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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

IN THE MATTER OF)	Docket Nos. 50-390-CivP;
)	50-327-CivP; 50-328-CivP;
TENNESSEE VALLEY AUTHORITY)	50-259-CivP; 50-260-CivP;
)	50-296-CivP
)	
(Watts Bar Nuclear Plant, Unit 1;)	ASLBP No. 01-791-01-CivP
Sequoyah Nuclear Plant, Units 1 & 2;)	
Browns Ferry Nuclear Plant,)	EA 99-234
Units 1, 2, & 3))	

**RESPONSE TO THE NRC STAFF'S OBJECTION TO TENNESSEE VALLEY
AUTHORITY'S MOTION FOR LEAVE TO FILE REPLY IN
SUPPORT OF MOTION FOR SUMMARY DECISION**

On March 4, 2002, the Nuclear Regulatory Commission (NRC) Staff filed an objection to the Tennessee Valley Authority's (TVA) motion for leave to file a reply in support of its motion for summary decision. The NRC Staff asserts TVA is attempting to circumvent the specific prohibition against additional statements in support of its motion for summary decision (Obj. at 1). The NRC Staff misreads the applicable Rules. TVA moved to file a reply "[p]ursuant to 10 C.F.R. §§ 2.730 and 2.749" (Mot. at 1). Specifically, 10 C.F.R. § 2.730(c) (2001)—the general provisions for motions—clearly state that "[t]he moving party shall have no right to reply, *except as permitted by the presiding officer*," which in this case is the Board (emphasis added). TVA's motion for leave simply seeks such permission from the Board to file a reply.

Second, contrary to the NRC Staff's contention (Obj. at 1) that the reply "will only cause further delays," the reply would in fact be helpful to the Board in clarifying the NRC Staff's failure to factually or legally dispute that (1) Thomas J.

McGrath did not have knowledge of Garly L. Fiser's protected activity before the filing of his 1996 complaint and (2) the NRC Staff's inference of discrimination based upon the temporal proximity between the appointment of McGrath and Wilson C. McArthur as Fiser's supervisors and his nonselection in July 1996 is fatally flawed as a matter of law. The reply further points out that the NRC Staff's response seeks to confuse the matter by raising issues and facts not pertinent to the bases of TVA's pending motion for summary decision.

Based on the foregoing reasons and those stated in TVA's motion for leave, the Board should permit the filing of TVA's reply.

Respectfully submitted,

March 8, 2002

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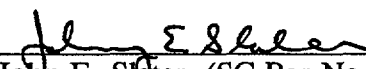
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing response to the NRC Staff's objection to TVA's motion for leave to file reply in support of its motion for summary decision has been served by regular mail on the persons listed below. Copies of the response have also been sent by e-mail to those persons listed below with e-mail addresses.

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This 8th day of March, 2002.



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