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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF



Bellefonte Efficiency & Sustainability Team

Chapter of the Blue Ridge Environmental Defense League
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February 29, 2008

Dave B. Matthews
Director of the Division of New Reactor Licensing
Office of New Reactors
U.S. NRC
Washington D.C. 20555-0001

Re: Docket Nos. 52-014 and 52-015, Bellefonte Units 3 and 4 / TVA

Dear Mr. Matthews:

By this letter, BEST requests request that you immediately suspend the notice of hearing in the above captioned matter. The reason for this request is that the TVA application is incomplete and will likely be amended and supplemented until the end of the year—in fact, your “target” schedule indicates that the Staff does not anticipate a draft Safety Evaluation Report until mid-December of this year which will still have “opened” requests for additional information.¹ This is hardly the condition of a completed application upon which one can rely for review and filing contentions. TVA has requested exemptions to which your agency has not yet responded. It is likely, based upon your experience with other applications, which you will soon have requests to deviate from the certified design.

Among existing requested exemptions is an exemption from filing Fitness for Duty Program (FFDP) description places an impossible burden upon a person interested in examining the FFDP. *See* TVA Application, Part 7 at pages 7-8. The rationale that the licensee will be burdened by filing its FFDP twice applies no less to an interested person who might wish to request a hearing on issues raised by the FFDP that is not included in the license application. If it is reasonable to grant TVA an exemption from filing its FFDP until such time as the rule is final, it is certainly reasonable to withdraw the Notice of Hearing and reissue it at such time as the application is complete and includes all portions of the FSAR as required by NRC regulations--including an FFDP. Similar considerations apply to the request for an exemption from 10 CFR Part 52, Appendix D, Section IV.A.2.a. *See* TVA Application, Part 7 at pages 10-11.

Compliance with the rule will cause less hardship on TVA than upon any person who attempts to read and understand the Application. By requiring the TVA to provide both sets of numbers, any person of ordinary resources and intelligence will be easily able to track both the DCD and FSAR. Failing to make this requirement places an undue burden on lay readers--which burden is anathema to NRC requirements that documents such as the application be accessible to non-technical readers. It is also the case that

¹ The SER with opened issues is not targeted to be released until late August. The Preliminary SER with Requests for Additional Information (RAIs) is not targeted to issue until 12/18/08.

unless and until the NRC Staff grants the request, a person interested in requesting a hearing is additionally burdened by not knowing which way to reference any of the documents at issue.

The application also fails to disclose financial information, power projections and other material that TVA claims to be covered under proprietary privilege. The financial information that TVA claims are “proprietary” includes pages 1.1-6 through 1.1-12 of its application, encompassing parts 1.3.1 through 1.3.4 and tables 1.3-1 through 1.3-4. In review of Sections 8.1 - 8.4 of the Environmental Review, the following information is inaccessible, information which is deemed necessary for reviewing the application and filing contentions:

- Figures 8.2-14 which the text says illustrates the real price of electricity for all customer classes in the TVA region (1990-2006.)
- Figures 8.4 -1 through Figure 8.4-8 which demonstrate the need for capacity. An analysis of this need cannot be made without these figures.

Part 9 of the Environmental Report contains tables and figures TVA has hidden as allegedly proprietary. Without access to this information, the public cannot evaluate TVA conclusions about the matters contained in the tables and charts. Nor, therefore, can the public raise contentions concerning the correctness and/or accuracy of such information, which information is crucial to the determination of the need for the proposed facility.

The fact is that the NRC should not have permitted TVA to withhold this information from the public. The NRC should not have allowed the application process to go forward without a disclosure of this information to the public. TVA is not a private company in competition with anyone--it is a government agency—and has no right to withhold this information. Given that the financial and power projection information is crucial to the determination of the need for the proposed facility, there can be no meaningful public participation in the hearing process without access to that information. If the NRC really intends to foster meaningful opportunities for public participation in the process of licensing new nuclear power reactors, applications need to be complete before the 60 day clock begins running on the opportunity to request a hearing. It is not possible to formulate contentions on an incomplete application from which large chunks of what should be public information have been excerpted under what is very likely a bogus claim of proprietary privilege by the TVA.

The only way to restore a modicum of fairness to this process is to immediately suspend the public intervention process until these issues have been resolved.

Thank you for your prompt attention to this matter.

Sincerely,

Louise Gorenflo
(931) 484-2633

cc R. William Borchardt, Director
Office of New Reactors
U.S. NRC