

NRC PUBLIC DOCUMENT ROOM

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Joseph M. Hendrie, Chairman
Victor Gilinsky
Peter A. Bradford
John F. Ahearne



In the Matter of

DUKE POWER COMPANY

(Amendment to Materials License
SNM-1773 -- Transportation of
Spent Fuel from Oconee Nuclear
Station for Storage at McGuire
Nuclear Station)

Docket No. 70-2623

ORDER

On September 7, 1979, the Commission received from the NRC staff a petition for review and a request for an interim protective order covering information specifically describing alternative routes for the shipment of spent fuel. The Commission issued an interim protective order that day, held hearings on September 10, and, through its General Counsel, solicited the further views of the parties on September 12.

The questions now before the Commission are whether the staff's petition for review should be granted and, if so, whether the interim protective order should be made permanent. In deciding these questions, the Commission believes that it would be prudent to examine in camera the routing information which the staff wishes to continue to protect and which would have become public under the Licensing Board's order of August 7 ("protected information").

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For this purpose, counsel or other representatives for all parties (except the NRC staff) are invited to execute the attached Affidavit of Non-Disclosure. The NRC staff is directed to make the protected information available immediately to the Commission and to those executing the attached affidavit. Commission employees and counsel and other representatives of parties are instructed to keep this information confidential, as required by the affidavit.

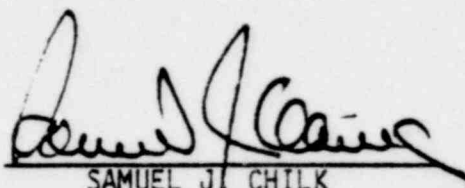
We understand from the staff that it has no further argument to file beyond its September 14 response to the General Counsel's request. Other parties should file responses to the staff's September 14 filing in light of the protected route information within 30 days of the date of this order. The staff will then have 5 days to file a reply. Parties need not repeat arguments previously made to the Commission. We believe that this schedule is reasonably expeditious and satisfies the applicants' October 24, 1979 motion for expedited consideration.

Those portions of the filings revealing protected information shall be segregated to the extent practicable and shall be protected in the manner required by the affidavit. Filings containing protected information shall be served only on those named in a list to be circulated by the Commission, which will include appropriate Commission employees and counsel or other representatives executing the attached affidavit. Such filings shall be served only in a heavy, opaque inner envelope bearing the name(s) of the addressee(s) and the statement "PRIVATE. TO BE OPENED BY ADDRESSEE ONLY." Counsel and representatives shall take such precautions as are necessary to ensure that only they will open envelopes so marked. Counsel and representatives are also directed to notify the Commission if at any time they have reason to believe that documents containing protected information have been lost or misplaced

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(for example, because an expected paper has not been received) or that protected information has otherwise become available to unauthorized persons. The Commission expects to release filings containing protected information and transcripts of any Commission meetings concerning protected information after protected information has been removed.

FOR THE COMMISSION



SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 20 day of November, 1979.

Attachment: Affidavit of Non-Disclosure

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Before the Commission



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AFFIDAVIT OF NON-DISCLOSURE

_____, being duly sworn, deposes and
says:

1. As used below, an "authorized person" for receipt of the information described below is a Commission employee or a person who has been invited by the Commission to execute and has executed an affidavit to the same effect as this one, or a person who already possesses all of the information described below.

2. I will not disclose to anyone except an authorized person any information specifically identifying routes for the shipment of spent fuel involved in this proceeding and not already disclosed in the public record of this proceeding ("protected information"). I will protect such information in written form, including those portions of transcripts of in camera hearings and those portions of other documents which reveal such information so that it will at all times be under the control of and cannot be read by anyone except an authorized person. I will not make copies of documents revealing

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protected information without the Commission's approval or direction except as may be necessary to prepare papers for participation in further proceedings in this case. So long as I possess protected information, I shall continue to take these precautions until further order of the Commission.

3. If I prepare papers containing protected information in order to participate in further proceedings in this case, I will assure that any secretary who must receive protected information in order to help prepare such papers has read this affidavit, has agreed to abide by its terms, and will not reveal protected information to any other person.

4. I make this agreement with the following understandings. I do not waive any objections that any other person may have to signing an agreement such as this one. I do not hereby waive whatever right I may have to publicly discuss or disclose any information received under this agreement if I have also obtained or do obtain the same information without the use of a protective agreement. My obligations under this agreement extend only to information revealed to me in proceedings before the Commission on the pending NRC staff petition for Commission review; this agreement does not extend to further proceedings in this case, if any, which involve protected information, and for which a new protective agreement may be arranged.

5. I affirm under penalty of perjury under the laws of the United States that I will do the above to the best of my ability. Executed this _____ day of _____, 1979.