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Title: Powertech (USA) Inc.

Docket Number: 40-9075-LR

ASLBP Number: 25-987-01-LR-BD01

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 ATOMIC SAFETY AND LICENSING BOARD PANEL

4 -----:

5 In the Matter of: : Docket No.

6 Powertech (USA) Inc., : 40-9075-LR

7 (Dewey-Burdock In Situ :

8 Uranium Recovery) : ASLBP No.

9 Facility) : 25-987-01-LR-BD01

10 -----:

11 Thursday, July 9, 2026

12
13 Videoconference14
15 BEFORE:

16 JEREMY A. MERCER, Chair

17 NICHOLAS G. TRIKOUROS, Administrative Judge

18 GARY S. ARNOLD, Administrative Judge

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P-R-O-C-E-E-D-I-N-G-S

1:00 p.m. EDT

JUDGE MERCER: Good afternoon. We now are on the record in the proceeding on Powertech's application to renew for 20 years its license for the Dewey-Burdock uranium in-situ recovery facility. The facility has not been constructed yet, but if constructed, it would be located in Fall River and Custer Counties, South Dakota.

The proceeding is documented at 40-9075-LR. Today is July 9, 2026, and we are assembled via Teams videoconference for a scheduled status conference.

Administrative judges present are me, Jeremy Mercer, and my colleagues Nicholas Trikouros and Gary Arnold. Also present in the hearing room are our Law Clerk, Ms. Whitlee Dean, and our IT Support Specialist, Mr. Joseph Deucher.

Counsel, starting for counsel for intervenors, then counsel for Applicant, and then, finally, counsel for staff, please introduce yourselves for the record, identify the client or clients you represent, and then identify anyone else in the room with you.

MR. PARSONS: Thank you, Your Honor. This

1 is Jeff Parsons for organizational intervenors; that
2 is, the Oglala Sioux Tribe, the Black Hills Clean
3 Water Alliance, and NDN Collective. And with me in
4 the room is Co-Counsel Travis Stills.

5 JUDGE MERCER: Thank you.

6 MR. STILLS: Good afternoon. This is
7 Travis Stills. I represent the same organization as
8 Jeff Parsons laid out.

9 JUDGE MERCER: Thank you.

10 MR. KRIHA: For Applicant, this is Andrew
11 Kriha, representing Powertech (USA) Inc.

12 JUDGE MERCER: Thank you.

13 MR. STEINFELDT: Your Honors, this is
14 Thomas Steinfeldt, representing the NRC staff. I am
15 in a room with my Co-Counsel Katerina Georgiev. And
16 I'm also joined by two of our summer legal interns,
17 Julia Williams and Sarage Patonik (phonetic).

18 JUDGE MERCER: All right. Thank you very
19 much. And welcome to the legal interns. Hopefully,
20 you'll get some great experience out of your summer
21 internship here at the NRC.

22 I also wanted to thank all counsel for
23 providing the joint proposed deadlines to Ms. Dean in
24 advance of the status conference today. Ms. Dean will
25 provide that email to the court reporter to attach to

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1 the transcript of this conference.

2 We did review the proposed dates for the
3 initial and rebuttal hearing evidentiary submissions
4 and have taken those into consideration, along with
5 the pending joint motion to extend the deadline for
6 the dispositive motions. During the status
7 conference, we will set deadlines for the remainder of
8 this proceeding, which will be memorialized in an
9 order that we will issue. But before we set those
10 deadlines, we need to address a few items first.

11 First, to the extent not changed today or
12 in the order that issues, the provisions of our May
13 12, 2025 First Amended Case Scheduling and Management
14 Order do continue to apply.

15 Second, when we refer today or in the
16 order that issues to "milestones," we are referring to
17 the milestones set forth in Appendix B to Part 2;
18 specifically, those in Section II regarding Subpart L
19 hearings.

20 Third, and I'd like a response from
21 counsel, Mr. Parsons, Mr. Kriha, and then Mr.
22 Steinfeldt, are we all in agreement that there are no
23 safety contentions before the Board? Mr. Parsons?

24 MR. PARSONS: There are no safety
25 contentions before the Board, Your Honor.

1 JUDGE MERCER: Mr. Kriha?

2 MR. KRIHA: We agree that there are no
3 safety contentions.

4 JUDGE MERCER: Mr. Steinfeldt?

5 MR. STEINFELDT: We also agree there are
6 no safety contentions.

7 JUDGE MERCER: All right. Thank you.

8 Fourth, all parties agree that the staff
9 issued its NEPA document and environmental assessment
10 on June 17, 2026, which started the clock for, among
11 other things, the filing of new or amended NEPA and/or
12 NHPA-related contentions. Is that correct, Mr.
13 Parsons?

14 MR. PARSONS: That is my understanding,
15 Your Honor, and my further understanding is that would
16 place the deadline for filing those at July 17th,
17 2026.

18 JUDGE MERCER: That's my understanding as
19 well.

20 Mr. Kriha?

21 MR. KRIHA: Yes. That is our
22 understanding.

23 JUDGE MERCER: And Mr. Steinfeldt?

24 MR. STEINFELDT: Yes. That's our
25 understanding.

1 JUDGE MERCER: All right. Now, before we
2 address contention mootness and/or contention
3 migration, Mr. Parsons, this question is to you: do
4 the organizational intervenors intend to file a motion
5 seeking leave to admit new or amended contentions?

6 MR. PARSONS: Organizational intervenors
7 do intend to file a motion for new or amended
8 contentions.

9 JUDGE MERCER: All right. And, not
10 holding you to any specifics that you outline today,
11 what is the general gist of the proposed contentions
12 that you will be seeking leave to submit?

13 MR. PARSONS: Thank you, Your Honor.
14 Obviously, some of this gets into some issues of
15 client confidentiality, so that limits my ability to
16 go into too much detail. But I can represent that
17 we're currently reviewing and are probably likely to
18 raise both NEPA and NHPA contentions.

19 JUDGE MERCER: Okay. And just so that
20 we're all clear, though, you recognize that that
21 motion with the proposed new and amended contentions
22 attached must be filed by July 17th of this year,
23 correct?

24 MR. PARSONS: That's our understanding,
25 yes, Your Honor. Thank you.

1 JUDGE MERCER: Okay. Now, the Board
2 reviewed the deadlines that were proposed, and we also
3 took a look at the deadlines that we had set out in
4 our prior scheduling order. And we also looked at the
5 deadlines in the milestones. And we noted that the
6 milestones for new and amended contentions provide a
7 much shorter period of time for briefing and
8 resolution than for the initial contentions at the
9 beginning of a proceeding. So, we're going to shorten
10 by a few days some of the deadlines associated with
11 the briefing for the new and amended contentions.

12 NRC staff and Powertech, assuming
13 organizational intervenors do file their motion on
14 July 17th, your responses to the motion and answers to
15 the proposed contentions, so both a response to the
16 motion and answer to the proposed contentions, must be
17 filed no later than August 4th of this year.

18 If the organizational intervenors happen
19 to file their motion before July 17th, that would
20 just mean that your responses and answers would be due
21 18 days after they file their motion.

22 And organizational intervenors, Mr.
23 Parsons, your single reply to both of the filings, the
24 staff's filing and Powertech's filing, must be filed
25 no later than August 11th, or 25 days after you file

1 your motion, if you file that prior to July 17th.

2 Once those all have been filed, we will
3 advise the parties expeditiously. If we conclude that
4 oral argument on the motion will be beneficial, and if
5 we do hold oral argument, it will be conducted either
6 via videoconference or in person here in the
7 Rockville, Maryland, hearing room.

8 Now, as we read the milestones, our
9 decision on the intervenors' motion seeking leave to
10 admit, and the admissibility of any such contentions,
11 must be issued no later than September 10th. That
12 will be 85 days after June 17th. If Mr. Parsons
13 happens to file before June 17th, it's just 85 days
14 after whatever filing date.

15 And if that decision was to grant the
16 motion and admit any new or amended contentions, and
17 we are not forejudging anything, but we are just
18 attempting to schedule out all activities, if we were
19 to admit any new or amended contentions, under the
20 milestones, all parties would be obligated to update
21 their disclosures within 14 days of the date that we
22 issue that order.

23 So, for the sake of consistency and
24 efficiency, regardless of whether we admit any new or
25 amended contentions, just so everybody is on the same

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1 page and we can set definitive dates for discovery
2 updates, all parties are obligated to update their
3 disclosure. We're directing that that happen on a new
4 date keyed from the date that we issue our decision.

5 Currently, there are dates for the parties
6 to update their disclosures, and those, I believe, are
7 sometime around the second week of the month. So that
8 we don't have a situation where we've got disclosures
9 being updated the second week of the month on already
10 admitted contentions and some other time for
11 potentially new and admitted contentions, we're going
12 to change that. So, all discovery updates or all
13 disclosure updates are due at the same time.

14 So, assuming we issue our decision on
15 September 10 -- sorry, I've just been handed a note
16 that the listen-only line currently is not working
17 properly, and our IT folks are looking into it. So,
18 if anyone has someone who is trying to listen via the
19 listen-only line, you can let them know that we have
20 been alerted to it and we are attempting to resolve
21 that right now.

22 Back to the updates on disclosures. We're
23 going to set one particular date and all discovery,
24 all disclosures, have to be updated then as it relates
25 to currently admitted and any new or amended

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1 contentions that might be admitted. That's going to
2 occur on September 14th, or I'm sorry, September 24th.
3 That will be the new -- after we issues our decision
4 on the anticipated motion for leave, all discovery or
5 disclosure updates would take place September 24th.
6 And then, the parties' Joint Status Report would be
7 due Monday, September 28th.

8 So, the new schedule for disclosures and
9 status report filings from now until the time of a
10 potential hearing: August disclosures are the 11th,
11 and the status report is due the 13th. September
12 disclosures are due the 24th, and the status report,
13 the 28th. October disclosures are due the 16th, with
14 the status report due the 19th. And November
15 disclosures are due the 19th, with the status report
16 due on the 23rd.

17 Also, given the tight timeframes and tight
18 timelines that we're setting today, which are
19 necessitated by the milestones and by the hearing
20 deadlines, we're directing that all parties do not
21 withhold from disclosure documents solely because the
22 document was developed, obtained, or discovered during
23 the two-week period prior to disclosure. Just because
24 it happened to fall within that two-week period, given
25 that we are working under a compressed deadline, we

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1 would still expect that that document would be
2 disclosed by the deadline. All non-privileged
3 responsive documents should be products timely each
4 month.

5 Now, turning now to the issue of mootness,
6 and we appreciate you all taking a look at the order
7 that we issued and identified topics for you all to
8 consider and come prepared to discuss, mootness was
9 one of those issues.

10 In light of the Commission's June 15,
11 2026, decision on Powertech's appeal at CLI 26-6, and
12 in light of the staff's Environmental Assessment,
13 organizational intervenors, Mr. Parsons, do you
14 contend that either of the currently admitted
15 Contentions 1A or 1B have been mooted, otherwise
16 resolved, or limited in any respect?

17 MR. PARSONS: Well, Mr. Parsons for
18 organizational intervenors. I think there's -- I
19 mean, it's a little difficult for me to answer that
20 without having NRC staff and Powertech having made any
21 sort of motion to that effect. But it does appear to
22 me that there would be an argument that the contention
23 -- I mean, there's only two contentions remaining,
24 effectively, 1A and 1B. It does appear to me that 1B,
25 which reflects an original determination that impacts

1 to cultural resources would be none, that the
2 environmental report does acknowledge impacts to
3 cultural resources.

4 And so, my understanding of the rules of
5 practice at the NRC is that would give rise to an
6 argument that that, because there are impacts
7 acknowledged, would potentially moot that Contention
8 1B. Obviously, we're aware of this, and not to bleed
9 into the other questions, but that probably is -- at
10 least it's under our review for a potential amended
11 contention.

12 With respect to the inadequacy of the
13 cultural resources analysis, which was labeled
14 "Contention 1A," our position firmly would be that
15 that is not moot.

16 JUDGE MERCER: Understood.

17 Mr. Kriha, does Powertech take a different
18 view as to the issue of mootness? And we're not
19 holding anyone to anything. We're just trying to get
20 a general understanding, so that we can try to
21 streamline the process and make it as efficient as
22 possible moving forward.

23 MR. KRIHA: Powertech does not take a
24 different view. We believe that 1A is not mooted. We
25 believe that 1B is mooted.

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1 JUDGE MERCER: Understood.

2 Mr. Steinfeldt?

3 MR. STEINFELDT: Yes, Your Honor. The NRC
4 staff has the same view, in that we believe 1B is
5 mooted and 1A is not.

6 JUDGE MERCER: All right. And, Mr.
7 Parsons, we appreciate your analysis of that. After
8 you have come to a solidified position on that, if, in
9 fact, it is that 1B as currently formulated is mooted,
10 without prejudice to any motion to seek to file a new
11 or amended contention similar or akin to 1B, if you
12 all could submit a joint or combined motion to dismiss
13 as moot Contention 1B, the Board would appreciate
14 that, and we would act on that expeditiously.

15 MR. PARSONS: May I seek clarification,
16 Your Honor?

17 JUDGE MERCER: Yes.

18 MR. PARSONS: I was just wondering if that
19 was a joint motion from all parties or from Powertech
20 and NRC? And does the Board contemplate that that
21 would be filed prior to the amended contentions?

22 JUDGE MERCER: It would not necessarily
23 need to be filed prior to the amended contentions. It
24 could be filed that same day. It's, essentially, just
25 something to clear up the docket. It could be a

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1 motion by intervenors and noting concurrence by the
2 other parties, noting no objection by the other
3 parties. It could be a tripartite motion. However
4 you all want to do it in a way -- if everybody is in
5 agreement, that you just convey that to us, so that we
6 can clean up the docket to make sure everybody's on
7 the same page moving forward.

8 MR. PARSONS: Thank you, Your Honor. I
9 think that the organizational intervenors are likely
10 to address that issue in its filing on the 17th. So,
11 maybe the parties can confer at that point and plot a
12 course with that in mind.

13 JUDGE MERCER: Wonderful. Thank you.

14 On the issue of migrated contentions, Mr.
15 Parsons, have the intervenors come to any view as to
16 whether Contention 1A would be migrated, as opposed to
17 filing a new or amended Contention 1A?

18 MR. PARSONS: Thank you, Your Honor. I
19 think our position at this point is -- and sorry for
20 the lack of clarity -- but essentially both. I do
21 believe the contention has migrated. However, there
22 is some new information in the environmental, excuse
23 me, in the Environmental Assessment that goes to
24 impacts to cultural resources. And so, at this point,
25 our position would be, yes, it migrates, but also,

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1 it's likely to be subject to additional discussion in
2 a filing on the 17th.

3 JUDGE MERCER: Understood. Understood.
4 Thank you. If, in fact, there is the view that it has
5 migrated, please make sure that you talk with Mr.
6 Kriha and Mr. Steinfeldt.

7 I believe we cited a couple of cases about
8 migration of contentions. If there's a way not -- and
9 this would be without prejudice to Mr. Kriha's and Mr.
10 Steinfeldt's clients as to the substance, as to
11 whether the contention is valid. But if there is
12 agreement that the contention has migrated such that,
13 again, we're trying to streamline and reduce the
14 number of disputes to the extent that we can. If
15 there's no dispute that the contention has migrated,
16 then please let us know that as well, so that we can
17 try to make this move as smoothly as possible.

18 Mr. Kriha or Mr. Steinfeldt, anything to
19 address from either of your perspectives on that
20 issue?

21 MR. KRIHA: We have nothing to address at
22 this time.

23 MR. STEINFELDT: The same, Your Honor,
24 nothing to address on that issue from the staff.

25 JUDGE MERCER: Okay. Thank you. So, now

1 let's talk very briefly about discovery. We
2 appreciate the information all parties included in the
3 monthly status reports. It looks like, from that
4 information, organizational intervenors produced one
5 document and identified, quote-unquote, others more
6 generally, and withheld no documents under a claim of
7 privilege.

8 It looks like Powertech produced 14
9 documents and withheld no documents under a claim of
10 privilege. And it looks like the staff produced 372
11 documents and withheld 60 under a claim of privilege.

12 Have any discovery disputes arisen that
13 need to be addressed by the Board today?

14 Mr. Parsons, I'll start with you, then Mr.
15 Kriha, then Mr. Steinfeldt.

16 MR. PARSONS: We don't have anything for
17 the Board at this time on that, Your Honor.

18 JUDGE MERCER: Mr. Kriha?

19 MR. KRIHA: Nothing from Powertech, Your
20 Honor.

21 JUDGE MERCER: Mr. Steinfeldt?

22 MR. STEINFELDT: Your Honor, there have
23 been no disputes from the staff's perspective. I will
24 just mention the parties had conferred before this
25 hearing and discussed the potential of ending

1 discovery after the would-be issuance of the renewed
2 license. But now, given your explanation earlier in
3 this conference about the dates for discovery related
4 to going forward, I just wanted to, I guess,
5 understand whether that schedule is needed to hold.
6 And I guess that would depend on the content of
7 intervenors' contentions and how those play out.

8 The staff can certainly meet those
9 deadlines, if necessary, but I also wanted to make
10 sure that that is, indeed, necessary.

11 Thank you.

12 JUDGE MERCER: Sure. Thanks for that.
13 And that's information that we didn't have.

14 To the extent that the parties are all in
15 agreement that no additional discovery is necessary,
16 we're not going to make you all produce documents to
17 each other, if you all think that you've reached the
18 point where everything that needs to be provided to
19 each other has been provided.

20 To the extent that new and amended
21 contentions are admitted, and again, not prejudging
22 anything, but to the extent that they might be, even
23 if there was an agreement in place that all discovery
24 had been provided and did not need to continue, we
25 would hope that the parties would reevaluate that and

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1 see if anything needed to be tweaked at that point.

2 But, yeah, if you all are in agreement
3 that everything has been provided; the dates that we
4 gave for updates of disclosures, if everybody's in
5 agreement, you don't need to update anything at that
6 point. But we would appreciate still providing the
7 status reports to us, just so that we're aware of
8 activity that is going on in the case, and just so
9 that we're keeping our finger on the pulse.

10 What I'm going to talk to you about now
11 might be mooted, based upon the view that the parties
12 might have that additional discovery is not necessary.
13 But to the extent that there is additional discovery
14 that happens, and to the extent that there are
15 disputes that arise, we want to remind you all of your
16 obligation to make sincere and good-faith attempts to
17 resolve the issues amongst yourself before you involve
18 the Board.

19 To the extent that there is a discovery
20 motion that needs to come before the Board, because of
21 the compressed timeframe, we are changing the default
22 time for that motion to seven days from the occurrence
23 or circumstance that gives rise to the motion. Bring
24 it to us expeditiously.

25 And the time for answer to any such

1 discovery motion must be within five business days
2 from the filing of that motion. We want to make sure
3 that, if there are discovery disputes, they're brought
4 to us promptly and we address them promptly.

5 Alternatively, and this is a preferred
6 alternative to motion practice, if there is a good-
7 faith effort to resolve a dispute that fails, the
8 parties are free to submit a joint email to the
9 Board's law clerk identifying succinctly the specific
10 discovery dispute and the opposition position and
11 requesting a telephone status conference. When we get
12 that, we will schedule a conference all promptly,
13 during which we will resolve the dispute. We will
14 include the submitted email as an attachment to the
15 transcript from that status conference.

16 So again, we're looking at ways that we
17 can try to streamline this, make this as efficient as
18 possible.

19 Any other issues from the parties'
20 perspective on the discovery front before we move on?

21 Mr. Parsons?

22 MR. PARSONS: Your Honor, I'm not sure.
23 You may be about to address this, but it does involve
24 production, et cetera. The parties had discussed the
25 possibility of a protective order --

1 JUDGE MERCER: That was on the list.

2 MR. PARSONS: Yeah, okay. Thank you.

3 JUDGE MERCER: Mr. Kriha, anything besides
4 protective order?

5 MR. KRIHA: Nothing, Your Honor.

6 JUDGE MERCER: Mr. Steinfeldt?

7 MR. STEINFELDT: No, nothing, Your Honor.

8 JUDGE MERCER: All right. And, Mr.
9 Parsons, as being clairvoyant that you are, I will
10 turn to you because I had next on my list whether
11 anyone contended a protective order was necessary.
12 So, Mr. Parsons?

13 MR. PARSONS: Thank you, Your Honor. The
14 parties have discussed this in brief. And I think
15 there's at least a consensus that, to the extent there
16 are particularly cultural resource issues that need to
17 be, for instance, specific locations of sites, I think
18 that's a pretty typical issue to have a protective
19 order in place. And so, the parties have discussed
20 this and would be working together to develop that, if
21 needed.

22 JUDGE MERCER: Understood. And I believe
23 in the original Powertech proceeding there may have
24 been a protective order in place to deal with this
25 particular issue. I was not part of that Board, but

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1 I anticipated that that might have arisen, given the
2 history here.

3 We would ask that the parties file a joint
4 protective or a proposed -- it might say "joint," even
5 though that typically just means two; I'm referring to
6 all three parties. To the extent there's agreement
7 amongst all three parties, file a joint proposed
8 protective order and do that as quickly as possible,
9 so that we can resolve that as quickly as possible.

10 Let's see. Other than the pending motion
11 regarding extending deadlines, possible dispositive
12 motions, and possible protective order motion, are
13 there any other motions or filings that the parties
14 collectively, jointly, or individually intend to file
15 as of now?

16 Mr. Parsons?

17 MR. PARSONS: Not as of now for
18 organizational intervenors.

19 JUDGE MERCER: Mr. Kriha?

20 MR. KRIHA: No, none for Powertech.

21 JUDGE MERCER: And Mr. Steinfeldt?

22 MR. STEINFELDT: No, not as of now for the
23 staff, no.

24 JUDGE MERCER: All right. Thanks. Before
25 we set deadlines for the remainder of the proceeding,

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1 to address the issues, should they arise, in a timely
2 and efficient manner, the Board is scheduling a
3 standing telephonic status conference. That will be
4 at 11:00 a.m. Eastern on the first Wednesday following
5 the filing of each monthly joint status report. So,
6 the first status conference is scheduled for August
7 19th at 11:00 a.m. Eastern.

8 Mr. Parsons, I apologize, that means is
9 going to be about nine o'clock your time, if my math
10 is correct, but 11 o'clock Eastern, the first
11 Wednesday following that monthly status report.

12 Each future joint status report -- and the
13 parties do not need to file one today. Today was the
14 due date for that. There's no need to file one today.

15 Now that the staff has concluded its
16 review, Section 3 of that report should be renamed
17 "Monthly Status Conference." And in that section, the
18 parties should advise the Board whether they believe
19 collectively, or whether they conclude collectively,
20 that the status conference should be cancelled. If
21 all parties conclude the status conference should be
22 held, they should advise that in the report the
23 subject matters or issues that they contend should be
24 discussed.

25 If some subset, but not all of the parties

1 conclude the status conference should be held, the
2 report shall identify each party and the party's
3 position. And for each party who maintains the
4 conference should be held, the report should identify
5 the matter or issues that should be discussed.

6 We will review the joint status report
7 promptly on its filing and will advise the parties
8 promptly about whether a status conference will be
9 held.

10 If the status conference will be held, the
11 Board will provide the parties with the log-in
12 information for the call. And that communication most
13 likely will occur by way of an email from our law
14 clerk. If the status conference will not be held, the
15 Board will enter an order cancelling the status
16 conference for that month.

17 And for the sake of efficiency, if an
18 issue arises that requires the Board's urgent
19 attention, the parties have two options. One, they
20 can send a joint email to the Board's law clerk
21 requesting a telephone conference and outlining the
22 reasons for the conference. If that is the path taken
23 and there is a conference that's held, the email will
24 be added as an attachment to the transcript.

25 Alternatively, the parties may submit a

1 motion requesting a joint -- I'm sorry, a telephone
2 conference and outlining the reasons for the
3 conference. That motion should be limited to no more
4 than three pages in length, in addition to the
5 required certification. And if anybody opposes that
6 motion, the opposition should be filed by the end of
7 the next business day, limited to no more than three
8 pages.

9 So, we're, again, trying to give you all
10 avenues to bring matters to our attention as
11 expeditiously as possible, so that we can resolve them
12 as quickly as possible, so that we're moving this case
13 forward as efficiently as possible.

14 Okay. Now, we're going to turn to
15 scheduling the dates for the rest of the activities in
16 the case. And just because we schedule a date for
17 something does not mean that we are prejudging that
18 that event will happen, i.e. just because we schedule
19 something associated to an admitted new or amended
20 contention, that does not mean we are prejudging that
21 any such amended contentions will be admitted. We're
22 just planning out for all, or attempting to plan out
23 for all of the alternatives.

24 As that stands now, how long do the
25 parties anticipate that a hearing, an evidentiary

1 hearing, would take in this proceeding?

2 I'll start with Mr. Parsons, then go to
3 Mr. Kriha, and then end with Mr. Steinfeldt.

4 MR. PARSONS: Thank you, Your Honor. I am
5 at a bit of a loss, frankly, to estimate. You know,
6 we're still developing our contentions pleading.
7 Depending on what's admitted, I think some of these
8 matters would involve, you know, would involve longer
9 hearing time than others. And so, I'm not sure I have
10 a great estimate for you. The parties have not really
11 discussed it. And so, again, I'm at a bit of a loss.

12 JUDGE MERCER: Okay. I kind of hoped --
13 I thought we had outlined the length of the hearing as
14 one of the topics for the parties to chat about in
15 advance. If we did not, I apologize.

16 MR. PARSONS: If I can clarify, Your
17 Honor, that was on the list. And I think it's just a
18 matter of not being aware of what's admitted and what
19 is not. I mean, obviously, if there's a dearth of
20 contentions to address, it would be a very short
21 hearing. If we have multiple contentions, I think
22 that could extend to multiple days. And so, I think
23 that's the crux of my problem.

24 JUDGE MERCER: Okay. Let me ask this: as
25 you are the master of the proposed new and amended

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1 contentions, do you have an idea -- let's just presume
2 for scheduling or discussion purposes, all of the
3 contentions that you are going to seek to admit get
4 admitted. Would we be looking at no more than a week
5 from your perspective or would we be looking at
6 something that would take longer than a week?

7 MR. PARSONS: I believe -- thank you, Your
8 Honor. I believe no more than a week would be my
9 estimate.

10 JUDGE MERCER: Okay. Okay. Mr. Kriha and
11 Mr. Steinfeldt, I'll give each of you a chance to
12 weigh-in. But knowing that you don't know anything
13 more about what the contentions might be than what we
14 have heard or what Mr. Parsons may have discussed with
15 you in discussions in advance of today, do you have
16 any differing views on length of time for the hearing?

17 MR. KRIHA: Powertech does not have a
18 differing view. We believe, as long as it's contained
19 to the event and HPA, less than a week sounds right to
20 us.

21 JUDGE MERCER: Okay. Mr. Steinfeldt?

22 MR. STEINFELDT: Yes, Your Honor. Based
23 on what's before us, probably taking about one to two
24 days hearing would be sufficient, but we think a
25 reasonable timeframe that the other parties have

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1 suggested is something that seems reasonable.

2 JUDGE MERCER: Okay. All right. The
3 hearing, if, in fact, we end up making our way to an
4 evidentiary hearing, will be here in our Rockville,
5 Maryland, hearing room. That's Two White Flint, third
6 floor. That's the ASLBP hearing room.

7 Now, we took a look at the submissions
8 that you all made in advance of the status conference
9 today. And one of the submissions included a rebuttal
10 filing happening on December 16th of 2026. That's in
11 what I will call the dispositive motion track. If
12 dispositive motions are filed, one of the deadlines
13 that you all proposed was a rebuttal filing on
14 December 16th.

15 As we understand the milestones, though,
16 the hearings -- an evidentiary hearing must start no
17 later than December 9th, which is 175 days from
18 issuance of the staff's June 17th Environmental
19 Assessment.

20 Now, the Board has developed a schedule
21 that is in compliance with the milestones in all
22 regards, and we're prepared to enter that today. But
23 as we understand the parties' joint submissions, it
24 appears that you all believe that a more efficient way
25 to handle the proceeding from here on out is with

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1 dates that aren't necessarily fully compliant with the
2 milestones.

3 Do we understand the parties' position
4 correctly? I'll start with Mr. Parsons, and then Mr.
5 Kriha, and Mr. Steinfeldt.

6 MR. PARSONS: Yes, Your Honor, I think
7 that's accurate. One aspect I think we did not have
8 in mind -- clarity on at least -- was that there would
9 be a ruling on new and amended contentions on or
10 before September 10th. So, that might -- at least
11 that sort of seems to me could be a possibility to
12 change the schedule.

13 I think the thrust of the motion we filed
14 was trying to gain efficiencies with respect to the
15 dispositive motions. If those are due the same day
16 the new and amended contentions are due, it seems like
17 that could be, you know, sort of -- those motions
18 could be altered, based on what's admitted and what's
19 not. So, that was the thrust of that. And I don't
20 have a better answer than that, but perhaps staff
21 does.

22 JUDGE MERCER: Understood, Mr. Parsons.

23 And before turning to Mr. Kriha, we
24 understand the efficiency argument you all are making,
25 that it does not necessarily make the most efficient

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1 sense to have dispositive motions due simultaneously
2 with new and amended contentions, when some of the
3 arguments in a dispositive motion might be duplicative
4 of arguments contra a motion for new and amended
5 contentions. And we noticed the efficiency argument.

6 The deadlines that we had in our prior
7 scheduling orders, though, were dictated by the
8 milestones, which, as you all know, have the same date
9 for both summary disposition motions and new and
10 amended contentions. So, we were doing our best to be
11 in compliance with those milestones, but if everyone
12 is in agreement that a more efficient way to do this
13 is with different dates, we're willing to entertain
14 that.

15 Mr. Kriha, I'll turn to you now.

16 MR. KRIHA: Yes, we feel the dates
17 proposed are the more efficient path and are willing
18 to move off of the milestones in order to pursue that
19 path.

20 I do think what Mr. Parsons just brought
21 up was a good point in terms of I think part of what
22 we were looking to do was delay the prehearing
23 evidentiary submissions beyond any ruling you had and
24 didn't expect it to be so soon on September 10th. So,
25 there is perhaps an opportunity to pull some of that

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1 forward because of such a quick ruling. But other
2 than that, yes, we do think it would be efficient to
3 move off of the milestones.

4 JUDGE MERCER: And, Mr. Steinfeldt, before
5 we get to you, just to address something from Mr.
6 Parsons and Mr. Kriha, while our decision on the
7 Motion for Leave to File New and Amended Contentions
8 would be due September 10th, and we would do all in
9 our power to hit that milestone date, if summary
10 disposition motions were to be filed, using the dates
11 that you all provided, our decision likely would not
12 occur until October 5th. And that's kind of taking
13 the timeframe from the milestones and applying those
14 to the proposed deadlines that you all gave us.

15 So, while the decision on new and amended
16 contentions would be September 10th, almost a month
17 later for the summary disposition motions, because you
18 all had September 8th -- or I'm sorry -- September
19 15th as your deadline for answers in opposition to
20 those summary disposition motions. So, I heard Mr.
21 Kriha and I heard Mr. Parsons talk about September
22 10th, and, yes, that's an accurate date for the new
23 and amended contentions decision, but it wouldn't
24 necessarily be for the summary disposition motions.

25 So, Mr. Steinfeldt, I'll open it to you

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1 now.

2 MR. STEINFELDT: Well, the staff agrees
3 the points made by Mr. Parsons and Mr. Kriha on the
4 efficiency aspect, and we're willing to adjust the
5 dates off what the milestones specifically call for.
6 And if the dates that were proposed or adjusted
7 somewhat based on the schedule that's been discussed
8 today, I think that we would be amenable to that. But
9 again, if that's not exactly on point with the
10 milestones, I think it would still lend to
11 efficiencies that would be productive as far as this
12 proceeding goes.

13 JUDGE MERCER: Okay. And just so that
14 we're clear, again, the Board is -- we have a schedule
15 that we could put in place that hits all the
16 milestones, but if everyone is in agreement and
17 everyone recognizes that there would be two milestones
18 that would be not hit under the proposed schedule that
19 you all provided, and those would be the decision on
20 -- well, the filing of summary disposition motions,
21 that would be delayed, and the start of the hearing
22 date would be delayed.

23 And when I talk about the start of the
24 hearing date, it likely would not be until about mid-
25 January for the hearing, the evidentiary hearing. If

1 we assume summary disposition motions are filed based
2 on everything that you all provided, we would be
3 looking at about January 13th for the start of the
4 evidentiary hearing date.

5 With those in mind, is that the route that
6 the parties want us to take, using a schedule that
7 does not necessarily comply fully with the milestones?

8 Mr. Parsons?

9 MR. PARSONS: That would be acceptable to
10 organizational intervenors, Your Honor.

11 JUDGE MERCER: Mr. Kriha?

12 MR. KRIHA: Yes, that would be acceptable
13 to Powertech.

14 JUDGE MERCER: And Mr. Steinfeldt?

15 MR. STEINFELDT: Yeah, if the other
16 parties agree to that, yes, it's acceptable to the NRC
17 staff.

18 JUDGE MERCER: Okay. All right. So,
19 given that we're looking at a hearing in December, if
20 summary disposition motions are not filed, or January,
21 if they are filed, and given that we're about five to
22 six months out from that now, the Board advises
23 everybody to keep weather in mind -- not just weather
24 here in Rockville, Maryland, because, as you all know,
25 even if the weather here is sunny and in the 50s, it

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1 could be storming somewhere else that causes a knock
2 on delays for travel. And given that we're setting
3 these dates five to six months in advance, we're not
4 going to look favorably on last-minute requests to
5 delay, to excuse the witness or to delay the hearing.

6 And we'll give you the deadlines that
7 we've looked at, in light of the deadlines that you
8 all proposed. If you have any issues with them,
9 please raise them today, or afterward, if you go back
10 and look at things and there's an issue that you
11 didn't address or want to bring up, we expect any
12 motion to extend the dates that we set today, that
13 will be filed no later than July 14th, with any
14 response or opposition due by July 16th.

15 So, the first deadline that we're going to
16 file or set is for summary disposition motions. Now,
17 we saw that you all provided a proposed date for
18 summary dispositions as it relates to the existing
19 contentions, Contentions 1A and 1B. There was nothing
20 in what you submitted to set a summary disposition
21 motion relative to any new or amended contention that
22 might be admitted.

23 And again, we're not prejudging any new
24 and amended contentions, but we wanted to find out --
25 Mr. Parsons files a motion for new and amended

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1 contentions; briefing is complete. We take a look at
2 it and we discern that, based on the relevant
3 standards, at least one new or amended contention
4 should be admitted.

5 Under what you all gave us, there would be
6 no opportunity for Powertech or the staff to file a
7 summary disposition motion. Was that intentional on
8 the parties' part, that you've opted, if there are new
9 and amended contentions, we're just going to go and
10 address those at an evidentiary hearing? Or was that
11 an oversight on the part of the parties, that we
12 should talk about adding that deadline into the
13 schedule as well?

14 Seeing as how it would be Powertech or the
15 staff that generally would file a summary disposition
16 motion, not that Mr. Parsons couldn't, I'll start with
17 Mr. Kriha, and go to Mr. Steinfeldt, and then, end
18 with Mr. Parsons.

19 MR. KRIHA: I believe that was an
20 oversight and we would like to discuss putting some
21 deadlines in for that.

22 JUDGE MERCER: Mr. Steinfeldt?

23 MR. STEINFELDT: Yeah, we did not
24 specifically discuss that. So, I think it was more of
25 an oversight.

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1 JUDGE MERCER: Mr. Parsons?

2 MR. PARSONS: Well, I would just say that
3 certainly NRC staff and Powertech would have, under
4 the rules, have the right to file such a motion. So,
5 I think it's worth discussing.

6 JUDGE MERCER: Okay. And I will just
7 state that, if we add into the schedule a time for
8 summary disposition motions on new or amended
9 contentions, we would be looking at yet a third track,
10 I think, of deadlines. And if, in fact, new and
11 amended contentions are admitted, and the parties then
12 file summary disposition motions, we would be looking
13 at an evidentiary hearing that would be even further
14 delayed beyond January 13th-ish.

15 Do all parties recognize that would be the
16 situation where we would find ourselves?

17 Mr. Parsons?

18 MR. PARSONS: Yes, I recognize that.
19 Thank you.

20 JUDGE MERCER: Mr. Kriha?

21 MR. KRIHA: Yes, we recognize that.

22 JUDGE MERCER: And Mr. Steinfeldt?

23 MR. STEINFELDT: Yes, we recognize that.

24 JUDGE MERCER: And is that something that
25 the parties -- again, we're now more than a month --

1 on January 13th, we're more than a month beyond the
2 milestone. If we push that even further a couple more
3 months to give time for a briefing and decision on
4 summary disposition motions, are the parties in
5 agreement that that's the way that they think this
6 case should be scheduled for efficiency purposes?

7 Mr. Parsons?

8 MR. PARSONS: Yes, Your Honor.

9 JUDGE MERCER: Mr. Kriha?

10 MR. KRIHA: Yes.

11 JUDGE MERCER: Mr. Steinfeldt?

12 MR. STEINFELDT: I think, consistent with
13 the efficiency arguments or discussion that we've been
14 having, yes, although not committing -- and I don't
15 think I'm being asked to -- about whether we would be
16 filing such dispositive motion.

17 JUDGE MERCER: Understood. Right. And
18 what I think we would end up doing is, now recognizing
19 that there's a desire to have that, we would have
20 three different tracks of deadlines set in today's
21 status conference.

22 One, if no summary disposition motions are
23 filed.

24 Two, if summary disposition motions are
25 filed as to existing contentions, but now as to new

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1 and amended contentions.

2 And third, if summary disposition motions
3 are filed as to both existing, and then, to new and/or
4 amended contentions.

5 And so, I will confess that we've got
6 dates in mind, based on the parties' submissions for
7 the first two of those tracks. We may need to take a
8 brief break and come back after we outline those to
9 get that last track of deadlines set. But we'll walk
10 through the ones that we have and get those down, so
11 you all can take a look at those during the brief
12 break as well.

13 All right. I will say, on behalf of the
14 Board, that when it comes to summary disposition
15 motions, we want to take the opportunity to urge the
16 parties to review prior Board and Commission decisions
17 regarding summary disposition motions before anyone
18 prepares or files the motion.

19 We're not necessarily, again, prejudging
20 any motion, and we're not directing the parties to any
21 substantive analysis of summary disposition motions in
22 prior decisions, but the Commission's view of when
23 summary disposition motions should be submitted, or
24 the utility of those.

25 And a couple of cases that might be of

1 interest are: the Cleveland Electric Illuminating
2 Company Perinuclear Power Plants, Units 1 and 2,
3 16 NRC 1351, pinpoint cite 52 to 53; Advanced Medical
4 Systems Inc., One Factory Road, Geneva, Ohio 44041,
5 CLI 93-22, and that's 38 NRC 98, pinpoint 102; and
6 then Florida Power & Light Company, Turkey Point
7 Nuclear Generating Plant, Units 6 and 7, LBP-16-3,
8 83 NRC 169, specifically pinpoint 176.

9 Again, for efficiency purposes, we've all
10 been there in cases where people file summary judgment
11 motions, summary disposition motions, because it's a
12 knee-jerk reaction, and it just causes a lot of people
13 to have to spend a lot of time and money on stuff that
14 really shouldn't have happened, if somebody really
15 thought through what a summary disposition motion
16 really is designed to do. So, we urge you all to take
17 a look at those before you start the process.

18 Now, as to originally admitted
19 contentions, i.e., Contentions 1A and 1B, motions for
20 summary disposition directed to either of those, along
21 with statements of undisputed material facts, are due
22 no later than August 4th.

23 The motion is limited to 15 pages. The
24 statement of undisputed material facts should be in a
25 numbered paragraph format organized as much as

1 possible to address one fact per paragraph. And each
2 paragraph should contain a citation to support the
3 asserted fact.

4 Answers supporting summary disposition
5 motions, if any, would be due August 24th and are
6 limited to 10 pages.

7 Answers opposing motions for summary
8 disposition, along with a counterstatement of
9 undisputed material facts, which is responding
10 numbered paragraph by numbered paragraph, either
11 admitting the fact or providing additional facts with
12 citation to create a dispute, are due September 8th,
13 2026. Answers are limited to 15 pages. And a failure
14 to respond to a properly supported statement of
15 undisputed material fact will be deemed to be an
16 admission of that fact.

17 The page limits are for the motion and
18 answer, not necessarily for the undisputed material
19 facts or the response thereto. No replies are
20 permitted for summary disposition motions.

21 Now, a deadline for summary disposition
22 motions related to new and amended contentions, we
23 will have to review the calendar, and we'll do that
24 during a very brief break and get back to you all on
25 that.

1 Okay. Prehearing evidentiary submissions.
2 We agree with the suggestion from the parties that,
3 instead of doing an initial, a response, and a reply,
4 that it's more efficient to do -- everybody submit
5 their initial or, essentially, their direct, and then,
6 everybody do a response. So, just two of those.

7 Let's see. For the summary disposition
8 motion track, the initial written statements of
9 position and written testimony with supporting
10 affidavits, each party should file that November 16th.

11 For the non-summary disposition track,
12 i.e., if Powertech and the staff do not file summary
13 dispositions as it relates to Contentions 1A and 1B,
14 then those filings would be due October 20th.

15 The written testimony is in a question-
16 and-answer format with supporting affidavits and
17 exhibits. And the parties are reminded that each
18 written statement of position shall be in a trial
19 brief format that summarizes the parties' case,
20 setting out the applicable legal standards,
21 identifying witnesses and evidence, and specifying
22 with as much particularity as practicable how each
23 witness, exhibit, or category of evidence supports a
24 factual or legal position.

25 Please consult our prior order, Section

1 3(g)(2) on how to cite page numbers of exhibits and
2 3(g)(3) regarding exhibits and exhibit lists. Ms.
3 Dean emailed exhibit cover pages to counsel on July
4 7th.

5 Each party then has the ability to submit
6 written responses and rebuttal testimony with
7 supporting affidavits and exhibits directed to the
8 initial statements and testimony of the other parties.

9 For the summary disposition track, those
10 are due December 16th. For the non-summary
11 disposition track, those are due November 18th. No
12 reply submissions are permitted.

13 We did not see in what the parties
14 submitted to us dates for motions for cross-exam, in
15 camera proposed questions, or statements of agreed and
16 disputed facts. We assume you all would like the
17 ability to file those, if you think that they are
18 necessary. So, we will give you dates for those. If
19 you don't believe they're necessary, there's no need
20 to make these filings.

21 Motion for cross-examination, along with
22 the proposed cross-examination plan, for summary
23 disposition track, those are due December 18th. For
24 non-summary disposition track, those are due November
25 23rd.

1 Please, please, please see Section 3 (g) (5)
2 of our prior case management order for filing
3 logistics. The dates that we give today, those
4 supersede the ones in that order. So, summary
5 disposition track, December 18th; non-summary
6 disposition track, November 23rd.

7 Responses or oppositions to the motions
8 for cross-examination, for the summary disposition
9 track, December 22nd; for the non-summary disposition
10 track, November 25th.

11 Statements of agreed and disputed facts,
12 this is outlined in Section 3(g)(6) of our case
13 management order. For the summary disposition track,
14 those are due December 22nd; the non-summary
15 disposition track due November 25th.

16 And please ensure that you take into
17 consideration Regulation 2.329(c)(3) when you prepare
18 the statement of agreed and disputed facts.

19 In camera proposed questions for the
20 hearing, Rule 2.1207(a)(3) allows the parties to
21 submit proposed questions for us to ask related to
22 direct testimony and rebuttal testimony. We're
23 consolidating these filings into one combined filing
24 per party. So, organizational intervenors
25 collectively get one filing; Powertech gets one

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1 filing; the staff gets one filing.

2 For the summary disposition track, that's
3 due December 22nd of 2026; for the non-summary
4 disposition track, that's due November 25th. And see
5 our prior order, Section 3(g)(5) for filing logistics
6 on that.

7 If there are motions in limine or motions
8 to strike that you all believe need to be filed, those
9 are due within five days of the relevant filing, not
10 30 days, as in our prior order. Those motions are
11 limited to five pages, in addition to the required
12 certification. Responses are due three days later,
13 also limited to five pages, and no replies are
14 permitted.

15 After the hearing concludes, and just so
16 we've got the specific dates for the hearings, in the
17 non-summary disposition track, that hearing would
18 start December 9th; the summary disposition track, it
19 would start January 13th.

20 After the hearing concludes, proposed
21 findings of fact and conclusions of law set out in
22 Rule 2.1209, these are due no later than 30 days after
23 the hearing concludes.

24 And just so everybody is on the same page,
25 the hearing does not conclude the day that we adjourn,

1 but it concludes after the court reporter has finished
2 the transcript and the parties have submitted any
3 proposed corrections to the transcript.

4 Corrections to the transcript are due
5 seven days after the entire transcript has been made
6 available by the court reporter to the parties.

7 The format for the proposed findings and
8 conclusions, each proposed fact and conclusion must
9 also have a citation to evidence or authorities
10 supporting it. For proposed conclusions of law, to
11 the extent that it's supported by a legal decision, we
12 want not only the general cite, but also the pinpoint
13 cite to the relevant portion in that decision.

14 In our prior case management and
15 scheduling order, we had included a direction in
16 Section 3(g)(1) that the parties submit a list of
17 potential witnesses. We no longer need you to do
18 that. So, that requirement no longer exists.

19 But each party still must assure, at their
20 own expense and effort, that each witness that they
21 submit testimony for is available at the hearing.

22 We remind the parties of our commitment to
23 the participation of appropriately prepared new or
24 junior attorneys in the evidentiary hearing process
25 under conditions similar to those that we've set out

1 in prior orders dealing with oral argument.

2 If you all are going to have a new or
3 junior attorney participate, please let the Board's
4 law clerk know by email with a copy to all counsel no
5 later than December 3rd for the December hearing; for
6 January 7th for the January hearing.

7 We want to remind the parties of the
8 ability of the Board to appoint a settlement judge or
9 employ other dispute resolution proceedings, should
10 the parties so desire. If we do engage either of
11 those options, though, it does not stay the
12 proceedings automatically. If you all believe that
13 that would be helpful, please let us know at your
14 earliest opportunity.

15 Per Rule 2.319(p), as in Papa, we're
16 allowed to dispose of pending motions by oral ruling.
17 The joint motion to extend the deadline for
18 dispositive motions that was filed July 6th, 2026, is
19 granted in part, and it's granted as per the deadlines
20 that we've set here in the status conference today.

21 I know we've gone through a lot of
22 deadlines and a lot of information. Before we take a
23 break for the Board to talk about and come up with a
24 deadline for the third track, are there any issues,
25 Mr. Parsons, Mr. Kriha, Mr. Steinfeldt, that you want

1 to bring up, based on what we've discussed or set so
2 far?

3 MR. PARSONS: I don't have anything
4 specifically, Your Honor. But just to confirm my
5 understanding that these deadlines will be reflected
6 in an order forthcoming from the Board?

7 (No audible response.)

8 MR. PARSONS: And it sounds like that's a
9 yes.

10 The other question I have, in the
11 scheduling order, I believe there was reference to, I
12 guess, any other non-dispositive motions. I assume
13 those would coincide with maybe the in camera
14 questions or another deadline, but I don't know what
15 else that would be, but I did not catch a specific
16 deadline for other non-dispositive motions.

17 JUDGE MERCER: To the extent that it is
18 other than a motion to strike or a motion in limine,
19 I'm not exactly sure what it might be, but file them
20 as expeditiously as possible and make sure they follow
21 the consultation process outlined in our prior orders.

22 MR. PARSONS: Thank you, Your Honor.

23 JUDGE MERCER: Mr. Kriha?

24 MR. KRIHA: Nothing else for Powertech to
25 discuss.

1 JUDGE MERCER: Mr. Steinfeldt?

2 MR. STEINFELDT: Nothing else from the
3 staff.

4 JUDGE MERCER: Okay. We will take a brief
5 break. Let's see, it is 2:08. Let's come back at
6 2:20. That should give us time to come up with some
7 dates for that third track. And if there's anything
8 else that you think we need to discuss, please have it
9 available, so that we can discuss it after that. And
10 we might be done by 2:30 today Eastern time.

11 So, we appreciate you all, all your
12 preparation in advance, and please take this
13 opportunity to review your notes, what we've talked
14 about so far to see if anything needs to be addressed
15 when we come back.

16 With that, we will stand in recess for
17 about 11 minutes.

18 THE REPORTER: We're off the record.

19 (Whereupon, the above-entitled matter went
20 off the record at 2:09 p.m. and resumed at 2:22 p.m.)

21 JUDGE MERCER: All right. I apologize
22 that we're a couple of minutes late coming back. I
23 was telling my colleagues that, as a practicing
24 lawyer, I always hated when a judge gave a deadline,
25 and then the judge was a couple of minutes late. So,

1 I apologize and appreciate your indulgence.

2 What we have done is we took a look at the
3 general timeframes that we gave you all for summary
4 disposition motions deadlines, and then, essentially,
5 took those and applied them to the timeframe after the
6 decision on new and amended conventions. And these
7 are the deadlines that we came up with for that third
8 track.

9 So, if someone files summary disposition
10 motions on new or amended contentions, this third
11 track, those summary disposition motions are due
12 October 2nd.

13 Answers in support are due October 22nd.
14 Answers in opposition are due November 6th. Our
15 decision on that motion, we would aim to issue by
16 December 3rd.

17 Statements of position and direct
18 testimony, along with exhibits, then, would be due on
19 January 14th. Rebuttal statements of position with
20 rebuttal testimony and exhibits would be due February
21 11th.

22 Motions for cross-exam, along with
23 proposed cross-exam plan, would be due February 16th.
24 February 22nd would be the due date for responses to
25 the motion for cross-exam; also, the date for proposed

1 questions, and also, the date for the statement of
2 agreed and disputed facts. And then, the hearing
3 would start Monday, March 15th.

4 Now, we will try to make extremely clear
5 in the order -- and I am looking at Ms. Dean, who will
6 have the wonderful task of drafting a clear order on
7 this -- those three tracks.

8 I will note for you all that in that third
9 track, the summary disposition motion is due October
10 2nd. That's the thing that will stop the October 20th
11 date for submission of the statement of position and
12 direct testimony with exhibits.

13 So, if you're going to file it, if you
14 want to let the other counsel know, so people aren't
15 working under a different track, trying to get stuff
16 prepared. Be as courteous as possible to your other
17 counsel. That would be much appreciated, I'm sure, by
18 them, your professionalism.

19 So, just keep that in mind, because you
20 all are kind of the masters of whichever track we find
21 ourselves in. So, to the extent that you can let your
22 other counsel know that certain things are going to
23 happen, so that they are not working ahead on a view
24 of what the facts are or what the claims are, and
25 then, they have to switch, that would, I'm sure, be

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1 appreciated by everyone.

2 All right. I promised counsel the
3 opportunity to bring up anything that they may have
4 discovered or thought of during that break. I will
5 turn to you now, go in the familiar order -- Mr.
6 Parsons, Mr. Kriha, Mr. Steinfeldt.

7 Mr. Parsons, we turn to you.

8 MR. PARSONS: No, nothing further, Your
9 Honor. Thank you.

10 JUDGE MERCER: Mr. Kriha?

11 MR. KRIHA: Nothing further to discuss.
12 Thank you.

13 JUDGE MERCER: And Mr. Steinfeldt?

14 MR. STEINFELDT: Your Honor, just one item
15 related to the hearing date that you just provided in
16 March. The likely expected staff, one of our
17 witnesses has an already scheduled conflict the period
18 of March 10th through the 20th.

19 JUDGE MERCER: Okay. We've got -- let's
20 see, you said March 10th through the 20th?

21 MR. STEINFELDT: Yes.

22 JUDGE MERCER: And this is a staff person
23 who likely would be testifying or whose presence would
24 be necessary --

25 MR. STEINFELDT: Yes.

1 JUDGE MERCER: -- for the defense for
2 prosecution of the case?

3 MR. STEINFELDT: A witness to testify.

4 JUDGE MERCER: How do the parties feel?
5 We can move it earlier or we can move it later. If we
6 moved it earlier, we probably would move it to the 3rd
7 or 4th. If we moved it later, we would move it to the
8 22nd of March.

9 Seeing as how either of those dates puts
10 us well beyond the milestone, and we're doing that at
11 the parties' request for efficiency purposes, I put it
12 to the parties. Do you prefer March 3rd or March
13 22nd?

14 Mr. Steinfeldt, we'll start with you.

15 MR. STEINFELDT: I don't have a strong
16 preference either way.

17 JUDGE MERCER: Okay. Mr. Kriha?

18 MR. KRIHA: We would prefer the 3rd, but
19 we can flexible with either.

20 JUDGE MERCER: Okay. Mr. Parsons?

21 MR. PARSONS: I would have the opposite
22 reaction. I would prefer the 22nd, but can be
23 flexible with either.

24 JUDGE MERCER: Okay. We will take that
25 under advisement. I'll talk with my fellow Board

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1 members offline, and we will put the new date in the
2 order that issues. It will be either the 3rd or the
3 22nd.

4 Anything else? Mr. Steinfeldt, I didn't
5 want to cut you off.

6 MR. STEINFELDT: No, nothing else. I just
7 want to say thank you for considering that.

8 JUDGE MERCER: All right. Thank you.

9 Judge Trikouros, anything from you before
10 we adjourn the status conference.

11 JUDGE TRIKOUROS: No. Thank you.

12 JUDGE MERCER: Judge Arnold?

13 JUDGE ARNOLD: No.

14 JUDGE MERCER: All right. We thank the
15 parties very much for your preparation in advance of
16 today. Thank you for the submissions in advance of
17 today. It helped us put together proposed dates.

18 We direct the parties to remain in the
19 Teams room after we depart to allow the court reporter
20 to address any questions that she may have as to the
21 transcript, which transcript will be filed once it is
22 completed. That concludes the video status
23 conference, and we are adjourned.

24 (Whereupon, the above-entitled matter went
25 off the record at 2:32 p.m.)

From: [Tex Steinfeldt](#)
To: [Whitlee Dean](#)
Cc: [Katerina Georgiev](#); jeff@wmaplaw.org; stills@eclawoffice.org; Andrew.Kriha@hklaw.com; jason.hill@hklaw.com
Subject: Joint draft proposed prehearing filing deadlines in Powertech proceeding
Date: Monday, July 6, 2026 2:05:32 PM

Dear Ms. Dean:

Pursuant to the Board's direction in its Status Conference Order,^[1] the NRC Staff, Powertech (USA) Inc. (Powertech), and the Oglala Sioux Tribe, together with the Black Hills Clean Water Alliance and the NDN Collective (collectively, the Organizational Petitioners), provide for the Board's consideration a proposed schedule for prehearing evidentiary submissions that factors in the proposed change described in the parties' joint motion submitted on July 6, 2026, requesting an extension of the deadline for dispositive motions. The parties jointly propose that initial prehearing evidentiary submissions be due from all parties within 60 days of service of answers in opposition to a dispositive motion, or, if no dispositive motion is filed, within 60 days of service of the Organizational Petitioners' reply to the answers to proposed new or amended contentions. Rebuttal prehearing evidentiary submissions would be due from all parties within 30 days of service of the parties' initial prehearing evidentiary submissions. As proposed, because the parties would simultaneously file their initial and rebuttal prehearing evidentiary submissions, there would not be a need to include a third "reply" stage, as provided in Item G.2 of the Board's first amended case scheduling and management Order from May 12, 2025.^[2] Under this proposal, the later due date for prehearing evidentiary submissions, triggered by the filing of answers in opposition to a dispositive motion, would still fall within the 155-day period to file written direct testimony after issuance of the NEPA document, in accordance with the model milestones in Appendix B to 10 C.F.R. Part 2 for hearings conducted under Part 2, Subpart L. The NRC Staff issued the Environmental Assessment (EA) and finding of no significant impacts (FONSI) on June 17, 2026.^[3]

The following tables reflect the proposed prehearing filing deadlines discussed above.

Filing Due Date	Action
November 16, 2026	Initial prehearing evidentiary submissions due
December 16, 2026	Rebuttal prehearing evidentiary submissions due

This schedule is based on the filing deadline of September 15, 2026, for answers in opposition to a dispositive motion, as proposed by the parties in their joint motion to extend the deadline for dispositive motions filed on July 6, 2026.

Filing Due Date	Action
October 20, 2026	Initial prehearing evidentiary submissions due
November 19, 2026	Rebuttal prehearing evidentiary submissions due

This schedule is based on the filing deadline of August 21, 2026, for the reply to answers to proposed new or amended contentions.

The NRC has been authorized by Powertech and the Organizational Petitioners to provide the Board with these joint draft proposed prehearing filing deadlines as described above on

their behalf.

Respectfully submitted,

Thomas Steinfeldt

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[1] Licensing Board Order (Scheduling Video Status Conference) (Apr. 20, 2026) at 2 n.3 (unpub.) (ML26110A290).

[2] Licensing Board Order (First Amended Case Scheduling and Management) (May 12, 2025) at 8 (unpub.) (ML25132A016).

[3] NRC Staff Notice Regarding Issuance of Environmental Assessment, Finding Of No Significant Impact, and Final Programmatic Agreement (June 17, 2026) (ML26168A251); *see also* Powertech USA Inc.; Dewey-Burdock In Situ Uranium Recovery Project; Environmental Assessment, Finding of No Significant Impact, and Final Programmatic Agreement, 91 Fed. Reg. 36,623 (June 17, 2026).