

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

Before Administrative Judges:

Ronald M. Spritzer, Chairman
Dr. Richard F. Cole
Dr. Alice C. Mignerey

In the Matter of

VIRGINIA ELECTRIC and POWER COMPANY
d/b/a DOMINION VIRGINIA POWER and OLD
DOMINION ELECTRIC COOPERATIVE

(Combined License Application
for North Anna Unit 3)

Docket No. 52-017-COL

ASLBP No. 08-863-01-COL

July 26, 2012

ORDER

(Setting Time for Filing Motion to Reopen the Proceeding)

On October 20, 2011, the Licensing Board granted a consent motion to hold in abeyance a contention submitted on September 22, 2011 by Petitioner Blue Ridge Environmental Defense League (BREDL).¹ That contention challenges the adequacy of the combined license application to construct and operate a third nuclear reactor at the North Anna Power Station in Louisa County, Virginia, in the wake of the earthquake that occurred on August 23, 2011 in Mineral, Virginia.² The Board placed the contention in abeyance until such time as the applicants Virginia Electric and Power Company d/b/a Dominion Virginia Power and Old Dominion Electric Cooperative (Dominion) completed an assessment of the seismic analyses in the application.³

¹ Licensing Board Order (Granting Consent Motion to Hold BREDL's New Contention in Abeyance) (Oct. 20, 2011) (unpublished) [hereinafter Abeyance Order].

² Request to Admit Intervenor's New Contention (September 22, 2011) [hereinafter Seismic Contention].

³ Abeyance Order at 2.

After the Board's order, and before Dominion completed its assessment, the Commission held in CLI-12-14 that the licensing proceeding had terminated when the Board, prior to the filing of the Seismic Contention, declined to admit BREDL's last pending contentions.⁴ The Commission remanded to the Board a limited grant of jurisdiction to consider a future motion by BREDL under 10 C.F.R. § 2.326 to reopen the proceeding and admit the Seismic Contention.⁵

Dominion and BREDL have each offered suggestions as to how the Board should proceed in light of CLI-12-14.⁶ Dominion informs the Board that revisions to its Final Safety Analysis Report will be complete by May 2013, and proposes that BREDL be granted 30 days to file its motion to reopen from the date when Dominion informs the Board and parties that its seismic assessment is complete.⁷ BREDL proposes a 60-day window for the filing of its motion, citing the "detailed and complex" issues involved and the "heavy burden" it must meet to reopen the record.⁸

In consideration of the significant revisions that Dominion will make to its application, and the strict procedural requirements of a section 2.326 motion to reopen, we adopt BREDL's suggestion and will grant a period of 60 days for BREDL to submit a motion to reopen the proceeding. In order to be accepted, BREDL's motion will need to meet each of the following requirements: Under subsection 2.326(a), the motion must be timely, must concern a significant environmental or safety issue, and must demonstrate the likelihood of a materially different result.

⁴ CLI-12-14, 75 NRC __, __ (June 7, 2012) (slip op. at 10-11).

⁵ Id. at __ (slip op. at 13-14).

⁶ See Letter from David R. Lewis, Counsel for Dominion, to Atomic Safety and Licensing Board (June 19, 2012) [hereinafter Dominion Letter]; Letter from Louis A. Zeller, BREDL, to Atomic Safety and Licensing Board (July 13, 2012).

⁷ Dominion Letter at 2, 3.

⁸ BREDL Letter at 1-2.

Under subsection 2.326(b), the motion must be supported by an affidavit that separately addresses each of the 2.326(a) criteria. Because the contention relates to a matter not previously in controversy among the parties, under subsection 2.326(d) the motion must also satisfy the requirements of 10 C.F.R. § 2.309(c). Additionally, the underlying contention must meet the admissibility requirements of 10 C.F.R. § 2.309(f).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ronald M. Spitzer
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 26, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Virginia Electric and Power Company d/b/a)	
Dominion Virginia Power (DVP or Dominion))	Docket No. 52-017-COL
and Old Dominion Electric Cooperative (ODEC))	
)	
(North Anna Power Station, Unit 3))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Setting Time for Filing Motion to Reopen the Proceeding)** have been served upon the following persons by Electronic Information Exchange.

Administrative Judge
Ronald Spritzer, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ronald.spritzer@nrc.gov

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: richard.cole@nrc.gov

Administrative Judge
Alice C. Mignerey
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: alice.mignerey@nrc.gov

James Maltese, Law Clerk, ASLBP
E-mail: james.maltese@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
Robert Weisman, Esq.
Sara Kirkwood, Esq.
Jody C. Martin, Esq.
Marcia Carpentier, Esq.
Anthony Wilson, Esq.
Jeremy Wachutka, Esq.
Michael Spencer, Esq.
Patrick Moulding, Esq.
E-mail: rmw@nrc.gov;
sara.kirkwood@nrc.gov; jody.martin@nrc.gov;
marcia.carpentier@nrc.gov;
anthony.wilson@nrc.gov;
jeremy.wachutka@nrc.gov;
michael.spencer@nrc.gov
patrick.moulding@nrc.gov

OGC Mail Center: ogcmailcenter@nrc.gov

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
E-mail: hearing.docket@nrc.gov

DOCKET NO. 52-017-COL

ORDER (Setting Time for Filing Motion to Reopen the Proceeding)

Dominion Resources Services, Inc.
120 Tredgar Street, RS-2
Richmond, VA 23219
Lillian M. Cuoco, Senior Counsel
E-mail: Lillian.Cuoco@dom.com

North Carolina Utilities Commission
Louis S. Watson, Jr., Senior Staff Attorney
Kim Jones, Analyst
4325 Mail Service Center
Raleigh, NC 27699-4325
E-mail: swatson@ncuc.net
kjones@ncuc.net

Old Dominion Electric Cooperative (ODEC)
4201 Dominion Boulevard, Suite 200
Glen Allen, Virginia 23060
James Patrick Guy II, Esq.
E-mail: james.guy@leclairryan.com

Morgan, Lewis & Bockius, LLP
1111 Pennsylvania, Ave. N.W.
Washington, D.C. 20004
Stephen J. Burdick, Esq.
E-mail: sburdick@morganlewis.com

Pillsbury Winthrop Shaw Pittman, LLP
2300 N. Street, N.W.
Washington, DC 20037-1128
David R. Lewis, Esq., Counsel for Dominion
Robert B. Haemer, Esq.
Jason B. Parker, Esq.
Stefanie Nelson George, Esq.
Maria Webb, Paralegal
E-mail: david.lewis@pillsbury.com;
jason.parker@pillsburylaw.com;
robert.haemer@pillsburylaw.com;
stefanie.george@pillsburylaw.com
maria.webb@pillsburylaw.com

Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629
Louis A. Zeller
E-mail: BREDL@skybest.com

Erich Pica, President
Friends of the Earth
1100 15th Street, NW
11th Floor
Washington, D.C. 20555
E-mail: mkeever@foe.org

[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 26th day of July 2012