

10/19/82

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
DUKE POWER COMPANY, ET AL.  
(Catawba Nuclear Station,  
Units 1 and 2)

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)  
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Docket Nos. 50-413  
50-414

NRC STAFF MOTION FOR PROTECTIVE ORDER

I. INTRODUCTION

The NRC Staff, pursuant to 10 CFR Section 2.740(c), requests the Atomic Safety and Licensing Board to issue an order to protect the Staff from being required to answer Interrogatories 1 and 36 on Contention 8, and Interrogatory 1 on Contention 27, in Palmetto Alliance Second Set of Interrogatories and Requests to Produce. As noted below, and in the accompanying Staff responses to said interrogatories, these interrogatories are objectionable in that they seek an extraordinary amount of material, without particular regard to the potential relevance thereof, and would require extensive research and compilation of materials not readily available to the Staff.

II. DISCUSSION

Interrogatory 1 on Contention 8 asks the Staff to "[i]dentify all documents, studies, technical reports and treatises that provide the applicant and/or contractors with scientific, technical, and theoretical information on the subject of operator qualifications." Since

Intervenor has requested "all documents" on "the subject of operator qualifications," without limiting his request to operator qualifications which may have some bearing on nuclear power plant operations, the subject interrogatory places a heavy and unjustifiable burden on the staff to identify voluminous materials which may have no relation to Contention 8. These materials are neither peculiarly in the possession and control of the Staff, nor readily available to it. Such overly broad requests create the sort of oppression, burden and expense against which protection is warranted under 10 CFR Section 2.740(c). Generally, interrogatories of this sort, seeking all documents related to a particular subject, are not favored. Illinois Power Co. (Clinton Power Station, Units 1 and 2), ALAB-340, 4 NRC 27, 34 (1976). Finally, this interrogatory would place a research and compilation burden upon the Staff which is inconsistent with the prevailing view that a party "ordinarily will not be required 'to make research and compilation of data not readily known to him' (citation omitted)." Boston Edison Company, et al. (Pilgrim Nuclear Generating Station, Unit 2), LBP-75-30, 1 NRC 579, 584 (1975). Thus, "good cause" exists for protecting the Staff from being required to answer this burdensome interrogatory.

Interrogatory 1 on Contention 27 is nearly identical to Interrogatory 1 on Contention 8, except that it relates to radiological detection and monitoring. Like the former interrogatory, there is no attempt to limit its scope to radiological detection and monitoring relating to nuclear power plant operations. It thus seeks voluminous materials which may have no relation to Contention 27, are not peculiarly in the possession and control of the Staff, nor readily

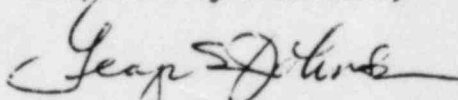
available to it, and would require extensive research and compilation. Both the regulations and the case law warrant Board action to protect against this sort of oppression, burden and attendant expense. 10 CFR Section 2.740(c); Pilgrim, supra, 1 NRC at 584; Clinton, supra, 4 NRC at 34.

Interrogatory 36 on Contention 8, seeking identification of "any documents, studies, documents or submissions known to you on this subject," is even broader than Interrogatory 1, in that it seeks virtually everything known to the Staff on operator qualifications, whether or not pertinent to nuclear power plant licensing. It thus suffers from the same infirmities as the previous interrogatories, creating an unjustifiable burden on the Staff to research and compile materials not peculiarly in its possession or control or readily available to it. Protection from answering this interrogatory is thus warranted. 10 CFR Section 2.740(c); Pilgrim, supra; Clinton, supra.

### III. REQUEST FOR RELIEF

For the foregoing reasons, the Staff respectfully requests issuance of an order that discovery not be had from the Staff with regard to Interrogatories 1 and 36 on Contention 8, and Interrogatory 1 on Contention 27 in Palmetto Alliance Second Set of Interrogatories and Requests to Produce.

Respectfully submitted,



George E. Johnson  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 19th day of October, 1982.