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USNRC

December 21, 2004 (8:48am)

OFFICE OF SECRETARY  
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ADJUDICATIONS STAFF

Docket Nos. 50-413/414-OLA

RAS 9028

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**Date:** Mon, Dec 20, 2004 5:10 PM  
**Subject:** BREDL's December 20, 2004 Motion for Leave to File Testimony Out of Time

In your consideration of Blue Ridge Environmental Defense League's Motion for Leave to File Prefiled Written Testimony Out of Time, please consider the following:

1. As counsel for Duke, I told Ms. Curran that I would not consent to her request in advance, not that Duke opposed the request.
2. The motion does not state why Dr. Lyman or other staff could not have finished proofreading and assembling the testimony.
3. Ms. Curran made no offer to make the testimony available to Duke before Monday morning.
4. Ms. Curran is experienced counsel and should have anticipated last minute issues arising. Earlier in the day, she had told me she anticipated leaving the office before 4:00 p.m. on Friday.
5. Duke was prejudiced in that, because of the delayed service, its witnesses would not see the testimony before Tuesday instead of the previous Saturday. Because of the holidays and the unavailability of witnesses, any delay makes it more difficult to respond to BREDL's testimony.

Mark J. Wetterhahn

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**Subject:** BREDL's December 20, 2004 Motion for Leave to File Testimony Out of Time  
**Creation Date:** Mon, Dec 20, 2004 5:09 PM  
**From:** "Wetterhahn, Mark" <MWetterhahn@winston.com>  
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None

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