

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )  
DUKE POWER COMPANY, et al. ) Docket Nos. 50-413  
(Catawba Nuclear Station, ) 50-414  
Units 1 and 2) )

APPLICANTS' SUBMITTAL CONCERNING  
SCHEDULE AND DISCOVERY MADE  
PURSUANT TO BOARD ORDER OF  
DECEMBER 22, 1982

On December 22, 1982, the Board issued a Memorandum and Order ruling on various discovery matters. Therein, the Board requested the parties "to submit detailed proposed schedules leading to a hearing, and to suggest agenda items for discussions on ways in which the case could be expedited." (p. 26). The Board also asked the parties "to be prepared to discuss the discovery 'rules' of the Byron case for possible use in this case." (Id.) Finally, the Board asked the parties "to advise us at your earliest convenience as to which, if any, prefreeze pleadings (or parts of pleadings) require a Board ruling." (p. 25). The following serves as Applicants' reply to the Board's request.

Schedule

At the October 7-8, 1982 Prehearing Conference, Applicants submitted a schedule leading to an October 1, 1983 hearing. (Tr. 436-441). Since that time the Board has made various rulings which impact upon that schedule. Taking such rulings into

consideration, Applicants have prepared a schedule and attach it hereto as Appendix A.

Applicants would make several comments with respect to Appendix A:

First, by way of identification, Appendix A consists of a chronological detailed month by month presentation explaining the obligations of the various parties and necessary actions of the Board in order to complete discovery and commence hearings in the Fall of 1983.

Second, the level of detail contained in Appendix A has been occasioned by the Board's December 22, 1982 ruling which gave Palmetto Alliance an unrestricted "first right of discovery" (which consists of 2 rounds of discovery) before it is made to respond to Applicants and Staff interrogatories. Applicants assume that the other contentions submitted in this proceeding would come under the same ground rules and have accordingly factored them into the schedule submitted.

Third, the time frames selected (1) have been specifically directed by the Board (i.e., Palmetto Alliance to serve follow-up interrogatories on Applicants concerning Contentions 8, 16 and 27 by February 21, 1983), (2) parallel time frames utilized by the Board (i.e., the time provided for follow-up interrogatories is 10 days from service of supplemental answers), or (3) correspond to the times provided in the regulations

(i.e., 10 CFR §2.740b provides that answers to interrogatories be furnished within 14 days after service; 10 CFR §2.710 provides that 5 days be added to prescribed periods for matters served by mail).

Fourth, the schedule calls for Palmetto Alliance to file on January 14, 1983, a Motion to Compel (if it so chooses) regarding Applicants' response to interrogatories regarding contentions 6, 7 and 44 filed December 31, 1982. Under the regulations, such Motion would be due January 10, 1983.

Fifth, the schedule advanced provides maximum times within which to act (i.e., after submittal of the last interrogatory answers, discovery is left open for a period of time thereafter; time is provided for the summary disposition process, which process may not even be availed of). If events transpire which impact on specific dates set forth in the schedule, such should not result in a corresponding shippage of the entire schedule. Rather, given the maximum nature of the schedule, such could be modified without changing the designated hearing dates.

Sixth, Applicants have not provided for a specific discovery schedule for CMEC. Experience indicates that such can be handled informally and application of the Commission's rules will be adequate to resolve any potential dispute. However, to bring finality about, Applicants propose to close

discovery with CMEC on the date selected for the other Inter-venors, viz, June 30, 1983.

Seventh, Applicants have consolidated the obligations of Palmetto Alliance and CESC with respect to those contentions which are joint among them, viz, Palmetto Alliance Contention 44 and DES 17 and 22.

Agenda Items

Applicants advance the following agenda items as ways in which case could be expedited:

1. Strict adherence to schedules - strong showing of good cause necessary to vary from schedule.
2. Imposition of sanctions, including dismissal, for failure to comply with responsibilities and obligations of parties under the Commission's rules.
3. Utilization of summary disposition.
4. Submittal of Trial Brief and pre-filed testimony to Board and parties 2 weeks in advance of such hearing.
5. Submittal of cross-examination plan to Board and parties in advance of such hearing.
6. Selection of 1 spokesman per party for each contention discussed at hearing. For joint contentions, e.g., Palmetto Alliance/ CESC contention concerning embrittlement, one single spokesman should be designated.
7. Provision of specific time limits for hearing (i.e., each phase of hearing to last no more than     weeks).

8. Obtainment of necessary subpoenas 30 days prior to hearing.

Application of Byron Discovery Rules

Applicants have reviewed the discovery "rules" set forth in Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), ALAB-678, 15 NRC 1400, 1405-06 (1982). Applicants are of the view that the Board has already applied the relevant rules to this case (i.e., "rule" 3). However, to be fully responsive Applicants' views on each "rule" are set forth below:

1. Applicants are willing to confer with Interveners concerning logistical matters such as making documents available for production and service of documents. However, Applicants see no value in conferring directly with Palmetto Alliance with regard to disagreements between Palmetto Alliance and Applicants concerning discovery. Applicants base this position upon its dealings with Palmetto Alliance and/or its counsel in this case and other proceedings. To the extent CESG joins with Palmetto Alliance in discovery, Applicants take the same position with respect to discussions with CESG. However, with respect to CMEC, as noted above, Applicants are of the view that such discussions with CMEC would be of benefit and indeed have already pursued such a course.
2. Applicants concur. The parties have already put one another on notice of this obligation. See i.e., Applicants interrogatories to Palmetto Alliance, April 9, 1982.
3. Applicants view that this matter has already been accounted for in the Board's December 22, 1982 Order.

4. At present Applicants do not view expedited service as necessary. 1/ However, as the case proceeds, events may transpire which necessitate such service.
5. Applicants concur.
6. Applicants view that this matter has already been accounted for in the Board's December 22, 1982 Order.
7. Applicants concur that discovery should be concluded in an efficient manner. Applicants would note that the schedule they have suggested should not be viewed as "accelerated," rather, as noted above, it provides "maximum" times.
8. Applicants view that this matter has already been accounted for in the Board's December 22, 1982 Order.
9. Applicants view that this matter has already been accounted for in the Board's December 22, 1982 Order.

Matters Requiring Board Ruling

Applicants consider two "prefreeze" matters to be open. First, on April 28, 1982, Palmetto Alliance filed a Motion for a Protective Order concerning Contentions 6 and 7; on May 13, 1982, Applicants filed an Opposition to Palmetto Alliance's Motion; on December 16, 1982, the Staff filed a Motion to Compel responses to interrogatories concerning

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1/ Applicants have utilized expedited service in one limited area of their proposed schedule, viz, service of motions for summary disposition and responses thereto.

Contention 7; on December 20, 1982, Applicants filed a Motion to Compel responses to interrogatories concerning Contentions 6 and 7 or in the alternative to dismiss Contention 7. While Applicants maintain that such are proper subjects for present Board action, given the Board's December 22, 1982 rulings concerning similar issues, albeit on different contentions, Applicants view such pleadings as no longer pending. 2/

Second, on April 20, 1982, Palmetto Alliance moved that the Staff be directed to answer interrogatories concerning Contentions 6, 7, 18, 40 and 43. 3/ On May 7, 1982, the

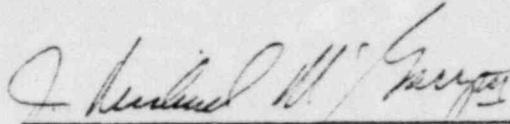
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2/ Applicants position in no way should be viewed as prejudicing their right to seek reconsideration, referral and/or certification of the Board's December 22, 1982 Memorandum and Order. Further, if Applicants are in error in their view as to the Board's treatment of this issue, then such is before the Board and should be ruled upon promptly so as to assist in the formulation of a proper schedule leading to hearings in the Fall of 1983.

3/ The Board's Memorandum and Order of December 1, 1982 dismissed Contentions 18, 40 and 43 from the proceeding. (p. 3).

Staff opposed answering such interrogatories. Board ruling on this matter is necessary.

Respectfully submitted,



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January 7, 1983

PROPOSED SCHEDULE

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
<u>JANUARY 1983</u>		
Jan. 10	Palmetto Alliance	Follow-up interrogatories to NRC Staff on Contentions 8 and 27.
Jan. 14	Palmetto Alliance	(a) Motion to Compel re Staff 12/15/82 responses to interrogatories on Contentions 16 and 44. (b) Motion to Compel re Applicants' 12/31/82 responses to interrogatories on Contentions 6, 7 and 44. (c) Response to Applicants' 9/22/82 and 10/19/82 objections and responses regarding Contentions 8, 16 and 27.
Jan. 25	Board	(a) Ruling on Palmetto Alliance 1/14/83 Motions to Compel and 1/14/83 response to Applicants objections and responses. (b) Ruling on NRC Staff's 5/7/82 objections to Palmetto Alliance interrogatories on Contentions 6 and 7. <u>1/</u>
Jan. 30	NRC Staff	Response to Palmetto Alliance 1/10/83 follow-up interrogatories on Contentions 8 and 27.
<u>FEBRUARY 1983</u>		
Feb. 9	Palmetto Alliance	Interrogatories on Contentions DES 17 and 22.
Feb. 11	Applicants	(a) File supplemental responses, if any, to Palmetto Alliance 9/3/82 and 9/27/82 interrogatories on Contentions 8, 16 and 27. (b) File supplemental responses, if any, to Palmetto Alliance 4/20/82 and 9/27/82 interrogatories on Contentions 6, 7 and 44.

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1/ If Palmetto Alliance's 4/28/82 Motion For Protective Order and Applicants' 5/13/82 opposition thereto and 12/20/82 Motion to Compel are before the Board, such should be ruled upon on 1/25/83.

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
Feb. 11 (con't.)	NRC Staff	(a) File responses, if any, to Palmetto Alliance 4/20/82 interrogatories on Contentions 6 and 7. (b) File supplemental responses, if any, to Palmetto Alliance 9/3/82 and 9/27/82 interrogatories on Contentions 16 and 44.
Feb. 21	Palmetto Alliance	(a) Follow-up interrogatories, if any, to Applicants on Contentions 6, 7, 8, 16, 27 and 44. (b) Follow-up interrogatories to NRC Staff, if any, on Contentions 6, 7, 16 and 44.
Feb. 28	Applicants	File responses to Palmetto Alliance 2/9/83 interrogatories on Contentions DES 17 and 22.
	NRC Staff	File responses to Palmetto Alliance 2/9/83 interrogatories on Contentions DES 17 and 22.
<u>MARCH 1983</u>		
March 10	Palmetto Alliance	Motion to Compel re Applicants' and NRC Staff's 2/28/83 responses to Contentions DES 17 and 22.
March 14	Applicants	Responses to Palmetto Alliance 2/21/83 follow-up interrogatories on Contentions 6, 7, 8, 16, 27 and 44.
	NRC Staff	Responses to Palmetto Alliance 2/21/83 interrogatories on Contentions 6, 7, 16 and 44.
March 21	Board	Ruling on Palmetto Alliance 3/10/83 Motion to Compel re Applicants' and NRC Staff's responses to Palmetto Alliance interrogatories on Contention DES 17 and 22.
<u>APRIL 1983</u>		
April 1	Palmetto Alliance	Response to Applicants' 4/9/82, 8/6/82, 8/16/82 and 12/_/82 and NRC Staff's 5/7/82, 8/13/82 and 12/15/82 interrogatories on Contentions 6, 7, 8, 16, 27 and 44.

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
April 7	Applicants	Supplemental responses to Palmetto Alliance 2/21/83 interrogatories on Contentions DES 17 and 22.
	NRC Staff	Supplemental responses to Palmetto Alliance 2/21/83 interrogatories on Contentions DES 17 and 22.
April 11	Applicants	Motions to Compel <u>re</u> Palmetto Alliance responses of 4/1/82.
	NRC Staff	Motions to Compel <u>re</u> Palmetto Alliance responses of 4/1/82.
April 18	Palmetto Alliance	Follow-up interrogatories to Applicants and NRC Staff <u>re</u> Contentions 17 and 22.
April 22	Board	Ruling on Applicants' and NRC Staff's 4/11/83 Motions to Compel.
<u>MAY 1983</u>		
May 9	Applicants	(a) Responses to Palmetto Alliance 4/18/83 follow-up interrogatories <u>re</u> Contentions DES 17 and 22. (b) Interrogatories to Palmetto Alliance <u>re</u> Contention DES 17 and 22.
	NRC Staff	(a) Responses to Palmetto Alliance 4/18/82 follow-up interrogatories <u>re</u> Contentions DES 17 and 22. (b) Interrogatories to Palmetto Alliance <u>re</u> Contention DES 17 and 22.
	Palmetto Alliance	Supplemental response to Applicants 4/19/82, 8/6/82, 8/16/82 and 12/ /82 and NRC Staff's 5/7/82, 8/13/82 and 12/15/82 interrogatories on Contentions 6, 7, 8, 16, 27 and 44.
May 27	Palmetto Alliance	Response to Applicants' and NRC Staff's 5/9/83 interrogatories on Contentions DES 17 and 22.

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
<u>JUNE 1983</u>		
June 6	Applicants	Motion to Compel re Palmetto Alliance 5/27/83 response to interrogatories on Contentions DES 17 and 22.
	NRC Staff	Motion to Compel re Palmetto Alliance 5/27/83 response to interrogatories on Contentions DES 17 and 22.
June 17	Board	Ruling on Applicants' and NRC Staff's 6/6/83 Motion to Compel <u>re</u> Palmetto Alliance interrogatories on Contentions DES 17 and 22.
June 30		Discovery <u>closed re</u> Palmetto Alliance Contentions 6, 7, 8, 16, 27 and 44, CESG Contention 18 and CMEC Contentions 1-4.
<u>JULY 1983</u>		
July 5	Palmetto Alliance	Supplemental responses to Applicants' and NRC Staff's 5/19/83 interrogatories on Contentions DES 17 and 22.
July 15	Applicants	Follow-up interrogatories <u>re</u> Contentions DES 17 and 22.
	NRC Staff	Follow-up interrogatories <u>re</u> Contentions DES 17 and 22.
July 20	All Parties	File by hand motions for summary disposition except as to Contentions DES 17 and 22.
<u>AUGUST 1983</u>		
Aug. 3	Palmetto Alliance	Response to Applicants' and Staff's 7/15/83 follow-up interrogatories <u>re</u> Contentions DES 17 and 22.
Aug. 9	All Parties	Respond by hand to 7/20/83 summary dispositions.

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
<u>SEPTEMBER 1983</u>		
Sept. 2		Discovery <u>closed re</u> Contentions DES 17 and 22.
Sept. 9	Board	Ruling re 7/20/83 motions for summary disposition.
Sept. 16	Applicants	Filing by hand of motions for summary disposition <u>re</u> DES 17 and 22.
	NRC Staff	Filing by hand of motions for summary disposition <u>re</u> DES 17 and 22.
	Palmetto Alliance	Filing by hand of motions for summary disposition <u>re</u> DES 17 and 22.
<u>OCTOBER 1983</u>		
Oct. 3	All Parties	Filing of prefiled testimony and trial briefs on all contentions except DES 17 and 22.
Oct. 6	Applicants	Filing by hand of responses to 9/16/83 motion for summary disposition.
	NRC Staff	Filing by hand of responses to 9/16/83 motion for summary disposition.
	Palmetto Alliance	Filing by hand of responses to 9/16/83 motion for summary disposition.
Oct. 12	All Parties	Filing of cross-examination plans.
Oct. 17		Commencement of hearings on all Contentions except DES 17 and 22.
	Board	Ruling on 9/16/83 motion for summary disposition.
<u>NOVEMBER 1983</u>		
Nov. 4		<u>Close</u> of hearings on all Contentions except DES 17 and 22.

<u>DATE</u>	<u>PARTY</u>	<u>OBLIGATION</u>
Nov. 18	Applicant	Submit trial brief, and prefiled testimony <u>re</u> Contentions DES 17 and 22.
	NRC Staff	Submit trial brief, and prefiled testimony <u>re</u> Contentions DES 17 and 22.
	Palmetto Alliance	Submit trial brief, and prefiled testimony <u>re</u> Contentions DES 17 and 22.
Nov. 30	Applicant	Submit cross-examination plan <u>re</u> Contentions DES 17 and 22.
	NRC Staff	Submit cross-examination plan <u>re</u> Contentions DES 17 and 22.
	Palmetto Alliance	Submit cross-examination plan <u>re</u> Contentions DES 17 and 22.
<u>DECEMBER 1983</u>		
Dec. 5		Commence hearings on Contentions DES 17 and 22.
Dec. 9		<u>Close</u> hearings on DES 17 and 22.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
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DUKE POWER COMPANY, et al. ) Docket Nos. 50-413  
 ) 50-414  
(Catawba Nuclear Station, )  
Units 1 and 2) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Submittal Concerning Schedule and Discovery Made Pursuant To Board Order Of December 22, 1982" in the above captioned matter have been served upon the following by deposit in the United States mail this 7th day of January, 1983.

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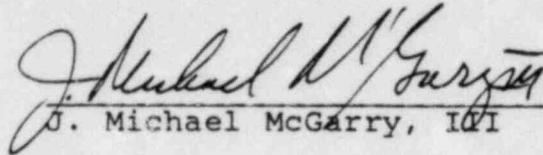
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