

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

BEYOND NUCLEAR,	)	
	)	
Petitioner,	)	No.
	)	
vs.	)	
	)	PETITION FOR JUDICIAL REVIEW
IOWA UTILITIES COMMISSION,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
NEXTERA ENERGY DUANE	)	
ARNOLD LLC	)	
	)	
Indispensable Party,	)	

Comes now the Petitioner, Beyond Nuclear, and in support of this Petition for Judicial Review, states as follows:

INTRODUCTION

1. Petitioner, Beyond Nuclear, is a non-profit public policy and education organization that advocates for the expansion of renewable energy to replace nuclear power generation. Beyond Nuclear has members in Iowa who live within the 10-mile emergency planning zone of the Duane Arnold Energy Center (Duane Arnold) and within the 50-mile radius of Duane Arnold that the Nuclear Regulatory Commission uses as a basis for standing if there are articulable concerns for health and safety from the nuclear plant. Iowa members of Beyond Nuclear are concerned with the potential health, safety, and environmental risks associated with the restart of the nuclear reactor and the storage of high-level radioactive waste.

2. Pursuant to Iowa Code Chapter 476A, the Iowa Utilities Commission (IUC) is the state agency authorized to determine if a certificate of public convenience, use and

necessity should be issued for the construction, operation and maintenance of electric power generation facilities.

3. NextEra Energy Duane Arnold LLC (NextEra) is the owner of Duane Arnold and the applicant for the Certificate of Public Convenience, Use, and Necessity issued by the IUC which is the agency action at issue in this case.

4. This case concerns the application by NextEra for a Certificate of Public Convenience, Use, and Necessity to recommission and restart Duane Arnold, a 615 Megawatt (MW) nuclear facility located in Linn County, Iowa.

5. On June 18, 2026, the IUC issued a Final Order in Docket No. GCU-2-25-0013, granting NextEra a Certificate of Public Convenience, Use, and Necessity, authorizing the restart of Duane Arnold. The IUC subsequently denied a Motion to Reconsider on July 24, 2026.

6. Petitioner seeks judicial review of the IUC's Final Order, pursuant to Iowa Code § 17A.19.

VENUE

7. Venue is proper in this Court pursuant to Iowa Code § 17A.19(2), because the IUC has its place of business in Polk County.

STANDING

8. Beyond Nuclear members Dr. Maureen McCue, Dr. John Rachow, Pamela Mackey Taylor, and Bruce Bachmann, established standing before the IUC in the administrative proceeding. Their declarations are hereto attached. They are adversely impacted by the agency action due to potential environmental, safety, and health issues. Specifically, the restart of Duane Arnold involves the continued on-site storage of

approximately 688 metric tons of high-level radioactive waste, in addition to an estimated 14 metric tons to be produced and stored annually if Duane Arnold is restarted. Members residing near the facility are further impacted by prospective radioactive emissions and potential increased health risks, such as cancer and infant mortality. Beyond Nuclear has exhausted its administrative remedies by filing a Motion for Reconsideration pursuant to 199 I.A.C. § 7.27. The motion was denied by the IUC on July 24, 2026.

FACTUAL BACKGROUND

9. Duane Arnold is a nuclear reactor in Linn County that began operation in 1974. In 2020 NextEra ceased to operate the facility and it was placed in decommissioning status pursuant to Nuclear Regulatory Commission regulations.

10. In 2025 NextEra signed a power purchase agreement with Google Energy LLC. Google plans to build up to six data centers in Linn County that would be powered by Duane Arnold. In order to effectuate the agreement, NextEra has proposed to restart Duane Arnold to again produce power.

11. In order to provide electric transmission if Duane Arnold is restarted, NextEra obtained a waiver from the Federal Energy Regulatory Commission to transfer the transmission tariffs from four industrial-scale solar energy projects NextEra had planned to construct in Linn County to Duane Arnold.

GROUND FOR RELIEF

12. In determining whether to grant a certificate of public convenience, use, and necessity, the IUC must determine that the provisions of Iowa Code §476A.6 have been satisfied. That section states:

The commission shall render a decision on the application in an expeditious manner. A certificate shall be issued to the applicant if the commission finds all of the following:

1. The services and operations resulting from the construction of the facility are consistent with legislative intent as expressed in section 476.53 and the economic development policy of the state as expressed in Title I, subtitle 5, and will not be detrimental to the provision of adequate and reliable electric service.
2. The applicant is willing to construct, maintain, and operate the facility pursuant to the provisions of the certificate and this subchapter.
3. The construction, maintenance, and operation of the facility will be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.

13. In its June 18, 2026, decision, the IUC made many factual findings and conclusions, and legal conclusions that are grounds for reversing the IUC decision pursuant to Iowa Code § 17A.19(10), including the following:

a. Iowa Code § 476.53(1) states that it is the legislative intent to develop electric power in sufficient quantity to ensure reliable electric service to Iowa consumers. Evidence in the record shows that approximately 92% of the power from a restarted Duane Arnold is committed to Google Energy LLC through a 25-year power purchase agreement. NextEra witness Joshua Marcum admitted that the agreement with Google is a wholesale power contract, which means that Google could resell the power generated on the open market to users outside of Iowa, not just Iowa consumers. A project that primarily serves one global corporation for its data centers, with potential for out-of-state resale, does not satisfy the statutory intent to serve Iowa consumers. In finding that NextEra had satisfied this provision, the IUC claimed that the ultimate use of the power is irrelevant to its decision, even though § 476.53(1) clearly states the opposite. That decision was “based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the

agency,” Iowa Code §17A.19(10)(c), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

b. Iowa Code § 476.53(1) also states that the proposed generating facility must provide economic benefits to Iowa. NextEra presented the testimony of Dr. David Loomis, an economist who used a modeling tool called IMPLAN to estimate what economic benefits will allegedly accrue from the restart of Duane Arnold. Dr. Loomis’ analysis did not consider negative economic effects. He admitted that the IMPLAN model is not a cost-benefit analysis. Most importantly, his analysis did not compare the impacts of restarting Duane Arnold with the benefits that would have accrued from construction and operation of the four solar projects that NextEra has abandoned. Dr. Loomis has testified in multiple prior IUC dockets about the economic benefits of solar projects.

The comparison of restarting Duane Arnold with constructing solar generation is important because the criterion of economic benefits to the state must be considered in the context of the legislative intent to encourage renewable energy. In other words, restarting Duane Arnold can have economic benefits, but so would development of the four solar projects that NextEra is abandoning, and the solar projects would promote renewable energy, consistent with the legislative intent to encourage renewable energy.

By ignoring the costs and adverse impacts of the Duane Arnold restart and ignoring the economic benefits of renewable energy, the Commission issued a decision “based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency,” Iowa Code §17A.19(10)(c), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

c. Iowa Code § 476.53(2)(a) states that the electric generating facility must be cost-effective. The record shows how much it will cost to repair and replace major components of Duane Arnold and the total cost to restart the plant. There will also be the cost of fuel. And Beyond Nuclear witness Russell Lowes explained in detail why restarting Duane Arnold is not cost-effective. Mr. Lowes explained that nuclear power is the most expensive means of generating electricity. Aside from the basic cost of a nuclear plant, there is a history of cost overruns. In this case, there is no history of the cost of restarting a closed nuclear reactor, so Mr. Lowes compared the cost of restarting Duane Arnold, according to NextEra in responses to data requests, with the documented average cost of constructing renewable energy sources (wind, solar, and battery storage). Mr. Lowes went beyond the mere comparison of the total cost of constructing or restoring a nuclear plant with constructing a renewable energy project. He also determined the cost per kilowatt hour for each, to determine how cost-effective each type of power generation would be. It is significant that NextEra did not submit any reply testimony that contradicted Mr. Lowes's analysis nor did NextEra, or any other party, cross-examine Mr. Lowes at the hearing. So the substance of Mr. Lowes' testimony is uncontroverted.

The Iowa Supreme Court has instructed the Commission what "cost-effective" means. *ELPC v. IUB*, 989 N.W.2d 775 (Iowa 2023). Cost-effective means "producing optimum results for the expenditure." *Id.* at 782. It all boils down to a "comparison or comparative value." *Id.* Notwithstanding the clear direction from the Supreme Court, the Commission decision stated "the issuance of a generating certificate does not constitute a finding that the proposed project is needed, reasonable, or cost-effective, and does not affect how a rate-regulated utility may treat the proposed project for ratemaking or

revenue sharing purposes." But § 476.53(2)(a) clearly says cost-effectiveness is a factor and NextEra is not a rate-regulated utility.

The Commission's decision on this issue was "based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency," Iowa Code §17A.19(10)(c), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

d. Iowa Code § 476.53(2)(a) also says that the generating facility must be compatible with the environmental policies of the state. The environmental policies of the state contained in Title XI of the Iowa Code encompass control of the environment, lands and waters, soil and water preservation, energy, public utilities, and wildlife. The environmental policies include promotion of renewable energy as set forth in Iowa Code §§ 473.3 and 476.53A. Section 473.3 states, in part:

The goal of the state is to efficiently utilize energy resources to enhance the economy of the state by decreasing the state's dependence on nonrenewable energy resources from outside the state and by reducing the amount of energy used. This goal is to be implemented through the development of policies and programs that promote energy efficiency, energy conservation, and alternative and renewable energy use by Iowans

The preceding statute, § 473.2 states, in part:

The general assembly finds that the health, welfare, and prosperity of all Iowans require the provision of adequate, efficient, reliable, environmentally safe, and least-cost energy at prices which accurately reflect the long-term cost of using such energy resources and which are equitable to all Iowans.

Section 476.53A states:

It is the intent of the general assembly to encourage the development of renewable electric power generation. It is also the intent of the general assembly to encourage the use of renewable power to meet local electric needs and the development of transmission capacity to export wind power generated in Iowa.

It was established in the record that nuclear power is not renewable. It is fueled by uranium, which is not a renewable resource. The Commission decision completely ignored these statutes. The Commission decision was the “product of a decision-making process in which the agency did not consider a relevant and important matter,” Iowa Code §17A.19(10)(j), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

e. Iowa Code § 476A.6(3) states that the facility must “be consistent with reasonable land use and environmental policies and consonant with reasonable utilization of air, land, and water resources, considering available technology and the economics of available alternatives.” As stated above, environmental policies include encouragement of renewable energy. Renewable energy is an available technology and is economically preferable to nuclear power, as confirmed by Beyond Nuclear witness Russell Lowes. The Commission’s failure to consider this factor was “based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency,” Iowa Code §17A.19(10)(c), was the “product of a decision-making process in which the agency did not consider a relevant and important matter,” Iowa Code §17A.19(10)(j), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

f. The Commission decision also claimed that the Governor’s Executive Order 17, establishing a Nuclear Energy Task Force, establishes legislative intent to support nuclear power. An executive order is an executive action, based on the Governor’s whim, not an action of the legislature. Iowa Code §§ 476A.6(1) and 476.53 require the Commission to make decisions consistent with legislative intent, not the Governor’s desires. The

Commission decision was therefore “based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency,” Iowa Code §17A.19(10)(c), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

g. The Commission’s decision is invalid because Commission Chair Sarah Martz should be disqualified from participating in this case due to a conflict of interest that creates an impermissible appearance of bias. The basis for disqualification is that Chair Martz is a member of the Governor’s Nuclear Energy Task Force, established by Executive Order 17, which has as the Task Force’s mission promoting nuclear energy as a “critical component of Iowa’s energy future.” Chair Martz’ participation and membership in an organization dedicated to promoting the very industry she is regulating in this case violates the objective standard for impartiality.

The Iowa Code of Judicial Conduct sets out standards for recusal. Under those rules, “[a] judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned.” Iowa Code of Judicial Conduct R. 51:2.11(A). Impartiality is the “absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge.” Iowa Code of Judicial Conduct, Terminology. “The test is ‘whether reasonable persons with knowledge of all facts would conclude that the judge's impartiality might reasonably be questioned.’” *Carter v. Carter*, 957 N.W.2d 623, 644 (Iowa 2021) (quoting *State v. Mann*, 512 N.W.2d 528, 532 (Iowa 1994)). And that “alleged bias and prejudice must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from

participation in the case." *State v. Bear*, 452 N.W.2d 430, 435 (Iowa 1990). A judge cannot be an advocate, but must be a neutral and impartial decision maker. *State v. Cuevas*, 288 N.W.2d 525 (Iowa 1980).

The decision in *State v. Mann*, 512 N.W.2d 528 (Iowa 1994), sets out a well-stated discussion of what is required for recusal of a judge. In that case the court said:

In other words, the test is not whether the judge self-questions his own impartiality, but whether a reasonable person would question it. . . . Thus, an objective test is substituted for a purely subjective one.

The “reasonable person” test, . . . , inquires whether reasonable persons with knowledge of all facts would conclude that the judge’s impartiality might reasonably be questioned.

Because of the necessarily imprecise nature of the concept involved, the test depends on the interaction of two variables: the remoteness of the interest and its extent or degree.

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Scienter is not an element of a violation Nor do we believe it should be required under Canon 3(D)(1). Even a judge who is unaware of disqualifying factors may nevertheless be expected to recuse if the “reasonable person” test is met. The reason “is that people who have not served on the bench are often all too willing to indulge suspicions and doubts concerning the integrity of judges. . . . , and presumably our Canon 3(D) [was] enacted to meet this problem and to promote public confidence in the integrity of the judicial process.

Also, Iowa Code § 17A.11(2) states that “Any person serving or designated to serve alone or with others as a presiding officer [in an agency proceeding] is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is or may be disqualified.” That statute clearly applies to Chair Martz since she is a presiding officer in this proceeding.

Beyond Nuclear filed a Motion for Recusal based on these facts. The motion was denied, based on Chair Martz filing a statement claiming that she had no personal bias,

nor had any personal beliefs regarding nuclear energy, and that she could be fair in presiding over this proceeding. However, her personal beliefs in her alleged fairness and lack of bias is not the standard for determining a conflict. Conflict of interest is an objective standard. So the Commission decision was “the product of decision making undertaken by persons who were improperly constituted as a decision-making body, were motivated by an improper purpose, or were subject to disqualification.” Iowa Code § 17A.19(10)(e).

h. The Commission decision relies on the inclusion of nuclear energy as an alternative energy source in Iowa Code § 476.42 as evidence of legislative intent to promote nuclear energy. But that reliance is not justified. First, there is no provision in Chapter 476A that mentions § 476.42 as something to be considered by the Commission in determining whether to issue a certificate. The only legislative intent referred to in § 476A.6 is the legislative intent expressed in Iowa Code §476.53. The only statement in § 476.53 that applies to non-rate regulated utilities like NextEra is that legislative intent is “to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state.” That intent does not have to be satisfied by nuclear power.

The second reason the Commission must not rely on §476.42 is that the Commission has a conflict of interest with respect to that section. The addition of nuclear power to the list of alternate energy sources in §476.42 by the legislature was part of a bill presented to the legislature and advocated for by the Commission. So the Commission had, and has, a personal stake in supporting the alleged legislative intent in including

nuclear power as an alternate energy source to be encouraged. And as noted above, when the decision maker is an advocate, there is a conflict. *State v. Cuevas*, 288 N.W.2d 525 (Iowa 1980). Therefore, the Commission decision was “based upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency,” Iowa Code §17A.19(10)(c), and was arbitrary, capricious, unreasonable, and an abuse of discretion, Iowa Code § 17A.19(10)(n).

RELIEF SOUGHT

WHEREFORE, Petitioner requests that the Court reverse and hold invalid the action of the IUC in granting a certificate to NextEra Energy Duane Arnold and for such other and further relief as the Court deems just and equitable in the premises.

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