

April 19, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

April 27, 2004 (11:08AM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of:)
DUKE ENERGY CORPORATION)
(Catawba Nuclear Station,)
Units 1 and 2))

Docket Nos. 50-413-OLA
50-414-OLA

**BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE'S
MOTION FOR CLARIFICATION OR RECONSIDERATION
APRIL 8, 2004, ORDER**

Blue Ridge Environmental Defense League ("BREDL") hereby requests that the Atomic Safety and Licensing Board ("ASLB") clarify or reconsider paragraph 6 of the ASLB's April 8, 2004, Order (Confirming Matters Addressed at April 6 Teleconference) (hereinafter "April 8 Order"), because statements in paragraph 6 appear to limit or confuse the scope of Contentions I and II in a manner not intended by the ASLB.

As admitted by the ASLB, Contention I asserts that:

The LAR is inadequate because Duke has failed to account for differences in MOX and LEU fuel behavior (both known differences and recent information on possible differences) and for the impact of such differences on LOCAs and on the DBA analysis for Catawba.

LBP-04-04, Memorandum and Order (Ruling on Standing and Contentions), slip op. at 41

(March 5, 2004). Contention II asserts that:

The LAR is inadequate because Duke has (a) failed to account for the impact of differences in MOX and LEU fuel behavior (both known differences and recent information on possible differences) on the potential for releases from Catawba in the event of a core disruptive accident, and (b) failed to quantify to the maximum extent

practicable environmental impact factors relating to the use of MOX LTAs at Catawba, as required by NEPA.

Id. at 42.

As formulated in LBP-04-04, Contention I appears to be restricted to the adequacy of Duke's analysis of design basis accidents ("DBAs").¹ Contention II appears to be restricted to the adequacy of Duke's analysis of potential severe accidents, *i.e.*, beyond-design-basis accidents, with respect to compliance with the National Environmental Policy Act ("NEPA") and NRC safety regulations.

Two sentences in the ASLB's April 8 Order, however, appear to confuse the distinction between the scope of Contentions I and II. In paragraph 6, the ASLB states as follows:

With respect to Contention I, this contention encompasses those calculations involved in the determination of events up to and including LOCAs and DBAs, but does not include analyses related to any releases either in containment or offsite. In Contention II, on the other hand, the term 'core disruptive accident' refers to any core melt, whether contained in vessel or not, resulting from LOCAs, DBAs, or severe accidents, and thus Contention II encompasses any consequences thereof, including releases into containment or offsite.

Id. at 2-3.

First, the ASLB's statement that Contention I "encompasses those calculations involved in the determination of events up to and including LOCAs and DBAs, but does not include analyses related to any releases either in containment or offsite," is confusing because Duke's LOCA analysis does, in fact, involve consideration of releases in containment. NRC regulations in 10 C.F.R. Part 100 require that in its LOCA analysis, Duke must show that releases to containment from a DBAs do not exceed certain limits. Thus, the adequacy of Duke's

¹ In fact, BREDL seeks to litigate the adequacy of Duke's analysis with respect to only one type of DBA, a loss of coolant accident ("LOCA").

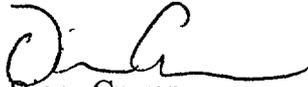
compliance with Part 100 limits in the event of an in-containment release is at issue in Contention I. Therefore, BREDL requests that the ASLB modify this sentence to read: “With respect to Contention I, this contention encompasses those calculations involved in the determination of events up to and including LOCAs and DBAs, including the Part 100 DBA analysis.”²

BREDL is also confused by the ASLB’s statement that in Contention II, “the term ‘core disruptive accident’ refers to any core melt, whether contained in vessel or not . . .” To BREDL’s knowledge, the term “core disruptive accident” is not defined in NRC regulations. Based on the manner in which the ASLB used the term in Contention II, however, it appears to relate to a severe or beyond-design-basis accident, *i.e.*, an event in which a LOCA or other initiating event occurs but emergency core cooling systems are unable to terminate core damage, leading to a loss of coolable core geometry, core melt, melt relocation and vessel melt-through. Under this definition, a “core disruptive accident” could not be contained by the vessel. Thus, BREDL requests that the ASLB change the sentence to read as follows: “In Contention II, on the other hand, the term ‘core disruptive accident’ refers to any core melt associated with a severe accident.”

BREDL respectfully submits that these proposed modification will clarify that Contention I addresses design basis issues, and Contention II addresses beyond-design-basis issues relating to safety and NEPA compliance.

² BREDL recognizes that consideration of Part 100 compliance issues in Contention I could lead to some overlap between Contentions I and II regarding evidence related to radionuclide release fractions during core damage, since the “design basis” core-to-containment source term is included within the “severe accident” core-to-containment source term. This degree of overlap is manageable, however.

Respectfully submitted,



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April 19, 2004

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2004, copies of Blue Ridge Environmental Defense League's Motion for Clarification or Reconsideration of April 8 Order were served on the following by e-mail and/or first-class mail, as indicated below. In addition, copies of the exhibits were served by FAX.

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