

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 7124

DOCKETED 12/08/03

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

SERVED 12/08/03

Ann Marshall Young, Chair
Anthony J. Baratta
Thomas S. Elleman

In the Matter of

DUKE ENERGY CORPORATION

(Catawba Nuclear Station, Units 1 and 2)

Docket No's. 50-413-OLA, 50-414-OLA

ASLBP No. 03-815-03-OLA

December 8, 2003

ORDER

(Regarding Telephone Conference, Deadlines and Scheduling Issues)

A telephone conference will be held in this proceeding¹ on Thursday, December 11, 2003, from 3:30 to 4:30, to address various scheduling issues as discussed during oral argument on December 3-4, 2003. **Participants should call 301/231-5539 or 1-800/638-8081 a few minutes before 3:30 p.m. Thursday, December 11, and give passcode 7463# to be connected in to the conference.** If possible, it would be desirable for the NRC Staff to have a security expert present to discuss any scheduling matters relating to security equipment and other issues.

Prior to this conference, the participants shall meet to try to work out by agreement the following deadlines and scheduling issues, and shall electronically file a joint report with regard to the same no later than the close of business Tuesday, December 9, 2003:

¹This proceeding involves Duke Energy Corporation's (Duke's) February 2003 application to amend the operating license for its Catawba Nuclear Station to allow the use of four mixed oxide (MOX) lead test assemblies at the station; Petitioners Nuclear Information and Resource Service (NIRS) and Blue Ridge Environmental Defense League (BREDL) in August 2003 filed petitions to intervene and requests for hearing in response to a July 2003 Federal Register notice concerning this application. See 68 Fed. Reg. 44,107 (July 25, 2003).

a. Deadline for responses to BREDL's late-filed contentions submitted December 2, 2003, and to BREDL's request that these be considered along with those contentions on which oral argument was heard December 3-4, as well as a schedule for oral argument on these contentions (the participants may wish to consider the possibility of doing oral argument on these contentions during the first two weeks of January, and to indicate their availability during this time period);

b. Any remaining issues relating to the Staff's Motion for Protective Order, including any listing of documents that will be provided with regard to future security-related contentions (i.e., design basis threat, etc.);

c. A schedule for the filing of, responses to, and oral argument on, any security-related contentions;

d. Any issues, include deadline/scheduling issues, relating to Duke's proposed withdrawal of Section 3.8 of its LAR and proposed amendment of any contentions relating to this section;

e. The provision of further case law on the applicability of CEQ regulations in NRC proceedings;

f. The provision of any further briefing on the Commission's terrorism rulings;

g. Any further briefing on NEPA case law on alternatives;

h. Any briefing on how the NRC has approached Executive Orders;

i. The provision of any additional authorities and sources on the state of the art with regard to the use of MOX fuel; and

j. Any other appropriate matters.

In addition to the above, any amendments to contentions, or late-filed contentions, shall be filed no later than 30 days from the date a party receives new information that is the basis of any amended and/or late-filed contention.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
December 8, 2003²

²Copies 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

In the Matter of)
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Catawba Nuclear Station, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (REGARDING TELEPHONE CONFERENCE, DEADLINES AND SCHEDULING ISSUES) 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. 50-413-OLA and 50-414-OLA
LB ORDER (REGARDING TELEPHONE CONFERENCE,
DEADLINES AND SCHEDULING ISSUES)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 8th day of December 2003