

July 20, 2004

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

Thomas S. Elleman  
Administrative Judge  
Atomic Safety and Licensing Board  
5207 Creedmoor Rd. #101  
Raleigh, NC 27612

Anthony J. Baratta  
Administrative Judge  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, D.C. 20555

In the Matter of  
DUKE ENERGY CORPORATION  
(Catawba Nuclear Station, Units 1 and 2)  
Docket Nos. 50-413-OLA and 414-OLA

Dear Administrative Judges:

During the hearing in this matter on July 15, 2004, counsel for BREDL requested that "Status for NSC Activities in the Field of Fuel Behaviour" be admitted to evidence. Both Staff counsel and counsel for Duke Energy Corporation objected. The Board marked the exhibit C for identification and offered the Staff and Duke the opportunity to address the admissibility of the exhibit in writing by July 20, 2004. Tr. 2,703-05.

In response to the Board's invitation to provide "evidentiary responses" by today, the Staff renews its objection to admission of Exhibit C on the basis of its untimely submission and resulting unfair surprise and based on the cumulative nature of the evidence proposed (e.g., the substance of the evidence covered by BREDL's proposed Exhibit C is already contained in Exhibit 34). In addition, the Exhibit covers a broad range of issues that are either beyond the scope of this proceeding or for which it was not offered. Of the 19 pages in the document, only one paragraph on page 17 appears to be relevant to the testimony to which it is related. Therefore the Staff objects to its admission.

Sincerely,

**/RA by Antonio Fernández Rivera  
For/**

Susan Uttal  
Counsel for NRC Staff

cc: Service List