

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
DUKE POWER COMPANY) Docket Nos. 50-369
(William B. McGuire Nuclear) 50-370
Station,, Units 1 and 2))

APPLICANT'S MOTION FOR SUMMARY DISPOSITION
REGARDING APPLICATION FOR LICENSE AUTHORIZING
FUEL LOADING, INITIAL CRITICALITY, ZERO POWER PHYSICS
TESTING AND LOW-POWER TESTING FOR MCGUIRE
UNIT 1; REQUEST FOR EXPEDITED CONSIDERATION

Pursuant to 10 CFR §2.749, Duke Power Company ("Applicant") hereby moves this Atomic Safety and Licensing Board ("Licensing Board") for summary disposition with respect to issuance of a license authorizing fuel loading, initial criticality, zero power physics testing and low-power testing for Unit 1 of the William B. McGuire Nuclear Station. In support of this motion, Applicant incorporates the attached "Applicant's Memorandum In Support Of Its Motion For Summary Disposition" and "Applicant's Statement Of Material Facts As To Which There Is No Genuine Issue To Be Heard."

The instant motion addresses the Carolina Environmental Study Group's ("CESG") proposed contentions relating to excessive generation of hydrogen. Such contentions are presently awaiting Board action as to their admissibility; the Board must also decide whether CESG has satisfied

the reopening standards of the Commission. 1/ Applicant wishes to stress that its motion and attachments are not to be viewed as an admission that CESG has indeed complied with the reopening standard or that it has presented legally adequate contentions. Rather, Applicant has taken the instant action in light of the time constraints that could be imposed if CESG's motion to reopen is subsequently granted and hearings on full power operation are required. Simply put, if the proceeding is reopened, the prospect of obtaining a full power license in time to commence the initial phase of operation (i.e., fuel loading) as scheduled is dim. In this regard counsel represents to the Board and parties that fuel loading is presently scheduled to commence on or about December 1, 1980. 2/

By filing the instant motion Applicant has focused upon issues which are susceptible to summary resolution. Applicant is hopeful that the matter will be fully before the Board by late October. Thereafter timely resolution by the

1/ In the event the Board denies CESG's motion the instant motion is moot.

2/ Fuel loading is the first phase of low power operation sought by Applicant. This phase, as well as the three additional phases of low power operation addressed herein, will provide Applicant with approximately eleven additional weeks within which to resolve full power matters. Thereafter escalation to full power is scheduled to begin.

Board will enable McGuire to begin operation as scheduled. 3/

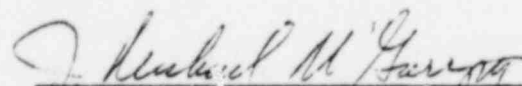
Events subsequent to this Board's ruling on the instant motion serve as a further reason for expedited consideration. Without addressing the impact, if any, of the suspension of the immediate effectiveness rule on this proceeding (44 Fed. Reg. 65049 (November 9, 1979), Applicant would note that the Commission has stated that it will, until further notice, take a direct role in the issuance of licenses. See 44 Fed. Reg. 58559 (October 10, 1979). Accordingly, after the Licensing Board's completion of its review of this matter, at a minimum, Commission involvement will occur.

In conclusion, Applicant asserts that it is entitled to some measure of expedited consideration. Its application for operating licenses was filed on June 14, 1974. All outstanding matters except generic safety issues (a non-contested matter) have been resolved. See Licensing Board's Initial Decision of April 18, 1979. In light of the length of time already involved and in light of the fact that only

3/ Applicant maintains that the facts set forth in the attached documents warrant resolution of the instant matter in its favor. In the event questions are raised during in the Board's deliberations, Applicant suggests that the Board immediately schedule oral argument.

one contested issue would remain if the proceeding were reopened, expedited treatment is clearly warranted.

Respectfully submitted,



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