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Congress of the United States
House of Representatives
Washington, D.C. 20515

June 17, 1976

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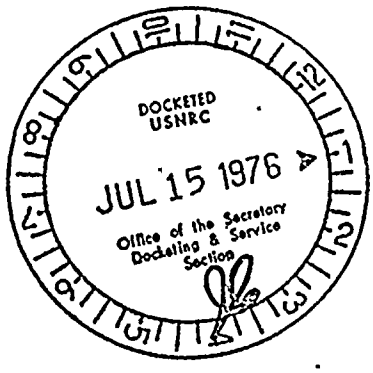

Mr. Thomas W. Reilly, Esq., Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docket Nos. 50-259
50-260

Dear Chairman Reilly:

I would like to take this opportunity again to urge that the Atomic Safety and Licensing Board devote full efforts to the timely resolution of the proceedings pertaining to the above noted docket numbers.

Already, power consumers in the Tennessee Valley Authority area have been told that their power charges would increase in July. Without the nuclear units at Browns Ferry, Alabama, operating during the peak summer periods, they will be saddled again with even higher electric rates throughout the remainder of the summer.

I can't emphasize enough the economic impact that further delay in the processing of TVA re-licensing application will have on the seven-state TVA service area. From the information I have received regarding this case, it is not in the public interest to continue allowing one individual the right to inflict such losses on a vast segment of people, especially in light of the favorable safety evaluation given Browns Ferry by the NRC staff.

There is no equity to the people I represent when such delays are allowed to continue when so many favorable comments have been reported on the safety of the Browns Ferry nuclear units. Action must be taken now if power consumers in the Tennessee Valley are to be spared unnecessary increases in their electric charges.

Continued

Rec'd - 6/21/76

Your expeditious handling of this matter is mandatory in order to resolve the issues in question and to prevent astronomical economic losses to the people served by the Tennessee Valley Authority.

With kindest regards and best wishes, I am

Sincerely yours,

Ed Jones, M.C.

EJ:ah

6/10/76

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of TENNESSEE VALLEY AUTHORITY (Browns Ferry Nuclear Plant, Units 1 and 2)	Docket Nos. 50-259 50-260

RULINGS ON MOTIONS

I. Intervenor's Motion To Compel NRC Staff

On May 20, 1976, the Intervenor filed a Motion For An Order To Compel the NRC Staff To Respond To Certain Interrogatories And To More Fully Respond (To Others). This motion has been rendered MOOT by the Board's May 24 "Rulings On Objections (of NRC Staff) & Protective Order," which discussed and ruled upon the Staff's answers and objections to Intervenor's interrogatories.

II. Intervenor's Motion To Compel TVA

On May 20, 1976, the Intervenor also filed a Motion For An Order To Compel The Applicant To Respond To Certain Interrogatories And To More Fully Respond (To Others).[1/] The Board's rulings on the disputed interrogatories are listed below by Intervenor's Interrogatory numbers.

1/ See also Licensee's Answer in Opposition, filed June 2, 1976.

1 thru 6: Question 3 has already been adequately answered. 1,2,4,5 and 6 should be answered, but limited only to NRC, NRC Regulations, and the Atomic Energy Act of 1954, as amended. Questions relating to compliance with the regulations of other agencies and other laws are irrelevant to the admitted contentions in this proceeding.

8: Already answered adequately in TVA's May 10 filing (see p.4). Any further specification of specific names would be unduly burdensome and oppressive, and would add nothing to the admission already made.

9 & 10: Already adequately answered.

13: Considering the presumptuous nature of the question, the answer is adequate. (The Board notes that many of Intervenor's interrogatories are improperly presumptuous in form, i.e., they start with a damaging assumption of fact neither proven nor admitted and then pose a question based upon the unfounded assumption; see also 33,68,69,82 and 83.)

16 & 17: Disclosure of the requested information is prohibited by Privacy Act of 1974, 5 U.S.C. §552a. Objection sustained.

18 & 19: Improper request for documents through vehicle of an interrogatory. Objection sustained.

20: First two parts, requesting information relating to plants other than Browns Ferry, are irrelevant to this proceeding. Objection sustained. The third and fourth parts were answered. The fifth part, relating to education and experience of TVA employees, is prohibited from disclosure by the Privacy Act of 1974, 5 U.S.C. §552a. However, the Licensee should answer with regard to the names of the specific TVA employees, if any, and their positions, whom TVA believes were responsible for the plant not being built according to AEC-approved design, if that was the case. TVA should also respond to the follow-up questions on disciplining of responsible employees and explanation for not building according to AEC-approved design. However, pursuant to the Privacy Act, supra, replies to discipline questions need not identify the specific employee(s) against whom such action(s) were taken, if any.

21: Irrelevant to this proceeding. Objection sustained.

26: Objection sustained.

42-45: Irrelevant to contentions. Objection sustained.

46-27: Correspondence with members of Congress is irrelevant to this proceeding, and education and experience of employees who so correspond is protected from disclosure by the Privacy Act of 1974, supra.

48-49, 51-52: Irrelevant to contentions. Objection sustained.

53-54: TVA should answer, except as to "education and experience" requested in #53 (prohibited by Privacy Act, supra).

55: Argumentative and beyond the scope of the contentions. Objection sustained.

57: Objection over-ruled. TVA should answer. The question appears to relate to possible "construction anomalies" as specified in admitted Contention 2B, as well as to the question of adherence to "original AEC construction requirements."

66: Irrelevant to contentions. Objection sustained.

70-81: Beyond the scope of the admitted contentions. Objection sustained.

84. Most of these questions are unduly broad, irrelevant and some appear to be frivolous. However, a few could be deemed relevant to Contention 2 and might possibly lead to admissible evidence on the issue of TVA personnel's technical qualifications and competency. Objection sustained to part, but TVA should answer the following sub-parts:

(a) How will the area under test be lighted so as to observe minute movement of the feather?

(b) How will the feather be attached to the wand? Give manufacturer, material and dimensions of wand.

(c) Will feather be real or artificial?

(d) If artificial of what manufacture. If feather will be real, give name or breed (of fowl from which taken) and part of body from which plucked.

(e) How will the leak location be marked as accurately as possible?

(f) Give dimensions of feather.

(g) Was the feather on a wand option considered at the time the decision was made to use flaming candles to test for leaks?

(h) If so, why rejected? If not, why not?

91-97: Beyond the scope of the contentions. Objections sustained. These subjects might be appropriate for examination at an original operating license proceeding; however, the scope of the contentions in the present case do not open up these areas for adjudication.

98-100: Objections over-ruled, except for "education and experience" portion of #99 (prohibited by Privacy Act of 1974, supra).

101: Objection sustained, prohibited by Privacy Act of 1974, supra.

103,105,106: Objection sustained, irrelevant to this proceeding.

107: Objection over-ruled as to first four sentences. Objection sustained as to balance of 107. (Balance is overly broad and apparently unrelated to the contentions.)

109-111: Objections over-ruled.

113-115: Objections sustained.

118-272: The portions of these questions wherein education, experience, employment history and disciplinary actions are inquired into are objectionable as violative of the Privacy Act of 1974, therefore objections are sustained to all requests for such information. With regard to the incidents listed by NSIC Accession Numbers, to the extent that all of these incidents refer to alleged "safety-related occurrences," their details are irrelevant to adjudicating the validity of Contention 2A because it is only their total number (in comparison to usual experience at other facilities) that is in issue. Accordingly, objections to those interrogatories are sustained as being beyond the scope of the contentions. (The Intervenor has not specified which, if any, of these interrogatories might possibly relate to alleged violations of NRC requirements, and they are not apparent from the face of the questions themselves.)

273: Objection sustained, irrelevant to admitted contentions.

274-277: Objection over-ruled. These could relate to the "competency" aspect of Contention 2.

278-280: Objection sustained, irrelevant to contentions, except that TVA should answer last sentence in #280.

283: Objection sustained, prohibited by Privacy Act of 1974, except that TVA should supply job titles of Messrs. Wagner and Gilleland, any written matter relied on, and names of persons who assisted them in preparing their testimony.

285-286: Education and experience information is prohibited by the Privacy Act of 1974, and the identification of TVA personnel interviewed by NRC inspectors and investigators is exempt from disclosure under 10 CFR §2.790 (a)(5) and (8). Objections sustained.

289-290: Already adequately answered for the purposes of the issues in this proceeding.

293: Objection sustained for reasons given in TVA's objection. TVA is under no obligation to update a voluminous report, ahead of normal schedule, simply because requested to do so by Intervenor.

III. TVA's 2d Motion To Compel Intervenor

On May 26, 1976, the Licensee filed a Second Motion For An Order To Compel Intervenor To Respond To Certain Interrogatories.

Most of the unanswered or inadequately answered interrogatories, which TVA complains about, are attempts to get the Intervenor to set forth the factual bases for Intervenor's contentions and the underlying specific facts

concerning the defects or deficiencies alleged by him. (See Licensee's Interrogatories To Garner, filed April 16, 1976, and Intervenor's Answers To Interrogatories Of Applicant, filed May 14, 1976.)

TVA's Interrogatories 1(a) and 2(d) are clearly proper and should be fully and completely answered. It is clearly inadequate and nonresponsive for Intervenor to simply list a group of documents and imply that his specific factual bases are buried somewhere within them. As TVA's brief points out, this is an effort to shift the burden to the Licensee to determine what facts are stated in each document, and then to try to extricate and connect some of those facts to specific contentions. This is particularly inappropriate where the referenced documents merely point out potential areas of fire-related design deficiencies in the original Browns Ferry design (and not the modifications at issue in this proceeding), and offer recommendations for correction.

Many of the Intervenor's answers to TVA's interrogatories are not particularly informative or as specific as one might expect, but on the other hand, they appear to be the best he can do. We have ruled such answers to be "already adequately answered" below. However, such answers are accepted at the Intervenor's peril, i.e., if this is the best factual support he can give for certain of his contentions, they will be readily susceptible to being stricken upon an appropriate motion for summary disposition.

2(e): First part is already adequately answered; second part has not been answered and should be.

3(d): Already adequately answered.

3(f) & 4(d): First part already adequately answered; second part has not been answered and should be.

5(f) & (g): Already adequately answered.

5(h): Not answered fully or adequately. The last sentence in the interrogatory is not complied with at all. Intervenor should answer fully.

6(e): See ruling on 2(e).

6(f),7(f),7(g): Already adequately answered.

8(a) & (b): Intervenor is not entitled to withhold part of his answer until later. He must give as full and complete an answer as possible now.

8(c),(d)&(e): These questions go to the very heart of Intervenor's contentions, and must be answered as fully as possible now.

9(c): Already adequately answered.

10(a): See ruling on 8(a)&(b).

10(b): Already adequately answered.

11(d): Intervenor's answer refers back to his answer to 7(c), which in turn refers back to his answer to 2(c), which in turn refers back to his answer to 1(h), which has nothing to do with the information requested by Interrogatory #11(d). This answer is inadequate, and the Intervenor should supply an adequate, non-evasive answer.

11(e): Objection over-ruled. Intervenor should answer. This is directly in point with one of Intervenor's contentions (3).

11(f): Adequately answered as to the NRC's Atlanta Region. However, Intervenor should supply now any answers he may have as to other regions.

11(g): The answer to this interrogatory is too vague, evasive, and non-specific. This question goes to the heart of Intervenor's Contention 3, and he should be prepared to give a meaningful answer to this question now.

* * * *

The appropriate parties to whom the last two sets of interrogatories were addressed, and which the Board has now ruled (above) require further answers, are directed to respond fully and in writing, under oath or affirmation within no later than ten (10) days from the date of this Order.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Thomas W. Reilly

Thomas W. Reilly, Esq., Chairman

Issued at Bethesda, Maryland
this 10th day of June, 1976.