

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Ho K. Nieh, Chairman
David A. Wright
Bradley R. Crowell
Matthew J. Marzano
Douglas W. Weaver

In the Matter of

LONG MOTT ENERGY, LLC

(Long Mott Generating Station)

Docket No. 50-614-CP

CLI-26-10

MEMORANDUM AND ORDER

This order addresses Long Mott Energy, LLC's ("LME") appeal of the Atomic Safety and Licensing Board's (Board) decision in LBP-26-1.¹ In that decision, the Board granted San Antonio Bay Estuarine Waterkeeper's ("Waterkeeper") hearing request and admitted them as a party to this proceeding, which concerns LME's application to construct a four-unit non-light water reactor facility in Calhoun County, Texas.² For the reasons discussed below, subsequent

¹ *Long Mott Energy, LLC's Notice of Appeal of LBP-26-1* (Feb. 17, 2026) (LME Appeal); see 10 C.F.R. § 2.311(d)(1) (permitting an applicant to immediately appeal an order granting a request for hearing or petition to intervene on the question of whether the request/petition should have been wholly denied); *South Texas Project Nuclear Operating Co.* (South Texas Project, Units 3 and 4), CLI-09-18, 70 NRC 859, 861-62 (2009).

² LBP-26-1, 103 NRC __, __ (Jan. 22, 2026) (slip op. at 1-2).

events have rendered the appeal moot.³ We also decline LME's request to take *sua sponte* review of the Board's standing determination.

In its appeal, LME asks that the Commission reverse the Board's decision to admit two reformulated contentions—Contention 3A and Contention 3B—each relating to LME's financial qualifications.⁴ However, shortly after the Board admitted both contentions, LME supplemented its construction permit application with new information.⁵ LME then moved to dismiss both contentions as moot.⁶ On March 20, 2026, the Board granted LME's motion to dismiss Contention 3A as moot.⁷ And on June 25, 2026, the Board granted LME's motion to dismiss Contention 3B as well.⁸ Because both contentions that are the subject of LME's interlocutory appeal have since been dismissed as moot, we likewise dismiss LME's appeal as moot.⁹

³ Waterkeeper has since filed a petition for Commission review of, among other things, the Board's dismissal of Contentions 3A and 3B as moot. *San Antonio Bay Estuarine Waterkeeper's Petition for Review* (July 20, 2026), at 6-23. Today's order solely resolves LME's interlocutory appeal filed pursuant to 10 C.F.R. § 2.311 and takes no position on Waterkeeper's separate petition for review filed pursuant to 10 C.F.R. § 2.341.

⁴ LME Appeal at 5-26. Waterkeeper filed a timely response opposing the appeal. *San Antonio Bay Estuarine Waterkeeper's Brief in Response to Long Mott Energy, LLC's Appeal of LBP-26-1* (Mar. 16, 2026).

⁵ See *Licensing Board Notification Regarding CPA Part V Supplement # 1* (Mar. 3, 2026); *Licensing Board Notification Regarding CPA Part I Supplement # 1* (Mar. 3, 2026).

⁶ *Long Mott Energy, LLC's Motion to Dismiss Contention 3A as Moot* (Mar. 6, 2026); *Long Mott Energy, LLC's Motion to Dismiss Contention 3B as Moot* (Mar. 13, 2026).

⁷ Licensing Board Order (Granting Applicant's Motion to Dismiss Contention 3A as Moot) (Mar. 20, 2026), at 8 (unpublished).

⁸ LBP-26-4, 103 NRC ___, ___ (June 25, 2026) (slip op. at 25).

⁹ See *Exelon Generation Co., LLC* (Dresden Nuclear Power Station, Units 2 and 3), CLI-16-6, 83 NRC 147, 155 (2016) (dismissing as moot an appeal filed under 10 C.F.R. § 2.311(c) because, *inter alia*, the original conditions in the NRC confirmatory order that were the subject of the hearing request had since been rescinded and superseded). Because the appeal is moot, we also deny as moot LME's motion for expedited consideration of the appeal. *Long Mott Energy, LLC's Motion for Expedited Consideration of its Appeal of LBP-26-1* (Feb. 23, 2026).

In LBP-26-1 the Board also determined that Waterkeeper established representational standing to intervene in the proceeding.¹⁰ LME does not challenge this determination in its appeal.¹¹ However, LME invites the Commission to review the Board's standing conclusion under our inherent supervisory authority, and to provide clarification on whether future petitioners may rely on the "proximity presumption" to establish standing in proceedings that do not involve large light-water reactors.¹² We decline to take review of the Board's standing determination, in the absence of a referred ruling or certified question to the Commission.¹³ We have long disfavored issuing what essentially amounts to an "advisory opinion" in an adjudicatory proceeding where there is no adverseness between the parties.¹⁴ We need not depart from this established reluctance in this proceeding. We agree with the Board that, as the NRC enters a new era of licensing advanced non-light water reactors, the Commission's proximity presumption presents a potentially significant matter of adjudicatory policy worthy of our careful consideration.¹⁵ However, we do not wish to delay this proceeding by undertaking a broad review of our standing doctrine here.

¹⁰ LBP-26-1, 103 NRC at __ (slip op. at 8, 17-18).

¹¹ LME Appeal at 27 ("LME does not assert that the Board erred in its standing ruling.").

¹² *Id.* at 26-30. As explained by the Board, the "proximity presumption" effectively serves as a shortcut for determining standing in certain proceedings involving power reactors, reserved for petitioners who live within, or otherwise have frequent contacts with, a roughly 50-mile radius of the facility. LBP-26-1, 103 NRC at __ (slip op. at 10-11) (citing *El Paso Electric Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-20-7, 92 NRC 225, 231 (2020)).

¹³ 10 C.F.R. §§ 2.319(l), 2.323(f).

¹⁴ See *Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-13-10, 78 NRC 563, 568-69 (2013) (stating that "the possibility that an issue may arise in the future" does not overcome the Commission's preference to resolve issues "in the context of a concrete dispute, where all of the parties have a stake in the outcome . . .").

¹⁵ See LBP-26-1, 103 NRC at __ n.61 (slip op. at 15 n.61).

For the foregoing reasons, we *dismiss* LME's pending appeal as moot.

IT IS SO ORDERED.

For the Commission



Jody C. Martin
Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of August 2026.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER (CLI-26-10)** have been served upon the following by Electronic Information Exchange.

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Long Mott Energy, LLC., Docket No. 50-614-CP
COMMISSION MEMORANDUM AND ORDER (CLI-26-10)

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of August 2026.