

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

TENNESSEE VALLEY AUTHORITY

(Enforcement Action)

Docket Nos. EA-20-006  
EA-20-007

**NRC Staff Proposed Expedited Schedule**

**INTRODUCTION**

Pursuant to the Board's direction at the prehearing conference on December 17, 2020, the Staff hereby submits its proposed schedule for the proceeding. The parties conferred multiple times, but we were unable to reach agreement. The areas of disagreement primarily concern when the discovery period should commence, and whether the evidentiary hearing should be held in October or December of 2021. In formulating its proposed schedule, the Staff endeavored to follow Board direction from the prehearing conference that 1) an evidentiary hearing should be held before mid-November (Tr. at 28); 2) more than 90 days should not be needed for discovery (Tr. at 21); and 3) if summary disposition motions are contemplated, their inclusion should not necessitate a full five months between the close of discovery and the filing of testimony (Tr. at 20).

### STAFF PROPOSED SCHEDULE

Action	Date	Appendix B Milestone (if applicable) <sup>1</sup>
Protective Order and Discovery Stipulations due	Wed. 2/3/21	
Initial Disclosures Due	2/18/21	
Discovery complete	5/14/21	Within 145 days of the presiding officer granting the hearing
Summary Disposition Motions Due	5/24/21	Within 155 days of presiding officer granting a hearing
Written testimony and pretrial briefs due	8/2/21	Within 275 days of presiding officer granting hearing
Reply testimony and briefs due	8/23/21	
Evidentiary Hearing	Week of October 4, 2021	

### WHEN THE DISCOVERY PERIOD SHOULD COMMENCE

The Staff anticipates that its disclosures in the TVA proceeding and the Joseph Shea proceeding will be identical. The Staff's disclosure obligation is to disclose "all...documents...in possession...of the NRC staff that are relevant to disputed issues...including any Office of Investigations report and supporting exhibits, and any Office of Enforcement documents...regarding the order." (10 C.F.R. § 2.709(a)(6)(i)(A)). The vast majority of the relevant NRC Staff documents consists of two Office of Investigations (OI) reports, the associated exhibits, and a large quantity of documents provided to the NRC Staff by TVA officials as part of the predecisional enforcement conferences in this matter. All of these

<sup>1</sup> Appendix B to 10 C.F.R. Part 2 contains model milestones for a subpart G proceeding. Those milestones refer to the timing of the hearing being granted. The Board has not formally "granted" the request for hearing with respect to TVA, but as the recipient of the civil penalty, TVA is entitled to a hearing. The Staff has not opposed the hearing request, and the Board has already convened one prehearing conference to discuss schedules for the rest of the proceeding. The milestones from Appendix B are included here as a reference. Please note, however, that if the Board's prehearing conference scheduling Order of December 11, 2020, constitutes the trigger for when the hearing was "granted," certain dates do not precisely correspond with the model milestone timeframes (e.g., if calculated from December 11, 145 days to complete discovery would be May 5, rather than May 14 as the Staff has proposed).

documents are relevant to both the Order Imposing Civil Monetary Penalty issued to TVA and the Order issued to Mr. Shea. Although TVA has been provided redacted versions of the OI reports, and although counsel for TVA was present at numerous interviews by the Office of Investigations, and the exhibits referenced in the OI reports primarily consist of TVA documents and transcripts of interviews, the Staff recognizes that TVA has not been provided the unredacted OI reports and the totality of corresponding exhibits. To streamline the discovery process and the proceeding, the Staff would agree to provide the OI reports and exhibits to TVA in advance of the proposed February 18, 2021 deadline. The Staff conducted a full investigation of this case prior to issuing the civil penalty, and TVA has already provided numerous documents in its defense at the predecisional enforcement conferences. Further, the Staff would be amenable to limiting the scope of TVA's need to disclose further documents subject to a stipulation by TVA that documents not disclosed could not later be used in this proceeding, including as evidence in the hearing.

#### **WHEN THE EVIDENTIARY HEARING SHOULD BE HELD**

The Staff proposes holding the evidentiary hearing in October, keeping with the Board's direction to hold the hearing before November, and thereby not conflict with the already-scheduled Shea proceeding. The Staff views it as unnecessary to delay this proceeding into December, resulting in an evidentiary hearing more than a year after the Staff's issuance of the Order Imposing Civil Monetary Penalty. Moreover, December is typically a difficult time to schedule matters which involve numerous witnesses and travel.

**/Signed (electronically) by/**

Sara Brock Kirkwood  
Counsel for NRC Staff  
Mail Stop: O-14-A44  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Telephone: (301) 287-9187  
E-mail: Sara.Kirkwood@nrc.gov

**Executed in Accord with 10 CFR 2.304(d)**

Kevin C. Roach  
Counsel for NRC Staff  
Mail Stop: O-14-A44  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Telephone: (201) 521-2078  
E-mail: Kevin.Roach@nrc.gov

**Executed in Accord with 10 CFR 2.304(d)**

Thomas S. Steinfeldt  
Counsel for NRC Staff  
Mail Stop: O-14-A44  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Telephone: (301) 415-0034  
E-mail: Thomas.Steinfeldt@nrc.gov

Dated in Falls Church, VA  
this 8th day of January 2021

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**Certificate of Service**

Pursuant to 10 C.F.R § 2.305, I hereby certify that copies of the foregoing "NRC Staff Proposed Expedited Schedule," dated January 8, 2021, have been served upon the Electronic Information Exchange (the NRC's E-Filing System), in the captioned proceeding, this 8th day of January 2021.

**/Signed (electronically) by/**

Sara Brock Kirkwood  
Counsel for NRC Staff  
Mail Stop: O-14-A44  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Telephone: (301) 287-9187  
E-mail: Sara.Kirkwood@nrc.gov

Dated in Falls Church, VA  
this 8th day of January 2021