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REPORT

ROUNDTABLE SUMMARY

Contested Proceedings in New Reactor Licensing

Matt Bowen, Julia Sweatman

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This event summary reflects the authors' understanding of key points made during the roundtable discussion. It does not necessarily represent the views of Good Energy Collective.

1 Background

On September 29, 2026, Good Energy Collective (GEC) hosted a private virtual roundtable under the Chatham House rule to consider the role of contested proceedings in U.S. Nuclear Regulatory Commission (NRC) reactor licensing.

The discussion came at a pivotal moment: in response to the ADVANCE Act and Executive Order 14300, the NRC issued in March 2026 a proposed rule to streamline contested adjudications. Among other provisions, the rule would expedite the hearing process and set deadlines for completing evidentiary hearings. It would also require more information on the merits of proposed contentions in initial filings, revise the discovery process for all parties, and limit non-attorney representation.

The roundtable took place while the NRC's rule on streamlining contested adjudications was in its proposed form, and participants' comments on reforms refer to that proposal. The NRC finalized the rule on October 30, 2026.

The roundtable convened former NRC commissioners and senior staff, energy and nuclear regulatory attorneys, and other nuclear industry professionals. They discussed the historical significance and present-day value of contested proceedings in reactor licensing, as well as the potential implications of the NRC's proposed rule. The roundtable complements GEC's forthcoming report on contested proceedings for new reactors licensed under 10 CFR Part 52. The following is a summary of the discussion.

2 Historical Perspectives

Participants discussed the origins of the NRC hearing process in the Atomic Energy Act of 1954, long-standing questions about its efficiency, and the effect of earlier changes such as the elimination of intervenor compensation. One participant suggested that, with respect to the Atomic Energy Act of 1954, the design of the NRC hearing requirements was based on the Communications Act of 1934 and its system for regulating radio broadcast licenses. In an analogy to radio stations, for example, if an applicant was denied an operator's license, there was an opportunity to request a hearing. In that vein, the participant suggested that, while proceedings have evolved since then, early intentions were likely oriented more toward the applicant than the general public, residents, and local governments. They also suggested that since the very beginning (i.e., the days of the Atomic Energy Commission [AEC]) there have been questions such as "is this hearing process efficient?" or "Is the hearing process workable at all?"

Another participant cited a document they had found on the NRC website dating back to the 1960s, wherein General Electric complained about a lack of efficiency in the hearing process and urged the AEC to try to improve it. The participant did not believe that this longstanding issue would be resolved, even with the pending changes from the NRC.

One participant thought that one of the biggest changes in the NRC hearing process, over its history, was the elimination of intervenor compensation. They referenced other (non-NRC) hearing processes that still had utility-funded, intervenor compensation, and thought this created "rent-seeking" behavior, a need to participate, and more intervenors. They did not believe this led to better outcomes, but rather more diluted ones, delay, and more expense.

3 Value

Participants discussed the value in having the NRC contested proceedings (or, framed differently, the adverse impacts to getting rid of them). One participant did not think that Congress ought to get rid of the hearing requirements in the Atomic Energy Act because they thought it was still important to maintain the potential for the applicant, the licensee (i.e., once the applicant receives a license), and the public alike to challenge particular NRC actions.

Another participant agreed with other participants who voiced views that it probably didn't make sense to retire the process altogether, but suggested instead that it could be streamlined and made more productive and efficient. They felt that the effect of discontinuing contested proceedings would be to defer litigation to the end of the process after the NRC has issued a license. In their view, contested proceedings provide an opportunity for the NRC to course correct earlier in the process before it finalizes its action; without these proceedings, issues could be raised for the first time in court. They cited a preliminary estimate by Good Energy Collective that, of the contentions submitted as part of Part 52 licensing actions for new reactors, 16% had been admitted. They thought this estimate could be explained in part by the timelines associated with the current hearing process, where intervenors must file within 60 days of the public notice. With more time – e.g., a year, 18 months, two years, until the end of a process, or even longer – they reasoned that the percentage of successful cases would be much higher than that 16%. Petitioners would be better equipped, having had more time to enlist qualified experts, sharpen their arguments, and raise funds for intervenor groups to hire attorneys and experts. The participant pondered the question of whether it was better to (1) resolve these issues at the NRC, in a process designed to refine safety and environmental reviews or (2) litigate these issues for the first time in a federal court. In their mind, the former was more likely to result in licenses moving forward successfully in an efficient and affordable manner. They also thought there would be some due process arguments if contested proceedings were discontinued entirely.

Another participant agreed, noting that eliminating the hearings would require a statutory change. This participant also observed that an advantage to the current process was having the hearing process within the NRC as opposed to a district court or a court of appeals. Their guess was that the NRC's success rate in the courts of appeals was probably over 90% historically.

Another participant considered that the primary value of the hearing process lies in its ability to enhance the quality and stability of the agency's decision-making. In other words, the process gives the agency the opportunity to develop a sound record, foster the expertise, receive input from intervenors and other experts, and improve the overall quality of a licensing decision, which would in turn provide stability and predictability on the back end of the licensing process. With respect to new reactor licensing, they thought it was very important for companies not to be constrained by a more probative judicial decision; this kind of late-stage delay – regarding an issue not yet raised – would only add to uncertainty about potential outcomes, at a time when considerable investments had already been made. They thought this was an underrated and important benefit of the process, which led to more stable outcomes in the long term.

Another participant agreed with the concern that if the hearing was overly narrowed or eliminated under current law, applicants could wind up in a federal district court or court of appeals on a de novo issue without an established record, which would in turn introduce greater project risk going forward. They also thought that it was, from a political and public acceptance standpoint, a bridge too far to say that nobody other than the applicant had an interest in the process.

Another participant agreed that early resolution of issues is part of the value of contested proceedings. When a member of the public raises a contention, the applicant can modify the application to address the issue within months of the hearing request. If an intervenor later challenges the same issue, they face a higher bar. This has the dual effect of improving the quality of the application and reducing delay later in both the licensing process and the broader siting process.

Another participant noted that contested proceedings create a record of how the agency addressed issues and that such a record becomes useful if an NRC administrative decision is later appealed to the U.S. Court of Appeals (often the DC circuit). The Court will not perform a de novo review of the technical merit of an issue; instead, it will consider questions such as whether the agency adhered to the required processes or whether there was an adequate basis for the NRC's decision. In this sense, the hearing process can be a saving grace for the agency: the record itself can validate an agency decision and resolve the appeal process more efficiently.

4 The Relationship between Contested Proceedings and Project Outcomes

Participants discussed whether changes to applications can be attributed to contested proceedings rather than to NRC staff review or applicants' own planning, as well as how intervention by states, tribes, and local governments has affected licensing outcomes in new reactor proceedings, license renewals, and license transfers. One participant urged caution on overestimating the effect of contested proceedings on application or project changes. They thought that, in some licensing actions, there would have eventually been NRC staff requests for additional information on topics such as low-level waste management (given what was going on with the Barnwell low-level nuclear waste site years ago) that were the focus of various contentions that had been admitted in the past. In their view, some of those project details might have changed anyway even in the absence of filed contentions, though in other cases perhaps not. They similarly asserted that issues like once-through cooling versus cooling towers have always been contentious and could be addressed even without corresponding petitions to intervene. While contentions and application changes may have been topically linked, this did not mean that contentions independently inspired these changes.

With respect to the Calvert Cliffs 3 case, one participant observed that, whether there had been an intervenor or not, that license was bound to be denied based on foreign ownership grounds once Constellation pulled out of the project, leaving EDF as the sole owner. They referenced an associated NRC staff affidavit, which explicitly called for the license denial.

One participant raised license renewals for existing plants, noting the relative success of states in bringing admissible contentions in these proceedings compared to the low admission rate in new reactor proceedings. The participant cited the Indian Point nuclear power plant renewal as one example, where the state of New York proffered roughly 35 contentions, of which 11 were admitted. They said that New York State intervention led to a more limited license renewal period, after which the facility was shut down. Citing states' substantial resources and historical success in petitioning to intervene, the participant felt that if states were to participate in upcoming reactor licensing proceedings, it would be a bit of a game changer.

Another participant agreed that state opposition in general was more consequential for project outcomes. They remembered former New York Governor Mario Cuomo's opposition to the Shoreham nuclear power plant; in their view, the governor's opposition led to the project's termination. They also noted two other instances of state involvement (1) the state of Utah's opposition to a private waste storage facility on Native American land, which delayed the project; and (2) former Governor of Massachusetts Mike Dukakis's refusal to develop plans for the Massachusetts portion of the

emergency planning zone for the Seabrook nuclear power plant, which agitated the hearing process.

Other participants raised other examples of impactful state or tribal government intervention. Two participants provided the example of the state of Nevada's opposition to Yucca Mountain; one of these participants also mentioned Native American tribal involvement in the NRC contested proceedings for the Prairie Island nuclear power plant, and the other cited the issues raised by the state of Vermont in Vermont Yankee nuclear power plant proceedings. In the case of Vermont Yankee, the participant felt state involvement had been a "game changer." They also mentioned contentions brought by Native American tribes in uranium mining cases, which were often successfully admitted.

One participant noted that states have also been involved in license transfer proceedings, citing the spinoff of Constellation from Exelon as an example where states had joined proceedings. In their view, state governments sometimes intervened in proceedings with the aim of receiving some kind of concession (e.g., to secure funds to build a new park).

5 Challenges

Participants discussed various specific challenges associated with the contested proceedings in addition to the general uncertainty that these proceedings could bring to the licensing process.

5.1 Proximity Presumption

One participant felt that the proximity presumption (i.e., that someone who lives within, works within, or has frequent contacts within, approximately 50 miles of a reactor has the requisite interest to establish standing) was not a good fit for the diversity of reactor projects that were being proposed today. They viewed this as a recurrent issue in advanced reactor licensing proceedings and felt that until the Commission addressed it, it would continue to arise. They considered the presumption to be out of step with modern judicial precedent on what standing is (i.e., who is really affected by this?).

5.2 The Atomic Safety and Licensing Board

One participant raised the Commission's inability to control ASLB judges and viewed this as a process deficiency. They thought that ASLB judges often didn't care what the Commission thought or what the Commission had said previously, and there were no repercussions for departures from Commission-set policy. They felt that ASLB judges were in instances undisciplined and pursued their own agendas as there were no consequences for continuing to be reversed over and over

again by the Commission. They worried about judges who order a hearing based on pure academic curiosity about a subject instead of true fidelity to the admissibility rules.

Another participant again noted the absence of an effective operational dynamic between the ASLB and the commissioners themselves. They proffered an arrangement wherein a Commissioner would be assigned to a particular case and would be required to attend the hearings, communicate with the ASLB, and provide input ahead of decisions – particularly those policy decisions that would ultimately land on the Commission to make rather than the ASLB. This new functional role would be a minor change to the overall process, but one that might potentially lead to better outcomes, or at least foster earlier input from the Commission on issues that would later come under their purview.

One participant perceived a lack of Board transparency about when to expect decisions in proceedings and cited this as a concern among industry applicants.

5.3 Commission Decision Timelines

One participant highlighted that slow Commission rulings on appeals were an operational bottleneck. They noted that while the Part 2 rule proposed to establish an aspirational timeline – to rule within 45 days – it was not a hard deadline, and they questioned whether they would even be able to accomplish that in the best of circumstances. In general, they thought putting some parameters on the Commission decision timelines was an untapped area.

5.4 Disclosures

One participant advocated for revising the current disclosure process, which, in their view, inclined toward disclosing everything. They viewed the desired timing constraints as unattainable without complementary limitations on the breadth of disclosure requirements. If full disclosure was required for a significant issue within 30 days of the date of the hearing being ordered, the resources required would be massive. They thought any attempt to try and shrink timelines to a hearing needed to be coupled with paring down the scope of the disclosures to only the things that are planned to present and put into evidence. Each party would turn those over, and that material should be sufficient. In the participant's view, such a reduction in the scope of disclosures would benefit the process in terms of both timing and costs.

5.5 Discovery

One participant thought the discovery process was worth rethinking. In their view, having to disclose everything that may potentially be relevant to a contention was what really drives costs on these hearings at least on the applicant side, because there were so many people involved, including contractors and subcontractors, and many emails that somebody has to go through.

They viewed this as a labor-intensive exercise and a very costly one, while the amount of that material that was actually useful to a hearing was minuscule. They suggested just requiring the parties to disclose the things that they plan to put into evidence at the hearing which would change the level of effort, the costs, the time, and the resources involved. If a contention does go to a hearing, it would be more manageable in this case, and more commensurate with the value proposition that the hearing itself added. They hoped the Commission would consider this as they thought it would make a substantial difference.

5.6 Microreactors

One participant discussed the contested proceedings in the context of microreactors. In their view, for a huge 2000-megawatt reactor project, the costs of the contested proceedings might be acceptable in relation to the scale of project costs, but for a microreactor project that was only one megawatt, a million dollars for a hearing was a whole different scenario. They observed that the industry had done a lot of work with the NRC on this front and were hopeful that many of the related issues would be resolved but remained worried about some aspects such as timely ASLB decision-making.

5.7 Opposition to Nuclear Power

One participant observed that those who are unhappy with the notion of nuclear power will continue to use the hearing process as a proxy to wage a larger war and try to curb the siting process.

Similarly, another participant observed that many petitions to intervene are driven by the potential to delay. In their experience, intervenor groups were often trying to use the process as a bludgeon to hinder a given project's advancement, the idea being that if it could be delayed long enough, it could be stopped.

A third participant observed that contentions were generally not raised by nearby residents concerned about issues like noise or traffic, but instead by national anti-nuclear organizations. These organizations were not so focused on the particular issue at hand and – while they may support a specific contention – their goal was primarily to shut down the project rather than finetune how the project was implemented.

5.8 Artificial Intelligence

One participant thought that with the introduction of artificial intelligence (AI), and its ability to rapidly generate documentation, more petitioners would be empowered to file an abundance of contentions "just to see what might stick." They cited an example from the previous year where the ASLB issued an order condemning a petitioner for using AI. The participant thought that

putting some guardrails on AI-generated contentions – and limiting their admissibility before the parties have to brief – would be a good step. They thought this was especially important now, as the new Part 57 gets off the ground. The participant perceived greater risk of delay from contested proceedings for Nth-of-a-kind reactors, owing to their shorter deployment timelines.

6 Proposed Reforms

Participants also discussed the reforms to the contested hearings process that have been proposed in 2026. One participant thought they were extraordinarily ambitious, which was not necessarily a bad thing in their view, but they questioned whether the NRC would be able to maintain the types of timelines envisioned in the reforms in an extremely contested proceeding. Their impression was that for the last few years, there had been relatively little challenge to a lot of the licensing actions at the NRC, and thus licenses would generally be issued unless there was some big dispute with a licensee.

With respect to the NRC's regulatory analysis of the proposed rule, one participant had a hard time seeing how the agency had landed on its estimated time savings for applicants, particularly in light of the proposed requirement that briefings on the merits of proposed contentions occur before the ASLB rules on their admissibility. They thought that there were potential savings on the back end of the process from doing this, but they could also see this change being much more expensive for applicants.

Another participant felt that the proposed changes to 10 CFR 2 regarding pre-briefing before admissibility decisions was a terrible idea. For example, an applicant would have to brief 100% of contentions on the merits, even if only 16% of contentions might be ultimately admitted. This approach did not make any sense to them, and they noted that industry had submitted comments on the proposed rule in opposition to that element.

Another participant expressed similar concern with the proposed rule's provision regarding the filing of all merit information before admissibility was even decided. They thought that the underlying rationale behind the change was that the process would overall move a lot quicker after admitting a contention and going to a hearing if everybody has their "cards on the table" early. But they doubted it would work in practice. They also questioned whether staff would be willing, or have the resources, to take a position that early.

One participant thought that perhaps the biggest improvement in the proposed rule was its provision requiring an evidentiary hearing on an admitted contention to begin as soon as possible or as soon as practicable. In other words, if the contested hearing can occur before the safety

evaluation report and environmental impact statement are complete, then it should. They thought there was a trade-off in doing so, however. On the one hand, waiting for the full staff review meant the hearing could be informed by the staff's final position on a topic. On the other hand, and in practice, some issues can be resolved absent the staff's position on it. While acknowledging this tension, the participant thought the flexibility to hold hearings earlier was valuable.

One participant raised the 2025 Supreme Court decision (Seven County Infrastructure Coalition v. Eagle County) in which the court ruled that federal agencies do not need to consider every conceivable consequence of a project under the National Environmental Policy Act (NEPA). They thought it could be impactful if the NRC takes a narrower view of its responsibility under NEPA and thought the interaction between the finalized Part 51 (where NEPA is handled) and Part 2 rules would be something those in the contested proceedings space will be watching.

With respect to the early hearing framework under the proposed rule, one participant viewed proceeding to a hearing before staff documents as generally a good idea. They felt that timelines could be reduced, while also noting that there were some inherent risks. They cited that sometimes, after a contention is admitted, an applicant will proactively amend their application to eliminate the issue. If, however, an applicant does not have time to make amendments before the discovery, witness preparation, and hearing phases, then this would waste resources unnecessarily. They felt that a mechanism was needed to account for that.



Good Energy Collective

Good Energy Collective is a nuclear policy and research organization focused on the practical implementation of nuclear energy at scale, advancing community-informed policy for the responsible deployment of clean nuclear power.

CONTACT

hello@goodenergycollective.org

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