Before the Secretary United States of America

 Nuclear Regulatory Commission Before the Commission

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Application for Indirect Transfer ) Docket Nos. 50-295, 50-304

Of Licenses ) 50-320, 50-409

 ) 72-046, 030-39013

Emergy*Solutions*, LLC ) 11005620, 11005897

 ) NRC-2021-0232

(Zion Nuclear Power Plant, Units 1 )

and 2; Three Mile Island Nuclear Station)

Unit 2; La Crosse Boiling Water Reactor;)

Radioactive Materials License, Export )

License ) March 14, 2022

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 Reply of Eric Joseph Epstein to Energy*Solutions*, LLC Answer Opposing the Petition of Eric Joseph Epstein Leave to Intervene and for a Hearing

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**I.** **Introduction**

 Pursuant to 10 C.F.R. § 2.309, Eric J. Epstein on behalf of himself (“the Petitioner”) submits this Reply to Energy*Solutions,* LLC Answer opposing the Petition for Leave to Intervene and for a Hearing (“Petition”) filed by Eric J. Epstein on behalf of himself filed on February 10, 2022. (1)

 The Petitioners requested a hearing and sought to intervene in the proceeding associated with Energy*Solutions*, LLC (“Applicant” or “Energy*Solutions*)” license transfer application (“LTA” or “Application”) submitted the U.S. Nuclear Regulatory Commission (“the Commission” or “the NRC”) on December 7, 2021.(2) Mr. Epstein’s Petition contained four admissible contentions .

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1 Eric Joseph Epstein’s, Request for a Public Hearing and Petition to Intervene (June 14, 2021) (ML22041A773).

 2 EnergySolutions, LLC letter to the NRC, “Application for Order Approving the Indirect Transfer of Control of Licenses,” Attachment, 1 (December 7, 2021) (ML21344A110).

 The Applicant’s Answer Opposing the Petition of Eric Joseph Epstein for Leave to Intervene and for a Hearing was filed on March 7, 2022. Mr. Epstein filed a timely Reply to Energy*Solutions* Answer Opposing the Petition of Eric Joseph Epstein for Leave to Intervene and for a Hearing on March 14, 2022. As explained in the Petition, all four of the Petitioner’s contentions are admissible because they satisfy the six elements in 10 C.F.R. § 2.309(f)(1).

 The Petitioner supported his contentions with factual information and reasoned explanations, and clearly demonstrated a genuine dispute with specific portions of the LTA. The Petitioner submitted four admissible contentions. The Petition must be accepted. The Petitioner has also demonstrated standing. Mr. Epstein is entitled to standing as an individual, and he also demonstrated “traditional” standing. Mr. Epstein also requests the Commission to grant him discretionary intervention.

 Each contention satisfies all six admissibility criteria in 10 C.F.R. § 2.309(f)(1). Accordingly, pursuant to 10 C.F.R. § 2.309(a), the Commission must accept the Petition.

1. **Reactor License Transfers.**

 Under Section 184 of the Atomic Energy Act of 1954, as amended

(“AEA”), (3) an NRC reactor license, or any right under it, may not be

“transferred, assigned[,] or in any manner disposed of, either voluntarily or

involuntarily, directly or indirectly, through transfer of control of [the]

license to any person,” unless the NRC first gives its consent in writing. (4)

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3 Atomic Energy Act of 1954, Pub. L. No. 83-703, 68 Stat. 919 (codified as amended at 42 U.S.C. §§ 2011, *et seq*.).

4 Atomic Energy Act of 1954, Pub. L. No. 83-703, 68 Stat. 919 (codified as amended at 42 U.S.C. §§ 2011, *et seq*.).

 This statutory requirement is codified in 10 C.F.R. § 50.80 and applies to both direct and indirect license transfers. (5) Transferring control may involve either the licensed operator or any individual licensed owner of the facility. Before approving a license transfer, the NRC reviews, among other things, the technical and financial qualifications of the proposed transferees. (6)

 The transfer review focuses on the “potential impact on the licensee’s ability both to maintain adequate technical qualifications and organizational control and authority over the facility[,] and to provide adequate funds for safe operation and decommissioning.” (7) The NRC must find a “reasonable assurance” of financial qualifications. (8) Based on the paucity of information contained in the filing documents, the Application fails to address the applicable financial standards to provide “reasonable assurance” of financial qualifications for Tri Artisan to decommission Three Mile Island Unit-2 (“TMI-2”). The transfer review focuses on the ability “… to provide adequate funds for safe operation and decommissioning.” (9)

5 *See* NRC Backgrounder, “Reactor License Transfers,” at 1-2 (Jan. 2020) (ML040160803). A direct license transfer occurs when an entity seeks to transfer a license it holds to a different entity (*e.g*., when a plant is to be sold or transferred to a new licensee in whole or part). *See id*. An indirect license transfer takes place when there is a transfer of “control” of the license or of a license holder (*e.g.*, as a result of a merger or acquisition at high levels within or among corporations. *See id.)*

6 *See* 10 C.F.R. §§ 50.80(b)(1)(i), (c)(1); *see also* NUREG-1577, “Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance,” Rev. 1 (Feb. 1999) (ML013330264) (“NUREG-1577”).

7 Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry, 62 Fed. Reg. 44,071, 44,077 (Aug. 19, 1997).

8 10 C.F.R. § 50.33(f)(2).

9 “Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry,” 62 Fed. Reg. 44,071, 44,077 (Aug. 19, 1997).

 **III. The Petitioner Has Demonstrated Standing.**

 Eric Joseph Epstein (“Epstein” or “Mr. Epstein”) has standing to intervene as an individual in this proceeding, in a representational capacity. The Petitioner should also be granted discretionary intervention under 10 C.F.R. § 2.309(e), and has met the required criteria by submitting four admissible contentions.

 Mr. Epstein has established standing to intervene in this proceeding as a matter of right under 10 C.F.R. § 2.309(d). The Petitioner clearly has the ability to “assist in developing a sound record” due to the “unavoidable and extreme circumstances”— and offer extensive support and justification for the requested extension. The Petitioner has also established Proximity-Based Standing.

 Energy*Solutions* seeks to devolve and reorganize into a smorgasbord of non-nuclear, private equity opportunists. The Applicant’s new controlling interest, i.e., Tri Artsisan, must present a “fresh” demonstration to justify their changed corporate circumstances. Clearly, this proposed corporate jellyfish is the very definition of fluid circumstances that “change from one proceeding to the next.”

 This License Transfer Application is entirely about changed circumstances brought about speculative capital. The Petitioner has made his case. The Applicant is the party making unsubstantiated conclusory assertions while submitting a dearth of evidence. (The proposal to devolve Energy*Solutions* into a market-driven entity is ironic given the fact the Applicant seeks to raid a rate payer Nuclear Decommissioning Trust.

 Energy*Solutions* with no ties to the community, places a premium in re-writing the TMI-2 core meltdown out of history. The Applicant lacks real solutions, and argues that history doesn’t matter, that precedent is immaterial, and Mr. Epstein’s interventions over decades have no value. History, according to Applicants, should be written by a corporate concoction assembled in a Wall Street laboratory.

 The NRC can not selectively distance itself from its statutory mission

“to protect public health and safety,” erase history, and fail to “protect the

environment.” Not only does Mr. Epstein provide the only connective tissue to

the body of nuclear power operations at Three Mile island Unit-2 , but his presence and active litigation predates the creation of FirstEnergy, Energy*Solutions*, TMI-2 Solutions, and Tri Artisan.

 The Applicant’s selective desire to vacuum out people, places and events, is an effort to rewrite history and minimize Three Mile Island’s inglorious. past The Applicant’s whitewashing of core melt down at TMI in 1979 won’t magically make the radiation go away. Folks that don’t live and work proximate to these reactors, are not in a position to pass judgment from the safety of their COVID bunkers. The facts on the ground are that Mr. Epstein’s experiences predate the creation of the Applicant, and the Petitioners possess a unique and indispensable lens to view this proposed transaction.

 This proceeding is unique in that much of the community has been exposed to radiation releases from fission products at Three Mile Island in 1979, as well as planned and unplanned radioactive releases for 43 years. Mr. Epstein’s experiences and perspectives are crucial to understanding the corporate evolution of Met Ed from a convicted felon to an unregulated, out of state private equity fund. Mr. Epstein is the only participant in this proceeding who intervened, litigated, and participated in the challenges and issues embedded in the propose License Transfer Application.

1. **Contentions.**

 There are specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the basis for the contention and a concise statement of the alleged facts which supports the contention on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents which will support the petitioner’s position. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

 In order to bring a contention before the Commission, Mr. Epstein must "[p]provide a specific statement of the issue of law or fact to be raised or controverted. 10 C.F.R. Section 2.309(f)(1)(i). At this preliminary stage, Mr. Epstein need not submit admissible evidence to support his contention, rather he has to "[p]provide a brief explanation of the basis for the contention," 10 C.F.R. Section 2.309(f)(1)(ii), and "a concise statement of the alleged facts which support the...petitioner's position." 10 C.F.R. Section 2.309(f)(1)(v). This rule ensures that "full adjudicatory hearings are triggered only by those able to proffer... minimal factual and legal foundation in support of their contentions." See, In the Matter of Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2 and 3), CLI-99-11, 49 N.R.C. 328, 334 (1999). Moreover, the Commission has clarified that "an intervener need not...prove its case at the contention stage. The factual support necessary to show a genuine dispute exists need not be in affidavit or formal evidentiary form, or be of the quality necessary to withstand a summary disposition motion."

 The standing requirements for NRC hearings derive from the Atomic Energy Act, which requires the NRC to provide a hearing “upon the request of any person whose interest may be affected by the proceeding.” 42 U.S.C. § 2239(a)(1)(A). *See also Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), 48 N.R.C. 185, 195 (1998). In determining whether a petitioner has established the “necessary ‘interest’” under the statute, the NRC “has long looked for guidance to judicial concepts of standing.” *Id.* (Citing *Quivira Mining Co.* (Ambrosia Lake Facility, Grants, New Mexico), CLI-98- 11, 48 N.R.C. 1, 5-6 (1998); *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 N.R.C. 111, 115 (1995).

 The Commission has indicated that where petitioners make technically meritorious contentions based upon diligent research and supported by valid information, the requirement for an adequate basis is more than satisfied. Mr. Epstein has met this standard.

**V. Conclusion.**

 The whole matter of decommissioning funding assurances is a red flag, given that the new entity will not be affiliated with a regulated utility company and is not defined by either the NRC or PUC as an “electric utility.” Energy*Solutions* is a limited liability corporation organized in Delaware, based in Utah, and financed by the food service, hospitality, and pool installation industries. This is a hardly a rock solid financial or technical foundation to clean up one of the nation’s most radioactive sites. However, in a nation that elected a carnival barker as President, it would surprise few that a captured regulatory agency would permit Gordon Geko to cash in on a meltdown.

 Mr. Epstein has extensive experience in Direct and Indirect License Transfers and license extensions at Peach Bottom and Three Mile Island. The Peach Bottom license renewal application contained 2,607 pages. The Three Mile Island Unit-2 license transfer was 234 pages, but included volumes of outdated reference materials.

 For the reasons stated, the Commission should grant Eric Joseph Epstein’s Petition to Intervene and grant his associated request for a hearing.

Respectfully submitted,

Eric Epstein, *Pro se*

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 **Certificate of Service**

 I hereby certify that on March 14, 2022 a copy of Petitioners’

 Request for a Public Hearing and Petition Intervene Re: Notice of Consideration of Approval of Indirect Transfer of Licenses and Opportunity to Request a Hearing for a request for the Indirect Transfer of control of the Energy*Solutions*, LLC (“Energy*Solutions*”) licenses for: Zion Nuclear Power Station (“ZNPS”), Units 1 and 2 and its on-site Independent Spent Fuel Storage Installation (“ISFSI”); Three Mile Island Nuclear Station, Unit 2 (“TMI-2)”; La Crosse Boiling Water Reactor (“LACBWR”) and its ISFSI; Energy*Solutions* Materials License 39-35044-01; and Energy*Solutions* Export Licenses XW010/04 and XW018/01. was served by the Electronic Information Exchange on the following:

 The NRC’s E-Filing system distributes an email that provides access to the document to the NRC’s Office of the General Counsel and any others who have advised the Office of the Secretary

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