 43–44.

⁴⁵ 10 C.F.R. § 50.47(a)(2).

⁴⁶ Id. § 50.47(a)(1).

“there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.”⁴⁷

However, the NRC must conduct such a review and make such a finding only in conjunction with its review of an initial operating license.⁴⁸ Here, however, the NRC already granted Constellation an operating license⁴⁹ and that license has not been terminated.⁵⁰ Insofar as Contention 2 seeks to challenge the NRC’s reasonable assurance finding on the adequacy of emergency planning associated with Constellation’s initial operating license, that ship has long since sailed.

The Federal Register notice limits our consideration here solely to Constellation’s three LARs. While one of these, the October 31, 2025 LAR, does involve changes to CCEC’s Site Emergency Plan, there is nothing in this LAR that requests the NRC Staff to reconsider, or otherwise review, the offsite evacuation plans at this stage. As discussed above, the Staff’s finding of reasonable assurance took place at the time that the NRC issued the initial operating license. As the LARs at issue do not request the NRC Staff to reconsider its earlier determination of reasonable assurance, a challenge to that determination cannot be within the scope of this license amendment proceeding. For this reason, Contention 2 is not admissible.⁵¹

⁴⁷ Id.

⁴⁸ Id. (“No finding under this section is necessary for issuance of a renewed nuclear power reactor operating license.”).

⁴⁹ See Exelon Generation Company, LLC, Three Mile Island Nuclear Station, Unit 1; Notice of Issuance for Renewed Facility Operating License No. DPR-50 for an Additional 20-Year Period, 74 Fed. Reg. 55,871 (Oct. 29, 2009).

⁵⁰ See 10 C.F.R. § 50.51(b) (indicating that a license for a facility which has permanently ceased operations continues in effect until the Commission notifies the licensee in writing that the license is terminated).

⁵¹ 10 C.F.R. § 2.309(f)(1)(iii). Because Petitioner’s contention is outside the scope of this proceeding, it is not “material to the findings the NRC must make to support the [licensing] action,” id. § 2.309(f)(1)(iv), which serves as an additional reason for rejecting it as inadmissible.

Moreover, to the extent that Petitioner argues there are deficiencies within Constellation's proposed amendments to the offsite evacuation plan, Contention 2 does not dispute specific portions of the October 31, 2025 LAR, nor does it cite to any legal requirement relevant to license amendments.⁵² Furthermore, Petitioner's claim that the applicant has "historically excluded plans for special populations"⁵³ is specious. As noted above,⁵⁴ FEMA, not the applicant, is responsible for oversight of evacuation plans. If Petitioner intends to argue that these provisions are insufficient, he does not explain, with any specificity, why they are insufficient, nor does he identify any requirement that CCEC fails to meet. Consequently, in addition to being outside the scope of the proceeding, the claim that the applicant's offsite evacuation plans are inadequate lacks the specificity required for an admissible contention.⁵⁵

⁵² Id. § 2.309(f)(1)(i),(vi).

⁵³ Petition at 41.

⁵⁴ See supra notes 43–46 and accompanying text.

⁵⁵ 10 C.F.R. § 2.309(f)(1)(i), (iii), (vi). Nonetheless, to the degree Petitioner maintains that there is an emergency planning deficiency associated with this facility's operation that requires a license modification, he can submit a petition under 10 C.F.R. § 2.206.

IV. CONCLUSION

For the foregoing reasons, we (1) deny Petitioner's hearing request; and (2) terminate this proceeding. In accordance with the provisions of 10 C.F.R. § 2.311, any appeal to the Commission from this memorandum and order must be taken within twenty-five days after this issuance is served.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chair
ADMINISTRATIVE JUDGE

/RA/

Dr. Sue H. Abreu
ADMINISTRATIVE JUDGE

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Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 29, 2026

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CONSTELLATION ENERGY GENERATION,)
LLC.) Docket No. 50-289-LA
)
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(Christopher M. Crane Clean Energy Center))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Denying Petitioner's Request for Hearing and Terminating Proceeding) (LBP-26-6)** have been served upon the following by Electronic Information Exchange and by email as indicated.

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Christopher M. Crane Clean Energy Center Docket No. 50-289-LA

MEMORANDUM AND ORDER (Denying Petitioner's Request for Hearing and Terminating Proceeding) (LBP-26-6)

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of June 2026.