

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-390A

TENNESSEE VALLEY AUTHORITY

WATTS BAR NUCLEAR PLANT, UNIT 1

NOTICE OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the antitrust construction permit review of Unit 1 of the Watts Bar Nuclear Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the previous operating license review of TVA's activities conducted in 1979 in connection with the Watts Bar Nuclear Plant, Unit 1, the staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as

"staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a formal antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the Tennessee Valley and adjacent areas, the events relevant to the Watts Bar construction permit review and the previous operating license review of Watts Bar.

The conclusion of the staff analysis is as follows:

Due to construction delays on the Watts Bar facility, the staff reviewed TVA's activities in 1979, 1983 and again in 1990 to determine whether there have been changes in TVA's activities since the completion on the construction permit antitrust review in 1972 that would create or maintain a situation inconsistent with the antitrust laws. Several types of changes were identified in each of the earlier post construction permit reviews; however, it was determined that none of the changes resulted from abuse of TVA's market power.

In its review of TVA's activities in the 1990 operating license review, the staff again found no evidence of changed activity associated with abuse of its market power. Although TVA is free to conduct normal business operations within its service area, it is restricted by the TVA Act from engaging in full-scale competition with neighboring electric systems. In many ways,

the TVA Act has insulated TVA from the competitive pressures of the market that a utility of TVA's size would experience without such restrictions.

Given the restrictive nature of Section 15d(a) of the TVA Act, any scrutiny of potential anticompetitive acts or practices would focus primarily on TVA's dealings with distributors within its service area in terms of moving power or energy in or out of its service area or with entities outside of its service area attempting to move power or energy through its system, i.e., the use of TVA's transmission grid. The staff has not identified any instance wherein TVA has refused to cooperate, within the confines of its Section 15d(a) restriction, with other power entities requesting services or use of TVA's transmission facilities. As a result, the staff does not believe that any changed activity attributed to TVA since the 1979 operating license review is "significant" in terms of the Commission's Summer decision. The staff recommends that the Director of the Office of Nuclear Reactor Regulation find that no significant antitrust changes have occurred in TVA's activities since the previous antitrust operating license review completed in July of 1979.

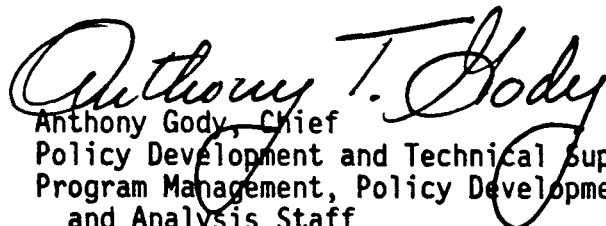
Based upon the staff analysis and recommendation, it is my finding that there have been no "significant changes" in the licensee's activities or proposed activities since the completion of the previous antitrust review.

Signed on August 15, 1991 by Thomas E. Murley, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding, may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 30 days of the initial publication of this notice in the Federal Register. Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the OL, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 16, day of August 1991.

FOR THE NUCLEAR REGULATORY COMMISSION



Anthony Gody, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation



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

August 15, 1991

Docket No. 50-390A

MEMORANDUM FOR: David L. Meyer, Chief  
Rules and Procedures Branch  
Division of Rules and Records  
Office of Administration

FROM: Anthony Gody, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

SUBJECT: FEDERAL REGISTER NOTICE

One signed original and five copies of a Federal Register notice identified as follows are enclosed for your transmittal to the Office of the Federal Register for filing and publication as soon as possible.

NUCLEAR REGULATORY COMMISSION  
DOCKET NO. 50-390A  
TENNESSEE VALLEY AUTHORITY  
WATTS BAR NUCLEAR PLANT, UNIT 1  
NOTICE OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

Thank you for your assistance.

A handwritten signature in cursive script that reads "Anthony T. Gody".

Anthony Gody, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

Enclosures:  
As stated

CONTACT:  
W. Lambe, PMAS/NRR  
x21277

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-390A

TENNESSEE VALLEY AUTHORITY

WATTS BAR NUCLEAR PLANT, UNIT 1

NOTICE OF NO SIGNIFICANT ANTITRUST CHANGES  
AND TIME FOR FILING REQUESTS FOR REEVALUATION

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the antitrust construction permit review of Unit 1 of the Watts Bar Nuclear Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the previous operating license review of TVA's activities conducted in 1979 in connection with the Watts Bar Nuclear Plant, Unit 1, the staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as

"staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a formal antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the Tennessee Valley and adjacent areas, the events relevant to the Watts Bar construction permit review and the previous operating license review of Watts Bar.

The conclusion of the staff analysis is as follows:

Due to construction delays on the Watts Bar facility, the staff reviewed TVA's activities in 1979, 1983 and again in 1990 to determine whether there have been changes in TVA's activities since the completion on the construction permit antitrust review in 1972 that would create or maintain a situation inconsistent with the antitrust laws. Several types of changes were identified in each of the earlier post construction permit reviews; however, it was determined that none of the changes resulted from abuse of TVA's market power.

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Based upon the staff analysis and recommendation, it is my finding that there have been no "significant changes" in the licensee's activities or proposed activities since the completion of the previous antitrust review.

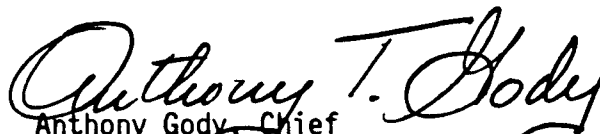


Signed on August 15, 1991 by Thomas E. Murley, Director of the  
Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding, may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 30 days of the initial publication of this notice in the Federal Register. Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the OL, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 16, day of August 1991.

FOR THE NUCLEAR REGULATORY COMMISSION



Anthony Gody, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

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Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

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