January 22, 2026

VIA EMAIL

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Rulemakings and Adjudications Staff
HEARING.DOCKET@nrc.gov

Re: In the Matter of the State of Florida and Last Energy, Inc. Regarding Below Regulatory Concern Reactors

Dear Mr. or Ms. Secretary:

Enclosed for filing is a Petition for Declaratory Order submitted by Petitioners The State of Florida and Last Energy, Inc.

The Petition requests that the Commission issue a declaratory order determining that Last Energy's pressurized water reactor design, which is engineered to achieve total and complete isolation of radiohazards and to operate at levels indistinguishable from naturally occurring background radiation, does not constitute a "utilization facility" within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2014(cc). As explained in the Petition, the design does not involve the use of special nuclear material in such quantity, or in such manner, as to be of significance to the common defense and security or to affect the health and safety of the public, and therefore falls outside the scope of NRC licensing authority.

The Petition seeks only declaratory relief, not rulemaking, adjudication, or enforcement action. It is intended to resolve a discrete and ripe legal controversy and to remove regulatory uncertainty concerning the application of the Atomic Energy Act to reactor designs that present negligible risk and fall within a below-regulatory-concern framework, consistent with the statute's text and limits.

Petitioners respectfully request that the Commission accept and docket the Petition as a general matter under 10 C.F.R. § 2.802 and provide such notice or

opportunity for public comment as the Commission deems appropriate. Petitioners would appreciate confirmation of receipt and docketing.

Thank you for your attention to this matter.

Sincerely,

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Emily Percival
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF	)	
THE STATE OF FLORIDA AND	)	Docket No. _____
LAST ENERGY, INC. REGARDING	)	
BELOW REGULATORY CONCERN	)	
REACTORS	)	

PETITION FOR DECLARATORY ORDER

Petitioners, THE STATE OF FLORIDA, a political sovereign subdivision within the United States of America, and LAST ENERGY, INC., a Delaware corporation with its principal place of business in Austin, Texas, file this Petition for a Declaratory Order under the Administrative Procedure Act ("APA"), 5 U.S.C. § 554(e), and 10 C.F.R. § 2.206, seeking a judgment from the Nuclear Regulatory Commission ("NRC"):

> Declaring that Last Energy's pressurized water reactors' ("PWRs") advanced nuclear technology design and operation is not a "utilization facility" under the Atomic Energy Act of 1954 ("AEA"), 68 Stat. 919 (1954), as it does not meet the thresholds of "significance" to common defense and security or public health and safety, as determined by 42 U.S.C. § 2014(cc), and thus is not subject to NRC licensing in this matter,

and, in support thereof, state as follows:

PARTIES AND JURISDICTION

A. Last Energy

1. Last Energy has invested heavily in developing its PWR design. Last Energy aims to use emerging technology to provide clean and cheap power to the American people, including Floridians. Kugelmass Decl. ¶ 8.

2. Last Energy's PWR is designed to have little to no effect on the health and safety of the American people, maintaining low radiation exposure levels that fall within a range of risk considered by the NRC to be negligible. Kugelmass Decl. ¶ 5.

3. This, among other factors, places Last Energy's PWRs in a range of risk that should be considered "below regulatory concern" ("BRC")[1]. Kugelmass Decl.¶ 3.

4. Last Energy qualifies as a "small business concern" under 15 U.S.C. § 632, as it is independently owned and operated, not dominant in its field of operation, and meets the Small Business Administration ("SBA") size standards for its industry. This entitles Last Energy to protections under the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), Pub. L. No. 104-121, §§ 201-253,

[1] The term "below regulatory concern" ("BRC") was coined by the NRC in a 1990 Policy Statement, 55 Fed. Reg. 27522 (July 3, 1990), establishing the BRC framework. The NRC felt that the policy statement was necessary to establish consistency in regulating and licensing nuclear material and to "focus[ing] the resources of the NRC." The NRC believed that nuclear material that produced effects within a certain range of risk should theoretically be exempt from some or all regulations because, "the resources of the Commission and its licensees could be better spent by addressing more significant health and safety issues than by requiring further analysis, reduction, and confirmation of" the impacts of these low-risk nuclear materials. Despite being withdrawn by the NRC in 1993—for reasons related to waste disposal and not licensing—the NRC specifically noted that withdrawal did not affect the NRC's ability to issue licensing exemptions under the AEA. NRC Press Release, *NRC Withdraws Below Regulatory Concern Policy Statements*, No. 93-114, https://www.nrc.gov/docs/ml0037/ML003702922.pdf

110 Stat. 857 (1996), including relief from disproportionate regulatory burdens and excessive enforcement actions.

B. **State of Florida**

1. Florida has experienced rapid population growth over the past decade and, consequently, is expected to experience a high increase in electricity demand.

2. Therefore, Florida has a strong interest in obtaining additional cost-effective and energy-efficient sources to meet its needs. *See Florida v. Nelson*, 576 F. Supp. 3d 1017, 1031 (M.D. Fla. 2021) ("As Florida correctly insists, federal executive action that adversely affects Florida's economy and that violates federal law governing procurement and administrative procedure amounts to a constitutional injury."); *see also S. Utah Wilderness All. v. U.S. Dep't of Interior*, 2025 WL 1743939, at *2 (D.D.C. June 24, 2025) (granting standing to the state of Utah for foreseeable "economic injury" as well as its "regulatory interest" in time and resources spent on oil extraction permitting).

3. Florida also has a quasi-sovereign state interest "in the health and well-being—both physical and economic—of its residents in general . . . this includes a state's 'interest in the continuing prosperity of [its] econom[y].'" *District of Columbia v. JTH Tax LLC*, 2023 WL 130736, at *3 (D.D.C. Jan. 9, 2023) (quoting *Pennsylvania v. Kleppe*, 533 F.2d 668, 674 (D.C. Cir. 1976)); *see also Massachusetts v. E.P.A.*, 549 U.S. 497, 520 n.17 (2007) (a State has a quasi-sovereign interest "when the 'substantial impairment of the health and prosperity of the towns and cities of the state' are at stake"); *Nelson*, 576 F. Supp. 3d at 1029 ("There is no difficulty in recognizing a state's standing to protect proprietary interests or sovereign interests.

A state's proprietary interests include 'participat[ing] in a business venture' and extend to interests that are the same as a similarly situated private proprietor.").

C. Jurisdiction of the NRC in this Proceeding

4. Under the APA, the NRC is empowered to "issue a declaratory order to terminate a controversy or remove uncertainty." 5 U.S.C. § 554(e); *accord. Fed. Power Comm'n v. Louisiana Power & Light Co.,* 406 U.S. 621, 625 (1972)*; Cent. Tex. Tel. Co-op., Inc. v. FCC*, 402 F.3d 205, 210 (D.C. Cir. 2005).

5. This petition presents a ripe controversy: The NRC's refusal to confirm AEA non-applicability to Last Energy's design and construction, despite acknowledging its safety, has directly frustrated Last Energy's operations in Florida. A declaratory order here would efficiently resolve this discrete dispute without the need for broader proceedings.

6. Thus, the NRC has jurisdiction to entertain this petition and issue the relief sought by Petitioners.

BACKGROUND

A. Last Energy's Design and Construction of BRC Reactors

7. Last Energy's PWRs are modular nuclear reactors designed to present negligible risk to health and safety. Specifically, Last Energy's initial PWR design is expected to have nameplate power output of 20MWe and utilize the advantages of modular design in its manufacture and deployment. Kugelmass Decl. ¶ 5.[2] Last Energy's PWRs use compact, pre-assembled components that enable rapid

[2] *See also* LAST ENERGY, INC., https://perma.cc/FSX6-CMMP.

construction, reduced costs, and flexible deployment in remote areas, industrial parks, or maritime vessels. Kugelmass Decl. ¶ 6. Last Energy's PWRs will provide clean, reliable, dispatchable energy that is critical for supporting industries like data centers and manufacturing, enhancing U.S. energy independence, and reducing reliance on fossil fuels. *Id.*

8. Despite Last Energy's heavy investment in developing clean and cheap energy, operations in the United States have been hampered by the NRC's application of the AEA to Last Energy's PWRs. As it currently stands, the NRC's position is that Last Energy's PWR designs fall within the AEA's scope and are therefore subject to the AEA's costly and burdensome licensing requirements.

9. For several years, Last Energy has argued that the construction and operation of its PWRs fall outside the NRC's jurisdiction as described in the AEA. The NRC's continued rejection of this argument has frustrated Last Energy's business operations and prevented it from expanding access to reliable and safe power throughout the United States, including in Florida.

10. On May 27, 2025, Last Energy submitted a white paper to the NRC titled "Hermetically Sealed Containment," which outlined high-level design criteria for its PWRs. *See* Exhibit A. The white paper describes the PWR design as having: (1) a hermetically sealed containment structure with no penetrations, openings, or pathways for radiohazards to escape; (2) no provision for access or maintenance inside containment; (3) shielding sufficient to make radiation indistinguishable from natural levels at any point of biological access; (4) structural integrity against credible

challenges (mechanical, chemical, thermal, seismic, environmental); (5) security eliminating unauthorized access, transport, or proliferation risks; (6) the ability to be placed on private property; (7) pre-operation inspection and testing; (8) pre-funded preservation of shielding and containment; and (9) maintenance of these qualities across all lifecycle states, irrespective of occurrences.

11. The white paper demonstrates that this design—despite having only one safety-critical component and serving as an alternative to defense-in-depth—achieves total and complete isolation of radiohazards throughout the reactor's lifecycle, fulfilling critical mandates for national security, worker safety, environmental safety, and public safety.

12. In its June 25, 2025, response, the NRC agreed in principle that a design limiting hazards to levels indistinguishable from natural radiation in all lifecycle states achieves its objective of adequate protection of public health and safety and common defense and security. *See* Exhibit B. However, the NRC gave no indication as to a path to licensure or a way to exclude the design from its licensing requirements. The NRC instead emphasized future verification of the design criteria through further analysis of comprehensive technical information and declined to confirm the white paper's claim without a formal application.

13. The response typifies specific uncertainty in this matter, as it demands justification for exemptions and technical verifications without providing the requested safety mandate alignment, despite acknowledging negligible hazards.

B. Florida's Interest in Deploying Last Energy's Reactors

14. Florida, like other states,[3] has expressed interest in Last Energy's reactors and believes that the reactors will provide numerous benefits to Florida citizens. *See* Exhibit C.

15. Simply put, Last Energy aims to design and construct PWRs that fall into a BRC framework, while Florida seeks to deploy them.

16. Because Florida believes the AEA does not apply to the licensing of this specific design due to its low range of risk, it is ready, willing, and able to begin its own site-specific permitting process for this safe and reliable design.

17. As it currently exists, NRC's interpretation of the AEA creates unnecessary hurdles that restrict production and innovation under the guise of public safety. These burdens defy the AEA's clear text by subjecting low-risk reactors to heavy regulation, despite cost-benefit analyses favoring minimal to no regulation. Additionally, low-risk reactors promote critical energy independence at a time when the need for safe, clean, and American-made energy increases by the day.

18. This power grab disproportionately burdens small businesses like Last Energy, flouting SBREFA's findings on regulatory costs, Pub. L. No. 104-121, § 202, and its purpose in fostering cooperative and less punitive environments, *see id.* § 203. This burden is evident in the NRC's failure to engage meaningfully with Last Energy,

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[3] *See, e.g.*, *Texas v. U.S. Nuclear Regul. Comm'n*, No. 6:24-cv-507 (E.D. Tex. Dec. 30, 2024); *see also* Emily Foxhill, *Small Nuclear Reactors May Be Coming to Texas, Boosted by Interest from Gov. Abbot*, TEX. TRIB. (Mar. 20, 2024), https://perma.cc/LC3M-9JG6.

as evidenced by the lack of informal guidance or compliance assistance in its response to Last Energy's white paper. *See* Ex. B.

19. Moreover, the NRC's flawed interpretation of its licensing authority over low-risk reactors results in increased lead times. It prevents Florida from fully exercising its lawful authority to license and regulate energy sources in a manner that allows safe deployment without unnecessary delays or permitting. The NRC has hindered the development of safe and reliable nuclear power in Florida, thereby putting the state's health and prosperity at risk.

JUSTIFICATION FOR ACTION SOUGHT

A. The Plain Meaning of 42 U.S.C. § 2014(cc)

20. The NRC's demand for licensing of Last Energy's PWR design stems from an interpretation of the AEA that exceeds the "utilization facility" definition in 42 U.S.C. § 2014(cc).

21. The AEA, enacted as Pub. L. No. 83-703, 68 Stat. 919 (1954), defines "utilization facility" as "(1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material *in such quantity as to be of significance* to the common defense and security, or *in such manner* as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy *in such quantity as to be of significance* to the common defense and security, or *in such manner* as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device, as determined by the Commission." 42 U.S.C. § 2014(cc) (emphasis added).

22. The most straightforward reading of "utilization facility" excludes low-risk reactor designs and manufacturing. Congress specifically chose to regulate *only* nuclear devices that create nuclear material "*in such quantity*" as to implicate national security or the health and safety of the public. 42 U.S.C. § 2014(cc) (emphasis added). The proper interpretation—the one that gives effect to "every clause and word of a statute," *Williams v. Taylor*, 529 U.S. 362, 404 (2000)—must therefore exclude nuclear devices that do not rise to that level of production. Put differently, the AEA's text, which limits licensing (and thus the NRC's jurisdiction) to facilities creating certain "significant" products or impacts, provides no clear authorization for licensing demands here. *See Pac. Gas & Elec. Co. v. FERC*, 113 F.4th 943, 951 (D.C. Cir. 2024) (vacating agency "interpretation [that] is inconsistent with the plain meaning" of the statute).

23. Last Energy's design, as detailed in the white paper and discussed above, uses minimal nuclear material and poses negligible risks through hermetic sealing—it is by definition below regulatory concern. Yet the NRC demands full licensing, ignoring the textual limits on its licensing authority.

24. In fact, the divergence from the originally enacted statute created by the AEA clearly demonstrates that Congress intended to *narrow* the NRC's authority, not to expand or even maintain it. *See* Pub. L. No. 79-585, § 18(f)–(g), 60 Stat. 755, 774 (1946) ("The term . . . shall be construed to mean *any* equipment or device."). The NRC's current approach begs judicial intervention, with litigation having already

commenced.[4] It also ignores the Congressional declarations of policy, which expressly included the goal to "strengthen free competition in private enterprise" of nuclear energy. 42 U.S.C. § 2011(b).

25. The AEA does not authorize the NRC to require licensing of this low-risk design. The plain language and history of § 2014(cc) demonstrate that Congress intended to exclude certain low-risk reactor designs, such as Last Energy's PWRs.

26. Specifically, Last Energy's PWR design's minimal use of nuclear material and safety containment system can, under no metric, rise to a level to be a "quantity of significance." Any suggestion that it could, would be a blatant attempt to thwart the limits Congress intended to place on NRC licensing authority, exceeding the AEA's limits.

27. As Last Energy's white paper explains and as discussed above, this design achieves complete isolation of radiohazards as an alternative to defense-in-depth.

28. The NRC's own statements confirm Last Energy's PWR design is less radioactive than light water reactors.[5] However, the NRC's application of the AEA nevertheless purports to control *all* reactors regardless of risk level. This is a clear expansion of the AEA's text that is not permissible under black-letter principles of statutory interpretation. *See Ins. Mktg. Coal. Ltd. v. Fed. Commc'ns Comm'n*, 127

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[4] *See Texas v. U.S. Nuclear Regul. Comm'n*, No. 6:24-cv-507 (E.D. Tex. Dec. 30, 2024).

[5] NUCLEAR REGUL. COMM'N, SITING CONSIDERATIONS RELATED TO POPULATION FOR SMALL MODULAR AND NON-LIGHT WATER REACTORS, NUCLEAR REGULATORY COMMISSION ISSUANCES (Nov. 29, 2017) (Prelim. Draft), https://perma.cc/BA6R-TYQ5.

F.4th 303, 317 (11th Cir. 2025) (noting agency interpretation that "exceed[s] statutory authority is a serious defect."); *cf. Corner Post, Inc. v. Bd. of Governors of Fed. Reserve Sys.*, 603 U.S. 799, 823 (2024) ("Regulated parties may always assail a regulation as exceeding the agency's statutory authority in enforcement proceedings against them or petition an agency to reconsider a longstanding rule and then appeal the denial of that petition.").

29. The predecessor agency to the NRC, the Atomic Energy Commission ("AEC"), enacted this overreaching definition through 10 C.F.R. § 50.2 in 1956, but the NRC's current application of the AEA to all reactors, no matter their risk, ignores the statutory limits on its authority. 21 Fed. Reg. 355 (Jan. 19, 1956).

30. The Energy Reorganization Act of 1974 later transferred the AEC's regulatory authority to the NRC. To date, the NRC has never revisited its interpretation of the AEA to correct the AEC's flawed application to low-risk reactors like Last Energy's. As such, the NRC's position is that this design falls within the AEA's scope and is subject to costly and burdensome NRC permitting requirements.

31. The AEA gives the NRC the ability to "determine[] by rule . . . such [a] quantity" of nuclear material as would be "of significance" to the public. 42 U.S.C. § 2014(cc). But no such quantity has been identified, and no definition of significance has been put forth. Rather, the AEC (and, by default due to inaction, the NRC) has applied the licensing requirements to "all." 10 C.F.R. § 50.2. This is an abuse of agency power by exceeding the intent of Congress. *See Am. Fin. Servs. Ass'n v. FTC*, 767 F.2d 957, 968 (D.C. Cir. 1985) (agency action that "exceed[s] the agency's

statutory mandate or frustrate[s] congressional intent" must be "reject[ed]" by courts).

32. The NRC's flawed interpretation has directly frustrated Last Energy's deployment of this low-risk design, warranting this Petition and resolution through a declaratory order. *See* Kugelmass Decl. ¶ 9.

33. Additionally, the Supreme Court's major-questions doctrine demands clear congressional authorization for agency actions of "vast economic and political significance." *West Virginia v. EPA*, 597 U.S. 697, 716 (2022). Regulating this design affects Florida's economy and energy security, with projected benefits including abundant affordable clean energy.[6]

34. The NRC's application of the AEA to Last Energy's PWR design is also arbitrary and capricious. The AEC provided no rationale in 1956 for ignoring the AEA's limited application to facilities "capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public." 42 U.S.C. § 2014(cc). The AEC even recognized the AEA's limited application earlier, when the Commission hailed that the AEA granted "flexibility to exclude from the definitions, and hence from the licensing features of the bill."[7]

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[6] TEX. ADVANCED NUCLEAR REACTOR WORKING GRP., DEPLOYING A WORLD-RENOWNED ADVANCED NUCLEAR INDUSTRY IN TEXAS (Nov. 2024), https://perma.cc/2ZN9-WGHL.

[7] ATOMIC ENERGY COMM'N, PART IV OF DRAFT STATEMENT FOR PRESENTATION TO THE JOINT COMMITTEE 33 (May 27, 1954).

B. SBREFA

35. The NRC's actions, including its adjudication in Exhibit B, violate SBREFA by imposing disproportionate burdens on small entities like Last Energy without required flexibility.

36. For example, the statutorily required "compliance guides" that agencies are to provide to ease the burden of weighty regulations on small businesses are, ironically, incredibly burdensome. The "consolidated guidance" on licensing alone is 169 pages.[8]

37. SBREFA's preamble states the law's goal of "relief from excessive and arbitrary regulatory enforcement actions against small entities." Its findings, Pub. L. No. 104-121, § 202, note small businesses' critical role in job creation and disproportionate regulatory costs, while purposes, *see id.* § 203, include judicial review, effective participation, simpler regulations, accessible information, cooperative environments, and accountability for excessive enforcement.

38. The NRC has not fulfilled its obligations to Last Energy under SBREFA requirements by failing to provide comprehensive information sources, *see id.* § 212, failing to treat its white paper response as guidance evidencing reasonableness, *see id.* § 213, and failing to establish penalty reduction policies, *see id.* § 223, with conditions like correction periods or good faith efforts.

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[8] OFF. OF NUCLEAR ENERGY, *Consolidated Guidance About Materials Licenses; Applications for Sealed Source and Device Evaluation and Registration*, DEP'T OF ENERGY, https://perma.cc/79BB-WH9G.

39. These violations render the NRC's interpretation arbitrary and capricious under 5 U.S.C. § 706(2)(A), warranting the requested declaratory order to align with SBREFA's deregulatory mandates.

C. The Need for a Declaratory Order and Alignment with Presidential Prerogatives

40. The NRC has failed to justify applying large-reactor licensing requirements to Last Energy's design despite evidence of its safety from the NRC. Indeed, low-risk reactors that fall within a BRC framework have been recognized as generally safer by the Department of Energy and international bodies.[9] Instead, the NRC has oversimplified its approach, applying the AEA to *all* reactors without regard to risk level and without explanation or authorization. This lack of a "rational connection between the facts found and the choice made" demands correction. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)).

41. Moreover, the NRC's white paper response exemplifies this stagnation, refusing to confirm safety alignment without litigation-prone processes, implicating SBREFA's judicial review purpose, which would support preempting such disputes through this order.

42. Finally, technological and energy realities necessitate a new regulatory paradigm. Modular reactors have come a long way since the enactment of the AEA in the 1950s. The market for safe reactors that fall within an accepted range of low risk,

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[9] *See, e.g.*, OFF. OF NUCLEAR ENERGY, *Benefits of Below regulatory concerns (BRCs)*, DEP'T OF ENERGY, https://perma.cc/8255-D9GS.

thereby complying with a BRC framework, has grown considerably. The NRC's failure to update its interpretation accordingly only further highlights the error of its reading. *See California v. FCC*, 905 F.2d 1217, 1230 (9th Cir. 1990) (recognizing that an agency is "obligated to reevaluate its policies" in light of changed circumstances that affect its rulemaking proceedings).

43. These low-risk reactors offer clean, reliable power critical to states like Florida; however, NRC bureaucratic bloat stifles the deployment of this technology, driving up costs and inefficiencies. The AEA envisioned flexibility for innovation, not stagnation.

44. The proposed declaratory order will also align the NRC's interpretation with President Donald J. Trump's America First Agenda. Since January 20, 2025, President Trump has taken bold action to overhaul America's regulatory apparatus, requiring a broad review of all federal regulations. *See* Exec. Order No. 14219.[10]

45. This bold action includes strengthening our nation's power grid by issuing a series of executive orders relevant to the proposed declaratory order. For instance, the President signed an executive order that implements a mandatory sunset clause on all energy regulations and relevantly applies to "all regulations issued [by the NRC] pursuant to . . . the Atomic Energy Act of 1954," pending a review and justification for extending the regulation. *See* Exec. Order No. 14270.[11]

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[10] *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*, Exec. Order No. 14219, 90 Fed. Reg. 10583 (Feb. 25, 2025) (requiring "all agency heads [to] identify . . . regulations that are based on anything other than the best reading of the underlying statutory authority").

[11] *Zero-Based Regulatory Budgeting to Unleash American Energy*, Exec. Order No. 14270, 90 Fed. Reg. 15643 (Apr. 15, 2025).

46. Most notably, Executive Order No. 14300[12] specifically directs the NRC to reorganize its structure, reduce unnecessary burdens, and revise regulations to facilitate nuclear innovation. This includes establishing fixed licensing deadlines, adopting science-based radiation limits, and promoting advanced reactors, such as low-risk modular reactors. The proposed declaratory order would align with Executive Order 14300 by excluding low-risk BRC-compliant reactors, such as Last Energy's design, from outdated oversight, thereby accelerating deployment to meet national energy goals.

47. The petitioned declaratory order would unlock this potential and satisfy NRC's obligation under EO 14192's[13] and EO 14300's promotion of low-risk modular reactor innovation and deregulatory reforms.

CONCLUSION

Petitioners respectfully urge the NRC to enter the proposed declaratory order, ensuring regulatory alignment with statutory text and national priorities. The proposed declaratory order would resolve the specific uncertainty under § 2014(cc) regarding Last Energy's design, enabling its deployment in Florida consistent with AEA limits as Congress intended. The order would unleash innovation, bolster American energy independence, and generate billions in economic growth while advancing President Trump's America First Agenda through deregulatory reforms outlined in Executive Orders 14192, 14219, 14270, and 14300.

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[12] *Ordering the Reform of the Nuclear Regulatory Commission*, Exec. Order No. 14300, 90 Fed. Reg. 22587 (May 29, 2025).

[13] *Unleashing Property Through Deregulation*, Exec. Order No. 14192, 90 Fed. Reg. 9065 (Feb. 6, 2025).

Respectfully submitted this 22nd day of January 2026.

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Counsel for The State of Florida

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305, I hereby certify that copies of the foregoing "Petition for Declaratory Order" and Standing Declarations were served on the Electronic Information Exchange (NRC Filing System) in the captioned proceeding this 22nd day of January 2026, and that according to the protocols of the EIE they were served upon all parties registered with the system.

/s/ Eric Yesner
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954-761-8111

DECLARATION OF BRET KUGELMASS

I, Bret Kugelmass, declare as follows:

1. I am the Founder and Chief Executive Officer of Last Energy Incorporated ("Last Energy").

2. I hold a Master of Science degree in Mechanical Engineering from Stanford University.

3. Last Energy is an American developer of nuclear power plants that utilizes innovative technology aimed at reducing costs and reducing safety risks, thereby expanding access to clean, sustainable energy. Last Energy specializes in developing and manufacturing reactors that could qualify for exemption from Nuclear Regulatory Commission ("NRC") licensing under the Below Regulatory Concern ("BRC") framework, as contemplated by the NRC in the 1990s.[1]

4. Last Energy has a commercial business model to deliver compact pressurized water reactors ("PWRs"), which are being designed to operate with minimal risk to the American people, thereby meeting a BRC standard.

5. Last Energy's PWRs are being designed as modular nuclear reactors that are not generally capable of making use of special nuclear material in such a manner as to affect public health and safety. Specifically, Last Energy's initial PWR design is expected to have nameplate power output of 20MWe and will utilize the advantages of modular design in its manufacture and deployment.[2]

6. Last Energy's PWR is designed to use compact, pre-assembled components that enable rapid construction, reduced costs, and flexible deployment in remote areas and industrial parks. Last Energy's PWRs will provide clean, reliable, and dispatchable energy that is critical for supporting industries such as data centers and manufacturing, enhancing U.S. energy independence, and reducing reliance on fossil fuels.[3]

7. Last Energy has signed term sheets for over 100 reactors with commercial counterparties across multiple EU, UK, and U.S. jurisdictions.

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[1] *See generally Below Regulatory Concern; Policy Statement*, 55 Fed. Reg. 27522 (July 3, 1990), https://perma.cc/YY5T-VGWL.

[2] *See, e.g.*, LAST ENERGY, INC., https://perma.cc/FSX6-CMMP.

[3] *Id.*

8. As an American company, Last Energy would like to be able to deploy its innovative reactors domestically. This would provide cheap, clean, and consistent power to the American people, while also bolstering the resilience and independence of the American energy grid.

9. Last Energy believes that the NRC's current framework is not structured or executed in a way that is conducive to efficient deployment of next-generation nuclear designs.

I swear under penalty of perjury that the foregoing is true and correct.

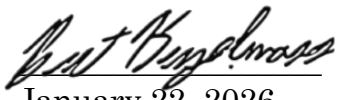
Signed by: 
Date: January 22, 2026

EXHIBIT A

Last Energy White Paper: Hermetically Sealed Containment

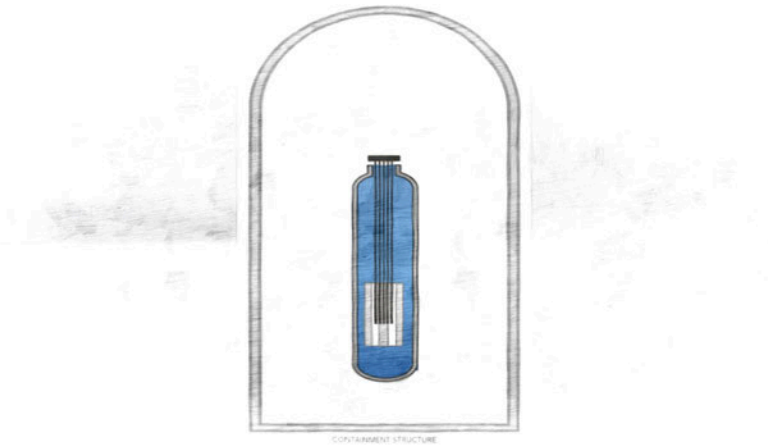
Introduction:

Last Energy, a US based Pressurized Water Reactor developer, would like to operate a pilot reactor on the path towards commercialization. The purpose of this document is to create an alignment on a specific safety premise, which will form the foundation of subsequent submissions. We are not requesting feedback on how this premise intersects with the totality of licensing requirements.

Description of System Attributes:

- A reactor will sit inside of a hermetically sealed containment structure, fully isolating radioactive material from the public and environment. There are no openings or pathways for materials to escape. There is no provision for access or maintenance to the interior of containment.
- The shielding will be sufficient such that any radiation generated internally, when measured externally, will be indistinguishable from background levels of radiation.
- Analysis will be provided that demonstrates such containment and shielding despite any challenge to its integrity, from all credible external or internal forces or events including but not limited to mechanical, chemical, thermal, seismic, and environmental stresses.
- Preservation of the containment's shielding and containment functionality will be pre-funded and maintained indefinitely.
- The containment structure will be situated on private property with no public access.

Illustrative Graphic:



Our Claim:

A system with these attributes will not affect the health and safety of the public.

Feedback Requested:

Does the NRC concur with this claim? If not, please list the remaining concerns. If so, as a next step, we'd like to mutually decide on the minimum set of analysis necessary to substantiate the attributes listed.

Last Energy White Paper: Hermetically Sealed Containment

Revision #1

Introduction:

The purpose of this document is to achieve alignment on our reactor's design criteria, which will form the basis of subsequent detailed technical submissions. We are not requesting feedback on how these criteria meet the current licensing requirements as the NRC has the ability to issue exceptions and will soon be undertaking a wholesale revision of their current rule set as per Presidential Executive Order. We seek confirmation that these criteria, in achieving total and complete isolation of radiohazards in all states of a reactor's lifecycle, will fully satisfy the NRC's mandate of national security, worker safety, environmental safety, and public safety.

Design Criteria:

- A reactor will sit inside of a hermetically sealed containment structure.
    - There are no penetrations, openings, or pathways for radiohazards to escape.
    - There is no provision for access or maintenance to the interior of containment.
- The shielding will be sufficient such that any radiation generated internally, when measured at any point of biological access, will be indistinguishable from naturally occurring levels of radiation.
- Detailed analysis will be provided that demonstrates such a structure ensures containment and shielding when subjected to any credible challenge to its integrity: from all external or internal forces or events including but not limited to mechanical, chemical, thermal, seismic, and environmental stresses.
- The structure, through the mass and strength of its materials, will be so secure as to eliminate any credible threat of unauthorized access, unauthorized transport, or proliferation risk.
- The containment structure will be situated on private property with no public access.
- Inspection and testing provisions will be made available prior to operation to certify these attributes.
- Preservation of the structure's shielding and containment functionality will be pre-funded and maintained indefinitely through the periodic addition of material.
- These qualities will be maintained in all states of the reactor's lifecycle, irrespective of any intended or unintended occurrence.

Our Claim:

A system with these design criteria, despite having only one safety critical component and being an alternative to defense in depth, will achieve total and complete isolation of radiohazards in all states of a reactor's lifecycle and thus fulfills the NRC's mandate of national security, worker safety, environmental safety, and public safety.

Feedback Requested:

Does the NRC concur with this claim? If not, please list the remaining concerns. If so, as a next step, we'd like to mutually decide on the minimum set of analysis necessary to substantiate the design implementation as listed.

EXHIBIT B

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 25, 2025

Mr. Adam Lenarz
Vice President, Commercial Development
Last Energy Inc.
1923 Vermont Ave NW, Suite 300
Washington DC, 20001

SUBJECT: LAST ENERGY'S REVISED WHITE PAPER: HERMETICALLY SEALED CONTAINMENT

Dear Mr. Lenarz,

The purpose of this letter is to provide feedback on the revised white paper you submitted on behalf of Last Energy titled *Hermetically Sealed Containment*.[1] The white paper contains high-level reactor design criteria and requests the U.S. Nuclear Regulatory Commission (NRC) to confirm that these design criteria, "… in achieving total and complete isolation of radiohazards in all states of a reactor's lifecycle, will fully satisfy the NRC's mandate of national security, worker safety, environmental safety, and public safety."

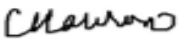
The NRC staff has considered the information in your white paper. The staff agrees that a reactor design that limits hazards to workers and members of the public from radioactive materials to levels indistinguishable from naturally occurring levels of radiation in all states of a reactor's lifecycle would provide reasonable assurance of adequate protection of public health and safety and the common defense and security. A license application for such a design that includes sufficiently detailed technical information and analyses could support an NRC conclusion that the application meets relevant licensing requirements, provided that the application justifies any necessary exemptions from current requirements, including the requirement for more than one barrier for fission product release. The NRC's evaluation of an application would focus on verifying the detailed technical information and analyses to support the design criteria outlined in the revised white paper to establish the safety of the design.

The NRC looks forward to future interactions on more comprehensive technical information, clearly defined design features, and a well-articulated design basis to facilitate effective engagement.

[1] "Last Energy White Paper: Hermetically Sealed Containment, Revision 1," dated May 27, 2025, Agencywide Documents and Access Management System Accession No. ML25146A001.

If you have questions regarding this matter, please contact me at Carolyn.Lauron@nrc.gov.

Sincerely,



Signed by Lauron, Carolyn
on 06/25/25

Carolyn L. Lauron, Senior Project Manager
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Project No.: 99902140

Enclosure: Incoming Letter

cc w/enclosure: GovDelivery

SUBJECT: LAST ENERGY'S REVISED WHITE PAPER: HERMETICALLY SEALED CONTAINMENT
DATED: JUNE 25, 2025

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OFFICE	OGC	NRR/DNRL/NLIB: PM			
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Last Energy White Paper: Hermetically Sealed Containment

Revision #1

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Feedback Requested:

Does the NRC concur with this claim? If not, please list the remaining concerns. If so, as a next step, we'd like to mutually decide on the minimum set of analysis necessary to substantiate the design implementation as listed.

Enclosure

EXHIBIT C

Re: Letter of Intent

The University of Florida ("UF") is an R1 higher education research institution, a member of the AAU, and has a nuclear engineering program that offers bachelors, masters and doctor of philosophy degrees. This program includes specialized reactor training, and education on handling and analyzing irradiated materials and nuclear fuels. UF's current training reactor was constructed in 1959. Last Energy, Inc. ("Last Energy") develops, owns, and operates 20MW micro nuclear power plants. UF and Last Energy are the "Parties" to this Letter of Intent.

This document signifies the intent of UF and Last Energy to negotiate the terms of goods and services offered by Last Energy for the benefit of the Central Energy Plant's operational needs, and UF's greater teaching, research, and service missions in Gainesville. This includes facilities, equipment, and services related to UF's nuclear engineering program and reactor training. Some of these goods and services would include sensitive, confidential, or proprietary information that will require additional safeguards.

As part of these discussions, the Parties have or will enter a mutual non-disclosure agreement regarding the sensitive, confidential, and proprietary information consistent with Florida public records laws. The Parties shall not make any use of the other's name, image, logo, or trademarks without the owning Party's written approval, unless the use is for the sole purpose of referring to this agreement.

Except with respect to the mutual non-disclosure and trademark use provisions, which are intended to be binding between the Parties, this Letter of Intent does not create a legally binding commitment or agreement on either Party and does not constitute an offer or obligation to offer or accept any goods or services, including those specifically referenced herein. The Parties recognize that any final price connected to any future agreement is subject to a regulated competitive bid process Any commitment or agreement between the Parties must be procured through such process and comply with the University's governing standards.

Bret Kugelmass

Bret Kugelmass, CEO Date
Last Energy, Inc.

Ryan Fuller 12/23/2025 | 5:52 PM

Ryan Fuller, General Counsel Date
University of Florida

Certificate Of Completion

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PO Box 115250
Gainesville, FL 32611
ryanf@ufl.edu
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Signing Complete	Security Checked	12/23/2025 5:52:01 PM
Completed	Security Checked	12/23/2025 5:52:02 PM

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