

November 28, 2011

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of)	
)	
Tennessee Valley Authority)	Docket No. 50-391
)	
(Watts Bar Unit 2))	
)	

**SOUTHERN ALLIANCE FOR CLEAN ENERGY’S UNOPPOSED
MOTION FOR EXTENSION OF TIME TO RESPOND TO
TVA’S MOTION FOR SUMMARY DISPOSITION OF CONTENTION 7
AND FOR OPPORTUNITY TO RESPOND TO NRC STAFF IF NEEDED**

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board’s (“ASLB’s”) Scheduling Order of May 26, 2010, Southern Alliance for Clean Energy (“SACE”) hereby moves for an eight-day extension of the twenty-day time period permitted by 10 C.F.R. § 2.1205(b) for SACE and the U.S. Nuclear Regulatory Commission (“NRC”) Staff to respond to Tennessee Valley Authority’s Motion for Summary Disposition of Contention 7 (Nov. 21, 2011) (“TVA’s Motion”). SACE also requests an opportunity to respond, by January 9, 2012, to any new facts and arguments that the Staff may submit in support of TVA’s Motion.

TVA does not oppose this motion. The NRC Staff has also stated that it will not oppose the motion if the extension of time for responding to TVA’s Motion applies to the Staff as well as SACE.

SACE respectfully submits that the requested extension of time to respond to TVA’s Motion is justified by two significant factors. First, the time for responding to the motion includes the recent Thanksgiving holiday, when SACE staff members, SACE’s attorney, and SACE’s experts had longstanding family obligations. Second, TVA’s motion is extremely

voluminous, containing thousands of pages of exhibits that will be time-consuming for SACE's counsel and experts to review and analyze.

In addition, in the event that the NRC Staff submits new arguments or information in its response to TVA's Motion, SACE requests the ASLB to permit SACE to respond by January 9, 2012. SACE respectfully submits that provision of such an opportunity is warranted in order to ensure that SACE has a meaningful opportunity to defend Contention 7 against summary disposition and that the ASLB has a complete record on which to base its ruling. *See Southern Nuclear Operating Co.* (Early Site permit for Vogtle ESP Site), LBP-08-02, 67 NRC 54, 67 n.8 (2008) (observing that a motion for leave to respond to new factual information submitted in response to summary disposition motions "would seem to be a reasonable candidate for a favorable Board discretionary decision permitting the filing"); *Statement of Policy*, CLI-98-12, 48 NRC 18, 19 (1998) (stating that the Commission's objectives in conducting adjudicatory proceedings include providing "a fair hearing process" and producing "an informed adjudicatory record"). In addition, the Commission has specifically provided for such responses in formal proceedings, for which the summary disposition standard is the same as informal proceedings. *See* 10 C.F.R. §§ 2.710(a) and 2.1205(c).¹

The proposed schedule for SACE's response to any new arguments or information in the NRC Staff's response to TVA's Motion is justified because it effectively provides SACE with approximately ten days to prepare a response, taking into account the fact that SACE's staff, attorney, and experts have pre-existing family obligations over the winter holidays.

¹ When the Commission revised its procedural rules in 2004, it provided "a simplified procedure" for summary disposition in Subpart L proceedings. 69 Fed. Reg. 2,182, 2,229 (Jan. 14, 2004). But nothing in the regulations or the preamble to the regulations suggests that the Commission intended, by simplifying the procedures, to completely forbid responses to new facts and arguments presented in response to summary disposition motions.

SACE notes that this request is conditional, because it is possible that the Staff will not raise new facts or information to which SACE will wish to respond. SACE is requesting a ruling now, in order to avoid the need for motions and rulings over the upcoming holidays.

Respectfully submitted,

Electronically signed by

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