

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chair
Dr. Anthony J. Baratta
Dr. William W. Sager

In the Matter of

TENNESSEE VALLEY AUTHORITY

(Bellefonte Nuclear Power Plant Units 3 and 4)

Docket Nos. 52-014-COL and 52-015-COL

ASLBP No. 08-864-02-COL-BD01

August 25, 2015

MEMORANDUM AND ORDER
(Request for Joint Status Report)

As the Licensing Board noted in a November 2011 issuance, this adjudicatory proceeding and the associated Nuclear Regulatory Commission (NRC) staff safety and environmental reviews of the Tennessee Valley Authority's (TVA) October 2007 application for 10 C.F.R. Part 52 combined licenses (COLs) for Units 3 and 4 at TVA's existing Bellefonte Nuclear Power Plant (BNPP) site have essentially been in suspension since mid-2009. See LBP-11-37, 74 NRC 774, 777-78 (2011). At that time, the Board also recognized that TVA's then-recently updated Integrated Resource Plan (IRP), which is a periodic TVA forecast of power system demand over the next twenty years, indicated that TVA's preferred path for meeting anticipated system demand would include the 2018 to 2022 completion of already-partially-constructed BNPP Units 1 and 2, with any decision about new BNPP Units 3 and 4 deferred until another ongoing TVA study was completed. See id. at 778-79. Thereafter, in January 2012 TVA reported to the Board that the Part 52 COL application (COLA) review for BNPP Units 3 and 4 having already been suspended for some time by the staff at TVA's request, TVA now anticipated that suspension would remain in place until TVA was ready to

move forward with the 10 C.F.R. Part 50 operating license (OL) review for BNPP Units 1 and (potentially) 2, which, in turn, would await fuel loading at the Watts Bar Unit 2 facility that was the subject of an ongoing Part 50 OL proceeding. See Licensing Board Memorandum and Order (Request for Joint Report Regarding Mandatory Disclosure/Hearing File Updates) (Apr. 11, 2012) at 2 (unpublished) [hereinafter Board Order]. And since the Watts Bar Unit 2 Part 50 OL proceeding is still ongoing (albeit seemingly nearing completion), see Letter from J. W. Shea, Vice President, TVA Nuclear Licensing, to NRC Document Control Desk at 2 (Aug. 12, 2015) (ADAMS Accession No. ML15224B482) (providing notice Watts Bar Unit 2 construction is substantially complete and requesting operating license issuance by NRC), other than quarterly mandatory discovery disclosures, see Licensing Board Memorandum and Order (Revising Schedule for Mandatory Disclosure/Hearing File Updates) (Apr. 20, 2012) at 2 (unpublished), this proceeding has seen little case-specific activity over the past three years.¹

On August 21, 2015, the TVA Board of Directors approved the 2015 edition of the IRP, along with an associated supplemental environmental impact statement. See Press Release, TVA, TVA Board Votes to Continue Power System Investments (Aug. 21, 2015), http://www.tva.com/news/releases/julsep15/board_decides.html [hereinafter TVA Press Release]; see also 2015 [IRP], <http://www.tva.com/environment/reports/irp/>. The recently-completed 2015 IRP suggests that renewed licensing activity relative to BNPP Units 1-4 now is anticipated to occur, if at all, in the mid-2020's or beyond.² This potential

¹ As occurred in a number of other pending COL proceedings, a contention filed in this case seeking relief based on purported deficiencies in the agency's so-called "Continued Storage Rule" recently was dismissed by the Commission. See CLI-15-4, 81 NRC 221, 242 (2015).

² In the July 2015 final version of the IRP, TVA indicated that because it intends to rely on additional natural gas generation, energy efficiency, and renewable power to meet future demand, through 2033 there is no immediate need for new baseload plants after Watts Bar

(continued...)

decade-long hiatus once again raises the question of this adjudicatory proceeding's continued efficacy, particularly given the strong likelihood that, prior to receiving further Board consideration as part of this adjudication (or garnering additional staff attention as part of an active licensing review), TVA's current COLA would need appreciable revision to address intervening technical and environmental developments. See Board Order at 3.

As a consequence, on or before Friday, September 25, 2015, the parties, including Joint Intervenors,³ should provide the Board with a joint report outlining their views regarding how this case should proceed. In that regard, although application withdrawal is an option, see UniStar Nuclear Energy [COLA] for Calvert Cliffs Nuclear Power Plant, Unit 3, 80 Fed. Reg. 42,558, 42,559 (July 17, 2015) (granting request to withdraw Part 52 COLA for proposed Calvert Cliffs Unit 3), TVA still may be disinclined to recall its pending COLA for BNPP Units 3 and 4. If that is the case, the parties should discuss and report on the possibility (and timing) of reaching a settlement under which, in return for a staff commitment to seek re-noticing of the opportunity for a hearing on the TVA COLA for BNPP Units 3 and 4 at an appropriate point in the future (to be defined in the settlement agreement), Joint Intervenors would agree to a

²(...continued)

Unit 2 comes online and power uprates are completed by 2023 at the Browns Ferry nuclear facility. See [TVA], [IRP], 2015 Final Report at 2-4 (July 2015), http://www.tva.com/environment/reports/irp/pdf/2015_irp.pdf [hereinafter IRP]; see also TVA Press Release (indicating that TVA Board approved IRP that "concludes there is no immediate need for new baseload capacity beyond Watts Bar Nuclear Unit 2 and upgrades at the Browns Ferry Nuclear Plant"). Further, the alternative sensitivity analysis utilized by TVA in the IRP to show the impact of "forcing in" new nuclear baseload capacity is premised on the completion of (1) the partially constructed Bellefonte Units 1 and 2 in the 2026 to 2028 time frame; (2) an AP 1000 reactor (the proposed certified design for Bellefonte Units 3 and 4) in 2028; and (3) a small modular reactor in 2028. See IRP at 108.

³ Joint Intervenors are the Blue Ridge Environmental Defense League (BREDL) and the Southern Alliance for Clean Energy.

“without prejudice” dismissal of this adjudicatory proceeding.⁴ See AmerenUE (Callaway Plant, Unit 2), LBP-09-23, 70 NRC 659 (2009).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 25, 2015

⁴ If the parties believe their efforts to reach an agreement would benefit from the aid of a settlement judge, in their report they should so advise the Board, which can relay their joint request to the Chief Administrative Judge. See 10 C.F.R. § 2.338(b); see also James Chaisson (Enforcement Action), LBP-15-21, 82 NRC __, __ (slip op. at 3) (July 2, 2015).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Request for Joint Status Report)** have been served upon the following persons by the Electronic Information Exchange.

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Bellefonte Nuclear Power Plant, Units 3 and 4, Docket Nos. 52-014-COL and 52-015-COL
MEMORANDUM AND ORDER (Request for Joint Status Report)

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

Dated at Rockville, Maryland
this 25th day of August, 2015