

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 7848

ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 05/28/04
SERVED 05/28/04

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

May 28, 2004

AMENDED
Notice of Evidentiary Hearing
and
Opportunity to Make Limited Appearance Statements

This Atomic Safety and Licensing Board hereby provides this amended notice of hearing, revising its earlier May 20, 2004, Notice of Hearing. See 69 Fed. Reg. 29,982 (May 26, 2004). The Board will still, in accordance with 10 C.F.R. § 2.715(a), entertain oral limited appearance statements from members of the public, as specified in Section A below, in afternoon and evening sessions on June 15, 2004, from 3:30 to 5:30 p.m. and 7:00 to 9:00 p.m., respectively, in Charlotte, North Carolina. The evidentiary hearing previously scheduled to commence on June 15, 2004, in Charlotte is, however, as specified in Section D below, rescheduled now to commence on July 14, 2004, at the NRC Offices in Rockville, Maryland, where the Board will receive testimony and exhibits and allow the cross-examination of witnesses on certain matters at issue in this proceeding. This rescheduling was requested by Intervenor Blue Ridge Environmental Defense League (BREDL), with the agreement of Duke Energy Corporation (Duke) and the NRC Staff, because of the unavoidable and extreme circumstance of the unavailability of BREDL's expert to prepare for the June hearing dates due to family health issues.

As previously noted, this proceeding involves certain challenges of BREDL to Duke's request 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. (MOX fuel contains a mixture of plutonium and uranium oxides, with plutonium providing the primary fissile isotopes; Duke has submitted its request as part of the ongoing U.S.-Russian Federation plutonium disposition program, a nuclear nonproliferation program to dispose of surplus plutonium from nuclear weapons by converting the material into MOX fuel and using that fuel in nuclear reactors.) On September 17, 2003, this Licensing Board was established to preside over this proceeding. 68 Fed. Reg. 55,414 (Sept. 25, 2003). By Memoranda and Orders dated March 5 and April 12, 2004 (the latter sealed as Safeguards Information; redacted version issued May 28, 2004), the Licensing Board granted BREDL's request for hearing and admitted various non-security-related and security-related contentions. LBP-04-04, 59 NRC __ (2004); LBP-04-10, 59 NRC __ (2004). At the July evidentiary hearing, the Board will receive evidence on BREDL's non-security-related Contention I, challenging the adequacy of certain aspects of Duke's license amendment request relating to asserted differences in the behavior of MOX fuel and typical low enriched uranium fuel and the impact of those differences on accident scenario analyses for the Catawba plant.

A. Participation Guidelines for Limited Appearance Session

On June 15, 2004, in two sessions, from 3:30 to 5:30 p.m. and 7:00 to 9:00 p.m., respectively, in a portion of the Grand Ballroom (lobby level) of the Omni Charlotte Hotel (132 East Trade Street), any persons who are not parties to the proceeding will be permitted to make oral statements setting forth their positions on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they may nonetheless help the Board and/or the parties in their consideration of the issues in this proceeding.

The time allotted for each statement will normally be no more than five minutes, but may be further limited depending on the number of written requests to make oral statements that are submitted in accordance with Section C below, and/or on the number of persons present the evening of June 15, 2004. Persons who submit timely written requests to make oral statements will be given priority over those who have not filed such requests. If all scheduled and unscheduled speakers present have made their oral statements prior to 9:00 p.m., the Licensing Board may terminate the session before 9:00 p.m.

B. Submitting Requests to Make an Oral Limited Appearance Statements

To be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received by close of business (4:30 p.m. EST) on Monday, June 7, 2004. Written requests should be submitted to:

Mail: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-1101 (verification (301) 415-1966)

E-mail: hearingdocket@nrc.gov

In addition, using the same method of service, a copy of the written request to make an oral statement should be sent to the Chair of this Licensing Board as follows:

Mail: Administrative Judge Ann Marshall Young
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: 301/415-5599 (verification 301/415-7550)

E-mail: AMY@nrc.gov

C. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted at any time. Such statements should be sent to the Office of the Secretary using any of the methods prescribed above, with a copy to the Licensing Board Chair by the same method.

D. Timing and Location of Evidentiary Hearing

The evidentiary hearing will commence at 1:00 p.m. on Wednesday, July 14, 2004, in the NRC offices at Two White Flint North, 11545 Rockville Pike, in Rockville, Maryland. The hearing of the above-described evidence will continue at 9:00 a.m. on July 15, and may go into the evenings of July 14 and/or 15, as necessary. At the conclusion of each day, the Board will announce when the hearing will reconvene. The Board may make changes in the schedule, lengthening or shortening each day's session or canceling a session as deemed necessary or appropriate to allow for witnesses' availability and other matters arising during the course of the proceeding.

Members of the public are encouraged to attend any and all sessions of this evidentiary hearing, but should note that these sessions are adjudicatory proceedings open to the public for observation only. Those who wish to participate are invited to offer limited appearance statements on June 15 or in written statements, as provided above. Those who wish to attend the July 14-15, 2004, hearing should come to the front entrance of the Two White Flint North building (the second building south of the entrance to the White Flint Metro station) and indicate to the security guard on duty that they wish to attend the "Catawba hearing"; arrangements will then be made to direct persons attending to the hearing room.

E. Availability of Documentary Information Regarding the Proceeding

Documents relating to this proceeding are available for public inspection at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland; or electronically through the publicly available records component of

the NRC Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible through the NRC web site at <<http://www.nrc.gov/reading-rm/adams.html>>. The PDR and many public libraries have terminals for public access to the Internet. Persons who do not have access to ADAMS or who encounter problems in obtaining access to the documents located in ADAMS may contact the NRC PDR reference staff by telephone at 1-800/397-4209 or 301/415-4737, or by e-mail to pdr@nrc.gov.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 28, 2004 ¹

¹Copies of this Notice 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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DUKE ENERGY CORPORATION) Docket Nos. 50-413-OLA
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(Catawba Nuclear Station, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB AMENDED NOTICE OF EVIDENTIARY HEARING AND OPPORTUNITY TO MAKE LIMITED APPEARANCE STATEMENTS have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Ann Marshall Young, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Anthony J. Baratta
Atomic Safety and Licensing Board Panel
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Washington, DC 20555-0001

Administrative Judge
Thomas S. Elleman
Atomic Safety and Licensing Board Panel
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Washington, DC 20555-0001

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Washington, DC 20036

Docket Nos. 50-413-OLA and 50-414-OLA
LB AMENDED NOTICE OF EVIDENTIARY
HEARING AND OPPORTUNITY TO MAKE
LIMITED APPEARANCE STATEMENTS

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Washington, DC 20036

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 28th day of May 2004