

RAS 8025

RELATED CORRESPONDENCE

June 23, 2004

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

DOCKETED
USNRC

In the Matter of

DUKE ENERGY CORPORATION

(Catawba Nuclear Station, Units 1 and 2)

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

June 28, 2004 (3:14PM)
OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**BLUE RIDGE ENVIRONMENTAL-DEFENSE LEAGUE'S
OBJECTIONS TO DUKE'S AND NRC STAFF'S FIRST ROUND OF
DISCOVERY REQUESTS REGARDING SECURITY ISSUES
AND REQUEST FOR A PROTECTIVE ORDER**

I. INTRODUCTION

Pursuant to the Atomic Safety and Licensing Board's ("ASLB's") Order of April 28, 2004, and 10 C.F.R. § 2740(c), Blue Ridge Environmental Defense League ("BREDL") hereby objects to certain interrogatories and requests for production of documents posed by Duke Energy Corporation and the U.S. Nuclear Regulatory Commission ("NRC") Staff regarding BREDL's security-related Contention 5. Duke Energy Corporation's First Set of Interrogatories and Requests for Production of Documents to Blue Ridge Environmental Defense League on BREDL Security Contention (June 21, 2004) (hereinafter "Duke's Request"); NRC Staff's First

Set of Interrogatories and Request for Production of Documents to Blue Ridge Environmental Defense League on Security Contention 5 (June 21, 2004) (hereinafter "NRC Staff's Request).

BREDL requests that the ASLB issue a protective order that the requested discovery not be had, or that it not be had unless BREDL is provided with (a) the security plan for the Catawba nuclear power plant, including plant blueprints; and (b) the current Design Basis Threats ("DBT") for sabotage against Catawba and theft of Category I SSNM at Catawba. BREDL also requires a

reasonable time to review these materials before it can provide complete answers to the interrogatories.

BREDL objects to Duke's Interrogatory 6 and all of its subparts, with the exception of subparts (t), (y), (aa), (bb), and (cc); Duke Interrogatories 7, 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, and 24; and Staff Interrogatories 7, 10, 13(a), 15, 16, 17, 20, 21, and 24. Each of these interrogatories either directly asks for, or requires BREDL to have knowledge of, the contents of Duke's security plan for Catawba or the DBTs for sabotage and theft of SSNM, to which BREDL is not privy. For instance, BREDL provides the following examples:

- Duke Interrogatory 6 asks BREDL to provide detailed information regarding credible scenarios for theft of Category I strategic special nuclear material. Staff Interrogatory 7 also asks for information about a "credible adversarial path," including a timeline. In order to devise such a scenario or scenarios, BREDL would need to know what security obstacles must be overcome, *i.e.*, the contents of Duke's security plan for the Catawba nuclear power plant. BREDL would also need to be able to stand in the shoes of the team of attackers that is described in 10 C.F.R. § 73.1(a)(2). The team of attackers is assumed to include inside assistance by a "knowledgeable individual" who may "provide information." Thus, the knowledgeable individual must be presumed to have access to Duke's security plan, as well as the DBT that it is designed to protect against.
- Duke Interrogatory 19 asks BREDL to identify and describe any asserted deficiency in the existing Catawba security force in numbers, training, fitness, or weaponry to protect against credible threat scenarios. Obviously, without access to Duke's security plan for the Catawba nuclear power plant, BREDL has no means of answering this question.

- Duke Interrogatory 24 asks BREDL to state each and every difference between the sabotage threat for SSNM and the threat of diversion for SSNM as relevant to Duke's request for an exemption. Similarly, Staff Interrogatory 15 asks BREDL to identify and describe any bases, justifications or other information that BREDL expects to rely on to demonstrate that the "additional protection measures proposed for the MOX LTAs, while not meeting the regulations for Category I SSNM, do not adequately protect the MOX LTAs for common defense and security." Without access to the DBTs for sabotage and theft of Category I SSNM, it is impossible for BREDL to answer these questions.

Accordingly, BREDL asks the ASLB to order that Duke and the NRC Staff are not entitled to discovery on these questions, unless and until BREDL is given access to the relevant underlying documents, and a reasonable period of time to review them.

Respectfully submitted,



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June 23, 2004

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2004, copies of Blue Ridge Environmental Defense League's Objections to Duke's and NRC Staff's First Round of Discovery Requests Regarding Security Issues and Request for Protective Order were served on the following by e-mail and/or first-class mail, as indicated below.

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