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

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Before Administrative Judges:

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

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In the Matter of

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

DUKE ENERGY CORPORATION

ASLBP No. 02-794-01-LR

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

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November 29, 2001

MOTION TO SUSPEND LICENSE RENEWAL PROCEEDING PENDING PUBLIC RELEASE OF  
FINAL SAFETY ANALYSIS REPORTS

Nuclear Information and Resource Service (NIRS) respectfully moves that the Atomic Safety Licensing Board suspend the matter of license renewal for Duke Energy's Catawba and McGuire reactors, as referenced above, until the Final Safety Analysis Reports (FSARs) for the Catawba and McGuire Nuclear Power Stations are available in the Nuclear Regulatory Commission's (Commission's or NRC's) Public Document Room.

NIRS and our members have been denied access to vital information because of the events of September 11 and subsequent decisions by the Commission to remove documents that are part of the public record for this case from public access. These documents are necessary in order for us to bring fully developed contentions that will address the interests of our members and meet the Commission's admissibility standards. While some of these issues have been addressed in previous motions and orders of the Atomic Safety Licensing Board (ASLB) Panel, a new situation has developed. NIRS has been denied access to the FSARs for the Catawba and McGuire reactors. The FSARs are integral to the license renewal

application insofar as they describe the Current Licensing Basis (CLB) that is being confirmed, supplemented, or altered by the license renewal application. See 10CFR 54.21(b) and (d), 10 CFR 54.29. The regulations clearly state that environmental information will be available to the public. 10CFR51.120.

The unavailability of the FSARs for Catawba and McGuire fact has come to light late in the process of preparing this case because until mid-November, NIRS believed that it had copies of the FSARs, on compact disks, that it had obtained previously. Unfortunately, the compact disks were lost during a recent move, when the North Carolina office of NIRS was opened.

We noted the loss about November 16<sup>th</sup>, when Jess Riley (a NIRS member now to be represented by NIRS in this case as stated in his declaration filed today), contacted us saying that he was seeking the FSARs in order to clarify a question about a physical component of the reactors. Mr. Riley needed the information in order to draft a contention pertaining to aging of reactor components for NIRS to offer. Mr. Riley said he had contacted Rani Franovich, NRC's License Renewal Project Manager. He also contacted Duke Power, where he received a return call from Ms. Lisa Vaughn. Both of these individuals denied his request to have access to the documents. Mr. Riley also reported that Ms. Franovich suggested that NIRS would have to return to the ASLB to obtain this document.

Mary Olson then contacted the NRC Public Document Room in order to purchase a new set of compact disks. The librarian informed Ms. Olson that these were unavailable for security reasons. Ms. Olson then asked the staff of the DC offices of NIRS to search for the compact disks, but they could not be found.

It is impossible for NIRS, as representatives of our members to participate effectively in a case where the basic information in the public record is denied. We appreciate the ASLB's efforts to address our concerns about other items such as the Daily Event Reports and the Generic Environmental Impact Statement on License Renewal, as well as to allow more time to

prepare contentions. We regret that we did not discover that access to the FSARs would be a problem until recently, and thus did not bring it to the ASLB's attention earlier. We believe that the unavailability of the FSARs has significantly impaired our ability to prepare contentions that meet the basis and specificity requirements of 10 CFR 2.714. Even if our contentions are admitted, our ability to participate in the hearing process will be limited by the lack of these fundamental licensing documents.

Our members, as members of the public, are granted the opportunity for a hearing on license renewal by the Commission's regulations (10 CFR 2.714) under the Atomic Energy Act, and were given that opportunity on August 15, 2001 in the Federal Register (FR08152001Vol 66, # 158, Notices, page 42893-42894). We find that they are in fact being denied this right, by virtue of being denied access to the very basic information of the proceeding.

We also wish to call to the ASLB's attention the fact that the unavailability of FSARs for other comparable reactors may hamper our ability to participate in this proceeding if our contentions are admitted. We note here that our technical team has raised the need to examine the FSARs for the Oconee reactors with respect to vessel head penetrations, and the FSARs for the Cook, Sequoyah and Watts Bar reactors with respect to ice condenser issues. We presume that these FSARs are also publicly unavailable. We believe that it is reasonable for the public to have access to the library of information that it might find pertinent to any particular case, and that this should not be limited by the ability of the parties to plead for it under restrictive time lines when that time would have otherwise been used to consult the document itself.

NIRS therefore respectfully requests that the license renewal process be suspended pending the availability of the FSARs for Catawba 1 & 2 and McGuire 1 & 2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Olson', written over a horizontal line. The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Mary Olson  
Director Southeast Office, Nuclear Information and Resource Service  
Asheville, North Carolina

November 29, 2001

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY LICENSING BOARD

In the Matter of )  
)  
DUKE ENERGY CORPORATION ) Docket Nos. 50-369, 370, 413 and 414  
)  
(McGuire Nuclear Station, )  
Units 1 and 2, and )  
Catawba Nuclear Station )  
Units 1 and 2) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "AMENDED PETITION TO INTERVENE and REPLY TO ARGUMENTS WITH RESPECT TO STANDING" and "CONTENTIONS OF NUCLEAR INFORMATION AND RESOURCE SERVICE" and "MOTION TO SUSPEND LICENSE RENEWAL PROCEEDING PENDING PUBLIC RELEASE OF FINAL SAFETY ANALYSIS REPORTS" and "COMPILED EXHIBITS ASSOCIATED WITH NUCLEAR INFORMATION & RESOURCE SERVICE CONTENTIONS WITH RESPECT TO DUKE LICENSE RENEWAL" in the above-captioned proceeding have been served on the following parties by this 29<sup>th</sup> day of November, 2001 as ordered on November 15<sup>th</sup>: hard copy delivered to Parties, by electronic transmission to all, and by US First Class mail to others on the distribution list. Signed originals have been sent by US First Class mail to the Office of the Secretary, including signed original Declaration of Jess Riley and a copy of the previously docketed Declaration of Phyllis St. Clair both of which are also included in the delivery and US Mail distributions since neither is available in electronic format. Additionally, hard copies of other Exhibits have also been provided by delivery and US First Class mail, since they are not available for electronic transmission.

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A handwritten signature in black ink, appearing to read "M Olson", written over a horizontal line.

Mary Olson  
Nuclear Information & Resource Service  
Southeast Office, Asheville, NC

This 29<sup>th</sup> Day of November, 2001