

RAS 9004

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December 20, 2004

BY HAND DELIVERY

Emile Julian  
Assistant for Rulemakings and Adjudications  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

DOCKETED  
USNRC

December 20, 2004 (10:29am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

SUBJECT: *Safeguards Filing in Duke LTA Proceeding, Nos.  
50-413, 50414*

Dear Mr. Julian,

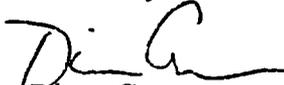
Enclosed please find two copies of the Prefiled Written Testimony of Dr. Edwin S. Lyman Regarding Blue Ridge Environmental Defense League's Security Contention 5, along with a set of exhibits.

Please note that Dr. Lyman's testimony and Exhibit 2 contain safeguards information. Exhibit 2 is clipped separately from the other exhibits, in order to ensure that its safeguards status is not overlooked.

I am also enclosing the original and three copies of a motion for leave to file Dr. Lyman's testimony out of time.

As indicated on the service list that is attached to the motion, these pleadings have been served on the Atomic Safety and Licensing Board ("ASLB") and the parties by hand and by Federal Express courier service, in accordance with the requirements of the ASLB's December 15, 2003, Protective Order in this proceeding.

Sincerely,

  
Diane Curran

cc w/o enclosures: service list

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SECY-02

December 20, 2004

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of

DUKE ENERGY CORPORATION

(Catawba Nuclear Station, Units 1 and 2)

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

**BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE'S MOTION FOR  
LEAVE TO FILE PREFILED WRITTEN TESTIMONY OUT OF TIME**

Blue Ridge Environmental Defense League ("BREDL") hereby moves for leave to file the Prefiled Written Testimony of Dr. Edwin S. Lyman Regarding Blue Ridge Environmental Defense League's Security Contention 5 out of time. The testimony, which was due by close of business on Friday December 17, 2004, is being filed today.

BREDL respectfully submits that its counsel and expert have diligently attempted to meet their obligations throughout this proceeding, including complying with the December 17, 2004, deadline for the filing of prefiled testimony. However, because of a family emergency late in the afternoon of December 17, BREDL's counsel had to leave her office around 4:15 p.m., before she had finished proof-reading Dr. Lyman's testimony or assembled all of the exhibits. In addition, BREDL's counsel was somewhat delayed in completing these tasks by Friday's two telephone conferences with the Atomic Safety and Licensing Board, which together took about two hours.

BREDL has tried to minimize any prejudice to the other parties that may be caused by this delay, by ensuring that the testimony and exhibits are ready for service before 9 a.m. on Monday morning, December 20. BREDL has also arranged for same-

day courier service on Duke Energy Corporation's in-house counsel in Charlotte, North Carolina. The package is expected to arrive in Charlotte before noon on Monday, December 20.

Therefore, BREDL respectfully submits that the requested extension should be granted because it is justified and will not unduly prejudice the other parties.

Counsel for Duke Energy Corporation, whom BREDL contacted on Friday afternoon, has stated that Duke intends to oppose this motion. Counsel for BREDL was unable to reach counsel for the NRC Staff before filing this motion.

Respectfully submitted,



Diane Curran  
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202/328-3500  
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December 20, 2004

## CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2004, copies of Prefiled Written Testimony of Dr. Edwin S. Lyman Regarding Blue Ridge Environmental Defense League's Security Contention 5 and Blue Ridge Environmental Defense League's Motion for Leave to File Prefiled Written Testimony Out of Time were served by hand or by Federal Express courier on all of the parties listed below, under the requirements of the Atomic Safety and Licensing Board's Protective Order of December 15, 2003:

<p>Ann Marshall Young, Chair Atomic Safety and Licensing Board 11545 Rockville Pike Rockville, MD 20852 (by hand) 301/415-7463</p> <p>Anthony J. Baratta Administrative Judge Atomic Safety and Licensing Board 11545 Rockville Pike Rockville, MD 20852 (by hand) 301/415-7463</p> <p>Thomas S. Elleman Administrative Judge Atomic Safety and Licensing Board 11545 Rockville Pike Rockville, MD 20852 (by hand) 301/415-7463</p> <p>Emile Julian Assistant for Rulemakings and Adjudications Office of the Secretary U.S. Nuclear Regulatory Commission 11555 Rockville Pike Rockville, MD 20852 (by hand) 301/415-1966</p>	<p>Antonio Fernández, Esq. Office of the General Counsel Mail Stop - O-15 D21 U.S. Nuclear Regulatory Commission 11555 Rockville Pike Rockville, MD 20852 (by hand) 301/415-7463</p> <p>Lisa F. Vaughn, Esq. Timika Shafeek-Horton, Esq. Legal Dept. (EC-07H) Duke Energy Corporation 526 South Church Street (EC11X) Charlotte, NC 28201-1006 (by Federal Express courier) 704/382-8134</p> <p>Mark J. Wetterhan, Esq. Anne W. Cottingham, Esq. David A. Repka, Esq. Winston &amp; Strawn, LLP 1400 L Street, N.W. Washington, D.C. 20005-3502 (by hand) 202/371-5726</p>
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Diane Curran