

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Beyond Nuclear, Inc.,)	Case No. 15-1173
Petitioner,)	
-vs-)	
U.S. Nuclear Regulatory Commission)	
and United States of America,)	
Respondents.)	

PETITIONER’S NONBINDING STATEMENT OF ISSUES

Petitioner Beyond Nuclear, Inc. hereby states that it intends to raise the following issues in this petition for review:¹

1. Whether the Nuclear Regulatory Commission (“NRC”) improperly denied admission of Contention 23, in which Petitioner claimed that the 29-mile-long 300' wide transmission corridor which would connect the proposed Fermi 3 nuclear power plant (“Fermi 3”) to the national power grid must be included

¹A third topic of claimed error, whether the NRC’s generic waste storage policy complies with the National Environmental Policy Act, is already pending before this Court in *New York v. NRC*, No. 14-1210 (D.C. Cir.) consolidated with Nos. 14-1212, 14-1216, 14-1217 (D.C. Cir.).

within the Draft and Final Environmental Impact Statements (“DEIS” and “FEIS”) for Fermi 3. Related to that, whether the Commission Staff’s determination not to include NEPA analysis of the Fermi 3 transmission corridor in the DEIS comprised a new circumstance between the Staff’s issuance of the DEIS and the FEIS, and therefore, the proper subject of a timely-submitted contention.

2. Whether the NRC abused its discretion and violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, when it declined to accept a *sua sponte* referral from the Atomic Safety and Licensing Board (“ASLB”) wherein the ASLB recommended that the transmission corridor be fully addressed within the Fermi 3 FEIS.

3. Whether the NRC incorrectly affirmed the ASLB’s ruling, following adjudication of Contention 15, that there are adequate assurances that claimed inadequacies within the Fermi 3 Quality Assurance program and its management from the very outset of planning and preparation for Fermi 3. Related to that, whether the Commission incorrectly found there to be adequate assurance under the Atomic Energy Act, 42 U.S.C. § 2011 *et seq.*, that the Quality Assurance program for Fermi 3 assures that issuance of a Combined Operating License will not be inimical to the health and safety of the public.

4. Whether the NRC violated the Administrative Procedure Act by relying

upon outdated information, incorrect assumptions, and faulty analysis, and rendering decisions as to Contention 23/the *sua sponte* referral, and Contention 15 which are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706.

Respectfully submitted,

/s/ Terry J. Lodge

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of July, 2015, I caused true and correct copies of the foregoing “Petitioner’s Nonbinding Statement of Issues” to be served, via deposit in the Court’s Electronic Case Filing system, upon Michelle Albert, Esq., Michelle.Albert@nrc.gov, Andrew Averbach, Esq., Andrew.Averbach@nrc.gov, David A. Repka, Esq., dreпка@winston.com, Tyson R. Smith, Esq., trsmith@winston.com, and Jon P. Christinidis, Esq., christinidisj@gteenergy.com.

July 22, 2015

/s/ Terry J. Lodge

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