

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

NRC STAFF'S REPLY TO DUKE ENERGY CORPORATION'S BRIEF ON REVIEW OF THE
LICENSING BOARD'S FINAL ORDER

Nathan Wildermann
Counsel for NRC Staff

May 9, 2005

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On April 21, 2005, the Commission issued a Memorandum and Order, requesting the parties in this license amendment proceeding to address the necessity of conditions imposed by the Atomic Safety and Licensing Board (Licensing Board) in its Final Partial Initial Decision, issued March 10, 2005. *Duke Energy Corp.* (Catawba Nuclear Station, Units 1 and 2), CLI-05-10, 61 NRC __ (2005) (hereinafter "CLI-05-10"). The NRC staff (Staff), Duke Energy Corporation (Duke), and Blue Ridge Environmental Defense League (BREDL) filed briefs as requested on May 2, 2005.¹ The Commission's April 21, 2005 order also permitted the parties to file reply briefs by May 9, 2005.

The Commission's order specifically requested the parties to "brief the issue of the necessity of the conditions the Board imposed for the purposes of receipt of the MOX lead test assemblies." CLI-05-10. Duke's brief includes a section concerning the Licensing Board's decision in regard to design basis threat (DBT) requirements for sabotage and theft which appears to go beyond the scope of the Commission's Memorandum and Order and, for that matter invites the Commission to address more than the matters raised by the Commission

¹ NRC Staff's Brief Responding to CLI-05-10 ("NRC's brief"), Duke Energy Corporation's Brief on Review of the Licensing Board's Final Order Addressing Security Contention 5 ("Duke's Brief"), Blue Ridge Environmental Defense League's Brief in Response to CLI-05-10 Regarding Commission Review of LBP-05-10 ("BREDL's Brief").

itself. See Duke's Brief at 6-12. Thus, the Staff did not address such matters in its Brief, and will not do so in a reply to Duke's filing, unless otherwise directed by the Commission.

Respectfully submitted,

/NW/

Nathan Wildermann
Counsel for NRC Staff

Dated this 9th day of May, 2005
in Rockville, Maryland

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S REPLY TO DUKE ENERGY CORPORATION'S BRIEF ON REVIEW OF THE LICENSING BOARD'S FINAL ORDER" in the above-captioned proceeding have been served on the following by first class mail, this 9th day of May, 2005.

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