



May 19, 1983

SECY-83-190

**ADJUDICATORY ISSUE** COMMISSION LEVEL  
EXCLUSION ONLY

For: ~~The Commissioners~~  
(Affirmation)

From: Herzel H.E. Plaine  
General Counsel

Subject: COMMISSION REVIEW OF ALAB-687  
(CATAWBA NUCLEAR STATION, UNITS 1&2)

Purpose: To provide a proposed Order concluding  
this review proceeding (SECY-82-457)

Discussion: Attached for your consideration is a  
proposed Order concluding Commission  
review of ALAB-687. In ALAB-687, the  
Appeal Board held that Section 189a. of  
the Atomic Energy Act required a  
Licensing Board to admit adequately  
specific late-filed contentions based on  
information solely in licensing-related  
documents that were not required to be  
prepared early enough for the timely  
submittal of contentions.

believed that

we

Accordingly, we recommended

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634-3224

9404010145 93C608  
PDR FOIA  
GILINSK92-436 PDR

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 5  
FOIA 92-436

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Briefs have been received from all the parties as well as the Union of Concerned Scientists (UCS), the Atomic Industrial Forum (AIF) and a utility group. No participant has cited any precedent contradicting our previous legal analysis, and we have found none on our own. Nevertheless, the parties and UCS supported the Appeal Board's decision. The AIF and utility group believed that the Commission should apply the balancing test in 10 CFR 2.714(a). As for what constitutes a showing of good cause, the Applicant, staff, AIF and the utility group all agreed that such a late-filed contention must be based on information available only in licensing-related documents not required to be prepared early enough to provide a basis for the timely formulation of contentions.

y.

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*Herzel H. E. Plaine*  
Herzel H.E. Plaine  
General Counsel

Attachment: Order

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, June 3, 1983.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Thursday, May 26, 1983, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of June 6, 1983. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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