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

DOCKETED 05/18/04

Before Administrative Judges:

SERVED 05/18/04

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

May 18, 2004

ORDER

(Confirming Matters Addressed at May 14, 2004, Conference)

On May 14, 2004, a conference was held in this proceeding,¹ to consider various matters relating to proposed redactions of portions of the Licensing Board's April 12, 2004, Memorandum and Order (Ruling on Security-Related Contentions), and to the schedule for discovery and hearing of the non-security-related contentions in the proceeding. The former, security-related matters were discussed in a closed session, which was followed by a public session to address the latter, non-security-related matters. The following dates were set with regard to both the security-related and the non-security-related matters, some of which have been changed due to the continuing serious condition of Dr. Lyman's father:

1. All parties shall submit any further comments and argument relating to proposed redactions to the Board's April 12 Memorandum and Order no later than Thursday, May 20,

¹This proceeding involves 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 (LTAs) at the station. By Memorandum and Order dated March 5, 2003, Petitioner Blue Ridge Environmental Defense League (BREDL) was admitted as a party in the proceeding, after having filed a petition to intervene and request for hearing in response to a July 2003 Federal Register notice concerning this application. See LBP-04-04, 59 NRC ____ (2004); 68 Fed. Reg. 44,107 (July 25, 2003). Additional background on this proceeding is provided in LBP-04-04, as well as in an April 12, 2004, Memorandum and Order (Ruling on Security-Related Contentions), which was, when issued, sealed as Safeguards Information, but a redacted version of which will be published in the near future.

2004. Thereafter, the Board will issue to the parties the proposed redacted Memorandum and Order to be published, providing the parties a limited period of time within which to indicate any intent to appeal any redacted or non-redacted portions, after which a redacted public version of the Memorandum and Order shall be published, containing the Board's redactions, as well as any provisional redactions proposed by any party pending appeal.

2. BREDL shall provide any remaining discovery responses on non-security-related issues no later than May 24, 2004, unless further problems prevent this. Notice of any such problems shall be timely provided if they should occur. Duke and the Staff agreed not to depose Dr. Lyman on Contention I if the June hearing date on it can be kept. Tr. 1901.

3. A telephone status conference shall be held May 28, 2004, at 9:30 a.m., to address any discovery disputes that may arise, along with any other appropriate matters. By the same date, the parties shall report to the Board on the results of their settlement negotiations on Contention II.

4. Prefiled written direct testimony on Contention 1 shall be filed no later than June 2, 2004. Any prefiled written rebuttal testimony on Contention 1 shall be filed no later than June 8, 2004.

5. The hearing on Contention 1 shall be held, as previously planned, absent extreme and unavoidable circumstances, in Charlotte on June 15-16, 2004, continuing into the morning of June 17 if necessary. Limited appearance statements shall be heard on June 15 from 6:00 to 8:00 p.m. at a location to be announced.

6. If Contention II is not settled and a hearing is required, the parties shall attempt to set a date for any necessary deposition of Dr. Lyman on Contention II during the second week of June; prefiled written direct testimony shall be filed July 1; any prefiled written rebuttal testimony shall be filed July 8; and the hearing on Contention II shall be held in Rockville on July 15, 2004. If such a hearing is held on July 15, the previously-scheduled closed session for 1:00 p.m. the

same date would be moved to July 16, 2004, at 10:00 a.m. Otherwise, the closed session shall be held, as previously planned, on July 15 at 1:00 p.m.

7. All other previously-set deadlines and dates shall remain the same.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 18, 2004²

²Copies of this Memorandum and 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

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(Catawba Nuclear Station, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (CONFIRMING MATTERS ADDRESSED AT MAY 14, 2004, CONFERENCE) 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 (CONFIRMING MATTERS ADDRESSED
AT MAY 14, 2004, CONFERENCE)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 18th day of May 2004