

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 4283

ATOMIC SAFETY AND LICENSING BOARD PANEL

DOCKETED 04/11/02

SERVED 04/11/02

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

April 11, 2002

ORDER

(Addressing Matters Discussed at April 10, 2002, Telephone Conference
and Scheduling April 29, 2002, Telephone Conference)

On April 10, 2002, a telephone conference was held in this proceeding, which concerns the license renewal application of Duke Energy Corporation, seeking approval under 10 C.F.R. Part 54 to renew the operating licenses for its McGuire Nuclear Station, Units 1 and 2, and Catawba Nuclear Station, Units 1 and 2. The following matters were addressed:

1. A number of disputes between Duke and NIRS on discovery relating to Contention 1 were discussed, resulting in resolution of all, pending further discussion between Duke and NIRS on some, see, e.g., Transcript 787-89, 807 *et seq.*, 820-23, 826, 827 *et seq.*, 838-46, except one, NIRS' Request for Production 2D, see Tr. 789 *et seq.*, relating to the Mission Reactor Irradiation Plan(s). Although Duke agreed to provide all scheduling information in these plans, Intervenor NIRS argued that the proposed core loading map should also be provided, as this could be used by its expert, Dr. Lyman, to estimate the cumulative effects of anticipated use of MOX fuel on reactor vessel aging. Tr. 797-98.

2. The Board finds that NIRS has provided sufficient argument that provision of the core loading map information is reasonably calculated to lead to the discovery of admissible

evidence, see 10 C.F. R. § 2.740(b)(1), that this part of the Mission Reactor Irradiation Plan(s) should also be provided by Duke.

3. With regard to Contention 2, Duke, BREDL and NIRS will, during the coming weeks, continue discussions on the possibility of settling all or part of this contention, and/or narrowing the issues in dispute regarding this contention, based upon Duke's replies to Staff RAIs, and in the context of pending NRC Staff action relating to Generic Safety Issue 189, relating to measures for control of hydrogen in Mark III BWRs and ice condenser plants. The parties will report back on the extent of any success in these discussions at the next status conference. See Tr. 847-58. In addition, the Staff will provide any information it has with regard to the expected completion of Staff action on Generic Safety Issue 189, as soon as is feasible. See Transcript at 850.

4. The Staff indicated that it still expects to complete the draft SEIS during May or June 2002, and the final SEIS and SER during January and February 2003. Tr. 848-49.

5. On April 29, 2002, at 12:00 noon Eastern time, another telephone status conference shall be held, at which the following matters will be addressed:

(A) Duke and NIRS shall report their progress in discovery on Contention 1, present their positions on any remaining discovery disputes relating to Contention 1, and shall be prepared, with experts present at this conference, to discuss any areas of dispute with sufficient specificity that disputes may timely be resolved. As previously done, the parties should provide appropriate written recounting of any such disputes to the Board and all parties prior to April 29, to facilitate the timely resolution of such disputes. Duke and NIRS shall also report on any progress or possibility of settling any or all aspects of Contention 1.

(B) Duke, BREDL and NIRS shall inform the Board, to a reasonable degree of specificity (see paragraph 3 above), of what if any issues remain in dispute with regard to Contention 2

after settlement discussions and negotiations have occurred.

(C) Any scheduling or other matters that may aid in the most efficient conduct of this proceeding will be discussed and any pertinent new deadlines set, as appropriate. As previously indicated (see unpublished Order issued March 1, 2002, in this proceeding), discovery is scheduled to be completed on Contention 1 by May 3, 2002; motions for summary disposition on Contention 1 are due on May 10, 2002, with responses thereto due May 30, 2002; and, assuming all issues relating to Contention 1 are not earlier resolved by grant of any motion for summary disposition, prefiled written testimony shall be filed no later than June 28, 2002, and a hearing on Contention 1 shall be held the week of July 15, 2002, specifically, on July 16-18, 2002, as necessary.

(D) The parties are directed to be fully prepared at the April 29 conference to address the above issues and any others that are anticipated, including any scheduling issues, so that these can be resolved in a timely and efficient manner.

6. Participants should call 301/231-5539 or 1-800/638-8081 a few minutes before 10:00 a.m. and give passcode 4772#, in order to be connected in to the April 29 conference.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 11, 2002

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 ORDER (ADDRESSING MATTERS DISCUSSED AT APRIL 10, 2002, TELEPHONE CONFERENCE AND SCHEDULING APRIL 29, 2002, TELEPHONE CONFERENCE) 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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LB ORDER (ADDRESSING MATTERS DISCUSSED
AT APRIL 10, 2002, TELEPHONE CONFERENCE
AND SCHEDULING APRIL 29, 2002, TELEPHONE
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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 11th day of April 2002