

RAS 7429

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

DOCKETED 03/05/04
SERVED 03/05/04

Before Administrative Judges:

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

March 5, 2004

ORDER

(Regarding Deadlines and Scheduling Issues)

A telephone conference was held in this proceeding¹ on February 26, 2004, to consider various scheduling and other issues. The following matters were addressed during this conference:

1. Oral argument on BREDL's security-related contentions filed March 3, 2004, shall be held in a closed hearing in a location to be announced in the Rockville NRC headquarters, on March 18, 2004. Duke and the Staff agreed to file their responses to the security-related contentions on March 16, in order that oral argument could be held March 18.

2. Two telephone status conferences were scheduled, for March 16, 2004, at 1:30 p.m., and March 25, 2004, at 9:30 a.m., to address various scheduling issues and any other appropriate matters in the proceeding.

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).

3. Certain addenda to the December 15, 2003, Protective Order in this proceeding, suggested by BREDL counsel, were agreed upon and are attached hereto.

4. Absent any future rulings to the contrary, BREDL shall be limited to inspecting Duke's September 15, 2003, Security Submittal at either the NRC offices in Rockville, or at the offices of Winston & Strawn in the District of Columbia, which Duke counsel said it would make available for BREDL counsel to use while inspecting the document.

5. Duke counsel indicated Duke would be filing RAI responses (a cover letter to which was subsequently filed on March 1), but would defer to the Staff for its determination on BREDL's "need to know." Staff counsel indicated this determination would be made no later than one week after receipt of the responses, or on March 9, 2004. Any appeal of the Staff determination shall be filed two days later, by March 11, 2004. Responses to any appeal shall be filed by March 15, 2004.

6. Staff counsel indicated that the Staff expects to issue the SER and environmental documents in this proceeding in the early part of April.

7. Pending additional information available at the time of the March 16 telephone conference that might change any of these dates, the following scheduling dates were set, subject to any limitations expressed in connection to any of them:

a. Initial discovery requests on the non-security-related contentions admitted this date shall be filed by March 19, 2004. Further discussion of discovery-related matters shall be had during the March 16 telephone conference.

b. Responses to all discovery requests shall be provided within 14 days of the request. All participants shall have a duty to supplement all discovery responses with any information that becomes available that would or should have been part of the original response, had it been available originally. This responsibility shall continue at least up to and through the hearing of issues to which the discovery relates.

c. The following tentative dates were set, which shall remain in place unless changed for good cause:

i. Prefiled direct testimony on all issues, security and non-security related, would be filed by May 5, 2004;

ii. The weeks of May 17 and June 14, 2004, shall be held open by all participants for evidentiary hearing on the admitted non-security-related contentions (limited appearance statements may also be heard during either of these two weeks); and

iii. June 1-4, 2004, shall be held for evidentiary hearing on any admitted security-related contentions.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 5, 2004²

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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ASLBP No. 03-815-03-OLA

March 5, 2004

ADDENDA

to

Protective Order Governing Duke Energy Corporation's
September 15, 2003 Security Plan Submittal (Dec. 15, 2003)

1. When mailing, hand-delivering, or otherwise transmitting any pleadings and correspondence in this proceeding (including testimony) that contain any Protected Information, in addition to enclosing such documents in two sealed envelopes or wrappers (including: (i) an outer mailing envelope, and (ii) a heavy, opaque inner envelope bearing the name and address of the addressee and the statement "PRIVATE. TO BE OPENED BY ADDRESSEE ONLY"), the inner sealed envelope shall also bear markings indicating that it contains protected information, including the designation "SAFEGUARDS INFORMATION," placed on both sides of the top and bottom of the envelope, if such Safeguards Information is enclosed therein.

2. For all pleadings or other documents that contain Safeguards Information, an NRC-supplied cover sheet (Form 461) shall be affixed thereto.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 5, 2004³

³Copies of this document were sent this date by Internet e-mail or facsimile transmission, if available, to all participants or counsel for participants.

UNITED STATES OF AMERICA
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 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 DEADLINES
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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 5th day of March 2004