

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Ronald M. Spritzer, Chairman  
Nicholas G. Trikouros  
Dr. Sekazi K. Mtingwa

In the Matter of

NEXTERA ENERGY SEABROOK, LLC

(Seabrook Station, Unit 1)

Docket No. 50-443-LA-2

ASLBP No. 17-953-02-LA-BD01

October 16, 2019

MEMORANDUM

(Request for Clarification)

On September 24–27, 2019, the Board held an evidentiary hearing for this proceeding in Newburyport, Massachusetts. On September 29, 2019, C-10 Research and Education Foundation (“C-10”) filed a motion to compel production of mineralogy data and requested the opportunity to submit supplemental written testimony regarding that data.<sup>1</sup> Specifically, C-10 requests that NextEra Energy Seabrook, LLC (“NextEra”) provide “a document or documents containing data regarding the tested mineralogical components of aggregate in Seabrook concrete.”<sup>2</sup> C-10 alleges the production of mineralogical data is necessary to make a complete record for the resolution of the dispute regarding the representativeness of the Large Scale Test Program (“LSTP”) at Ferguson Engineering Laboratory (“FSEL”) with respect to mineralogical

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<sup>1</sup> C-10 Research and Education Foundation’s Motion to Compel Production of Mineralogy Data and Request for Opportunity to Submit Supplemental Written Testimony Regarding the Data at 1 (Sept. 29, 2019) [hereinafter Motion to Compel].

<sup>2</sup> Id.

properties of the tested aggregate.<sup>3</sup> In addition, C-10 requests “a reasonable opportunity for Dr. Saouma [C-10’s expert witness] to give a written expert opinion on the comparability of the Seabrook aggregate with the LSTP test specimen aggregate.”<sup>4</sup>

NextEra opposes the Motion to Compel, arguing, among other things, that the motion is moot because NextEra in fact produced documents containing mineralogy data as part of its Initial Disclosures in January 2018.<sup>5</sup>

The Board therefore requests clarification from C-10 whether the following documents, which NextEra describes as containing “relevant mineralogical and petrographic information[,]”<sup>6</sup> in fact contain the mineralogy data C-10 seeks in its Motion to Compel:

- Simpson Gumpertz & Heger Inc., Document No. 120109-RPT-01 (Apr. 2012).
- Simpson Gumpertz & Heger Inc., Document No. RPT-100502.02-7 (July 2011).
- Simpson Gumpertz & Heger Inc., Document No. 110594-RPT-02 (Jan. 2012).
- Simpson Gumpertz & Heger Inc., Document No. RPT-100502-2 (Aug. 2010).
- Simpson Gumpertz & Heger Inc., Document No. RPT-100502-4 (Aug. 2010).
- Simpson Gumpertz & Heger Inc., Project No. 130064 (Mar. 2013).<sup>7</sup>

C-10 should also consider whether the petrographic reports contained in Appendix K to Exhibit NER022-R, together with the documents identified above, are sufficient to provide the data it requests.<sup>8</sup>

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<sup>3</sup> Id.

<sup>4</sup> Id. at 4.

<sup>5</sup> NextEra’s Answer Opposing C-10’s Motions to Compel Production of Mineralogical Data and to Submit Additional Post-Hearing Testimony (Oct. 9, 2019) [hereinafter NextEra’s Answer to Motion to Compel].

<sup>6</sup> Id. at 3.

<sup>7</sup> Id.; only one of these documents, Document No. 110594-RPT-02 (Jan. 2012) was included as an exhibit. See NER028.

<sup>8</sup> NextEra filed Exhibit NER022-R, a revised version of Exhibit NER022, on September 22, 2019, two days before the start of the evidentiary hearing. Appendix K, which is 415 pages, was included in NER022-R, but was not part of NER022.

If the referenced documents contain the mineralogy data C-10 seeks to compel, the motion is unnecessary insofar as it requests that NextEra provide additional mineralogy data. If C-10 determines the documents do not contain the requested data, it should provide a short statement explaining why the referenced documents are inadequate. If C-10 determines the referenced documents contain the data it seeks, it should so inform the Board, state whether it still seeks to provide supplemental written testimony from Dr. Saouma, and if it believes such additional testimony is necessary, explain why good cause exists for permitting the extensive record already before the Board to be supplemented with further testimony.

IT IS SO ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

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Ronald M. Spritzer, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
October 16, 2019

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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	)	
NEXTERA ENERGY SEABROOK, LLC	)	Docket No. 50-443-LA-2
(Seabrook Station, Unit 1)	)	
	)	
(License Amendment)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM (Request for Clarification)** have been served upon the following persons by Electronic Information Exchange.

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**MEMORANDUM (Request for Clarification)**

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[Original signed by Clara Sola \_\_\_\_\_]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 16<sup>th</sup> day of October 2019.