

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

TENNESSEE VALLEY AUTHORITY

(Clinch River Nuclear Site Early Site Permit
Application)

Docket No. 52-047-ESP

SCHEDULING ORDER

On July 1, 2019, the Commission issued a notice that it would convene an evidentiary hearing at its Rockville, Maryland headquarters on August 14, 2019, pursuant to section 189a. of the Atomic Energy Act of 1954, as amended, to receive testimony and exhibits in the uncontested portion of the captioned proceeding.¹ Today's Scheduling Order, issued pursuant to my authority under 10 C.F.R. § 2.346(a), (d), and (j), provides details covering matters such as the identification and swearing-in of witnesses, the process for admitting evidence, and the format of presentations.

Identification of Witnesses. To expedite the proceeding, all witnesses will be identified and sworn in at the beginning of the hearing. As a result, all witnesses should be present in the hearing room at that time. Witnesses should remain available for the entirety of the hearing.

Presentation Slides. Sets of presentation slides for each panel shall be served using the agency's e-filing system, each as a properly formatted exhibit (see 10 C.F.R. § 2.304(g)), and also shall be transmitted via e-mail to Hearing.Docket@nrc.gov, no later than August 7, 2019.

Format and Time Allocations. The order of presentation panels and time allocations are reflected in the Scheduling Note for this proceeding, which will be transmitted separately.

¹ See Tennessee Valley Authority; Clinch River Nuclear Site; Early Site Permit Application; Notice of Hearing, 84 Fed. Reg. 31,358 (July 1, 2019).

Panelists should assume that the Commission is familiar with the content of their written testimony, including written responses to pre-hearing questions.

Admission of Evidence. Exhibits for this proceeding will be admitted after the witnesses are identified and sworn in and before the panel presentations begin. To facilitate this process, no later than August 7, 2019, if they have not already done so, the NRC Staff and the Tennessee Valley Authority (TVA) each shall pre-file all of the exhibits they intend to propose for admission into evidence at the hearing and provide to the Secretary a table listing these exhibits.² The table should be formatted as follows:

Exhibit Number	Panel Number/ Sponsoring Witness(es)	Document Description/Title	ADAMS Accession Number (If Applicable) ³

All exhibits should be pre-filed in accordance with the requirements of our e-filing rules at 10 C.F.R. § 2.304(g). Other than witness lists, any documents pre-filed in advance of this Scheduling Order should be re-filed as exhibits.⁴ Only one copy of each item of documentary material should be offered as evidence in connection with this mandatory hearing, so the parties

² Any pre-filed exhibit that contains confidential or sensitive information should be filed separately in the agency's e-filing system using the "non-public submission" filing option and should include appropriate page markings.

³ The parties should include an ADAMS accession number to the extent one is available for the document (or portion of the document) that will be proffered. For any exhibit having a confidential/sensitive status that would preclude public disclosure, the listing information should be set forth in **bold** type.

⁴ For example, the Commission has received the parties' responses to the Commission's July 12, 2019, pre-hearing questions. If they have not already done so, the Staff and TVA should re-file their responses as exhibits in accordance with this Scheduling Order. NRC Staff Responses to Commission Pre-Hearing Questions (July 26, 2019); Tennessee Valley Authority's Responses to Pre-Hearing Questions (July 26, 2019).

should coordinate as necessary. The Staff should include the early site permit application and all associated supplements to the application in its list of exhibits.⁵ Panel presentation slide sets should be included and identified as exhibits and will be admitted into the record of the proceeding.

In cases of exhibits that are testimony, the sponsoring witness (or witnesses) shall provide a written certification containing the following information: that the identified testimony was prepared by the witness (or under the witness's direction); that the written testimony is true and correct to the best of the witness's information, knowledge, and belief; and that the witness adopts the identified testimony as his or her sworn testimony in the proceeding.⁶

Exhibits will be admitted at the hearing based on the exhibit tables and associated certifications, as applicable; the list of exhibits and any certifications will not be read aloud at the hearing. TVA and the Staff will be offered the opportunity at the hearing to provide corrections, amendments, and additions to testimony or exhibits, or to object to the admission of particular exhibits, during the process of admitting exhibits. The exhibit tables and certifications will become part of the record of the proceeding.⁷

⁵ If, due to its size, the application is too large to mark and file through the e-filing system as directed in this order, the Staff may, in the alternative, file an exhibit that lists the ADAMS accession number for the package of each part of the application and provide the application on an appropriately-marked compact disc to the Office of the Secretary.

⁶ This certification may be notarized or may be submitted in the form of an unsworn declaration consistent with 28 U.S.C. § 1746.

⁷ Provided the exhibits are properly pre-filed using the agency's e-filing system, it should not be necessary for the parties to provide the Commission or the representative for the other party with any paper copies of their pre-filed evidentiary materials. Nonetheless, the parties should have available at the hearing one properly marked copy (paper or electronic, at each party's discretion) of each pre-filed document for use in the event that there are any operational issues displaying exhibits electronically. In addition, if a party must submit any new testimony or exhibits at the hearing, or revise any pre-filed testimony or exhibits at the hearing, that party must provide at that time a properly marked electronic copy of any such documents, along with enough properly marked paper copies of any such documents for distribution to the representative for the other party, all Commission members (two copies each), and the Secretary of the Commission (three copies). Further, the party must submit the new or revised exhibit using the agency's e-filing system as soon as practicable along with a revised exhibit

In this proceeding, the Commission will employ a new pre-filed exhibit marking system.⁸ Each pre-filed exhibit must have a cover sheet, the templates for which will be provided by the Office of the Secretary. The cover sheet is a fillable PDF form with fields for an exhibit number and exhibit title that should be appended to the front of the exhibit so that it is part of the PDF file for that exhibit when it is submitted via the e-filing system.⁹ With the exhibit number on the cover sheet, it is no longer necessary to place the exhibit number on the first page of the exhibit. Exhibits should be labeled and numbered consecutively beginning with exhibit number one, formatted as “NRC-001,” “NRC-002,” or “TVA-001,” “TVA-002,” etc.¹⁰ Multi-page exhibits should be numbered consecutively so that they can be readily referred to at the evidentiary hearing.

Post-hearing Responses to Follow-up Questions. If, at the hearing, Commissioners ask any questions that cannot be fully answered at the hearing itself, or expressly pose follow-up questions to be answered in writing, the Staff and TVA, as appropriate, may file supplemental

table.

⁸ Any questions about this new marking system should be directed to the Office of the Secretary at Hearing.Docket@nrc.gov or (301) 415-1677.

⁹ For any exhibit having a confidential/sensitive status that would preclude public disclosure, the party pre-filing the exhibit should use the non-public version of the cover sheet.

¹⁰ If a party needs to break a document into several segments to ensure it does not exceed the agency’s guidance on recommended file size for submissions (see NRC, Guidance for Electronic Submissions to the NRC, Rev. 8, at 6 (May 18, 2017) (ADAMS accession no. ML13031A056)), each of the segments should be labeled by adding a letter directly following the exhibit number to reflect the relationship of each part of the exhibit to the other parts. For example, if Staff exhibit NRC-005 must be submitted in multiple parts, each portion should be assigned a different exhibit number: “NRC-005A,” “NRC-005B,” “NRC-005C,” etc. If a party needs to provide a revised version of a previously pre-filed exhibit, the exhibit should be re-filed with “-R” following the numbering sequence. For example, if exhibit NRC-005 must be revised, the revised exhibit would be labeled “NRC-005-R.” If this exhibit must again be revised, it would be labeled “NRC-005-R2.” The cover sheet fields for the exhibit revision date (generally, the date when the revised exhibit is submitted to this proceeding’s docket) and the revised exhibit title should be completed. The revised exhibit should be re-filed using the revised exhibit cover sheet with the revised exhibit number field reflecting a sequential number immediately after the letter “R,” e.g., “NRC-005-R2.” Additionally, a revised exhibit table must also be filed with any revised exhibit.

responses, properly formatted as an exhibit, to such questions no later than August 28, 2019, unless the Commission at the hearing sets a different deadline for such responses.

General Information. The Office of the Secretary of the Commission will contact the parties regarding logistics related to the hearing.

IT IS SO ORDERED.

For the Commission

NRC SEAL

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 31st day of July, 2019.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **SCHEDULING ORDER** have been served upon the following persons by Electronic Information Exchange.

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Dated at Rockville, Maryland,
this 31st day of July, 2019

[Original signed by Herald M. Speiser]
Office of the Secretary of the Commission