

RELATED CORRESPONDENCE

March 31, 2004

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

In the Matter of

DUKE ENERGY CORPORATION

(Catawba Nuclear Station, Units 1 and 2)

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

DOCKETED
USNRC

April 6, 2004 (9:13AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE'S
FIRST SET OF DISCOVERY REQUESTS DIRECTED TO
DUKE ENERGY CORPORATION**

Pursuant to the schedule established by the Atomic Safety and Licensing Board's ("ASLB's") Order of March 30, 2004, Blue Ridge Environmental Defense League ("BREDL") hereby requests that the Applicant, Duke Energy Corporation ("Duke"), answer the following interrogatories and admission requests separately, fully, in writing, and under oath, and produce the documents requested below within the schedule established by the ASLB. These discovery requests pertain to Contentions I, II, and III, as admitted by the ASLB in LBP-04-04 (March 5, 2004).

I. INSTRUCTIONS

A. Scope of Discovery. These discovery requests cover all information in the possession, custody and control of Duke, including information in the possession of officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on Duke's behalf or otherwise subject to its control. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of Duke employees, representatives, investigators, and agents.

B. Lack of Information. If you currently lack information to answer any Interrogatory completely, please state:

1. The responsive information currently available;
2. The responsive information currently unavailable;
3. Efforts which you intend to make to secure the information currently unavailable; and
4. When you anticipate receiving the information currently unavailable.

C. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 C.F.R. § 2.740(e) and BREDL hereby demands that, in the event that at any later date Duke obtains or discovers any additional information which is responsive to these interrogatories and request for admissions and production of documents, Duke shall supplement its responses to this request promptly and sufficiently.

Such supplementation shall include, but not be limited to:

1. the identity and location of persons having knowledge of discoverable matters;
2. the identity of each person expected to be called as an expert witness at any hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and
3. new information which makes any response hereto incorrect.

D. Objections. If you object to or refuse to answer any interrogatory or document request under a claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, privilege, immunity or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for

asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to ascertain the validity of such assertion.

If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege, immunity, or other reason, and the name of the person on whose behalf the privilege, immunity, or other reason is asserted.

E. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

II. DEFINITIONS

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory and request for production which follows:

1. "Duke," "Applicant," "you," and "your" refers to Duke Energy Corporation, its officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by Duke, or anyone else acting on its behalf or otherwise subject to their control.

2. The term "documents" means the originals as well as copies of all written, printed, typed, recorded, graphic, photographic, and sound reproduction matter however produced or reproduced and wherever located, over which you have custody or control or over

which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, telegrams, telexes, wiring instructions, diaries, notes, interoffice and intra-office communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, microfilm, microfiche, corporate minutes, blueprints, drawings, contracts and any other agreements, rough drafts, and all other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

3. "All documents referring or relating to" means all documents that in whole or in part constitute, contain, embody, reflect, identify, state, interpret, discuss, describe, explain, apply to, deal with, evidence, or are in any way pertinent to a given subject.

4. The words "describe" or "identify" shall have the following meanings:

(a) In connection with a person, the words "describe" or "identify" mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;

(b) In connection with a document, the words "describe" or "identify" mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and

entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, the present custodian of the document, and any other information necessary to adequately identify the document;

(c) In connection with an entity other than a natural person (*e.g.*, corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address and telephone number of the principal place of business of such entity.

(d) In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication.

5. “Date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

6. The word “discussion” shall mean communication of any kind, including but not limited to, any spoken, written, or signed form of communication.

7. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

8. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.

B. The words “and” and “or” include the conjunctive “and” as well as the disjunctive “or” and the words “and/or.”

III. GENERAL DISCOVERY

A. GENERAL INTERROGATORIES

GENERAL INTERROGATORY NO. 1. State the name, business address, and job title of each person who was consulted and/or who supplied information for responding to each of the interrogatories, requests for admission, and requests for the production of documents posed by BREDL herein. Specifically note for which interrogatories, requests for admissions and requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to an interrogatory or request for admission differs from your written answer to the discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answer to the request.

GENERAL INTERROGATORY NO. 2. For Contentions I, II, and III, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom Duke expects to call as a fact or expert witness at the hearing. For expert witnesses, provide a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has provided fact and/or expert testimony and/or submitted affidavit(s) or declaration(s) within the preceding four years. For purposes of answering this interrogatory, the educational and scientific experience of expected witnesses may be provided by a resume of the person attached to the response. Fact and expert witnesses should be distinguished.

GENERAL INTERROGATORY NO. 3. For each witness identified in response to General Interrogatory No. 2 above, describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion, and identify the documents (including all pertinent pages or parts thereof), data or other information which each witness has reviewed and considered, or is expected to consider or to rely on for his or her testimony.

B. GENERAL DOCUMENT PRODUCTION REQUESTS

Please produce copies of the following documents:

REQUEST NO 1. All documents in your possession, custody or control that are identified, referred to or used in any way in responding to all of the above general interrogatories and the following interrogatories and requests for admissions relating to specific contentions.

REQUEST NO. 2. All documents in your possession, custody or control relevant to each BREDL admitted contention, and to the extent possible, segregated by contention and separated from already produced documents.

REQUEST NO. 3. All documents (including experts' opinions, workpapers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to testimony or evidence that you intend to use in the hearing on each BREDL admitted contention.

IV. SPECIFIC DISCOVERY

A. SPECIFIC INTERROGATORIES

1. Contention I

SPECIFIC INTERROGATORY NO. I-1: Identify and describe in detail all experimental data and analysis relevant to your claim that the differences between MOX and LEU fuel performance during a design-basis LOCA are fully accounted for in your application and RAI

responses, including your claim in the 11/4/04 RAI response that the methods employed by Duke for performing LOCA calculations, including calculations of fuel clad ballooning, "are applicable to both MOX and LEU fuel because they are independent of the pellet type." RAI response at 8. Address this subject in the context of the NRC's statement that "chemical bonding between the pellets and the cladding, which may be different for MOX pellets and UO₂, may affect the ballooning process and hence the fuel behavior." Memorandum from William Travers, Executive Director for Operations, to NRC Commissioners re: Agency Plan for Confirmatory Research Associated With the Use of Mixed-Oxide Fuel in Commercial Light Water Reactors, Attachment at 2 (February 11, 2000).

SPECIFIC INTERROGATORY NO. 2: Identify and describe in detail all experimental data and analysis justifying your omission of a design-basis LOCA consequence analysis in the license amendment application. In particular, please address the extent to which you took into account in your assessment the wide uncertainty bands for MOX early in-vessel release fractions for most fission product categories presented in the expert panel report "Accident Source Terms for Light-Water Nuclear Power Plants: High-Burnup and Mixed-Oxide Fuels," Energy Research, Inc., ERI/NRC 02/0202 at 38 (November 2002).

B. REQUESTS FOR ADMISSIONS

None posed at this time.

C. DOCUMENT REQUESTS

Please provide copies of the following documents:

1. Contention I

REQUEST NO. I-1: Any and all documents containing data or analyses described in response to Interrogatory I-1 above.

2. Contention II

REQUEST NO. II-1. Any and all documents containing results of severe accident consequence assessments that have been conducted by Duke for the Catawba nuclear power plant during the past five years. If documents responsive to this request include documents that have already been provided to BREDL in the license renewal case for Catawba and McGuire, it will be sufficient to identify the documents.

REQUEST NO II-2. Any and all MACCS2 input files that Duke has used in consequence assessments for the Catawba nuclear power plant during the last five years, including the meteorological data file and the source term release fractions for all severe accidents considered.

REQUEST NO. II-3. With respect to any consequence assessments identified in response to Request No. 1, any and all documents containing technical justifications for any assumptions made with respect to the quantities and characteristics of radionuclides released from core to containment.

REQUEST NO. II-4. With respect to any consequence assessments identified in response to Request No. 1, any and all documents containing technical justifications for any assumptions made with respect to the quantities and characteristics of radionuclides released from containment to the environment.

REQUEST NO. II-5. Any and all documents containing any analysis by Duke of the potential for or consequences of severe accidents when using MOX LTAs at the Catawba nuclear power plant.

REQUEST NO. II-6. Any and all documents discussing research regarding the potential for increased probabilities or consequences of severe accidents during use of MOX fuel at

nuclear power plants, including but not limited to studies by the Institut de Radioprotection et de Sûreté Nucléaire ("IRSN") or its predecessor, IPSN.

3. Contention III

REQUEST NO. III-1 Any and all documents evaluating the suitability of the Oconee nuclear power plant for batch use of plutonium MOX fuel.

Respectfully submitted,



Diane Curran

Harmon, Curran, Spielberg, & Eisenberg, L.L.P.

1726 M Street N.W., Suite 600

Washington, D.C. 20036

202/328-3500

e-mail: Dcurran@harmoncurran.com

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