RAS 8508

September 22, 2004
DOCKETED 09/23/04

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S MOTION TO AMEND DECEMBER 15, 2003 PROTECTIVE ORDER

On December 15, 2003, the Atomic Safety and Licensing Board (Licensing Board) issued a "Memorandum and Order (Protective Order Governing Duke Energy Corporation's September 15, 2003 Security Plan Submittal)" (Protective Order). The NRC Staff herein requests that the Licensing Board issue an Addendum to the Protective Order adding an additional category of documents to the second paragraph of the Order[1] in order to extend the Protective Order to cover the NRC guidance documents (NUREGs) requested by BREDL in the letter of August 13, 2003 from Diane Curran to Antonio Fernandez, NRC staff counsel.

The NRC guidance documents requested by BREDL in discovery were removed from the Public Document Room subsequent to 9/11 for security reasons and have been withheld from the public since that time, pending review for public release. It has not yet been determined whether they may be released to the public. Such a determination would require a meticulous review of each of the forty-five documents requested by BREDL. The review could take several weeks.

[1] Paragraph 2 of the Protective Order was previously amended by Order dated June 28, 2004. *See* Addendum Number 3 to the Protective Order Governing Duke Energy Corporation's September 15, 2003 Security Plan Submittal (December 15, 2003) (June 28, 2004). The Protective Order was last amended by Order dated August 13, 2004. *See* Addendum Number 3 to the Protective Order Governing Duke Energy Corporation's September 15, 2003 Security Plan Submittal (December 15, 2003) (August 13, 2004).

Rather than delaying access to the documents pending a review, the NRC Staff has agreed to permit access to the persons authorized to receive protected material pursuant to the Protective Order issued in this case, subject to the provisions of the Protective Order, if it is amended to include the documents requested.

Accordingly, The NRC Staff requests that the Licensing Board issue an Addendum modifying the second paragraph of the Protective Order, as follows:

> As used in this Protective Order and in the Nondisclosure Affidavit included as the Appendix to this order, "Protected Information" includes: (1) the September 15, 2003 Security Plan Submittal or any supplements or amendments thereto, including Requests for Additional Information ("RAIs") or responses to RAIs relating to that submittal; (2) any information obtained, developed, or created by virtue of these proceedings, in any form, that is not otherwise a matter of public record and that deals with or describes details of the Security Plan Submittal; (3) any document or information that relates to security planning and implementation at the Catawba Nuclear Station obtained, developed or created as part of discovery or litigation associated with any admitted security contention that is not otherwise a matter of public record; and (4) the NRC documents requested by BREDL in its letter of August 13, 2004 to NRC Staff counsel, and contained on the list appended hereto and made a part hereof.

Attached is a copy of Proposed Addendum 5 to the Protective Order. Counsel for BREDL and Duke have indicated that they have no objection to the amendment.

Respectfully submitted

/RA/

Susan L. Uttal
Counsel for NRC Staff

Dated in Rockville, Maryland
This 22nd day of September 2004.

ADDENDUM 5 to the December 15, 2003 Protective Order
NRC Guidance Documents Requested By BREDL on August 13, 2004.

NUREG-0184, User's Guide for Evaluating Physical Security Capabilities of Nuclear Facilities by the EASI Method;

NUREG-0219, Nuclear Security Personnel – Interim Qualification and Training Requirements;

NUREG-0271, Physical Protection Equipment Study: Final Report;

NUREG-0273, Guide for the Evaluation of Physical Protection Equipment, Vols. I-VII;

NUREG-0274, Catalog of Physical Protection Equipment, Vols. I-VII;

NUREG-0320, Interior Intrusion Alarm Systems;

NUREG-0459, Generic Adversary Characteristics Summary Report;

NUREG-0464, Site Security Personnel Training Manual, Vols. I-IV;

NUREG-0506, Fixed Site Physical Protection Upgrade Rule Guidance Compendium;

NUREG-0508, Design Methodology for the Physical Protection Upgrade Rule Requirements for Fixed Sites;

NUREG-0576, Nuclear Power Reactor Security Personnel Training and Qualification Plans;

NUREG-0703, Insider Study;

NUREG-0907, Acceptance Criteria for Determining Armed Response Force Size at Nuclear Power Plants;

NUREG-0908, Acceptance Criteria for Evaluation of Nuclear Power Reactor Security Plans;

NUREG-0992, Report of the Committee to Review Safeguards Requirements at Nuclear Power Plants;

NUREG-1045, Guidance on the Application of Compensatory Safeguards Measures for Power Reactor Licensees;

NUREG-1321, Testing Standards for Physical Protection Systems at Category I Fuel Cycle Facilities;

NUREG-1322, Acceptance Criteria for the Evaluation of Category I Fuel Cycle Facility Physical Security Plans;

NUREG-1328, use of Perimeter Alarms at Fuel Fabrication Facilities Using or Possessing Formula Quantities of Strategic Special Nuclear Material;

NUREG-1329, Entry/Exit Control at Fuel Fabrication Facilities Using or Possessing Formula Quantities of Strategic Special Nuclear Material;

NUREG-1404, Licensee Use of Tactical Exercise Results;

NUREG-1456, An Alternative Format for Category I Fuel Cycle Facilities Physical Protection Plans;

NUREG-1485, Unauthorized Forced Entry into the Protected Area at Three Mile Island Unit 1 on February 7, 1993;

NUREG/CR-0027, Capability for Intrusion Detection at Nuclear Fuel Sites;

NUREG/CR-0040, Evaluation of Cost Estimates of Physical Security Systems for Recycled Nuclear Fuel;

NUREG/CR-0364, Simulating Barrier Penetration During Combat;

NUREG/CR-0508, Security Communication Systems for Nuclear Fixed Site Facilities;

NUREG/CR-0509, Emergency Power Supplies for Physical Security Systems;

NUREG/CR-0532, Safeguards Against Insider Collusion;

NUREG/CR-0543, Central Alarm Station and Secondary Alarm Station Planning Document;

NUREG/CR-1166, COPS Model Estimates of LLEA Availability Near Selected Reactor Sites;

NUREG/CR-1169, Safeguards Vulnerability Analysis Program, Vols. I-III;

NUREG/CR-1234, The Insider Threat to Security Facilities: Data Analysis;

NUREG/CR-1345, Nuclear Power Plant Design Concepts for Sabotage Protection, Vols. I and II;

NUREG/CR1381, Methodology for Evaluating Safeguards Capabilities for Licensed Nuclear Facilities;

NUREG/CR-1385, Development of a Good Physical Protection Plan;

NUREG/CR-2217, Detection of Special Nuclear Materials at Portal Monitors and Locations;

NUREG/CR-2297, Security management Techniques and Evaluative Checklists for Security Force Effectiveness;

NUREG/CR-2588, Security Officer Response Strategies;

NUREG/CR-3251, The role of Security During Safety-Related Emergencies at Nuclear Power Plants;

NUREG/CR-5081, Tactical Exercise Planning Handbook;

NUREG/CR-5172, Tactical Training Reference Manual;

NUREG/CR-5690, Physical Fitness Training Reference Manual for Security Force Personnel at Fuel Cycle Facilities Possessing Formula Quantities of Special Nuclear Material;

NUREG/CR-5929, Locking Systems for Physical Protection and Control;

NUREG/CR-6190, Protection Against Malevolent Use of Vehicles at Nuclear Power Plants, Vols. I & II.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

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

ADDENDUM NUMBER 5
TO THE DECEMBER 15, 2003 PROTECTIVE ORDER GOVERNING
DUKE ENERGY CORPORATION'S SEPTEMBER 15, 2003 SECURITY PLAN SUBMITTAL

By agreement of the parties, the second paragraph of the December 15, 2003 "Memorandum and Order (Protective Order Governing Duke Energy Corporation's September 15, 2003 Security Plan Submittal)" is amended to state as follows:

> As used in this Protective Order and in the Nondisclosure Affidavit included as the Appendix to this order, "Protected Information" includes: (1) the September 15, 2003 Security Plan Submittal or any supplements or amendments thereto, including Requests for Additional Information ("RAIs") or responses to RAIs relating to that submittal; (2) any information obtained, developed, or created by virtue of these proceedings, in any form, that is not otherwise a matter of public record and that deals with or describes details of the Security Plan Submittal; (3) any document or information that relates to security planning and implementation at the Catawba Nuclear Station obtained, developed or created as part of discovery or litigation associated with any admitted security contention that is not otherwise a matter of public

record; and (4) the NRC documents requested by BREDL in its letter of August 13, 2004 to NRC Staff counsel, and contained on the list appended hereto and made a part hereof.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

Ann Marshall Young
Administrative Judge

Rockville, Maryland
September , 2004.

ADDENDUM 5 to the December 15, 2003 Protective Order
NRC Guidance Documents Requested By BREDL on August 13, 2004.

NUREG-0184, User's Guide for Evaluating Physical Security Capabilities of Nuclear Facilities by the EASI Method;

NUREG-0219, Nuclear Security Personnel – Interim Qualification and Training Requirements;

NUREG-0271, Physical Protection Equipment Study: Final Report;

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NUREG-0320, Interior Intrusion Alarm Systems;

NUREG-0459, Generic Adversary Characteristics Summary Report;

NUREG-0464, Site Security Personnel Training Manual, Vols. I-IV;

NUREG-0506, Fixed Site Physical Protection Upgrade Rule Guidance Compendium;

NUREG-0508, Design Methodology for the Physical Protection Upgrade Rule Requirements for Fixed Sites;

NUREG-0576, Nuclear Power Reactor Security Personnel Training and Qualification Plans;

NUREG-0703, Insider Study;

NUREG-0907, Acceptance Criteria for Determining Armed Response Force Size at Nuclear Power Plants;

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NUREG-1329, Entry/Exit Control at Fuel Fabrication Facilities Using or Possessing Formula Quantities of Strategic Special Nuclear Material;

NUREG-1404, Licensee Use of Tactical Exercise Results;

NUREG-1456, An Alternative Format for Category I Fuel Cycle Facilities Physical Protection Plans;

NUREG-1485, Unauthorized Forced Entry into the Protected Area at Three Mile Island Unit 1 on February 7, 1993;

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NUREG/CR-0508, Security Communication Systems for Nuclear Fixed Site Facilities;

NUREG/CR-0509, Emergency Power Supplies for Physical Security Systems;

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NUREG/CR-2297, Security management Techniques and Evaluative Checklists for Security Force Effectiveness;

NUREG/CR-2588, Security Officer Response Strategies;

NUREG/CR-3251, The role of Security During Safety-Related Emergencies at Nuclear Power Plants;

NUREG/CR-5081, Tactical Exercise Planning Handbook;

NUREG/CR-5172, Tactical Training Reference Manual;

NUREG/CR-5690, Physical Fitness Training Reference Manual for Security Force Personnel at Fuel Cycle Facilities Possessing Formula Quantities of Special Nuclear Material;

NUREG/CR-5929, Locking Systems for Physical Protection and Control;

NUREG/CR-6190, Protection Against Malevolent Use of Vehicles at Nuclear Power Plants, Vols. I & II.

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Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S MOTION TO AMEND DECEMBER 15, 2003 PROTECTIVE ORDER" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class; or as indicated by an asterisk (*), by deposit in the Nuclear Regulatory Commission's internal mail system; and by e-mail as indicated by a double asterisk (**), this 22nd day of September, 2004.

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/RA/

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