

**Before the United States of America's  
Nuclear Regulatory Commission  
Before the Commission**

**U.S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, D.C. 20555-0001**

**Re: Three Mile Island Nuclear Station, Unit-1  
Renewed Facility License No. DPR-50  
NRC Docket No. 50-289-LA-2**

**Notice of Appeal of the Secretary's Decision of Application  
to Amend Renewed Facility License No. DPR-50, Docket  
No. 50-289-L-2 by Eric Joseph Epstein and Brief in  
Support of Appeal.**

**Eric Joseph Epstein, Pro se  
4100 Hillside Road  
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Dated: May 30, 2025**

**Re: Three Mile Island Nuclear Station, Unit-1  
Renewed Facility License No. DPR-50  
NRC Docket No. 50-289-LA-2**

**Notice of Appel.**

Eric Joseph Epstein, Pro se, pursuant to 10 C.F.R. §2.311(c), hereby gives notice of his appeal to the United States Nuclear Regulatory Commission (“Commission” or “NRC”) from the Secretary of the Commission’s decision on May 8, 2025, and seeks reversal of the Secretary’s underlying determinations which denied admission of Mr. Epstein’s proffered contention for adjudication.

Eric J. Epstein, Pro se

**Brief in Support of Appeal.**

**I. Introduction.**

This Appeal is timely.

To restart Three Mile Island Unit-1 (“TMI-1”), Constellation would need to (1) gain NRC approval to restore the licensing basis of the plant to an operational status; (2) return plant components to a status that supports safe operation; and, (3) make any upgrades necessary to meet the proposed operational licensing basis.

This license amendment request (“LAR”) proposes to amend Renewed Facility License (“RFL”) No.DPR-50 for Three Mile Island Station, Unit 1 to reflect a change in the name of the facility from “Three Mile Island, Unit-1” to the “Chistopher M. Crane Clean Energy Center (“CCEC.”).

Constellation submitted proposed revisions to the RFL and its appendix, (the Post-Defueled Technical Specifications) reflecting the name change from TMI-1 to CCEC. All instances of the facility name “Three Mile Island, Unit 1” have been changed to either “Christopher Crane Clean Energy Center” or “Crane Clean Energy Center” or “CCEC” as appropriate.

This proceeding is to memorialize renaming TMI to the Crane Clean Energy Center. This name change, which occurred in September 20, 2024, is intended to honor Chris Crane, the former CEO of Exelon who presided over a massive nuclear corruption scheme resulting in a \$200 million fine.

The name change is not about remembering. It's about forgetting. Changing the names is about creating a false narrative and erasing history. (1).

In alignment with the regulatory path to reauthorize power operations at TMI-1, CEG will be submitting subsequent LARs to restore the TMI-1 operating reactor licensing basis ("ORLB"). In July, 2025, CEG expects to submit the first of the restoration LARs to update the Operating License and Technical Specifications ("TS") to the previously approved state at the time of shutdown.

"To avoid confusion and any additional burden on the NRC that may be caused by these subsequent LARs and future docketed materials, CEG is requesting NRC approval of this proposed amendment by May 23, 2025."

This is a self-imposed hardship, yet the NRC dutifully acquiesced to Constellation's demand.

Eric Joseph Epstein filed a Petition for Leave to Intervene and Request for a Hearing, Re: License Amendment Request - Application to Approve Facility Name Change from Three Mile Island, Unit-1 to Christopher M. Crane Clean Energy Center in a timely manner on April 18, 2025.

On May 8, 2025, per Constellation's request, the Secretary referred to the standards for admissibility of contentions, but simply recited the admissibility requirements 10 C.F.R. § 2.309(f). The Secretary determined that, based on those criteria, the Mr. Epstein's contentions did not satisfy the "strict admissibility standards."

The LAR is a Trojan Horse for a fait accompli. Once approved, the name change will be reflected in the Updated Final Safety Analysis Report ("UFSAR"), which is incorporated by reference in the PDTS, as well as future regulatory submissions. As required, Constellation has stated that the modification to respective TS Bases for the proposed TS changes will occur upon approval of this LAR.

The case is not about nuclear lingo. It's about altering history and recklessly creating health and safety risks. Every LAR has to be litigated on its own merits. If the restart of Three Mile Island is predicated on an expedited name change, then the antidote is to reject the name change.

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<sup>1</sup> Please refer to the Precedent and Columbia Nuclear Station on p. 4, and the discussion the Atomic Energy Commission changing its name to the Nuclear Regulatory Commission p.7.

## **II. Standards for Admissibility of Contentions.**

This Appeal mirrors TMI-Alert's Appeal in the Matter of Holtec Decommissioning and Holtec Palisades ("Holtec") filed on April 25, 2025 with the Nuclear Regulatory Commission ("NRC") to 10 C.F.R. § 50.12, and license amendment requests in support of Holtec's plan to return the permanently shut down Palisades Nuclear Plant (Palisades) to power operations.

The Secretary referred to the standards for admissibility of contentions, but simply recited the admissibility requirements 10 C.F.R. § 2.309(f). The Secretary determined that, based on those criteria, that Mr. Epstein's contentions did not satisfy the "strict admissibility standards." However, the Secretary did not identify the deficient contention criteria nor provide a narrative in support of her decision. The § 2.309(f) criteria are not as strict as the ASLB claimed nor are they as strict as applied by the Board to the facts and issues in this case. The pleading requirements of 10 C.F.R. § 2.309(f)(1) do not encompass the overly burdensome standards asserted by the ASLB. The standards are not meant to be insurmountable.

The rule serves to assess the scope, materiality, and support provided for a proposed contention, to ensure that the hearing process is "properly reserve[d] . . . for genuine, material controversies between knowledgeable litigants." Contentions need only have "some reasonably specific factual or legal basis."

Mr. Epstein need not prove his contention at the admissibility stage, the contention admissibility standards require petitioners to "proffer at least some minimal factual and legal foundation in support of their contentions." Based on the foregoing, the ASLB erred in requiring Mr. Epstein to present enough evidence to prove the merits of the contention at the admissibility stage.

The current contention admissibility standards were adopted in 1989 out of concern that the previously existing standards allowed intervention for petitioners who had no real basis for their contentions. 54 Fed. Reg. 33,168 (1989). The Federal Register discussion states that the rule, now 10 C.F.R. § 2.309(f)(1), does not require the petitioner to make its case at the contention admissibility stage, but merely to indicate what facts or expert opinions provide the basis for the contention. The Federal Register discussion goes on to say that a petitioner need only include some alleged facts in support of its position sufficient to indicate that a genuine issue of material fact or law exists.

What has happened since the 1989 rule amendment is that the NRC Staff and permit applicants have created axioms that misconstrue the intent of the rule and have nudged licensing boards, and sometimes the Commission, to accept and normalize overly strict contention admissibility interpretations. Despite clear precedent that the standards for admissibility of contentions are not heavy, and must not be used as a “fortress to deny intervention,” the ASLB, as more specifically enumerated in the discussion below regarding the decision on Mr. Epstein’s contention, contravened precedent and held him to an unreasonable standard for admissibility.

A request for hearing or petition for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

d) Standing. (1) General requirements. A request for hearing or petition for leave to intervene must state the following:

(i) The name, address and telephone number of the requestor or petitioner;

(ii) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding;

(iii) The nature and extent of the requestor's/petitioner's property, financial or other interest in the proceeding; and

(iv) The possible effect of any decision or order that may be issued in the proceeding on the requestor's/petitioner's interest

This information was provided which was provided in Mr. Epstein’s Petition on pages 14 -15.

(i) Provide a specific statement of the issue of law or fact to be raised or controverted, *provided further*, that the issue of law or fact to be raised in a request for hearing under 10 CFR 52.103(b) must be directed at demonstrating that one or more of the acceptance criteria in the combined license have not been, or will not be met, and that the specific operational consequences of nonconformance would be contrary to providing reasonable assurance of adequate protection of the public health and safety;

(ii) Provide a brief explanation of the basis for the contention;

(iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;

(iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;

(v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue;

(vi) In a proceeding other than one under 10 CFR 52.103, provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.

### III. The Secretary Erred in Rejecting Mr. Epstein's Contention.

Mr. Epstein's Contention is a Valid Contention Pursuant to 10C FR 2.309. He met the burden of proof and fulfilled the criteria as denoted below in bold face type.

This contention meets the contention admissibility standards in 10 C.F.R. § 2.309(f)(1)(i)-(vi). The renaming – based on the historical impact of name changes and fluid ownership of Three Mile Island - will have an adverse impact on the safe operation of a 50-year old nuclear plant.

1) A request for hearing or petition for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

(i) Provide a specific statement of the issue of law or fact to be raised or controverted, *provided further*, that the issue of law or fact to be raised in a request for hearing under 10 CFR 52.103(b) must be directed at demonstrating that one or more of the acceptance criteria in the combined license have not been, or will not be met, and that the specific operational consequences of nonconformance would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

**The constant name changes and fluid ownership have created confusion and uncertainty about the ultimate disposition of the site. Moreover, every instance when the plant has changed names and owners, Three Mile Island's financial health has eroded, causing concern that TMI will become a high-level radioactive waste site. This creates long-term health and safety problem. In the absence of a long-term solution, the country's nuclear power plants are left with one option: indefinite on-site storage. Three Mile Island was not constructed or designed to be a waste storage facility. (Epstein Petition, p.20).**

(ii) Provide a brief explanation of the basis for the contention;

**The naming will erode safety at the plant increasing the risk of radioactive releases into the environment. The name "Clean Energy" (4) is confusing, misleading, and is an act of theft by deception. (5) Constellation points to the precedent of Energy Northwest requesting a license amendment to change the name of WNP-2 to Columbia Generating Station. The motivation at the WNP-2 was similar Constellation new identity: White washing the past. (Epstein Petition, p. 16)**

(iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;

**Bankruptcy, name changes, direct transfers, indirect transfers, mergers and acquisitions, have not improved TMI-1's financial standing. (6) The NRC staff approved the revolving door name changes, and ownership schemes at Three Mile Unit-1 between 1980 and 2022. At each disruption, the number of workers decreased, insurance coverage was reduced, liability decreased, and oversight was diluted and remote. (Epstein Petition, p. 17).**

(iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;

**The name changes, bankruptcy, direct transfers, indirect transfers, mergers and acquisitions, have not improved TMI-1's financial standing. The NRC staff approved the revolving door name changes, and ownership schemes at Three Mile Unit-1 between 1980 and 2022. At each disruption, the number of workers decreased, insurance coverage was reduced, liability decreased, and oversight became remote. The proposed amendment will make changes to surety, insurance, and/or indemnity, and changes to recordkeeping, reporting, or administrative procedures or requirements. (Epstein Petition, p. 19).**

(v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue;

**Bankruptcy, name changes, direct transfers, indirect transfers, mergers and acquisitions, have not improved TMI-1's financial standing. The NRC staff approved the revolving door name changes, and ownership schemes at Three Mile Unit-1 between 1980 and 2022. At each disruption, the number of workers decreased, insurance coverage was reduced, liability decreased, and oversight was diluted and remote. (Epstein, p. 17).**

(vi) In a proceeding other than one under 10 CFR 52.103, provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.

**The name changes, bankruptcy, direct transfers, indirect transfers, mergers and acquisitions, have not improved TMI-1's financial standing. The NRC staff approved the revolving door name changes, and ownership schemes at Three Mile Unit-1 between 1980 and 2022. At each disruption, the number of workers decreased, insurance coverage was reduced, liability decreased, and oversight became remote. The proposed amendment will make changes to surety, insurance, and/or indemnity, and changes to recordkeeping, reporting, or administrative procedures or requirements. (Epstein Petition, p. 19).**

Mr. Epstein satisfied all of the NRC's criteria for contentions.

#### **IV. Discussion.**

The Nuclear Regulatory Commission's view of the name change is in conflict with Secretary Stafford's position. The Secretary dismissed Mr. Epstein's Petition "...particularly in light of the wholly administrative nature of the lines request." (Order, p.2).

If the Commission believes a name change is of a "wholly administrative nature" then why was the name of the Atomic Energy Commission changed to the Nuclear Regulatory Commission? The Atomic Energy Commission sought to remake its image due to concerns about conflicts of interest. TMI wants to change its name to rewrite history, and establish a narrative divorced from past misdeeds.

The Secretary also dismissed Mr. Epstein's contention by stating that it had to be based on "effective and concrete issues." The reference is out of context. The NRC stated, "The Commission also expects that concrete issues of concern to the public would be raised on the basis of the application or the proposal for NRC action and can be identified at the same time the petition addresses the matter of standing." (Federal Register, April 16, 2025).

Mr. Epstein and not the NRC is a member of the public. In a literary context, "concrete" refers to the "use of specific, tangible details and language to create vivid imagery and a clear understanding of the subject matter." "Clear and Concise Language", Montana State University, The Writing Center.)

Mr. Epstein argues the contention and the supporting materials were "concrete", and of interest the "public" living close to Three Mile Island.

According to Constellation, "The primary purpose of this administrative change is to honor the legacy of a former CEG leader through renaming TMI-1, which facilitates the orderly conduct of CEG's business. The proposed amendment is confined to (i) changes to surety, insurance, and/or indemnity requirements, or (ii) changes to recordkeeping, reporting, or administrative procedures or requirements assessment need be prepared in connection with the proposed amendment."

Constellation acknowledges that the name change "facilitates the orderly conduct of CEG's business." Therefore, absent the name change, the business model would be disturbed leading to confusion and possible economic uncertainty. This is what Mr. Epstein argued in his Petition would happen with the name change.

The name changes, bankruptcy, direct transfers, indirect transfers, mergers and acquisitions, have not improved TMI-1's financial standing. The NRC staff approved the revolving door name changes, and ownership schemes at Three Mile Unit-1 between 1980 and 2022. At each disruption, the number of workers decreased, insurance coverage was reduced, liability decreased, and oversight became remote. The proposed amendment will make changes to surety, insurance, and/or indemnity, and changes to recordkeeping, reporting, or administrative procedures or requirements. (Epstein Petition, p. 19).

Constellation's amendment will make changes to surety, insurance, and/or indemnity, and changes to recordkeeping, reporting, or administrative procedures or requirements. These are significant accounting, financial and insurance covenants which served as pivotal instruments in the transfer of the TMI-2 license from First Energy to TMI-2 Solutions.

Three Mile Island Unit-2's license transfer was contingent on similar language necessary to consummate the transaction. That transfer included a name change, and included a \$100 million financial guarantee. "Until the completion of Phase 1, the first four instruments will provide up to \$100 million of additional: financial assurance to support Decommissioning of TMI-2, *beyond* the assets of the NDT. After completion of Phase 1, certain of these instruments will remain in effect, to provide additional financial assurance for TMI-2 Decommissioning through the completion of Phase 2." (Application for Order Approving License Transfer and Conforming License Amendments, TMI-2 Solutions, November 12, 2019).

## **Conclusion.**

The pleading requirements of 10 C.F.R. § 2.309(f)(1) do not encompass the overly burdensome standards that were repeatedly applied by the ASLB against the Petitioning Organizations. The standards are not meant to be used as a “fortress to deny intervention,” *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3), 49 NRC 328, 335 (1999), yet here, once again, they were. The Petitioning Organizations repeatedly provided the requisite reasonably specific factual or legal basis.” *Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), 82 NRC 211, 221 (2015). These Petitioners “proffer[ed] at least some minimal factual and legal foundation in support of their contentions.” *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3), 49 NRC 328, 334 (1999).

Mr. Epstein is requesting that the Commission thoroughly review the matters that he raised in this Brief, reverse the Secretary, and remand Contention 1, for adjudication on the merits.

Respectfully submitted,

Eric Joseph Epstein  
Dated at Harrisburg, Pennsylvania  
May 30, 2025

## Certificate of Service

I hereby certify that copies of Eric Joseph Epstein's Request to Bar Receipt of New Fuel to Support Potential Restart of the Facility have been served upon the following persons by Electronic Information Exchange.

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