

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0093]

In the Matter of)
)
TENNESSEE VALLEY AUTHORITY) Docket No. 50-438
)
(Bellefonte Nuclear Plant, Unit 1))

ORDER

I.

The Tennessee Valley Authority (TVA, or the applicant) is the current holder of Construction Permit (CP) Nos. CPPR-122 and CPPR-123, which were issued by the Atomic Energy Commission (now the U.S. Nuclear Regulatory Commission (NRC)) on December 24, 1974 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090680334) for construction of the Bellefonte Nuclear Plant (BLN), Units 1 and 2, respectively. The CPs for CPPR-122 and CPPR-123 expire on October 1, 2011, and October 1, 2014, respectively.

These facilities, currently in deferred plant status as described in the Commission Policy Statement on Deferred Plants, published in the *Federal Register* on October 14, 1987 (52 FR 38077), are at the applicant's site in Jackson County, AL, located on a peninsula at Tennessee River Mile 392 on the west shore of Guntersville Reservoir, about 6 miles east-northeast of Scottsboro, AL.

TVA filed a request on October 8, 2010 (ADAMS Accession No. ML102870233), as supplemented April 25 and September 1, 2011 (ADAMS Accession Nos. ML11124A170 and ML11249A162, respectively), under Title 10 of the *Code of Federal Regulations*

(10 CFR) 50.55(b) for the extension of the latest date for completion of construction as stated in CPPR-122 for BLN, Unit 1, to October 1, 2020.

In its letter dated October 8, 2010, TVA stated that extending the BLN Unit 1 CP would allow it to either complete construction or continue to preserve and maintain BLN Unit 1 in a deferred status as a valuable asset pending a longer term determination of generation needs to meet future electrical demand. TVA stated that the requested extension includes a reasonable amount of time to allow for adjustments to the schedule as may become necessary. TVA also informed the NRC that its decision on the eventual construction and completion of BLN Unit 1 would be pending completion of TVA's integrated resource planning (IRP) process in spring 2011.

By letter dated August 30, 2010 (ADAMS Accession No. ML102440618), TVA informed the NRC that it was funding for initial engineering, design, procurement of long lead components, and regulatory basis development. By providing the funding of this work, TVA would maintain the option for future power generation at BLN Unit 1.

In the letter dated April 25, 2011, TVA informed the NRC of the TVA Board of Directors' decision on April 14, 2011, to accept the results of the TVA IRP. TVA stated that nuclear expansion was present in the majority of the electrical generation portfolios considered in the IRP and that the majority of portfolios identified BLN Unit 1 as the potential generation resource. Thus, the completion and commercial operation of BLN Unit 1 is consistent with and supports the TVA IRP's planning direction to, among other actions, add nuclear generation capacity in the 2018–2020 timeframe.

In the letter dated September 1, 2011, TVA informed the NRC of its decision to complete construction and of the eventual commercial operation of BLN Unit 1. TVA stated that the details and basis for its decision appear in the record of decision on the "Final Supplemental Environmental Impact Statement, Single Nuclear Unit at the Bellefonte Plant Site, Jackson County, Alabama," as published in the Federal Register on August 30, 2011 (76 FR 53994).

TVA said that the final supplemental environmental impact statement identifies its preferred alternative as the completion and operation of BLN Unit 1. TVA informed the NRC that it would resume construction activities associated with BLN Unit 1, only after the initial loading of fuel at Watts Bar Nuclear Plant, Unit 2.

II.

The NRC reviewed the request dated October 8, 2010, and supplemental information provided, and finds that there is reasonable assurance that the health and safety of the public will not be endangered by extension of the construction completion date, and that the requested period of time is reasonable. In addition, good cause exists for extending the completion date to October 1, 2020.

The NRC staff prepared an environmental assessment and finding of no significant impact and published it in the *Federal Register* on September 19, 2011 (76 FR 58050). Under 10 CFR 51.32, "Finding of No Significant Impact," the Commission has determined that extending the construction completion date will have no significant impact on the environment.

For further details on the proposed action, see the applicant's letters dated October 8, 2010, April 25, 2011, and September 1, 2011, and the NRC staff's letter and safety evaluation of the requested extension dated September 30, 2011. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to PDR.resource@nrc.gov.

Within 60 days after the date of issuance of this Order, any person whose interest may be affected may request a hearing in accordance with 10 CFR 2.309. The scope of this Order

extending the construction completion date and any proceeding hereunder is limited to direct challenges to the CP holder's asserted reasons that show good cause justification for the extension. Requests for a hearing must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room online in the NRC library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail at PDR.Resource@nrc.gov. If a request for a hearing is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a request for hearing shall set forth with particularity the interest of the requestor in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered. The request must specifically explain: (1) the nature of the requestor's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's interest. The petition must also set forth the specific contentions which the requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor shall provide a brief explanation of the basis

for each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor intends to rely in proving the contention at the hearing. The requestor must also provide references to those specific sources and documents of which the requestor is aware and on which the requestor intends to rely to establish those facts or expert opinion. The requestor must provide sufficient information to show that a genuine dispute exists with the CP holder on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor to relief. A requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors seek to co-sponsor a contention or propose substantially the same contention, the requestors will be required to jointly designate a representative who shall have the authority to act for the requestors with respect to that contention.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, any motion or other document filed in the proceeding prior to the submission of a request for hearing, and documents filed by interested Governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, the requestor should contact, at least 10 days prior to the filing deadline, the Office of the Secretary by e-mail at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to request (1) a digital identification certificate that allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital identification certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket. Information about applying for a digital identification certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital identification certificate and a docket has been created, the participant can then submit a request for hearing. Submissions should be in

portable document format (pdf) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. eastern time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, the CP holder and other participants (or their counsel or representative) must apply for and receive a digital identification certificate before a hearing request is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk by clicking on the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available Monday through Friday between 8:00 a.m. and 8:00 p.m. eastern time, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a

document in this manner are responsible for serving the document on all other participants. The NRC considers a filing complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon the deposit of the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/EHD/>, unless excluded pursuant to an order of the Commission, or the presiding officer. The NRC asks participants not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. The NRC asks participants not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

Copies of the application to extend the completion date in the CP for BLN Unit 1 are available for public inspection at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Room O1-F21, Rockville, Maryland 20852-2738. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at http://www.nrc.gov/reading_rm/adams.html under ADAMS Accession Number ML102870233.

As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC's Public Document Room (PDR) reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to PDR.Resource@nrc.gov.

Attorney for the permit holder: Maureen H. Dunn, Executive Vice President and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902.

III.

IT IS HEREBY ORDERED THAT the latest construction completion date for CP No. CPPR-122 is extended to October 1, 2020.

Dated at Rockville, Maryland this 30th day of September 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Eric J. Leeds, Director
Office of Nuclear Reactor Regulation