

May 4, 2018

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
TENNESSEE VALLEY AUTHORITY) Docket No. 52-047-ESP
)
(Clinch River Nuclear Site)
Early Site Permit Application)

JOINT MOTION FOR CLARIFICATION OF SCHEDULING ORDER

The Staff of the U.S. Nuclear Regulatory Commission (Staff), Tennessee Valley Authority (TVA), and the Southern Alliance for Clean Energy and the Tennessee Environmental Council (Joint Intervenors) (collectively, the Parties) hereby submit to the Board a motion to clarify the schedule for filing dispositive motions in the above-captioned proceeding and to set the filing date for such dispositive motions no later than June 11, 2018, consistent with the agreement of the Parties that such motions be filed within 45 days of the availability of the draft Environmental Impact Statement (EIS).

On October 10, 2017, the Board determined that the Joint Intervenors demonstrated standing and admitted Contentions 2 and 3.¹ On November 8, 2017, the Parties engaged with the Board in a conference call to discuss the schedule for the contested proceeding. The Parties agreed in that teleconference that dispositive motions for the two contentions admitted at that time should be filed 45 days after the issuance of the Staff's EIS. See Transcript at 154-57 (Nov. 8, 2017). The Board did not raise any concern or objection to the agreed-upon timetable. However, the Board's December 2017 Order did not include this agreement and is silent regarding the schedule for filing dispositive motions after issuance of the draft EIS. See Initial Scheduling Order (Dec. 7, 2017) at 5-6.

¹ See *Tennessee Valley Authority* (Clinch River Nuclear Site Early Site Permit Application) LBP-17-8, 86 NRC 138 (2017).

On April 26, 2017, the NRC Staff published a notice of availability of the draft EIS in the *Federal Register*.² Without an order from the Board stating otherwise, 10 C.F.R. § 2.323 would require the filing of dispositive motions within ten days, or by this Monday, May 7, 2018.

The Parties have already agreed that a 45-day time period is reasonable, as it would preclude Joint Intervenors from having to respond to dispositive motions within the same timeframe as submitting any new or amended contentions. Therefore, the Parties jointly request that the Board clarify that dispositive motions on previously admitted contentions should be filed no later than 45 days after issuance of the Staff document on which the motion relies.³

The Parties respectfully request that the Board set June 11, 2018, as the filing deadline for dispositive motions. That date is 45 days after the April 26, 2018 public notice of issuance of the draft EIS in the *Federal Register*.

² Early Site Permit Application: Tennessee Valley Authority; Clinch River Nuclear Site, 83 Fed. Reg. 18,354 (April 26, 2018).

³ On May 3, 2018, the Commission issued CLI-18-5, which reversed, in part, the Board's Order in LBP-17-8 (Oct. 10, 2017) and dismissed Contention 3. See Commission Memorandum and Order (CLI-18-5) (slip op. at 15-16) (May 3, 2018).

Respectfully submitted,
/Signed (electronically) by/

Megan Wright
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-14 A44
Washington, DC 20555-0001
(516) 765-6523
Megan.Wright@nrc.gov

Executed in accord with 10 C.F.R. § 2.304(d)

Blake Nelson, Esq.
Counsel for Tennessee Valley Authority
400 W. Summit Hill Drive, WT 6A-K
Knoxville, TN 37902
E-mail: bjnelson@tva.gov

Diane Curran, Esq.
Counsel for Joint Intervenors
Harmon Curran Spielberg & Eisenberg LLP
1725 DeSales St., N.W., Ste. 500
Washington, DC 20036
E-mail: dcurran@harmoncurran.com

Dated at Prosper, Texas,
this 4th day of May, 2018

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
TENNESSEE VALLEY AUTHORITY) Docket No. 52-047-ESP
)
(Clinch River Nuclear Site))

CERTIFICATE OF SERVICE

I hereby certify that the document entitled Joint Motion for Clarification of Scheduling Order, dated May 4, 2018, has been filed through the E-Filing system this 4th day of May, 2018.

/Signed (electronically) by/

Megan A. Wright
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-14 A44
Washington, DC 20555-0001
(516) 765-6523
Megan.Wright@nrc.gov

Dated at Prosper, Texas
this 4th day of May, 2018