

DOCKETED 11/15/01

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 3577

SERVED 11/15/01

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Charles N. Kelber
Lester S. Rubenstein

In the Matter of

DUKE ENERGY CORPORATION

(McGuire Nuclear Station, Units 1 and 2,
Catawba Nuclear Station, Units 1 and 2)

Docket No's. 50-369-LR, 50-370-LR,
50-413-LR, and 50-414-LR

ASLBP No. 02-794-01-LR

November 15, 2001

MEMORANDUM AND ORDER

(Granting in Part Request for Additional Extension of Time)

1. Petitioner Nuclear Information and Resource Service (NIRS) has, in a November 12, 2001, document styled "Report and Appeal by Nuclear Information and Resource Service of Judge Young's 11-09-01 Memorandum and Order," requested an additional 10-day extension of time for filing its amended and supplemented petition and contentions, in this proceeding involving the application of Duke Energy Corporation (Duke) to renew the operating licenses for its McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2, for additional twenty-year periods commencing in 2021, 2023, 2024, and 2026, respectively. NIRS has also, in a November 9, 2001, document styled "NIRS Reply to Licensing Board Memorandum and Order of November 09, 2001," sought to "make a significant clarification" to the effect that daily event reports it has requested were intended to include such reports "generated by all operating pressurized water reactors including those of the same design, model and vintage as the Catawba and McGuire units."

2. During a telephone conference held November 14 the Board heard argument on these requests, and made the following rulings:

A. The Board noted that its previous November 9, 2001, Memorandum and Order (Denying Request for Additional Extension of Time) is not correctly construed, as NIRS representative Gunter asserts, as acknowledging or stating any position with regard to whether the daily event reports in question “rightfully belong in the public domain.”

B. Based upon the absence of any previous reference or argument by Petitioner NIRS relating to daily event reports generated by any plants other than those at issue in this case, and upon previous discussion having been directed to “plant conditions” at the plants at issue in this proceeding, *see, e.g.*, Tr. 89 *et seq.*, 92, 99, 102, 11-112, 118-119, 124, the Board declined to grant NIRS’ request with regard to such other reports.

C. The Board granted, in part, NIRS’ request for an additional extension of time for filing its amended and supplemented petition and contentions, based upon NIRS not having received the daily event reports sent by the Staff on November 8, *see* Memorandum and Order (Denying Request for Additional Extension of Time) (Nov. 9, 2001), until November 13, 2001. This ruling was also grounded in the Board’s previous ruling that the recent unavailability of materials, including such reports, as a result of their removal from the NRC public website and public documents room following the terrorist events of September 11, 2001, constitute “unavoidable and extreme circumstances” as required by the Commission in its referral Order. *See* Licensing Board Memorandum and Order (Granting Motion to Extend Time and Resetting Deadlines and Schedule for Proceedings), LBP-01-31, 54 NRC -- (Oct. 31, 2001); *Duke Energy Corporation* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-01-20, 54 NRC — (Oct. 4, 2001). The Board granted NIRS’ request to the following extent:

The deadline for NIRS to file its amended and supplemented petition and contentions is extended from November 27 to no later than 5:00 p.m. Eastern time, November 29, 2001, by electronic filing, with paper copies posted the same day. To simplify the proceedings, all parties agreed that, given this extension granted to NIRS, BREDL shall also file its amended and

supplemented petition and contentions in the same manner and by the same time; the Staff and Duke Energy were also granted a proportionate extension for filing their responses to the petitioners' amended and supplemented petitions and contentions, so that they shall be filed no later than 5:00 p.m. December 13, 2001. Paper documents, attachments and exhibits not susceptible to e-mailing or faxing shall be sent by overnight mail, hand delivery, or other method to ensure receipt by all members of the Board and by representatives for all participants, by 5:00 p.m. November 29, 2001; for others on the service list, such paper documents may be mailed, postmarked no later than November 29, 2001.

D. All participants were reminded that, except as otherwise specified herein, all filings, including contentions, must still comply with the guidance and requirements specified in the Board's Order (Setting Deadlines, Schedule, and Guidance for Proceedings) (Oct. 16, 2001), and in the Commission's Referral Order, *Duke Energy*, CLI-01-20, 54 NRC — (Oct. 4, 2001).

E. Oral argument on the petitioners' standing and contentions shall be held, as previously scheduled, on December 18 and 19, 2001, in Courtroom 2 of the U.S. Courthouse, 401 W. Trade Street, Charlotte, North Carolina, commencing at 9:00 a.m. each morning and continuing into the evening as required. As also previously stated, the Board shall issue its decision on standing and contentions on or before January 23, 2002.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 15, 2001

¹Copies of this Order were sent this date by Internet e-mail or facsimile transmission, if available, to all participants or counsel for participants.

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NUCLEAR REGULATORY COMMISSION

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(McGuire Nuclear Station, Units 1 and 2;)
Catawba Nuclear Station, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (GRANTING IN PART REQUEST FOR ADDITIONAL EXTENSION OF TIME) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Docket Nos. 50-369/370/413/414-LR
LB MEMORANDUM AND ORDER
(GRANTING IN PART REQUEST FOR
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 15th day of November 2001