

RAS 3970

February 4, 2002
DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

2002 FEB 27 AM 11:40

BEFORE THE COMMISSION

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

NOTICE OF APPEAL OF DUKE ENERGY CORPORATION FROM
ATOMIC SAFETY AND LICENSING BOARD MEMORANDUM
AND ORDER LBP-02-04 (RULING ON STANDING AND CONTENTIONS)

Pursuant to Nuclear Regulatory Commission ("NRC") regulations in 10 C.F.R. §2.714a, Duke Energy Corporation ("Duke") hereby appeals the January 24, 2002, Memorandum and Order of the Atomic Safety and Licensing Board ("Licensing Board") in this matter.¹ That Memorandum and Order restated and admitted two contentions for hearing that were based on proposed contentions filed by petitioners Nuclear Information and Resource Service ("NIRS") and the Blue Ridge Environmental Defense League ("BREDL") on November 29, 2001. The issue presented on appeal is whether these reformulated contentions, NIRS Consolidated Contention 1 and BREDL/NIRS Consolidated Contention 2, were properly admitted by the Licensing Board.

As discussed further in the supporting Memorandum of Law served with this Notice of Appeal, Duke opposes admission of these contentions because, contrary to the

¹ *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2, Catawba Nuclear Station, Units 1 and 2), LBP-02-04, __ NRC __ (slip op., Jan. 24, 2002).

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holdings of the Licensing Board, neither raises an admissible matter. Duke respectfully requests that the Commission reverse the Licensing's Board's admission of both contentions in LBP-02-04 and dismiss this proceeding. In the alternative, Duke requests that the Commission exercise its inherent supervisory authority to address the significant and novel legal and policy issues raised by the admission of these contentions, and take appropriate action to assure the efficient conduct and timely completion of this proceeding.

Respectfully submitted,



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Dated in Washington, D.C.
this 4th day of February 2002