

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

Before Administrative Judges:

Ronald M. Spritzer, Chairman  
Dr. Richard F. Cole  
Dr. Alice C. Mignerey

In the Matter of

VIRGINIA ELECTRIC and POWER COMPANY  
d/b/a DOMINION VIRGINIA POWER and OLD  
DOMINION ELECTRIC COOPERATIVE

(Combined License Application  
for North Anna Unit 3)

Docket No. 52-017-COL

ASLBP No. 08-863-01-COL

July 23, 2013

ORDER

(Holding Motion to Reopen the Proceeding in Abeyance)

Before the Board is the May 28, 2013 petition of Blue Ridge Environmental Defense League (BREDL) to reopen this proceeding and admit one or more unspecified contentions to be put forward at a later date.<sup>1</sup> BREDL asserts that the petition was timely filed following the April 26, 2013 announcement by the applicants Virginia Electric and Power Company d/b/a Dominion Virginia Power and Old Dominion Electric Cooperative (Dominion) that they will amend their combined operating license (COL) application to utilize a new reactor design.<sup>2</sup> BREDL states that it cannot currently determine the contention(s) it might bring because the applicant has not yet submitted its revised application, but that it filed its petition when it did to

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<sup>1</sup> Request to Reopen and Admit New Contention (May 28, 2013) (Petition).

<sup>2</sup> See *id.* at 1; Letter from David R. Lewis, Counsel for Dominion, to Atomic Safety and Licensing Board (Apr. 26, 2013). It is perhaps more accurate to say “old” reactor design, as Dominion plans to revert to the ESBWR design that it utilized when it first submitted its COL application.

ensure compliance with the requirement of 10 C.F.R. § 2.326(a)(1) that a petition to reopen the record be timely.<sup>3</sup>

In CLI-12-14, the Commission terminated this proceeding.<sup>4</sup> At the time, one contention, concerning the August 23, 2011 earthquake in Mineral, Virginia, had been placed in abeyance pending completion of the applicant's assessment of the seismic analyses in its application.<sup>5</sup> In light of this outstanding issue, the Commission remanded the case and "direct[ed] the Board to exercise jurisdiction for the limited purpose of considering whether to reopen the record and admit BREDL's seismic contention."<sup>6</sup> Accordingly, this Board as presently constituted has the power only to rule on a petition to reopen that challenges the adequacy of the applicant's seismic analyses.

With no contention before us, we are unable to determine whether any portion of BREDL's petition falls within our limited grant of jurisdiction. BREDL states in its petition that it seeks the opportunity "to file contentions on the technology change to be concurrent with but not limited to the issues in the seismic contention now held in abeyance."<sup>7</sup> Because BREDL contemplates that it will file one or more contentions dealing with the seismic issues, we will hold its petition in abeyance pending the submission of contentions. In addition to the limitation

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<sup>3</sup> Id. at 1-2.

<sup>4</sup> CLI-12-14, 75 NRC 692, 703 (2012).

<sup>5</sup> Licensing Board Order (Granting Consent Motion to Hold BREDL's New Contention in Abeyance) (Oct. 20, 2011) (unpublished).

<sup>6</sup> CLI-12-14, 75 NRC at 702.

<sup>7</sup> Petition at 3-4.

on our jurisdiction,<sup>8</sup> we remind BREDL that a reopening petition must meet each of the strict requirements of 10 C.F.R. 2.326.<sup>9</sup>

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

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Ronald M. Spritzer, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
July 23, 2013

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<sup>8</sup> Any contention falling outside our grant of jurisdiction should be addressed in a petition before the Commission, not this Board.

<sup>9</sup> See Licensing Board Order (Setting Time for Filing Motion to Reopen the Proceeding) (July 26, 2012) at 2-3 (unpublished).

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
Virginia Electric and Power Company d/b/a )  
Dominion Virginia Power (DVP or Dominion) ) Docket No. 52-017-COL  
and Old Dominion Electric Cooperative (ODEC) )  
)  
(North Anna Power Station, Unit 3) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Holding Motion to Reopen the Proceeding in Abeyance)** have been served upon the following persons by Electronic Information Exchange.

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DOCKET NO. 52-017-COL

**ORDER (Holding Motion to Reopen the Proceeding in Abeyance)**

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[Original signed by Brian Newell]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 23<sup>rd</sup> day of July 2013