

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 04/07/08
SERVED 04/07/08

In the Matter of)	
)	
TENNESSEE VALLEY AUTHORITY)	Docket Nos. 52-014 and 52-015
)	
Bellefonte Nuclear Power Plant)	
(Units 3 and 4))	

ORDER

This matter is before the Commission on a “Supplemental Motion to Suspend Hearing Notice or, in the Alternative, Request for an Extension of Time to Submit Hearing Request and Contentions and Request for Expedited Consideration” filed by Bellefonte Efficiency and Sustainability Team (“BEST”), dated April 2, 2008. BEST argues that an NRC Staff request for additional information (“RAI”) on seismic issues and a Staff reference to a “revised plan for the hydrology review” demonstrate that the Bellefonte combined license application is incomplete and that the NRC should suspend the Notice of Hearing to avoid burdening BEST with “the obligation to engage in piecemeal litigation.” In the alternative, BEST asks the Commission to grant it an extension of 60 days following the submission of the seismological and hydrological information requested by the NRC Staff. BEST also argues that the NRC’s Notice of Hearing is defective because it fails to explain to the public how to obtain documents related to Westinghouse’s proposed amendments to the AP1000 design.

BEST’s supplemental motion follows the denial of a similar request by BEST that the Commission suspend or withdraw the Notice of Hearing issued in this proceeding on the ground that the Bellefonte License Application is incomplete. See Order, Bellefonte Nuclear Power Plant (Units 3 and 4) (Mar. 28, 2008). In its previous request, BEST argued, *inter alia*, that the application was insufficient because the SER and EIS process presumably would necessitate NRC Staff RAIs, which would require the submission of additional information by the applicant.

The Commission denied that request because “RAIs and ‘open items’ are a normal part of the licensing review process and do not provide a basis either for extending the deadline for submission of contentions or for suspending or withdrawing the Notice of Hearing.” *Id.* This reasoning still stands. If the applicant’s response to the Staff’s RAI or the revised hydrology review provide new and materially different information, BEST will not be harmed because it will have an opportunity to proffer contentions based upon that new information under 10 C.F.R. § 2.309(f).

BEST also challenges the NRC’s Notice of Hearing for the Bellefonte COL application. BEST’s motion indicates that its representative unsuccessfully searched the NRC’s Agencywide Documents Access and Management System (“ADAMS”) under the Bellefonte docket number for documents related to the proposed AP1000 design certification amendments. The NRC’s review of Westinghouse’s application to amend the AP1000 Design Certification Rule is a generic rulemaking proceeding. Documents related to that proceeding are kept on a rulemaking docket, 52-006, separate from the adjudicatory Bellefonte docket. The NRC has referenced this docket in the *Federal Register*. “Westinghouse Electric Company; Acceptance for Docketing of a Design Certification Rule Amendment Request for the AP1000 Design,” 73 Fed. Reg. 4,926 (Jan. 28, 2008). In addition to the *Federal Register*, BEST can locate proposed design amendments by contacting the NRC Staff. Contact information for the NRC’s public document room is available on the NRC’s website and was included in the Notice of Hearing. BEST itself acknowledges TVA’s declaration that the Bellefonte COL application incorporates the AP1000 Design rule and amendment application by reference. The Bellefonte application does provide certain citations to pertinent documents in the NRC’s electronic record keeping system. Nonetheless, it would have been useful to the public if the notice of hearing had identified the design certification rule and rulemaking incorporated by reference into TVA’s application and provided the associated docket number or other information on how to obtain access to such

information. To enhance public participation in the proceeding, a 60-day extension is granted from the date of this Order for interested persons to file a petition to intervene.

For the foregoing reasons, BEST's supplemental motion to suspend hearing is denied, and its request for an extension is granted in part (i.e., for a period of 60 days from the date of this Order). This Order is issued pursuant to my authority under 10 C.F.R. §§ 2.346(a) and (b).

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
this 7th day of April, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER OF THE SECRETARY have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-014 and 52-015
ORDER OF THE SECRETARY

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[Original signed by R. L. Giitter]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 7th day of April 2008