

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
TENNESSEE VALLEY AUTHORITY)	Docket Nos. 52-014 and 52-015
)	
(Bellefonte Nuclear Power Plant,)	September 22, 2008
Units 3 and 4))	
)	

APPLICANT’S MOTION FOR CLARIFICATION

On September 12, 2008, the Licensing Board issued a Memorandum and Order (“Order”), LBP-08-16, ruling on standing, hearing petition timeliness, and contention admissibility in the above captioned proceeding. The Order admitted four contentions, including Contention NEPA-B regarding impacts on aquatic resources and Contention NEPA-N regarding cost estimates. Pursuant to 10 C.F.R. § 2.323, the Applicant respectfully requests that the Board clarify the scope of these contentions.¹

As discussed by the Board at pages 36-37 of its Order, the proposed Contention NEPA-B as submitted in the petition to intervene consisted of seven subparts. The Board admitted only subparts (3) and (5)² and rewrote Contention NEPA-B to state as follows³:

CONTENTION: The ER does not adequately address the adverse impacts of operating two additional nuclear reactors on the fishery and aquatic resources of the Gunterville Reservoir and the vicinity of Bellefonte Nuclear Plant. In particular, the ER does not provide adequate data to sufficiently address the condition of resident and

¹ The Applicant contacted counsel for the NRC staff and the representatives of the Intervenors to determine whether they would agree with this motion. Counsel for the NRC staff stated that she agrees with the motion. The representatives of the Intervenors stated that they would not agree to the motion.

² Order at 40.

³ Order, Appendix A.

potamodromous fish and freshwater mussels in the vicinity of the proposed intake point, Town Creek, and Gunter'sville Reservoir and the cumulative impacts on the aquatic resources in these areas from operation of the proposed new intake.

The second sentence of this contention appears to limit the scope of the contention to impacts associated with the intake system. This interpretation is supported by:

- the Board's rejection of subpart (7) of the proposed contention, which pertained to the impact of thermal and chemical discharges;⁴
- the lead-in sentence of the first full paragraph on page 40 of the Order, which states that with respect to subparts (3) and (5) the Petitioners provided sufficient information to support a contention on "the impacts of the facility intake structure"; and
- the discussion in the last paragraph on page 40 of the Order, which states that "litigation regarding its merits" may involve consideration of information related "to the portion of the Tennessee River that encompasses the project area associated with the intake structure."

However, in discussing subpart (3) of the proposed contention (which the Board admitted), the Order also refers more generally to "Bellefonte facility operations" and "the addition of the facility."⁵ Therefore, we request that the Board clarify that subpart (3) of Contention NEPA-B, as admitted by the Board, pertains only to the impacts from the intake system and not to the impacts of the discharge system.

⁴ Order at 39-40.

⁵ Order at 37, 40.

Contention NEPA-N as admitted by the Board states:⁶

CONTENTION: TVA's cost comparison is inadequate to satisfy the National Environmental Policy Act ("NEPA") or NRC regulations at 10 C.F.R. § 51.45(c) because it fails to provide reasonably up-to-date and accurate information regarding the estimated electrical generation costs of the proposed new nuclear power plant.

The language of the admitted contention does not refer to the comparison of costs of nuclear and alternatives. Additionally, the Board's Order at 67-68 clearly indicates that, based upon the difference between TVA's estimate and the estimate provided by Florida Power and Light Company ("FPL") for two AP1000 units, this contention pertains to the cost-benefit analysis in Section 10.4 of the Environmental Report. The Board's Order at 68 is equally clear that this contention, as admitted, does not pertain to the alternatives of wind and solar power in Section 9.2 of the Environmental Report, because the Environmental Report rejected those alternatives on the ground that they could not generate baseload power. However, the scope of the contention as admitted is unclear to the Applicant given the discussion on pages 68-69 of the Order, which states that the "magnitude of [the difference between the cost figures provided in the ER and those in the FPL testimony]" has the "potential to affect the cost component of the alternatives analysis."⁷ As a result, it is unclear to the Applicant whether the contention, as admitted, pertains to Section 9.2.3.3 of the Environmental Report, which discusses combinations of alternatives. Although Section 9.2.3.3 does provide a cost comparison between a new nuclear plant and combinations of alternatives, it concludes that such combinations would have environmental impacts that are equivalent to or greater than the impacts of a new nuclear plant at

⁶ Order, Appendix A.

⁷ Order at 68.

Bellefonte.⁸ Given that conclusion (which is not in dispute in this proceeding), it appears that a cost comparison between nuclear and combinations of alternatives is not material to the contention as admitted by the Board. Therefore, we request that the Board clarify whether Contention NEPA-N is limited to the estimate of the cost of Bellefonte in Section 10.4 of the Environmental Report.

Respectfully submitted,

Edward J. Vigluicci
Scott A. Vance
Tennessee Valley Authority
400 W. Summit Hill Drive, WT 6A-K
Knoxville, TN 37902
Phone: 865-632-7317
E-mail: ejvigluicci@tva.com
Counsel for TVA

/signed (electronically) by Steven P. Frantz
Steven P. Frantz
Stephen J. Burdick
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: 202-739-3000
E-mail: sfrantz@morganlewis.com
Co-Counsel for TVA

Dated in Washington, D.C.
this 22nd day of September 2008

⁸ Environmental Report § 9.2.3.3.4.

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2008 a copy of “Applicant’s Motion for Clarification” was filed electronically with the Electronic Information Exchange on the following recipients:

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: gpb@nrc.gov

Administrative Judge
Dr. Anthony J. Baratta
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ajb5@nrc.gov

Administrative Judge
Dr. William W. Sager
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: wws1@nrc.gov

Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop O-15D21
Washington, DC 20555-0001
Ann P. Hodgdon
Patrick A. Moulding
Maxwell C. Smith
E-mail: Ann.Hodgdon@nrc.gov;
Patrick.Moulding@nrc.gov; Maxwell.Smith@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Rulemakings and Adjudications Staff
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

Louis A. Zeller
Blue Ridge Environmental Defense League
(BREDL)
P.O. Box 88
Glendale Springs, NC 28629
E-mail: bredl@skybest.com

Louise Gorenflo
Bellefonte Efficiency & Sustainability Team
(BEST)
185 Hood Drive
Crossville, TN 38555
E-mail: lgorenflo@gmail.com

Sara Barczak
Southern Alliance for Clean Energy (SACE)
428 Bull Street, Suite 201
Savannah, GA 31401
E-mail: sara@cleanenergy.org

Signed (electronically) by

/s/ Steven P. Frantz

Steven P. Frantz
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: 202-739-3000
E-mail: sfrantz@morganlewis.com

Co-Counsel for TVA