UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	Docket ID
Susquehanna Nuclear, LLC.	)	NRC-2022-0185
Indirect Renewed Facility	)	
Operating License Nos. NPF-14	)	
and NPF-22 for the	)	November 25, 2022
General License and	)	
Independent Spent Fuel Storage	)	
Installation As A Result of	)	
Restructuring and Bankruptcy	)	:
of Talen Energy Corporation	)	
to A Reorganized Company Yet	)	
Be Named ("Reorganized Talen")	)	

November 25, 2022

ERIC JOSEPH EPSTEIN'S PETITION FOR LEAVE TO INTERVENE AND HEARING REQUEST

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

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ERIC JOSEPH EPSTEIN'S PETITION FOR LEAVE TO INTERVENE AND HEARING

I. Introduction.

Eric Joseph Epstein ("Epstein," "Mr. Epstein" or "the Petitioner") is filing a Petition for Leave to Intervene and a Hearing Request in the above captioned matter. The NRC is considering the issuance of an order under 10 CFR 50.80 and 72.50approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as Reorganized Talen. The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

The NRC is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as Reorganized Talen. The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

The proposed License Transfer does not address the core issues that undermined the financial position of Talen, and will reduce financial security and safety margins, and increase the likelihood of "significant hazards" after the undisclosed new corporate entity takes sharp which will occur after the NRC approved the transfer. The fact the no management changes are proposed only means that the name of the captain of this corporate Titanic will change, but the sinking vessel will remain intact.

> The expectation is that, at the conclusion of the proposed transactions, Susquehanna Nuclear will continue to be directly owned by Talen Energy Supply, which will, in turn, either be, or be directly owned by, Reorganized Talen, and no other changes to the ownership or control of Susquehanna Nuclear will occur in the restructuring. NRC consent to the indirect transfer of control of the Susquehanna licenses will be required prior to consummating the transactions contemplated by the reorganization plan.
>
> According to the application, the proposed transactions do not involve any change to Susquehanna Nuclear's continued operation or its ownership of Susquehanna and do not involve any physical changes in Susquehanna or any changes to the conduct of operations at Susquehanna. (Federal Register, Posted on November 8, 2022)

An “expectation” is not a guarantee, and this transaction can not be approved until guarantees are in place and a plan with accountable and enforceable milestones are part of the license transfer process. This “stay the course” doctrine is remarkable similar to Talen’s initial distress signal sent to the NRC on Jul5, 2017. When Talen was acquired from PPL there was no expectation that the company would go bankrupt and seek protection from Bankruptcy Court of the Southern District of Texas.

> The purpose oft his letter is to notify the U.S. Nuclear Regulatory Commission ("NRC") of the planned elimination of one of the intermediate parent companies from the chain of ownership of Susquehanna Nuclear, LLC, which is the licensed operator and an owner of the Susquehanna Steam Electric Station ("SSES"). Currently, Susquehanna Nuclear is a direct, wholly-owned subsidiary of Talen Generation, LLC, which in turn is a direct, wholly-owned subsidiary ofTalen Energy Supply, LLC. Talen Energy Supply, LLC is a direct, wholly-owned subsidiary of Talen Energy Holdings, Inc., which is a direct, wholly-owned subsidiary ofTalen Energy Corporation, the stock of which is held by portfolio companies of Riverstone Holdings, LLC. On or about June 30, 2017, Talen Generation will distribute its membership interests in Susquehanna Nuclear to Talen Energy Supply, making Susquehanna Nuclear a direct, wholly-owned subsidiary ofTalen Energy Supply. There are no other planned changes to Susquehanna Nuclear's chain of ownership involved in this restructuring, as shown in the attached figures.
>
> This elimination of an intermediate parent does not involve any direct or indirect transfer of control of the SSES licenses that would require NRC consent pursuant to 10 C.F.R. § 50.80…
>
> This corporate change does not require any change to the terms and conditions oft he SSES licenses, and will have no effect on the management, technical qualifications, or financial qualifications of Susquehanna Nuclear. The change will not alter Susquehanna Nuclear's organization, staff, officers, or managers, or any of Susquehanna Nuclear's programs, procedures, or conduct of operations. The corporate change does not involve any changes to the nuclear plant operations or equipment at SSES, and does not affect SSES's costs, revenues, or the Parent Support Agreement currently in place between Susquehaana Nuclear and Taeln Energy Corporation…(1)

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1 10 CFR 50.80, Docket Nos. 50-387 50-388 and 72-28, SUSQUEHANNA STEAM ELECTRIC STA TION NOTIFICATION OF RESTRUCTURING PLA-7617, Brad Berryan, Site Vice President, July 5, 2017.

The letter provided an organization chart, i.e. **Figure 2** with no discussion on data mining, debt exposure, or staffing reductions. The five companies are organized as Limited Liability Corporations in Delaware with corporate headquarters in The Woodlands, Texas. Figure 1 is identical to Figure 2 which was the corporate compass prior to the restructuring that lead to bankruptcy..

Figure 2 Simplified Organization Chart- After Restructuring

Riverstone Shareholders (DE LLCs) 100%

Talen Energy Corporation (DE Corp)

Talen Energy Holdings, Inc. (DE Corp)

Talen Energy Supply, LLC (DELLC)

Susquehanna Nuclear, LLC (DELLC)

However, not disclosed in the letter and as part of Talen's restructurin , the Company eliminated 131 "excess employees" in July, 2016. The 53 layoffs at the nuclear plant came after the Susquehanna team Electric Station ("SSES") had to shutdown of both its reactors. A water leak in early June shut down Unit 1 for three weeks, and then in mid-May, Unit 2 was manually shut down for a weekend after officials found a fault in the electrical distribution center.

Relicensing and restructuring are a crap shoot based on the business adjacent to the nuclear power plant as advertised in its Disclosure Statement for Joint Chapter 11 Plan of Talen Energy Supply, LLC and Its Affiliated Debtors filed in Houston, Texas on October 24, 2022. (2)

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2 Work has been halted on the construction of a bitcoin mine on the property of the nuclear power plant near Berwick. Taeln Energy owner hoped to start mining bitcoin by the end of the year. Talen announced on August 17, 2022 that the construction has been suspended due to "circumstances out of our control." The original pan was to bring the Susquehanna Hyperscale Campus online in the second quarter of 2022.

> The development of (i) the Data Campus (the "**Cumulus Data Project**") through non- Debtor affiliate Cumulus Data LLC ("**Cumulus Data**") and (ii) the digital currency mining facility at the Data Campus (the "**Cumulus Coin Project**" and, together with the Cumulus Data Project, the "**Cumulus Digital Project**") through non-Debtor subsidiary Cumulus Coin LLC ("**Cumulus Coin**") creates a competitive advantage by solving the reliability, costs, and zero-carbon "energy trilemma" by providing an integrated power and digital infrastructure solution. As described above, flat power demand and an increased power supply have decreased the Debtors' profits, particularly in the PJM region where the Nuclear Plant is located. The Cumulus Digital Project capitalizes on a clear synergy by bringing a growing electricity demand (*i.e.*, data storage and digital currency mining) directly to the Nuclear Plant's low-cost, reliable, and carbon-free power supply.
>
> Pursuant to certain power purchase agreements, Susquehanna Nuclear will sell power generated by the Nuclear Plant to Talen Generation, as a wholesale customer, and Talen Generation will then sell the power to Cumulus Data, as a retail customer. Cumulus Data is expected to sub-meter this power to customers of the Cumulus Data Project as well as the Cumulus Coin Project. Because Cumulus Data owns the transmission lines that interconnect the Cumulus Digital Project to the Nuclear Plant, the cost of power to be sub-metered will be reduced by eliminating the need to transport the power on the grid and incur the associated costs with such transportation. This arrangement is expected to positively impact supply and demand dynamics for the Debtors by providing a stable, long-term source of revenue for the Nuclear Plant, enabling its longevity. This model can also be replicated at other Talen Generation facilities, with similar potential benefits. (Disclosure Statement, p. 30)

This statement was made three days prior to the collapse of Bitcoin miner Core Scientific on October 27, 2022. Core Scientific, one of the largest publicly traded crypto mining companies in the U.S., raised the possibility of bankruptcy in a statement filed with the Securities and Exchange Commission. The company disclosed that it will not make debt payments due in late October and early November. Core Scientific's stock was down 77% following the SEC filing, and has lost more than 97% of its value to date. (3)

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3 If Susquehanna Nuclear defaults under the arrangements with the Nuclear Co-Owner, the Nuclear Co-Owner may be entitled to all of the energy and capacity generated by the Nuclear Plant that would have been allocated to Susquehanna Nuclear until such default is cured.

This proposed Indirect License Transfer must be postponed until after the legal milestones associated with bankruptcy are met and evaluated, and after a re-evaluation of the Core Scientific's meltdown and Talen Energy's Disclosure Statement for published on October 24, 2022. (4)

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4 **Confirmation Timeline**

The Debtors seek to move forward expeditiously with the Solicitation of votes and a hearing on Confirmation of the Plan in an effort to minimize the continuing accrual of administrative expenses. Accordingly, subject to the Bankruptcy Court's approval, the Debtors are proceeding on the following timeline with respect to this Disclosure Statement and the Plan.

O

Plan Supplement Filing:

N

November 29, 2022.

Voting Deadline:

D

December 6, 2022.

Deadline to Object to Confirmation of Plan:

D

December 6, 2022.

Deadline to File (i) Reply to Plan Objection(s) and (ii) Brief in Support of Plan Confirmation:

December 12, 2022

Confirmation Hearing:

C

December 15, 2022.

II. Background.

Debtor Susquehanna Nuclear, LLC ("**Susquehanna Nuclear**") is a subsidiary of TES. Its primary asset is a nuclear power generation facility in Berwick, Pennsylvania, (the "**Nuclear Plant**"), which occupies approximately 1,075 acres. As part of the Talen Transition Strategy, land adjacent to the Nuclear Plant will be the site of the Data Campus. Susquehanna Nuclear's interest in the Nuclear Plant consists of a 90% undivided interest in the plant. A non-profit electric cooperative owns the remaining 10% undivided interest in the plant (the "**Nuclear Co-Owner**"), (5) with a contractual arrangement to share all costs of operating the Nuclear Plant with Susquehanna Nuclear. Pursuant to certain agreements with the Nuclear Co-Owner, Susquehanna Nuclear operates the Nuclear Plant and, as of the Petition Date, employed a staff of approximately 915 full-time employees, consisting of approximately 414 union and approximately 501 non-union employees. Sales of power and energy-related products from the Nuclear Plant are conducted in the PJM market. Additionally, Susquehanna Nuclear is a borrower under the Prepetition CAF Facility. (6) The NRC is considering the issuance of an order under 10 CF 50.80 and 72.50approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as "Reorganized Talen."

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5 If Susquehanna Nuclear defaults under the arrangements with the Nuclear Co-Owner, the Nuclear Co-Owner may be entitled to all of the energy and capacity generated by the Nuclear Plant that would have been allocated to Susquehanna Nuclear until such default is cured.

6 All of the Debtors' currently producing Energy Plants are held by certain subsidiaries of Debtor Talen Energy Supply ("TES") (each, a "**TES Generating Subsidiary**"). TES was the primary obligor on most of the Company's funded debt: TES was the sole borrower under the Prepetition RCF Agreement and Prepetition TLB. (Case 22-90054 Document 1396 Filed in TXSB on 10/24/22 Page 41 of 179.)

Susquehanna Nuclear is a direct, wholly owned subsidiary of Talen Energy

Supply, which is a direct, wholly owned subsidiary of Talen Energy Corporation, the stock of which is held by affiliates of Riverstone Holdings, LLC (Riverstone). (7) Talen Energy Supply and certain of its subsidiaries (collectively, the Debtors) each filed a voluntary case under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas and executed a restructuring support agreement. The Debtors filed a joint plan of reorganization. (8) Under the terms of this plan, the Debtors and Talen Energy Corporation intend to pursue a comprehensive restructuring. The expectation is that, at the conclusion of the proposed transactions, Susquehanna Nuclear will continue to be directly owned by Talen Energy Supply, which will, in turn, either be, or be directly owned by, Reorganized Talen, and no other changes to the ownership or control of Susquehanna Nuclear will occur in the restructuring. NRC consent to the indirect transfer of control of the Susquehanna licenses will be required prior to consummating the transactions contemplated by the reorganization.

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7 TES is not a borrower under the Prepetition CAF Facility; TEM and Susquehanna Nuclear (both subsidiaries of TES) are the borrowers thereunder. However, because TES is party to the agreement as parent and guarantor, the Prepetition CAF Facility is considered TES debt for purposes of this Disclosure Statement.

8 The TES Subsidiary Guarantors include all subsidiaries of TES in which TES or another TES Subsidiary Guarantor has a majority common equity ownership *except* Talen II Growth Holdings LLC, Talen Technology Ventures LLC, LMBE-MC Holdco I LLC, LMBE-MC Holdco II LLC, MC Project Company LLC, LMBE Project Company LLC, and Talen Receivables Funding LLC.

"For the avoidance of doubt, the debtors are continuing to review their unexpired leases cutive contracts to determine which contracts the debtors will seek to assume and which ts they will seek to reject pursuant to section 365 of the bankruptcy code. **The deadline to : rejection schedule (among the other plan supplement documents) is ıber 29, 2022. Such determination will likely impact the amount of allowed and projected recoveries at each debt or plan. (Bold face type added.)** (Case 22- Document 1396 Filed in TXSB on 10/24/22 Page 34 of 179.)

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III. Mr. Epstein Has Standing on His Own Behalf.

The general requirements for standing are set forth in 10 CFR 2.309(d)(1): (a) the name, address and telephone number of Petitioner; (b) the nature of Petitioner's right under the Act to be made a party to the proceeding; (c) the nature and extent of Petitioner's property, financial or other interest in the proceeding; and (d) the possible effect of any decision or order that may be issued in the proceeding on Petitioner's interest. These will be addressed seriatim.

a) The name, address and telephone number of the petitioner:

Eric Jospeh Epstein
4100 Hillsdale Road
Harrisburg, PA 17112
(717)-635-8615

b) The nature of the petitioner's right under the Act to be made a party:

Mr. Epstein has the right to intervene in this proceeding because his interests "may be affected by the proceeding." Section 189(a) of the Atomic Energy Act of 1954, as amended (the "AEA"), 42 U.S.C. § 2239(a)(1)(A). Section 189(a) provides in pertinent part:

> In any proceeding under this chapter for the granting, suspending, revoking, or amending of any license ... the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. (42 U.S.C. § 2239(a)(1)(A).

To qualify for standing a Petitioner must allege (1) a concrete and particularized injury, (2) that is traceable to the challenged action, and (3) that will be redressed by a decision favorable to the Petitioner. See, e.g., Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 102-04 (1998). The requisite injury may be either actual or threatened, e.g., Wilderness Society v. Griles, 824 F.2d 4, 11 (D.C. Cir. 1987), and must arguably lie within the "zone of interests" protected by the statutes governing the proceeding – here, either the AEA or the National Environmental Policy Act ("NEPA").

See Yankee Atomic Electric Company (Yankee Nuclear Power Station), CLI-98-21, 48 NRC 185, 195-96 (1998); Quivira Mining Co. (Ambrosia Lake Facility, Grants, New Mexico), CLI-98-11, 48 NRC 1, 6 (1998).

This Petition shows that Mr. Epstein will suffer actual, concrete, particularized, and imminent injuries directly resulting from granting the challenged LAR, and that the injuries are likely to be prevented by a decision favorable to Epstein. This Petition shows, inter alia, that Indirect License Transfer will result in adverse health and safety risks to Mr. Epstein.

Commission case law provides that, in making a standing determination, a presiding officer is to "construe the petition in favor of the petitioner," Georgia Tech, CLI- 95-12, 42 NRC at 115; Atlas Corporation (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 424 (1997). Further, "even minor radiological exposures resulting from a proposed licensee activity can be enough to create the requisite injury in fact." (General Public Utilities Nuclear Corp. (Oyster Creek Nuclear Generating Station), LBP-96-23, 44 NRC 143, 158 (1996); Atlas, LBP-97-9, 45 NRC at 425.)

c) The nature and extent of the Petitioner's interest.

Mr. Epstein was accorded standing in prior proceedings involving PPL's Susquehanna Steam Electric Station. Epstein "routinely pierces the 50-mile proximate rule" during his regular activities in Dauphin, Lebanon, and northern Lehigh Counties.

Mr. Epstein's routine has varied, but he "necessarily pierce the 50-mile proximity zone for substantial periods of time." Mr. Epstein stated that he commuted to the township building in Grantville in the previous proceeding, and "site visits occur at a minimum of once a week." Mr. Epstein in no longer employed by East Hanover Township, but travels from his home in Lower Paxton Township to rural Grantville shop weekly on Friday and/o Saturdays at the Farmstead Farmers Market.
https://farmsteadmarket.com

Mr. Epstein stated in previous proceedings that he commuted to the Sustainable Energy Fund ("SEF") office in Allentown, and to meetings at offsite locations. Therefore he regularly pierce the 50-mile proximity zone for substantial periods of time.

The SEF office has been relocated to Schnecksville, and Mr. Epstein is now President of Green Connexions, a subsidiary of the Sustainable Energy Fund. He attends quarterly meetings in Lehigh County as part of his fiduciary responsibilities, including financing Program Related Investments ("PRI") in central eastern Pennsylvania.

The duration and location of meetings vary based on the complexity and size of the PRI from 2020- 2021, Green Connexions was actively engaged in discussions to acquire companies in solar energy chain and battery storage sector. However, the discussions did not result in the consummation of the deals based on COVID and the uncertainty of federal legislation.

However, with the advent of federal legislation, and Green Connexions interest in pursuing investments in the solar chain industry, it is likely Mr. Epstein will be visiting the are more frequently. As the nuclear plant ages, and continues to shed and replace owners, the Petitioners material and safety interests are in peril.

Mr. Epstein resides downstream from the SSES. As such, any negative impact on the Susquehanna River Basin directly impacts Mr. Epstein's health and quality of life, and he has offered comments at the Susquehanna River Basin Commission regarding water use at the nuclear plant for over years in Berwick and the Commission's headquarters in Harrisburg. Those documents were transcribed and are available at:

Mr. Epstein's Petition provides details about how often and for what period of time his personal and professional interests cause him to travel within fifty miles of the site. Mr. Epstein's commute to the Green Connexions office and to meetings at offsite locations bring him within the fifty-mile zone for substantial periods of time. The location and time commitment are based on the complexity and requite due diligence required to process Program Related Investments. https://thesef.org
and https://energypath.org

Admittedly, those visits have been tempered by COVID. Mr. Epstein has establish sufficient contacts to the affected area to establish standing from a period dating back to 1985 including dozens of hearings on Bell Bend ("BBNP") and the Susquehanna Electric Steam Station relating to licensing, uprates, water use, and proposed rate increase proposals. These contacts, including over night stays in Luzerne and Northampton counties, constitute sufficient contacts to establish a "bond" between Mr. Epstein and the proposed Indirect License Transfer. In fact, Mr. Epstein's durability and commitment to monitor the nuclear plant is in stark contrast to the divided and fluid ownership the Susquehanna Stem Electric Station.

In fact, numerous pleading before the NRC , the Pennsylvania Public Utility Commission ("PUC"), and the Susquehanna River Basin Commission ("SRBC") are matters of public record. There is ample information regarding the length of time that he is within the 50- mile radius and indication of his closest proximity to the site, including public testimony in Berwick and site visitations to address "Chilled Working Environment" allegations which were vetting at public meeting on site convened and transcribed by the Nuclear Regulatory Commission.

Public Utility Commission

https://www.poweronline.com/doc/puc-approves-ppl-restructuring-plan-0001

https://www.puc.pa.gov/general/pdf/RD-PPL_RSP_030408.pdf

Susquehanna River Basin Commission

https://www.nrc.gov/docs/ML0724/ML072490036.pdf

http://www.tmia.com/sites/tmia.com/files/media/TMIA%20Testimony%2C%20%2812_11_20%29%20%281%29.pdf

https://www.srbc.net

The duration and timing of the meetings are dictated; in part, by the hearing schedule of the NRC, PUC, and the SRBC. All these meetings collectively over a thirty year period provide not only a clear facts on the ground commitment of Mr. Epstein's investment in the Berwick community, but are a matter of public record and transcribed.

Mr. Epstein makes the required showing of an injury-in-fact, causation, and redressability, by his over thirty-year commitment to attend, monitor and track the Susquehanna Electric Station. Moreover, Mr. Epstein's commitment and attachment to the issue currently predates that of the stake holders associated with the proposed Indirect License Transfer. Finally, the Petitioner, has compile Incident Chronology at the Susquehanna Electric Steam Station from 1982-2022:
https://www.tmia.com/node/1833

Public participation through intervention is a positive factor in the licensing process and is to be encouraged. (9) That said, every petitioner bears the burden of demonstrating standing in order to participate in hearings before a licensing board.

A Petitioner must be able to show how it would have "personally" suffered or will suffer a "distinct and palpable" harm that constitutes injury in fact. The sum total of Mr. Epstein career at the SSES as a nuclear watchdog, and his regular activities within the vicinity of the plant site in order to demonstrate he has standing in this proceeding. Mr. Epstein has sought, and been granted, standing to participate in NRC proceedings in the past.

However, a Petitioner has an affirmative duty to demonstrate that it has standing in each proceeding in which it seeks to participate because a Petitioner's status can change over time and the bases for its standing in an earlier proceeding established Mr. Epstein's apply, and provide the NRC with a unique perspective and window from a petitioner who has tracked the nuclear plant for over 35 years, and has a working knowledge of its corporate iterations from Pennsylvania Power & Light, PPL, the Rural Electric Cooperative, and Talen Energy.

In the Susquehanna license renewal proceeding, the Licensing Board granted Mr. Epstein standing only after he was able to demonstrate, during oral argument, a significant pattern of regular contacts within the fifty-mile radius around the plant. (10) The record compiled in that case was detailed and comprehensive as to the proximity, timing, and duration of his contacts than the showing here. Mr. Epstein was also granted standing in the Susquehanna extended power uprate ("EPU") case. (11)

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9 Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2182 (Jan. 14, 2004).

10 PPL Susquehanna LLC (Susquehanna Steam Electric Station, Units 1 and 2), LBP-07-4, 65 NRC 281, 296 (2007).

11 PPL Susquehanna LLC (Susquehanna Steam Electric Station, Units 1 & 2), LBP-07-10, 66 NRC 1, 21 (2007).

The question is the sufficiency of Petitioner Epstein's showing regarding his activities within such a radius of the SSES as a basis for invoking the presumption. Pretending Mr. Epstein decades career and prior standing is not only precedential, but a living record of a commitment to the community and a important and unique perspective and legacy that enhances the discussion relating to the Indirect License Transfer.

The Petitioner acknowledges the NRC must make a finding based on the factual circumstances presented by the information before the Board regarding his activities, which, as the Commission has noted in the past, may include consideration of the proximity (i.e., is the activity within the presumption zone), timing, and duration of those activities. Furthermore, the EPU Board reiterated to Mr. Epstein that "the better practice for a petitioner is to submit a fully developed showing regarding standing in each proceeding in which it seeks to intervene, regardless of whether it has previously been found to have standing relative to the facility that is the locus of the proceedings." (12) Mr. Epstein has cleared that hurdle.

In this case, the Petitioner, Mr. Epstein, has made matter crystal clear for himself and this Board. there is an abundance of material provided s necessary to weigh accurately the number, length, and frequency of his trips to or near the Bell Bend site. The distances from where Mr. Epstein intersect the proposed facility over the years, regardless of the composition of corporation or the regulatory pleadings are sufficiently explained for this Board to understand Mr. Epstein's relationship to the facility.

Mr. Epstein is the last principal stake holder involved in the PP&L Restructuring Settlement negotiated in 1998 that created a rate recovery mechanism for $2.86 billion in stranded costs for the Susquehanna Steam Electric Station. The Board need only look to the Settlement to view Mr. Epstein contribution which included a 4% decommissioning cost sharing clause

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12 EPU Board, Id. at 19 n.9.

It is the burden of the Petitioner to clearly state these facts in a Petition to Intervene. (13) It is imperative for Mr. Epstein to provide the requisite information or update the information provided in the previous Susquehanna proceedings. (14) Mr. Epstein has presented specific information regarding the geographic proximity, the timing and the duration of his regular visits.

Mr. Epstein has standing to participate in this proceeding.

Public participation through intervention is a positive factor in the licensing process and is to be encouraged. (15) The petitioner bears the burden of demonstrating standing in order to participate in hearings before a licensing board. (16) A petitioner must be able to show how it would have "personally" suffered or will suffer a "distinct and palpable" harm that constitutes injury in fact. (17)

The extent, frequency, and duration which Mr. Epstein's business and community service work take Mr. Epstein to the site or the vicinity of the plant which include also include frequent rate hearings and PUC negotiations in Harrisburg. In fact, Mr. Epstein who testified on record on behalf of the SSES that the proposed unsolicited merger in 1995 with PECO should be rejected, and PPL was better suited to operate the nuclear plant. The testimony occurred before Representative Clarence Bell in the House of Representatives, and like all other public testimonies from Mr. Epstein is a matter of public record.

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13 See Babcock & Wilcox Co. (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 81, appeal dismissed, CLI-93-9, 37 NRC 190 (1993).

14 Texas Util. Elec. Co. (Comanche Peak Steam Electric Station, Unit 2), CLI-93-4, 37 NRC 156, 162-63 (1993).

15 Final Rule, Changes to Adjudicatory Process, 69 Fed. Reg. 2182 (Jan. 14, 2004).

16 See Babcock & Wilcox Co.

17 Dellums v. U. S. Nuclear Regulatory Comm'n, 863 F.2d 968, 971 (D.C. Cir. 1988). See generally Atomic Energy Act § 189a, 42 U.S.C. § 2239(a); 10 C.F.R. § 2.309(d).

Mr. Epstein has sought, and been granted, standing to participate in NRC proceedings in the past. However, a Petitioner has an affirmative duty to demonstrate that it has standing in each proceeding in which it seeks to participate because a Petitioner's status can change over time. Mr. Epstein continued to commitment to the Berwick community over a thirty five-year period is just as vigorous as it was in 1985.

d) The possible effect of any decision or order that may be issued in the proceeding on the petitioner's interest.

A decision by the Commission allowing the License Transfer without evaluation post-Application developments would subject Mr. Epstein to the health and safety risks set forth in detail in this Petition. This petition shows, inter alia, that the License Transfer will result in adverse health and safety risks to the Petitioner. The proposed LAR weakens administrative controls, financial solvency as well as several license conditions, including the storage of high-level radioactive waste for an indefinite period of time on an island in the middle of the Susquehanna River.

The following points address the four factors for allowing discretionary intervention set forth in 10 CFR 2.309(e), while incorporating by reference the elements set forth in Section 2.1 above: (a) the extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record; (b) the availability of other means whereby the petitioner's interest will be protected; (c) the extent to which the requestor's/petitioner's interest will be represented by existing parties; and, (d) the extent to which the requestor's/petitioner's participation will inappropriately broaden the issues or delay the proceeding. Mr. Epstein requests discretionary standing in the event if he is denied standing as of right, or in the event none of his contentions are admitted.

a. The Petitioner's participation may reasonably be expected to assist in developing a sound record:

Epstein's participation in the proceeding will assist the Commission in developing a sound record because the Petitioner will be presenting evidence concerning the local environment, health, and safety, created by the LAR. Epstein will provide local insight, information and evidence that cannot be provided by the Applicant or other parties.

b. Other means are not available whereby the Petitioner's interest will be protected.

There are no other means available whereby the interests of Mr. Epstein will be protected.

c. The Petitioner's interest will not be represented by existing parties.

The interests of Epstein are localized, and will not be represented by the existing parties.

d. The Petitioner's participation will not inappropriately broaden the issues or delay the proceeding.

Epstein is not raising inappropriate issues; therefore, his participation in the proceeding will not inappropriately broaden the issues or delay the proceeding. Mr. Epstein also meets Prudential Standing requirements. In addition, Courts have created a prudential standing requirement that a plaintiff's interests fall within the "zone of interests" protected by the statute on which the claim is based. Bennett v. Spear, 520 U.S. 154, 162 (1997).Mr. Epstein should be accorded standing in the above captioned proceeding.

III. Statutory and Regulatory Framework.

This proceeding is governed by the AEA and NEPA. The AEA sets minimum standards for the safe and secure operation of nuclear facilities. NEPA requires NRC to consider and attempt to avoid or mitigate significant adverse environmental impacts. Although the statues have some overlapping concerns, they establish independent requirements. Limerick Ecology Action v. NRC, 869 F.2d 719, 729- 30 (3rd Cir. 1989). NEPA goes beyond the AEA, requiring the consideration of alternatives to reduce or avoid adverse environmental impacts. Id., citing 10 C.F.R. § 51.71 (d).

Atomic Energy Act.

The AEA prohibits the NRC from issuing a license amendment to operate a nuclear power plant if it would be "inimical to the common defense and security or to the health and safety of the public." 42 U.S.C. § 2133(d).TMI-2' License Amendment Request may not be granted unless and until the NRC finds that TMI-Solutions has satisfied the safety requirements of 10 C.F.R. 54.

IV. Standards Governing Contention Admissibility.

To grant the Petition, the Commission must find that Petitioners have submitted at least one proposed contention that satisfies all six admissibility criteria in 10 C.F.R. § 2.309(f)(1). Petitioners have not done so here. Accordingly, the Petition must be denied.

Petitions to intervene must "set forth with particularity" the contentions a Petitioner seeks to have litigated in a hearing. (18) The requirements for an admissible contention are set forth in 10 C.F.R. § 2.309 (f)(1)(i)-(vi) and also described in the Hearing Opportunity Notice. (19) The Commission's contention admissibility seeks "to ensure that NRC hearings serve the purpose for which they are intended: to adjudicate genuine, substantive safety and environmental issues placed in contention by qualified interveners.'" (20) To warrant an adjudicatory hearing, the NRC requires proposed contentions to have "some reason factual or legal basis." (21) The Petitioner bears the burden to meet the ably specific standards of contention admissibility. (22)

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18 *PPL Susquehanna, LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), CLI-15-8, 81 NRC 500, 503-04 (2015) (quoting 10 C.F.R. § 2.309(f)(1)); *Susquehanna Nuclear, LLC* (Susquehanna Steam Elec. Station, Units 1 & 2), CLI-17-4, 85 NRC 59, 74 (2017).

19 Notice of Consideration of Approval of Indirect License Transfer and Conforming Amendments and Opportunity to Request A Hearing , Susquehanna Steam Electric Steam Installation and the Associated Independent Spent Fuel Installation, (EPID L-2202-LLM-0003). (Audrey Klett, Senior Project Manager, Plant Licensing Branch 1, Division of Operating Reactor Licensing, November 3, 2022.)

20 *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Unit 2), CLI-03-14, 58 NRC 207, 213 (2003) (quoting *Duke Energy Corp*. (Oconee Nuclear Station, Units 1, 2, & 3), CLI-99-11, 49 NRC 328, 334 (1999).

21 *Millstone*, CLI-03-14, 58 NRC at 213).

22 *See Entergy Nuclear Operations, Inc.* (Palisades Nuclear Plant), CLI-15-23, 82 NRC 321, 325, 329 (2015) ("[I]t is Petitioners' responsibility . . . to formulate contentions and to provide 'the necessary information to satisfy the basis requirement' for admission") (internal citation omitted).

In order to participate as a party in this proceeding, a Petitioner for intervention must not only establish standing, but must also proffer at least one admissible contention that meets the requirements of 10 C.F.R. § 2.309(f)(1). An admissible contention must: (1) provide a specific statement of the legal or factual issue sought to be raised; (2) provide a brief explanation of the basis for the contention; (3) demonstrate that the issue raised is within the scope of the proceeding; (4) demonstrate that the issue raised is material to the findings the NRC must make to support the action that is involved in the proceeding; (5) provide a concise statement of the alleged facts or expert opinions, including references to specific sources and documents, that support the petitioner's position and upon which the petitioner intends to rely at the hearing; and (6) provide sufficient information to show that a genuine dispute exists with regard to a material issue of law or fact, including references to specific portions of the application that the petitioner disputes, or if the application is alleged to be deficient, the identification of such deficiencies and the supporting reasons for this allegation. (23)

"Ultimately, in seeking to establish standing to intervene in a licensing adjudication based on regular activities within a proximity zone (including business, recreational, or personal activities), a petitioner, whether pro se or otherwise, is best served by accurately delineating in as much detail as practicable the particulars associated with the proximity, timing, and duration of those activities." (PPL Susquehanna, LBP-07-10, 66 NRC at 21 n.13.)

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23 10 C.F.R. § 2.309(f)(1)(i)-(vi).

A Petitioner must provide some "minimal basis indicating the potential validity of the contention."(16) The Commission's rules "bar contentions where Petitioner (24) have only 'what amounts to generalized suspicions, hoping to substantiate them later.'" (25) Although a petitioner does not have to prove its contention at the admissibility stage, (26) "[m]ere 'notice pleading' is insufficient." (27) If a Petitioner fails to provide the requisite support for its contentions, the Board may not make assumptions of fact that favor the petitioner or supply information that is lacking. (28)

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24 Final Rule, Rules of Practice for Domestic Licensing Proceedings, Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168, 33,170 (Aug. 11, 1989).

25 Duke Energy Corp. (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-03-17, 58 NRC 419, 424 (2003) (quoting Oconee, CLI-99-11, 49 NRC at 337-39).

26 Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-04-22, 60 NRC 125, 139 (2004).

27 Fansteel, Inc. (Muskogee, Oklahoma Site), CLI-03-13, 58 NRC 195, 203 (2003).

28 See Arizona Pub. Serv. Co. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI- 91-12, 34 NRC 149, 155 (1991).

Epstein Contention, #1: The Applicant's Indirect License Transfer Request Fails to Fully Address 10 CFR 72.50 C: "The application shall describe the financial assurance that will be provided for the decommissioning of the facility under § 72.30. "

A) Brief Explanation of the Basis for the Contention.

The NRC is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as Reorganized Talen. The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

In order to comport with Nuclear Regulatory Commission regulations the Applicant must comply with financial assurances: "(3) The application shall describe the financial assurance that will be provided for the decommissioning of the facility under § 72.30."

The prepayment mode is no longer available as a stand-alone option to a an entity reorganizing under bankruptcy.

1) Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

The Applicant's current debt ($1.5042 billion) and approximate recovery (17.7% to 34.5%I (29) does not allow for the "New Parent" or" Reorganized Talen" to provide adequate "financial assurances." "Reorganized Talen" is financially vulnerable, (30) as evinced by the current bankruptcy proceeding, and must provide a surety to supplement the Decommissioning Trust Fund under (e) (2):

> (2) A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to Z of this chapter. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to part 30 of this chapter. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to part 30 of this chapter. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with other financial methods to satisfy the requirements of this section. **A guarantee by the applicant or licensee may not be used In any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company**. (**Bold face type added**)

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29 "Disclosure Statement For Joint Chapter 11 Plan Of Talen Energy Supply, LLC And Its Affiliated Debtors," Houston, Texas, October 24, 2022), Page, 22.

30 "If Susquehanna Nuclear defaults under the arrangements with the Nuclear Co-Owner, the Nuclear Co-Owner may be entitled to all of the energy and capacity generated by the Nuclear Plant that would have been allocated to Susquehanna Nuclear until such default is cured." ("Disclosure Statement," Page 31).

The "New Parent" is not suited in this instance or by NRC edict to provide a guarantee. "As discussed further in Section VIII. A and Section VIII. B.2(a) below, New Parent may be TEC, TES, or another entity and, if New Parent is TEC, it may file a chapter 11 petition and become a Debtor in order to implement the Restructuring, the specifics of which will be included in the Plan Supplement." ("Disclosure Statement," Page, 5.)

Complicating matters is the Byzantine nature of III. Voting Procedures and Requirements, and the fluid Restructuring Role of the New Parent. (31)

> Certain of the Debtors are parties to that certain *Credit Agreement*, dated as of December 14, 2021 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Prepetition CAF Agreement**"), **by and among TES, as parent, TEM and Susquehanna Nuclear, as borrowers, the lenders from time to time party thereto** (the "**Prepetition CAF Lenders**"), and Alter Domus (US) LLC, as administrative agent (in such capacity, the "**Prepetition CAF Agent**"). The Prepetition CAF Agreement provides for a senior secured revolving loan facility in the aggregate maximum principal amount of up to $848 million (the "**Prepetition CAF Facility**"). The Prepetition CAF Facility matures in 2024 and bears interest at a per annum rate with applicable margin equal to (i) in the case of "Base Rate" loans, 7.00% and (ii) in the case of "Revolving Loans" maintained as "LIBOR Loans," 8.00%. In addition, the borrowers are required to pay a quarterly fee of 4.50% per annum on unused revolving loan commitments. Amounts under the Prepetition CAF Facility were fully funded as of late December 2021, and were periodically paid back and redrawn prior to the filing of the Chapter 11 Cases. As a result of the Chapter 11 Cases, amounts are no longer available to be drawn under the Prepetition CAF Facility. (Page, 41)

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31 Discussion under "Disclosure Statement," Section VIII. A and Section VII. B. 2(a) (Pages, 3-4)

Given the Applicants debt load and inability to assure decommissioning funds will be available, this Application is deficient on its face. “Reorganized Talen” must provide supplemental “surety method, insurance, or other guarantee method” outside of the new family corporate chain.

B. This is a Valid Contention Pursuant to 10C FR 2.309.

The specific issue of fact and law to be controverted is whether the Applicant complied with the NCR's requirement order under 10 CFR 50.80 and 72.50 approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as Reorganized Talen. The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

C. Factual Allegations Supporting the Claim as Required by 10 CFR § 2.309(f)(1)(v).

Within 30 days of taking the actions required by paragraph (g)(1)or (g)(2)of this section, the licensee must provide a written report of such actions to the Director, Office of Nuclear Material Safety and Safeguards, and state the new balance of the fund. (24)

For the foregoing reasons, pursuant to 10 CFR § 2.309(f)(3), this Contention should be admitted in their entirety. (32)

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32 53 FR 31658, Aug. 19, 1988, as amended at 55 FR 29191, July 18, 1990; 58 FR 39635, July 26, 1993; 58 FR 67662, Dec. 22, 1993; 58 FR 68732, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 61 FR 24675, May 16, 1996; 62 FR 39092, July 21, 1997; 63 FR 29544, June 1, 1998; 66 FR 51840, Oct. 11, 2001; 67 FR 78351, Dec. 24, 2002; 76 FR 35573, June 17, 2011; 79 FR 75741 Dec. 19, 2014].

Epstein Contention, #2: Per § 72.50 Transfer of license. (a)No license or any part included in a license issued under this part for an ISFSI or MRS shall 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 Commission gives its consent in writing. The Applicant failed to comply with Bankruptcy Review Team compliance mandates for a bankrupt company.

A) Brief Explanation of the Basis for the Contention.

The regulations require that, "No license issued or granted pursuant to the regulations, nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing." Therefore, control of licenses cannot be transferred without the prior written consent of the Commission. These regulations apply to specific licensees, as well as certain general licensees."

This requires that licensees notify the Commission that they are undergoing a possible change of control. While this notification is not required within a certain time frame, NRC needs adequate time to review the response to ensure that the transfer is in accordance with the provisions of the Act. Once notified, NRC will ask that licensees submit the details of the transaction as described in Sections 5.1 through 5.6. Definition of Control (Regulations: 10 CFR 30.34(b); 10 CFR 31.2; 10 CFR 40.46; 10 CFR 70.36.)

The filing of the petition in bankruptcy court triggers the automatic stay provision in Section 362(a) of the United States Bankruptcy Code. This provision stays legal actions against the debtor or against the property of the bankruptcy estate, except in certain limited circumstances that include public health, safety, and environmental obligations. (See Midlantic National Bank v New Jersey Department of Environmental Protection, 474 U.S. 494 (1986) and In re Chateaugay Corporation, 944 F. 2d 997 (2d Cir 1991.))

The NRC is charged with establishing a Bankruptcy Review Team ("BRT") to review and act on bankruptcy notifications when they occur. The BRT brings together the various NRC offices and is typically composed of members of the relevant licensing office staff, the Office of the General Counsel ("OGC"), the Office of the Controller ("OC"), the Office of Enforcement ("OE"), the Division of Industrial and Medical Nuclear Safety ("IMNS"), and the Division of Waste Management ("DWM").

As referenced on the Petitioner's filing on p.7, the timeline for the bankruptcy has been set in motion but frozen at the proposed Disclosure Statement stage. Even if the NRC convened a BRT, the outcome of Case 22-90054 Document Filed in TXSB which was submitted for approval on October 24, 2022, and has not yet been approved. Only the proposed Disclosure Statement has been tentatively approved, and is subject to change. Therefore, the NRC's Bankruptcy Team's Review is premature and must be postponed until this matter is fully adjudicated.

B. This is a Valid Contention Pursuant to 10C FR 2.309.

The specific issue of fact and law to be controverted is whether the Applicant complied with the NCR's requirement order under 10 CFR 50.80 and 72.50 approving the indirect transfer of Renewed Facility Operating License Nos. NPF-14 and NPF-22 for Susquehanna, Units 1 and 2, respectively, and the general license for the Susquehanna ISFSI as a result of the restructuring of Talen Energy Corporation as “Reorganized Talen.” The NRC is also considering amending the renewed facility operating licenses for administrative purposes to reflect the proposed transfer.

The OGC representative will provide the BRT with copies of all pertinent filings in the bankruptcy proceeding. The bankruptcy lead will maintain copies of these filings. The licensee might, as a courtesy, provide some copies of filings, but there is no obligation to do so. (10 CFR 30.34(h); 10 CFR 40.41(f); 10 CFR 70.32.)

C. Factual Allegations Supporting the Claim as Required by 10 CFR § 2.309(f)(1)(v).

Bankruptcy Regulations: 10 CFR 30.34(h); 10 CFR 40.41(f); 10 CFR 70.32(a)(9).

For the foregoing reasons, pursuant to 10 CFR § 2.309(f)(3), this Contention should be admitted in their entirety.

VI. Conclusion.

This Petition is timely.

For the foregoing concerns, Eric Joseph Epstein's Request for Hearing and Petition for Leave to Intervene in the TMI-2-Solutions, LLC., License Amendment Request, In the Matter of Docket No. 50-320-LT; NRC-2022-0156.

Respectfully submitted,

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Dated: November 25, 2022.

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:	)	Docket ID
Susquehanna Nuclear, LLC.	)	NRC-2022-0185
Indirect Renewed Facility	)	
Operating License Nos. NPF-14	)	
and NPF-22 for the	)	November 25, 2022
General License and	)	
Independent Spent Fuel Storage	)	
Installation As A Result of	)	
Restructuring and Bankruptcy	)	:
of Talen Energy Corporation	)	
to A Reorganized Company Yet	)	
Be Named (“Reorganized Talen”)	)	

November 25, 2022

ERIC JOSEPH EPSTEIN'S PETITION FOR LEAVE TO INTERVENE AND HEARING REQUEST

Certificate of Service

I hereby certify that copies of Eric Joseph Epstein's Petition for Leave to Intervene and Hearing have been served upon the following persons by Electronic Information Exchange.

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Eric Joseph Epstein

Dated at Harrisburg, Pennsylvania
this 25th day of November, 2022