

WBN2Public Resource

From: Boyd, Desiree L [dlboyd@tva.gov]
Sent: Tuesday, February 22, 2011 3:24 PM
To: Epperson, Dan; Poole, Justin; Raghavan, Rags; Milano, Patrick; Campbell, Stephen
Cc: Crouch, William D; Hamill, Carol L; Boyd, Desiree L
Subject: TVA letter to NRC_02-22-2011_Response to Anti-Trust Clarification Questions
Attachments: 02-22-2011_Response to Anti-Trust Clarification Questions_Final.pdf

Please see attached TVA letter that was sent to the NRC today.

Thank You,

~*~*~*~*~*~*~*~*~*~*~*~*~*~*~*~*

Desirée L. Boyd

WBN 2 Licensing Support

Sun Technical Services

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February 22, 2011

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U.S. Nuclear Regulatory Commission
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Watts Bar Nuclear Plant, Unit 2
NRC Docket No. 50-391

Subject: Watts Bar Nuclear Plant (WBN) Unit 2 - Response To Antitrust Clarification Questions

- References:
1. TVA letter to NRC dated December 5, 1989, "Watts Bar Nuclear Plant Unit 1 - Updated Regulatory Guide 9.3 Information Pursuant to the Commission's Operating License Antitrust Review" (ML073380426)
 2. NRC letter to TVA dated September 20, 1991, "Watts Bar Nuclear Plant, Unit 1 - Antitrust Operating License Review - No Significant Change Finding" (ML073380454)
 3. TVA Letter to NRC dated May 13, 2010, Watts Bar Nuclear Plant (WBN) Unit 2 - Updated Regulatory Guide 9.3 Antitrust Review" (ML101400184)

The purpose of this letter is to provide clarifications related to the WBN Unit 2 Antitrust Review. The 1991 Antitrust review performed for WBN Unit 1 entitled, "Watts Bar Nuclear Plant, Unit 1 - Antitrust Operating License Review - No Significant Change Finding" (Reference 2) contained a discussion related to TVA's customers and provided summary discussions of three specific areas: (1) municipal and rural electric cooperatives, (2) industrial customers, and (3) Department of Energy. The review also provided analysis related to the restriction found in Section 15d(a) of the TVA Act. On May 13, 2010, TVA provided an update to this Antitrust Review (Reference 3). The NRC Staff, in subsequent discussions with TVA, requested that these areas be clarified to reflect current status in 2011. The enclosure provides those clarifications.

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There are no regulatory commitments associated with this submittal. If you have any questions, please contact William Crouch at (423) 365-2004.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Stinson', with a stylized flourish at the end.

David Stinson
Watts Bar Unit 2 Vice President

Enclosure: Antitrust Clarifications

cc (Enclosure):

U. S. Nuclear Regulatory Commission
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bcc (Enclosure):

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Enclosure

Antitrust Clarifications

The 1991 Antitrust review performed for WBN Unit 1 entitled, "Watts Bar Nuclear Plant, Unit 1 - Antitrust Operating License Review - No Significant Change Finding" (ML073380454) contained a discussion related to TVA's customers and provided summary discussions of three specific areas: (1) municipal and rural electric cooperatives, (2) industrial customers, and (3) Department of Energy. The review also provided analysis related to the restriction found in Section 15d(a) of the TVA Act.

The NRC Staff, in subsequent discussions with TVA, requested that these areas be clarified to reflect current status in 2011. The information provided in questions 1 and 3 are excerpts from TVA's 2010 Form 10-K Annual Report to the United States Securities and Exchange Commission.

TVA's Customers

1. *Municipal customers and rural electric cooperatives account for the bulk of TVA's load. Five municipal customers account for approximately 30% of total power sales revenues. The sales contracts with these distributors are for terms of twenty years with provision for termination by either party after ten years upon four years advance notice. The contracts with these customers expire in 1997, 2000, 2004, 2008, and 2009. One of the customers, the City of Memphis, Tennessee, which represented 9% of TVA power sales in fiscal year 1989, recently considered other power supply options but decided to sign a contract with TVA. Although TVA's rates are similar to or slightly higher than those of neighboring utilities, Memphis (and other municipalities) are not statutorily compelled to purchase power from TVA. Memphis and similarly situated utilities are free to select other suppliers once their long term contracts expire.*

TVA Clarification:

Municipalities and Cooperatives

Revenues from distributor customers accounted for 85 percent of TVA's total operating revenues in 2010. As of September 30, 2010, TVA had wholesale power contracts with 155 municipalities and cooperatives. Each of these contracts requires distributor customers to purchase from TVA all of their electric power and energy used within the TVA service area.

Contract Arrangements (1)	Number of Distributor Customers	Percentage of Total Operating Revenues in 2010
15-year termination notice	5	0.9%
10-year termination notice	47	28.4%
5-year termination notice	103	55.6%
Total	155	84.9%

All distributor customers purchase power under one of three basic termination notice arrangements: The number of distributor customers with the contract arrangements described above, the revenues derived from such arrangements in 2010, and the percentage of TVA's 2010 total operating revenues represented by these revenues are summarized in the table above. TVA's two largest distributor customers - Memphis Light, Gas and Water Division ("MLGW") and Nashville Electric Service ("NES") - have contracts with 5-year and 10-year termination notice periods, respectively. Although no single customer accounted for 10 percent or more of TVA's total operating revenues in 2010, sales to MLGW and NES accounted for 9 percent and 8 percent, respectively.

2. *At the industrial level, there is the potential loss of load from outmigration of existing large customers and the expansion of multi-area industrial customers outside the TVA area. TVA takes this threat seriously since it has a significant number of very large industrial customers who have the flexibility to leave the TVA area, expand in non-TVA areas, or use self generation or cogeneration. TVA is vigorously attempting to hold the line on rate increases to retain its price sensitive industrial load.*

TVA Clarification:

No clarification required. The discussion above remains valid for TVA in 2011.

3. *Sales of electric power to the Department of Energy's (DOE) gaseous diffusion enrichment plants, principally in the form of demand charges for power not taken (rather than energy supplied), amounted to 10% of TVA's power sales in fiscal years 1987-1989. In accordance with contract provisions, DOE exercised its right prior to fiscal year 1987, through notices eight years in advance, to reduce the amount of electric power to be purchased by 1000MW each year beginning in December 1989, until reaching a contract demand of 485MW from December 1992 until contract expiration in 1994. DOE's payment obligations are being satisfied through a series of payments to TVA for demand not taken totaling over \$1.8 billion. DOE currently takes very little energy from TVA.*

Despite the almost complete elimination of TVA as a supplier to the diffusion plants, DOE still wishes to maintain the option of purchasing power from TVA. Although TVA's price for long term firm power to the enrichment plants is approximately 36-37 m/kWh compared to current supplies in the 16-20 m/kWh range, this relationship could change significantly with the anticipated stringent acid rain emission controls to be imposed on fossil-fueled generating plants.

Consequently, DOE does not want to foreclose any potentially important power supply options.

TVA Clarification:

Revenues from industrial customers directly served accounted for 12 percent of TVA's total operating revenues in 2010. In 2010, contracts for customers directly served were generally for terms ranging from 5 to 10 years. These contracts are subject to termination by TVA or the customer upon a minimum notice period that varies according to the customer's contract demand and the period of time service has been provided.

The United States Enrichment Corporation ("USEC") is TVA's largest directly served industrial customer. Sales to USEC for its Paducah, Kentucky facility represented 5 percent of TVA's total operating revenues in 2010. TVA's current power supply contract with USEC expires on May 31, 2012.

Financial Condition and Results of Operations - Risk Management Activities - Credit Risk. In January 2004, USEC announced its decision to construct a new commercial centrifuge facility in Piketon, Ohio, which is outside TVA's service area, and in July 2010, USEC submitted its loan guarantee application for the facility to the Department of Energy ("DOE"). TVA believes that if the facility is constructed, USEC would reduce its electricity purchases at the Paducah, Kentucky facility from about 2,000 megawatts ("MW") at its peak to less than 50 MW. USEC and TVA are involved in contract discussions which may result in a contract modification to reflect USEC's potential need for power beyond May 31, 2012. The effect of these discussions is not yet known. Any termination of the USEC contract would result in a loss of revenue, but the lower demand could result in a more economical dispatch of power to remaining customers if some modifications were made to the transmission system.

TVA Act

1. Section 15d(a) of the TVA Act

By virtue of its incorporation under the TVA Act, () TVA operates under certain competitive restrictions that are not found among most other utilities. The key restriction is found in Section 15d(a) of the Act which reads as follows:*

() Tennessee Valley Authority Act of 1933, as amended, [48 Stat. 58-59, 16 U.S.C. sec. 831]. Unless otherwise specifically authorized by Act of Congress, the Corporation (i.e., TVA) shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly a source of power supply outside the area for which the corporation or its distributors were the primary source of power supply on July 1, 1957, and such additional area extending not more than five miles around the periphery of such area as may be necessary to care for the growth of the Corporation and its distributors within said area.*

However, TVA can engage in power exchanges with organizations with which it had such exchange arrangements on July 1, 1957.

As a practical matter, section 15d(a) permits TVA to serve distributors in its original service area but does not permit neighboring distributors to purchase power from

TVA. There is, however, no prohibition on customers in TVA's service area from purchasing power from other utilities. This statutory limitation on TVA's ability to compete for load outside its designated service area played a significant role in the staff's analysis of the competitive effects of the changes in TVA's activities since the 1979 operating license review.

TVA Clarification:

The above discussion remains correct. See also a 1997 settlement agreement that was included in TVA's May 13, 2010 antitrust submittal. Section 2.06 of the settlement agreement, specifically subparagraphs 4, 5, and 6, states:

"4. TVA has heretofore stated, and now deems it appropriate to reaffirm, that its policy and practice will be to confine its area of retail and wholesale electric service to the boundary as fixed by Section 15d(a) of the TVA Act.

5. In conformity with this policy and practice, TVA will only engage in the construction of such generating capacity or the purchase of generating capacity as it needs to supply power demands in its own service area. TVA will not afford encouragement or assistance to persons or organizations which it and its distributors cannot legally serve under Section 15d(a) in seeking such service.

6. TVA will not knowingly enter into any exchange power transaction if the purchaser of TVA Exchange Power is procuring that power for the purpose of reselling such power at wholesale to any third party not authorized to exchange power with TVA. TVA will supply power under exchange power transactions with the understanding that such power is not being purchased for the purpose of reselling it to any such unauthorized third party. In the event TVA discovers that such power has been purchased for a purpose inconsistent with this policy, such transaction shall be terminated."