

April 1, 2021

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

_____	)	
In the Matter of	)	
	)	
	)	Docket Nos. EA-20-006, EA-20-007
Tennessee Valley Authority	)	
Chattanooga, Tennessee	)	
_____	)	

**Joint Motion for Schedule Extension**

Pursuant to 10 C.F.R. § 2.323, and consistent with Commission policy that adjudicatory proceedings shall be conducted efficiently and focus on issues germane to the proceeding,<sup>1</sup> the Tennessee Valley Authority (“TVA”) and the NRC Staff respectfully request that the Board extend by eight weeks the dates set forth by the Board in its Initial Scheduling Order from earlier this year.<sup>2</sup> A joint proposal for a revised schedule is attached to this motion.

Good cause supports the parties’ request. The parties have been working collaboratively during discovery on scheduling depositions and discussing potential witnesses for hearing. These discussions have identified areas where the parties may continue to collaborate to further focus the issues in dispute and ensure the efficient conduct of this proceeding. The parties have concluded that an extension of the schedule is necessary to continue such collaboration and cooperation. The parties respectfully submit the following bases for this extension request:

<sup>1</sup> Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 N.R.C. 18, 18 (1998).

<sup>2</sup> Initial Scheduling Order (Jan. 14, 2021) (ADAMS Accession No. ML21014A204).

- Development of Factual Stipulations. The parties agree that many facts are likely not in dispute, and for this reason request additional time to develop and reach agreement on factual stipulations. This is consistent with the Commission’s policy that the hearing “be a meaningful one that focuses on genuine issues and real disputes regarding agency actions subject to adjudication.”<sup>3</sup> In addition, the development of stipulations may also result in reducing the amount of discovery needed by the parties and the amount of time needed for the hearing.
- Scheduling of Depositions. Both parties anticipate taking multiple depositions in this proceeding. The parties have agreed to limit the number of depositions taken to 10 for each party, inclusive of any third-party depositions. The parties believe that additional time in the discovery period (which is scheduled to close on May 14, 2021) is needed to properly prepare for and take these depositions. In addition, at this time, the Staff intends to serve interrogatories on TVA, the responses to which may result in reducing the number of depositions the Staff takes (and for which TVA needs to prepare). The parties have also identified one NRC Staff witness who is not available during the time period for which depositions are presently contemplated, and anticipate other scheduling challenges. The proposed schedule extension would allow the parties sufficient time to complete these activities, which are likely to focus the disputed issues and lead to a more efficient hearing.
- Preparing for Hearing. The parties have held initial discussions regarding what testimony will be presented at the hearing, and how that testimony will be presented. The Initial

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<sup>3</sup> Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 N.R.C. at 19.

Scheduling Order provides for written direct testimony, written rebuttal testimony, and a live hearing. The parties are working to seek alignment on these issues and believe that the requested extension will allow sufficient time for these discussions in preparation for the prehearing conference.<sup>4</sup>

- COVID-19 Considerations. With the increasing rollout of vaccines across the country, the parties are hopeful that the return of in-person aspects of adjudications (including depositions and hearing testimony) are on the horizon. The requested extension would make it more likely that such in-person aspects could occur.

For the foregoing reasons, the parties respectfully request that the Board grant the extension request. If the eight-week extension is granted, the parties propose that the discovery period conclude on July 9, 2021, all other dates on the schedule be extended by eight weeks, and the hearing be held the week of October 18, 2021.<sup>5</sup>

Respectfully submitted,

Counsel for Tennessee Valley Authority

Counsel for NRC Staff

/Electronically signed by Timothy J. V. Walsh/

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

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Dated: April 1, 2021

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<sup>4</sup> The parties have been in touch with potential key witnesses in the case. One likely witness, Mr. McBrearty, represented to Staff counsel that he anticipated being overseas for August, September, and October, and that September or October would be a better time with respect to his availability to testify remotely.

<sup>5</sup> The parties are also amenable to holding the hearing the week of October 25, 2021, if that week is preferable to the Board.

**Attachment**

Proposed Revised Procedural Schedule  
In the Matter of Tennessee Valley Authority, Docket Nos. EA-20-006 and EA-20-007

Date	Action
07-09-21	Discovery complete
07-21-21	Prehearing conference
09-08-21	Written testimony and pre-trial briefs filed (last day for summary disposition motions, if any)
09-29-21	Reply testimony and reply pre-trial briefs filed
10-18-21	In-person evidentiary hearing
11-19-21	Proposed findings of fact and conclusions of law filed
01-17-22	Licensing Board issues initial decision

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Joint Motion for Schedule Extension have been served through the E-Filing system in the above-captioned proceeding this 1st day of April, 2021.

*/Electronically signed by Timothy J. V. Walsh/*