

May 11, 2004

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

May 18, 2004 (4:52PM)

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)

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

DUKE ENERGY CORPORATION'S MOTION TO MODIFY PROTECTIVE ORDER

On April 8, 2004, in response to an unopposed motion by Duke Energy Corporation ("Duke"), the Atomic Safety and Licensing Board ("Licensing Board") issued a "Memorandum and Order (Protective Order Governing Non-Disclosure of Proprietary Information)" ("Protective Order"). Duke herein requests that the Licensing Board issue an Addendum to the Protective Order.

On April 13, 2004, Duke and Blue Ridge Environmental Defense League ("BREDL") executed a Confidentiality and Non-Disclosure Agreement pursuant to the Protective Order. Subsequently, to facilitate Duke's May 10, 2004 response to the second set of discovery requests from BREDL, Duke and BREDL agreed that the April 13, 2004 Confidentiality and Non-Disclosure Agreement would encompass documents proprietary to "Duke's contractors" (e.g., Westinghouse) as well as Duke, Duke Cogema Stone & Webster ("DCS"), and DCS's contractors, and that the remedies provided by Paragraph 4 of the Agreement apply to Duke's contractors as well as Duke, DCS and/or DCS's contractors.

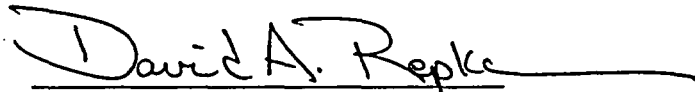
Further, Duke and BREDL agreed to request that the Licensing Board make conforming changes to the Protective Order.

Specifically, Paragraph 4 of the Form of the Confidentiality and Non-Disclosure Agreement attached to the Protective Order should be revised to state:

4. BREDL agrees that any threatened or existing violation of this Agreement would cause Duke, Duke's contractors, Duke Cogema Stone & Webster ("DCS"), and/or DCS's contractors irreparable harm for which Duke, Duke's contractors, DCS and/or DCS's contractors would not have an adequate remedy at law, and that Duke, Duke's contractors, DCS and/or DCS's contractors shall be entitled to seek immediate injunctive relief prohibiting such violation in addition to any other rights or remedies. If a party is liable to the other on account of this Agreement, the measure of damages shall include any amount for indirect, incidental, consequential, or punitive damages and/or lost profits.

Attached is a copy of a proposed Addenda to the Protective Order. Counsel for BREDL and the NRC Staff have indicated that they have no objection to this amendment.

Respectfully submitted,



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ATTORNEYS FOR DUKE ENERGY
CORPORATION

Dated in Washington, District of Columbia
This 11th day of May 2004

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

Before Administrative Judges:

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

In the Matter of:)	Docket Nos. 50-413-OLA
)	50-414-OLA
DUKE ENERGY CORPORATION)	
)	ASLBP No. 03-815-03-OLA
(Catawba Nuclear Station,)	May __, 2004
Units 1 and 2))	

ADDENDUM NUMBER 1

to

Protective Order Governing Duke Energy Corporation's
Non-Disclosure Of Proprietary Information (April 8, 2004)

Paragraph 4 of the form of the Confidentiality and Non-Disclosure Agreement attached to the Protective Order Governing Non-Disclosure of Proprietary Information (April 8, 2004) is amended to read as follows:

4. BREDL agrees that any threatened or existing violation of this Agreement would cause Duke, Duke's contractors, Duke Cogema Stone & Webster ("DCS"), and/or DCS's contractors irreparable harm for which Duke, Duke's contractors, DCS and/or DCS's contractors would not have an adequate remedy at law, and that Duke, Duke's contractors, DCS and/or DCS's contractors shall be entitled to seek immediate injunctive relief prohibiting such violation in addition to any other rights or remedies. If a party is liable to the other on account of this Agreement, the measure of damages shall include any amount for indirect, incidental, consequential, or punitive damages and/or lost profits.

DRAFT

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

Ann Marshall Young
ADMINISTRATIVE JUDGE

Rockville, Maryland
May __, 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)

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "DUKE ENERGY CORPORATION'S MOTION TO MODIFY PROTECTIVE ORDER" in the captioned proceeding have been served on the following by deposit in the United States mail, first class, this 11th day of May, 2004. Additional e-mail service, designated by **, has been made this same day as shown below.

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