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In the Matter of)	
Exelon Generation Company, LLC)	Docket Nos. 50-277/278 SLR
Peach Bottom Atomic Power Station,)	October 21, 2019
Units 2 & 3)	
)	

Pursuant to 10 C.F.R. § 2.323(b), Beyond Nuclear, Inc. (“Beyond Nuclear”) hereby moves for leave to submit the attached reply to oppositions by Exelon Generation Company, LLC (“Exelon”) and the U.S. Nuclear Regulatory Commission (“NRC” or “Commission”) Staff to Beyond Nuclear’s Motion to Reopen the Record for Purposes of Considering and Admitting a New Contention Based on Draft Supplement 10 to Generic Environmental Impact Statement for Subsequent License Renewal of Peach Bottom Operating License and Request for Consideration of some Elements of the Motion Out of Time (Sept. 23, 2019) (“Motion to Reopen”).¹

Beyond Nuclear respectfully submits that the circumstances giving rise to this motion are compelling and warrant a reply in order to ensure that a complete and meaningful record is made on Beyond Nuclear's motion. First, Beyond Nuclear could not have anticipated the legal arguments made by Exelon and the NRC Staff interpreting relevant judicial precedents, including *Union of Concerned Scientists v. NRC*, 920 F.2d 50 (D.C. Cir. 1990) and *New Jersey*

¹ See Exelon’s Answer Opposing Beyond Nuclear’s Motion for Leave to File a New Contention and Motion to Reopen the Record (Oct. 3, 2019) (“Exelon Response”); NRC Staff Answer to Beyond Nuclear Inc.’s: Motion for Leave to File New Contention Based on Draft Supplement to Generic Environmental Impact Statement; and Motion to Reopen the Record and for Consideration of Arguments Out of Time (Oct. 2, 2019) (“NRC Staff Response”).

Environmental Federation v. NRC, 645 F.3d 220 (3rd Cir. 2011), which are either inconsistent with the language of the decisions or inapplicable to the circumstances of this case. Beyond Nuclear also could not have anticipated Exelon's interpretation of NRC caselaw, including *Virginia Elec. and Power Co.* (North Anna Power Station, Unit 3), CLI-12-14, 75 N.R.C. 692, 700 (2012). Beyond Nuclear seeks an opportunity to address the applicability of those precedents to the circumstances of this case.

Beyond Nuclear also seeks an opportunity to address Exelon's and the NRC Staff's argument that Beyond Nuclear's failure to file its motion to reopen the record at the same time as its Motion to Admit Contention 3 constitutes a fatal defect that may not be excused. Beyond Nuclear seeks to point out that the error of its counsel was excusable, given the regulations' lack of clarity; and that the only relevant information submitted out of time consisted of two standing declarations, to which neither Exelon nor the Staff has objected.

Respectfully submitted,

 /signed electronically by/
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October 21, 2019

CERTIFICATE OF COUNSEL PURSUANT TO 10 C.F.R. § 2.323(b)

I certify that on October 18, 2019, I contacted counsel for Exelon and the NRC in a sincere effort to resolve the issues raised in this motion. Counsel for both Exelon and the Staff stated that they will oppose the motion.

 /signed electronically by/
Diane Curran

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

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CERTIFICATE OF SERVICE

I certify that on October 21, 2019, I posted copies of the foregoing BEYOND NUCLEAR, INC.'S MOTION FOR LEAVE TO FILE REPLY TO OPPOSITIONS TO MOTION TO REOPEN THE RECORD OF PROCEEDING FOR SUBSEQUENT LICENSE RENEWAL OF PEACH BOTTOM OPERATING LICENSE on the NRC's Electronic Information Exchange System.

/signed electronically by/
Diane Curran