

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

Before Administrative Judges:

Alex S. Karlin, Chairman
Dr. Paul B. Abramson
Dr. Gary S. Arnold

In the Matter of

TENNESSEE VALLEY AUTHORITY

(Sequoyah Nuclear Plant, Units 1 and 2)

Docket Nos. 50-327-LR, 50-328-LR

ASLBP No. 13-927-01-LR-BD01

July 12, 2013

ORDER

(Scheduling Initial Scheduling Conference)

This is to notify the Tennessee Valley Authority (TVA), the Blue Ridge Environmental Defense League (BREDL), and the Staff of the Nuclear Regulatory Commission (NRC) that, in accordance with 10 C.F.R. §§ 2.329 and 2.332, the Board will hold an initial scheduling conference call on August 8, 2013, at 9:00 AM EDT for the purpose of developing an initial scheduling order (ISO) to govern the conduct of this proceeding. Prior to the call, the parties should familiarize themselves with the relevant procedural rules of 10 C.F.R. Part 2, as amended.¹

The posture of this case is unusual because no contentions are currently admitted. Instead, one contention, which has neither been admitted nor denied, has been held “in abeyance pending [the Commission’s] further order” as required by Calvert Cliffs Nuclear Project, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC 63, 69 (2012). That contention – Contention B – is an environmental contention based on New York v. NRC,

¹ See Amendments to Adjudicatory Process Rules and Related Requirements, NRC Final Rule, 77 Fed. Reg. 46,562 (Aug. 3, 2012).

681 F.3d 471 (D.C. Cir. 2012). See LBP-13-08, 78 NRC ___, ___ (slip op. at 14) (July 5, 2013).

Contention B alleges that “NRC cannot grant the Sequoyah license renewal without conducting a thorough analysis of the risks of long-term storage of irradiated nuclear fuel generated by Sequoyah Units 1 and 2.” Id.

The purpose of the scheduling conference is to assist the Board in developing an ISO appropriate for the posture of this case. For example, given that no contentions have been admitted, it would appear that the current scheduling order does not need to address matters such as mandatory disclosures under 10 C.F.R. § 2.336; opportunities to clarify, simplify, or amend the pleadings in accordance with 10 C.F.R. § 2.329(c); or the timing and procedures for the filing of testimony and exhibits for the evidentiary hearing.

On the other hand, it would appear that the ISO may need to address matters such as:

1. The value and need to obtain regular reports from the Staff as to its projected schedule for completion of its safety and environmental evaluations.²
2. The advisability of requiring notification if a party believes that the Commission has issued an order or taken any action that affects the “abeyance” status of Contention B.
3. The value of setting time limits for the filing of “timely” motions for leave to file new or amended contentions under 10 C.F.R. § 2.309(c)(1)(iii).
4. The value of setting rules and time limits for the filing of dispositive motions, such as motions for summary disposition.
5. The requirement that all motions (except motions for new or amended contentions) be filed no later than ten days after the occurrence or circumstances from which the motion arises. 10 C.F.R. § 2.323(a).

² The NRC regulations state, “In establishing a schedule, the presiding officer shall take into consideration the NRC staff’s projected schedule for completion of its safety and environmental evaluations.” 10 C.F.R. § 2.332(d).

6. Whether it is necessary or appropriate for the Staff to file (and update) its hearing file at this time. See 10 C.F.R. § 2.1203(c).

7. Any other procedural or scheduling matters that the Board may deem appropriate.

In furtherance of the foregoing objectives, the parties shall take the following actions:

Prior to the conference, the parties shall jointly confer for the purpose of discussing the foregoing procedural matters (and any others that they deem appropriate) and, where possible, developing agreement, joint positions, or procedural proposals for the Board to consider.

On or before July 30, 2013, the NRC Staff shall submit to the Board, with copies to all of the parties, a written estimate of its projected schedule for completion of its safety and environmental evaluations, including but not limited to its current reasonable good faith estimate of the dates when it expects to issue the final safety evaluation report and the draft and final environmental impact statements relating to TVA's license renewal application.

On or before August 5, 2013, counsel for each of the parties and the Staff should contact Twana Ellis at 301-415-7703 to obtain the telephone number and pass code for the August 8, 2013, prehearing conference call. Members of the public or media who wish to listen to this conference call may do so, and should contact Ms. Ellis at the above number for the requisite information.

If the lead representative or lawyer for any party has a previously scheduled concrete conflict that would prevent him or her from participating in the initial scheduling conference call on August 8, 2013, at 9:00 AM EDT, then that party shall consult with the other parties and, on or before July 17, 2013, shall file a motion herein certifying that such a conflict exists and

proposing at least two alternative dates and times, acceptable to all parties, for the conference call.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 12, 2013

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
TENNESSEE VALEY AUTHORITY)
)
SEQUOYAH NUCLEAR PLANT,) Docket Nos. 50-327-LR and 50-328-LR
UNITS 1 AND 2 (License Renewal))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Scheduling Initial Scheduling Conference)** have been served upon the following persons by Electronic Information Exchange.

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Docket Nos. 50-327-LR and 50-328-LR
ORDER (Scheduling Initial Scheduling Conference)

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[Original signed by Clara I. Sola _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 12th day of July 2013.