

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 4639

DOCKETED 07/15/02

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 07/15/02

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

July 15, 2002

ORDER

(Addressing the Reconvening of Telephone Conference on Late-Filed Amendments to
Petitioners' Contention 2 and Matters to be Addressed Prior to and at Conference)

On July 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. The parties updated the Board on various items including: their progress on settlement negotiations on Contention 2; the pending appeal by Duke and the Staff to the Commission of the Board's ruling on Contention 2 and the Commission's appointment of Mr. Mike Snodderly as an Adjudicatory Employee who will advise the Commission in this appeal; the Staff's progress on Generic Safety Issue (GSI) 189, a June 6, 2002, meeting of the Advisory Committee on Reactor Safety (ACRS) in which GSI-189 and related information was discussed, and a June 27, 2002, Staff Requirements Memorandum (SRM) relating to GSI-189; a May 16, 2002, letter to the Board from Staff on concerns relating to the use of non-public

information; and questions arising out of the parties' filings related to late-filed amendments to Contention 2.

2. At the conclusion of the July 10 conference, it was decided to reconvene again on July 29, 2002, by telephone conference call, to continue with the Board's questions to the parties on the late-filed amendments to Contention 2 and all filings related to them, and to allow the parties time to address concerns that have not previously been addressed or covered through responses to the Board's questions. (The parties may utilize the transcript of the July 10 conference to assist them in focusing their responses more effectively.) In addition to being prepared to respond to the Board's questions, the parties shall also be prepared to address the following issues:

a. The relevance of GSI-189 in this proceeding, in light of the Commission's Memorandum and Order in the matter of *Duke Energy Corporation* (Oconee Nuclear Station, Units 1, 2, and 3), CLI-99-11, 49 NRC 328, 345 (1999) and any other pertinent authority;

b. Does the fact that station blackout provisions are part of the current licensing basis (CLB) preclude their consideration in a severe accident mitigation alternative (SAMA) analysis contention (supported by any pertinent case law or other authority);

c. In addition, Petitioners shall respond to legal arguments made by Duke and the Staff including those relating to the NEPA "hard look" doctrine; and

d. The parties may address matters not previously addressed that relate to the current filings on late-filed amendments to Contention 2.

3. The parties shall address the preceding issues in concise written filings which shall be submitted no later than July 22, 2002. Any such written filings shall be limited to matters not previously argued by the parties except insofar as necessary to establish context.

4. **Participants should call 301/231-5539 or 1-800/638-8081 a few minutes before 10:00 a.m. on July 29, 2002, and give passcode 8523# to be connected in to the conference.**

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD¹

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 15, 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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DUKE ENERGY CORPORATION) Docket Nos. 50-369/370/413/414-LR
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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 THE RECONVENING OF TELEPHONE CONFERENCE ON LATE-FILED AMENDMENTS TO PETITIONERS' CONTENTION 2 AND MATTERS TO BE ADDRESSED PRIOR TO AND AT CONFERENCE) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Ann Marshall Young, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge, ASLBP
Lester S. Rubenstein
4760 East Country Villa Drive
Tucson, AZ 85718

Susan L. Uttal, Esq.
Antonio Fernández, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Michael S. Tuckman, Executive Vice President
Nuclear Generation
Duke Energy Corporation
526 South Church Street
P.O. Box 1006
Charlotte, NC 28201-1006

Mary Olson
Director of the Southeast Office
Nuclear Information and Resource Service
729 Haywood Road, 1-A
P.O. Box 7586
Asheville, NC 28802

Janet Marsh Zeller, Executive Director
Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629

Docket Nos. 50-369/370/413/414-LR
LB ORDER (ADDRESSING THE RECONVENING OF
TELEPHONE CONFERENCE ON LATE-FILED
AMENDMENTS TO PETITIONERS' CONTENTION 2
AND MATTERS TO BE ADDRESSED PRIOR TO AND
AT CONFERENCE)

David A. Repka, Esq.
Anne W. Cottingham, Esq.
Winston & Strawn
1400 L Street, NW
Washington, DC 20005

Lisa F. Vaughn, Esq.
Duke Energy Corporation
422 South Church Street
Charlotte, NC 28202

Paul Gunter
Nuclear Information and Resource Service
1424 16th St., NW
Washington, DC 20026

Jesse Riley
854 Henley Place
Charlotte, NC 28207

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 15th day of July 2002