

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

Before Administrative Judges:

Lawrence G. McDade, Chairman
Dr. Paul B. Abramson
Dr. Gary Arnold

In the Matter of
Tennessee Valley Authority.
(Watts Bar Unit 2)

Docket Nos. 50-391-OL

ASLBP No. 09-893-01-OL-BD01

December 1, 2011

ORDER

(Granting SACE's Unopposed Motion for Extension of Time to Respond to TVA's Motion for the Summary Disposition of Contention 7)

In this proceeding, which arises from an updated application that was filed pursuant to 10 C.F.R. Part 50 by the Tennessee Valley Authority (TVA) seeking an operating license (OL) for a second nuclear reactor at the Watts Bar Nuclear Plant (WBN) in Rhea County, Tennessee,¹ this Board granted a Petition to Intervene and Request for Hearing submitted by the Southern Alliance for Clean Energy (SACE), and admitted two of SACE's proffered contentions.² Thereafter, on May 26, 2010, we issued a Scheduling Order to control the

¹ Construction of WBN Unit 2 was authorized by the Commission on Jan. 23, 1973 (Construction Permit CPPR-92), and TVA filed an OL application for this facility on June 30, 1976. The construction of the unit, however, was not promptly completed. After some delay, on March 4, 2009, TVA filed an update to the OL application. See Tennessee Valley Authority; Notice of Receipt of Update to Application for Facility Operating License and Notice of Opportunity for Hearing for the Watts Bar Nuclear Plant, Unit 2 and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation, 74 Fed. Reg. 20350 (May 1, 2009).

² LBP-09-26, 70 NRC __, __ (slip op.at 2-3) (Nov. 19, 2009). SACE Contention 1, regarding the status of TVA's compliance with federal and state permits, was admitted in November 2009, but was thereafter dismissed as moot. Licensing Board Order (Granting TVA's Unopposed Motion to Dismiss SACE Contention 1) (June 2, 2010) (unpublished). Accordingly, SACE

progress of this proceeding which provided, inter alia, that it would not be appropriate to proceed to hearing until after the EIS was published which, at that time, was projected for January 2011.³ Subsequently that schedule was modified and the projected publication date for the EIS is now May 2012.⁴

On November 21, 2011, the TVA filed a Motion for the Summary Disposition of SACE Contention 7 which alleged that TVA's analysis of the aquatic impacts that would result from the operation of WBN Unit 2 was deficient. In accordance with 10 C.F.R. § 2.1205(b), any answer supporting or opposing this Motion for Summary Disposition should be filed within twenty (20) days after service of the motion. Accordingly, the presumptive deadline for the filing of an answer to TVA's Motion would be December 12, 2011.

However, on November 28, 2011, SACE filed an unopposed motion seeking an 8 day extension of time which, given that TVA's motion was voluminous and that we are still several months away from a hearing in this matter, was reasonable. Accordingly, SACE's Motion for an Extension of Time is hereby **granted**.

Both SACE and the NRC Staff may file answers opposing or supporting TVA's Motion for the Summary Disposition of SACE Contention 7 on or before December 20, 2011. In addition, while neither Section 2.1205 nor our May 26, 2010, Scheduling Order contemplated further pleadings, pursuant to 10 C.F.R. § 2.710 (a) a party opposing a motion for summary disposition may respond in writing to new facts or arguments presented in any statement filed in

Contention 7 is at this point the only admitted contention in this proceeding. However, a motion to admit a new contention regarding the safety and environmental implications of the NRC Tack Force Report on the Fukushima Dai-chi accident is pending. See Motion to Admit New Contention Regarding the Safety and Environmental Implications of the Nuclear Regulatory Commission Task Force Report on the Fukushima Dai-Ichi Accident (Aug. 11, 2011).

³ Licensing Board Scheduling Order (May 26, 2010) at 2 (unpublished).

⁴ NRC Staff's Bimonthly Report regarding the Schedule for review of the Watts Bar Number 2 License Application (Nov. 1, 2011).

support of the motion. Accordingly, if such a statement is filed by the NRC Staff, SACE may file a response on or before January 9, 2012.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁵

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 1, 2011

⁵ Copies of this Order were sent this date by Internet e-mail to: (1) Counsel for the NRC Staff; (2) Counsel for the TVA; and (3) Counsel for SACE.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (GRANTING SACE'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO TVA'S MOTION FOR THE SUMMARY DISPOSITION OF CONTENTION 7) have been served upon the following persons by the Electronic Information Exchange.

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[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 1st day of December 2011