



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 8, 2021

EA-20-006
EA-20-007

Mr. Jim Barstow
Vice President Nuclear Regulatory Affairs
& Support Services
Tennessee Valley Authority
1101 Market Street, LP 4A-C
Chattanooga, TN 37402-2801

SUBJECT: RESCISSION OF ESCALATED ENFORCEMENT ACTION AND ORDER
IMPOSING CIVIL MONETARY PENALTY

Dear Mr. Barstow:

On August 24, 2020, the U.S. Nuclear Regulatory Commission (NRC) Staff issued a Notice of Violation and Proposed Imposition of Civil Penalty to Tennessee Valley Authority (TVA) that described two enforcement problems involving retaliation against two employees for engaging in protected activity contrary to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, "Employee protection" (NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML20218A483). The Notice of Violation included a Severity Level II problem comprised of two violations and a Severity Level I problem also comprised of two violations. On October 29, 2020, the NRC Staff issued an Order to TVA imposing a civil monetary penalty of \$606,942 for the two enforcement problems (ADAMS Accession No. ML20297A525).

On November 30, 2020, TVA requested a hearing (ADAMS Accession No. ML20335A574) challenging the NRC Staff's conclusion that TVA had retaliated against two individuals for engaging in protected activity.

The NRC informed TVA, in a letter dated February 4, 2021 (ADAMS Accession No. ML21028A707), that, in light of the Commission's adjudicatory Order in CLI-21-03, a reduction of the severity levels for Violations 1, 3, and 4 was appropriate. The reduction was based on the staff's decision to rescind the deliberate misconduct determinations associated with Violations 1, 3, and 4, which also included related actions for two individuals. However, the NRC staff determined that the severity level for Violation 2 remained unchanged, and the originally imposed civil penalty of \$606,942 remained unchanged.

Subsequently, TVA filed two Motions for Summary Disposition on August 16, 2021, (ADAMS Accession Nos. ML21228A261 and ML21228A260). On November 3, 2021, the Atomic Safety and Licensing Board (Board) issued a Memorandum and Order (ADAMS Accession No. ML21307A297) granting TVA's motion for summary disposition of Violations 1, 2 and 3 and its motion for summary disposition of Violation 4, in part.

After review of the Board's Order, the NRC staff is hereby rescinding the Notice of Violation issued on August 24, 2020, in its entirety (i.e., to also include the entirety of Violation 4) and is also rescinding the October 29, 2020, order imposing a civil monetary penalty.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction.

If you have any questions concerning this matter, please contact me at 301-287-9527.

Sincerely,

Mark D. Lombard, Director
Office of Enforcement

Docket Nos.: 05000259, 05000260, 05000296,
05000327, 05000328,
05000390, 05000391

License Nos.: DPR-33, DPR-52, DPR-68,
DPR-77, DPR-79,
NPF-90, NPF-96