

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Christopher T. Hanson, Chairman
Jeff Baran
David A. Wright

In the Matter of

DUKE ENERGY CAROLINAS, LLC
(Oconee Nuclear Station, Units 1, 2, and 3)

Docket Nos. 50-269-SLR
50-270-SLR
50-287-SLR

EXELON GENERATION COMPANY, LLC
(Peach Bottom Atomic Power Station, Units 2
and 3)

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

FLORIDA POWER & LIGHT CO.
(Turkey Point Nuclear Generating Units 3 and 4)

Docket Nos. 50-250-SLR
50-251-SLR

NEXTERA ENERGY POINT BEACH, LLC
(Point Beach Nuclear Plant, Units 1 and 2)

Docket Nos. 50-266-SLR
50-301-SLR

VIRGINIA ELECTRIC AND POWER COMPANY
(North Anna Power Station, Units 1 and 2)

Docket Nos. 50-338-SLR
50-339-SLR

CLI-22-03

MEMORANDUM AND ORDER

We issued CLI-22-2 today,¹ which set forth the rationale for our conclusion that 10 C.F.R. § 51.53(c)(3) only applies to an initial license renewal applicant's preparation of an environmental report and that the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS)² did not address subsequent license renewal. In this order, we provide direction for open subsequent license renewal proceedings.

In recognition of the need to correct this National Environmental Policy Act (NEPA) deficiency, we will not issue any further licenses for subsequent renewal terms until the NRC staff (Staff) has completed an adequate NEPA review for each application. Licensing reviews should continue to move forward, and in adjudicatory matters, any contentions that do not challenge the contents of the GEIS or site-specific environmental impact statement should proceed.³ With respect to *Turkey Point* and *Peach Bottom*, where the Staff has already issued subsequently renewed licenses, we issued orders today to address the status of the licenses.

Separately, we are directing the Staff to review and update the 2013 GEIS so that it covers operation during the subsequent license renewal period.⁴ We believe the most efficient

¹ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 3 and 4), CLI-22-2, 95 NRC ___ (Feb. 24, 2022) (slip op.).

² "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (Final Report), NUREG-1437, rev. 1, vols. 1-3 (June 2013) (ADAMS accession nos. ML13106A241, ML13106A242, ML13106A244) (2013 GEIS).

³ We will issue a separate order ruling on two of the three contentions on appeal in the *Point Beach* proceeding. We will address Contention 2, which asserts a violation of a safety regulation. We will also address Contention 1, which is a NEPA-based contention but raises a legal issue separate from the adequacy of the contents of the GEIS or site-specific environmental impact statement.

⁴ Staff Requirements—SECY-21-0066—Rulemaking Plan for Renewing Nuclear Power Plant Operating Licenses – Environmental Review (RIN 3150-AK32; NRC-2018-0296)" (Feb. 24, 2022) (ML22053A308).

way to proceed is to direct the Staff to review and update the 2013 GEIS, then take appropriate action with respect to the pending subsequent license renewal applications to ensure that the environmental impacts for the period of subsequent license renewal are considered.

Nevertheless, we understand that an applicant may not wish to wait for the completion of the generic analysis and associated rulemaking. In that case, the applicant may submit a revised environmental report providing information on environmental impacts during the subsequent license renewal period. In such a case, petitioners or intervenors will be given an opportunity to submit new or amended contentions based on new information in the revised site-specific environmental impact statement.

As a general matter, in CLI-22-2 the Commission found that the 2013 GEIS did not consider the impacts from operations during the subsequent license renewal period and applicants for subsequent license renewal must evaluate Category 1 impacts in their environmental reports. Accordingly, these impacts must be addressed on a site-specific basis in the Staff's site-specific environmental impact statements. Because the applicants in the above-captioned proceedings have all submitted environmental reports, and the Staff can request additional information if needed during the environmental review process, we do not find it necessary for these applicants to submit revised environmental reports.

We dismiss the environmental contentions and motions pending in the above-captioned proceedings and take *sua sponte* review under 10 C.F.R. § 2.341(a)(2) of the Board's decision, LBP-22-1,⁵ in *Oconee* and dismiss all three proposed environmental contentions. We will provide an opportunity to file contentions after the NRC (1) updates the GEIS to address environmental impacts during the subsequent license renewal term and (2) completes the site-

⁵ *Duke Energy Carolinas, LLC* (Oconee Nuclear Station, Units 1, 2, and 3), LBP-22-1, 95 NRC __ (Feb. 11, 2022) (slip op.).

specific environmental impact statements.⁶ All of the pending matters include a challenge to the sufficiency of the Staff's environmental review. Through the orders we issue today, we acknowledge that the environmental review is incomplete in these cases and are separately directing the Staff to cure the NEPA deficiencies. The public, including the intervenors and petitioners in the above-captioned proceedings, and applicants will be afforded an opportunity to comment on the upcoming revision to the GEIS and the associated rulemaking through the normal agency processes.⁷ The public will also have an opportunity to comment during the development of the site-specific environmental impact statements. After each site-specific review is complete, a new notice of opportunity for hearing—limited to contentions based on new information in the site-specific environmental impact statement—will be issued. This approach will not require intervenors to meet heightened pleading standards in 10 C.F.R. § 2.309(c) for newly filed or refiled contentions.⁸

Accordingly, we dismiss without prejudice the motions, petitions, and appeals pending before us in the *Peach Bottom*, *Turkey Point*, and *North Anna* proceedings. We take *sua sponte* review of the Board's decision, LBP-22-1, in *Oconee* and dismiss without prejudice the three environmental proposed contentions. We terminate the *North Anna* and *Oconee* proceedings and leave open the *Peach Bottom* and *Turkey Point* proceedings so that we may determine the status of the licenses. We dismiss Contention 3 in *Point Beach* without prejudice and will issue a separate order ruling on the appeal of Contentions 1 and 2 in that proceeding.

⁶ While not all of the pending contentions directly challenge the scope of the 2013 GEIS, because the NRC will be updating the GEIS and site-specific environmental analyses, it would be inefficient to continue litigating any of the pending environmental contentions based on environmental information that may change.

⁷ See *generally* 10 C.F.R. § 51.73 (requiring a comment period for draft EISs and supplemental EISs).

⁸ Petitioners will be subject to the general requirements set out in 10 C.F.R. § 2.309(a) for intervention. We expect that petitioners would update references, as appropriate, in any refiled contentions.

IT IS SO ORDERED.



For the Commission

Annette L. Vietti-Cook Digitally signed by
Annette L. Vietti-Cook
Date: 2022.02.24
10:41:04 -05'00'

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 24th day of February 2022.

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NUCLEAR REGULATORY COMMISSION

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DUKE ENERGY)
)
(Oconee Nuclear Station)
Units 1, 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the **Commission Memorandum and Order (CLI-22-03)** have been served upon the following persons by Electronic Information Exchange.

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,
This 24th day of February 2022.