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December 1, 2009

Lawrence G. McDade, Chairman  
Dr. Paul B. Abramson  
Dr. Gary Arnold  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Docket:** *Tennessee Valley Authority (Watts Bar Unit 2), Docket No. 50-391-OL*

**RE:** **Agreement of the Parties Regarding Mandatory Discovery Disclosures**

Dear Administrative Judges:

The purpose of this letter is to inform you that the parties to this proceeding have reached the following agreement concerning mandatory disclosures under 10 C.F.R. § 2.336. As used in this agreement, the term “parties” includes Tennessee Valley Authority (“TVA”) (applicant in this matter), the U.S. Nuclear Regulatory Commission (“NRC”) Staff, and Southern Alliance for Clean Energy (“SACE”) (the admitted intervenor).

The parties have agreed to the following protocol:

1. The parties may limit the mandatory disclosures to final documents that they develop, and need not include drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents).
2. If the same relevant e-mail exists in multiple locations, each party may produce only one copy of that e-mail. If the e-mail exists in both sender and recipient e-mail folders, the party will produce the sender’s copy of the e-mail.

3. Documents will be produced electronically in pdf format to the extent practical. If the same document exists in both hard copy and electronic format, a party may produce the electronic copy only. Handwritten notes on a final document, however, constitute a separate document, and must be produced as well as the original document. If a document is produced in pdf format, the party will use best efforts to produce the document in a word searchable format.
4. The parties have agreed to waive the requirement in 10 C.F.R. §§ 2.336(a)(3) and 2.336(b)(5) to produce a privilege log. The parties, however, will produce as part of their disclosures lists of any documents withheld as proprietary, including documents that are sensitive unclassified non-safeguards information (SUNSI).
5. A party need not identify or produce any document that has been served on the other parties to this proceeding.
6. The parties need not produce publicly available documents. Each party, however, will produce as part of its disclosures a log identifying publicly available documents upon which the party may rely and indicating the general location of such documents.
7. The parties need not identify or produce press clippings, include web clippings.
8. In connection with the NRC Staff's submittal of the hearing file, the Staff will identify the documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b) and 2.1203. The parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.
9. In connection with the NRC Staff's disclosures and hearing file required by 10 C.F.R. §§ 2.336(b) and 2.1203 and TVA's disclosures pursuant to 10 C.F.R. § 2.336, the NRC Staff and TVA will identify documents and correspondence that are relevant to the admitted contentions, subject to the limitations set forth in this agreement. The parties agree, however, that neither the NRC Staff nor TVA is required to identify historical versions of the application and amendments submitted by the applicant prior to TVA's March 4, 2009 operating license application update. The parties also agree to limit the disclosure of relevant historical documents to those documents referenced in or relied upon in the March 4, 2009 operating license application update. While TVA and the Staff need not include the above-described historical documents in their mandatory disclosures, they agree to provide the Intervenor with copies of historical documents as specifically requested.
10. The parties agree that the initial disclosures are due on or before January 15, 2010. Until the NRC staff issues the final safety evaluation report (SER) or final environmental impact statement (EIS), the continuing obligation of the parties under 10 C.F.R. § 2.336(d) to update their respective disclosures is modified so that information or documents subsequently developed or obtained must be disclosed in a periodic update transmitted on the 15th day of each month (subject to 10 C.F.R. 2.306(a)).

Counsel of record for each of the other parties identified above has authorized counsel for TVA to submit this agreement on behalf of the parties.

Respectfully submitted,

*Signed (electronically) by Paul M. Bessette*

Kathryn M. Sutton, Esq.

Paul M. Bessette, Esq.

*Counsel for TVA*

cc: Service List

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

**ATOMIC SAFETY AND LICENSING BOARD**

**Before Administrative Judges:**

**Lawrence G. McDade, Chair**

**Dr. Paul B. Abramson**

**Dr. Gary S. Arnold**

	)		
In the Matter of	)		
	)		Docket No. 50-391-OL
TENNESSEE VALLEY AUTHORITY	)		
	)		December 1, 2009
(Watts Bar Nuclear Plant Unit 2)	)		
	)		

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 1, 2009, copies of the letter entitled "Agreement of the Parties Regarding Mandatory Discovery Disclosures," dated December 1, 2009, were filed electronically with the Electronic Information Exchange on the following recipients:

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