

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

'84 FEB-6 P1:12

Docket Nos. 50-413  
50-414  
BRANCH  
February 2, 1984

CESG'S RESPONSE TO APPLICANT'S MOTION TO BIFURCATE  
THE HEARING REGARDING EMERGENCY PLAN CONTENTIONS  
IN THE FORM OF AN AFFIDAVIT BY JAMES HILF

Applicant filed a motion to bifurcate the subject hearing requesting the appointment of a separate Board to hear emergency planning contentions, Jan. 18, 1984. CESG herewith files its opposition to Applicant's motion.

There are three bases for CESG's opposition. 1) In an affidavit in support of Applicant's motion, Warren Owen, Executive Vice President, Engineering and Construction, stated "In the event any of these activities [fuel loading, zero power physics testing, 0-5 % power testing, and 5-100 % power testing] are delayed there will be significant costs to the consumer in North and South Carolina." CESG will show that with declaring a nuclear station commercial, Applicant has requested a rate increase, not a decrease. 2) There is no compelling need for power from Catawba unit 1 now nor will there be in the reasonably foreseeable future. 3) The existing Board has already heard extensive testimony on D&S Contention 17. It has examined witnesses of the parties in regard to both local meteorology and the effect of this meteorology on the probable consequences of a severe accident with particular reference to Charlotte, LP Contention 11, Tr. Dec. 13 and 14, 1984. It has hear the voir dire's of witnesses and been in a position to reach conclusions as to the probity and competence of these witnesses.

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The present Board found the initial Palmetto/CESG contention in need of revision in response to considerations advanced by Staff and Applicant. A Board revised version was found acceptable for consideration of the merits, Memorandum and Order, Sept. 29, 1984, p. 4. Applicant has since expressed opposition to the admission of this contention, Nov. 13, Jan. 12, and Jan. 16, 1984. It has sought reconsideration, application of 10 CFR §2.758 procedures, directed certification and the establishment of a new board to hear this matter. This extraordinary activity on the part of Applicant, a seasoned and largely successful litigant in NRC proceedings, may indeed reflect an apprehension on their part that they will not prevail in a matter in which a Board has shown a disposition to consider emergency planning for Charlotte based on the merits. CESG recognizes that the present schedule will permit hearing of emergency planning matters and a decision on the contentions in a time frame which will not be damaging to the public interest and which could amply accommodate Applicant's previously stated fuel loading date of November, 1984. The only effect of an earlier fuel loading date will be to advance the date on which Applicant can claim commercial operation. The sole beneficiary will be Applicant in terms of increased earnings. The public will be made to pay prematurely for a facility that does not benefit it.

#### Significant Costs to the Consumer

The cost of McGuire units 1 and 2 has recently been put at \$1.8-1.9 billion. The cost of Catawba, with approximately the same capacity, is put at about \$3.7. Clearly, the capital cost component of generation at Catawba will be greater than for McGuire.

I attest that I have personally talked with William Carter,

head accountant for the North Carolina Utilities Commission. He has provided me with rate increase requests made by the Applicant in regard to McGuire units 1 and 2 and the increase allowed by the North Carolina Public Utilities Commission for unit 1. Mr. Carter stated that the capital costs associated with these units outweighed the fuel savings. The factors provided were:

	McGuire-1 Duke request	UC allowed In thousands	McGuire-2 Duke request
Increase	\$110,933	\$98,828	\$91,032
Capital	127,077	114,477	79,170
O/M, fuel	<u>(16,144)</u>	<u>(15,649)</u>	<u>11,862</u>
Fuel	(41,799)	(41,304)	(42,106)
Wages	14,337	14,337	9,683
Depreciation	20,447	20,447	25,575
General taxes	3,919	3,809	3,273
Income tax	<u>(4,607)</u>	<u>(4,836)</u>	<u>9,280</u>
Total	(7,703)	(7,467)	5,705
Total x 2.1*	(16,144)	(15,649)	11,862

\* Tax factor is 2.1.

Clearly Mr. Owen is in error. The longer Catawba is delayed the more will be the savings to consumers in North and South Carolina.

Need For Power

The current (1973) forecast for electrical power need made by the <sup>Public</sup> Staff of the North Carolina Utilities Commission puts the first year of requiring Catawba-1 as 1996, Catawba-2 as 1999. The May 1984 fuel loading date seems to be part and parcel of Duke's practice of overforecasting electrical peak demand. In 1971 Duke forecast summer peak loads of the order of 37,500 Mw. Current Duke forecasts are of the order of 14,000 Mw. Current capacity, including McGuire-1 and 2 is of the order of 14,600 Mw. There is

no threatened shortage in peak capacity in the immediately foreseeable future. No conceivable harm will be done Applicant's customers by delaying the availability of Catawba-1 for in excess of five years.

#### Testimony on DES Contention 17

The Testimony of witnesses from all parties was in accord that the prevailing wind from Catawba is in the direction of Charlotte. The FEIS and the testimony of the Staff's consequence witness put fatalities in worst case release and meteorology in the region of 19,000 to 24,000, FEIS, p. F-4. The Board has shown that a consideration of meteorology is not excluded under the regulations, Memorandum and Order of Sept. 29, 1984, p. 4. Clearly the present Board has invested time and thought in regard to the emergency contentions, having ruled on them and, as required restricted or revised them. As there is nothing to be gained by the possible slightly earlier conclusion of this proceeding, it is in the interest of the efficient use of the Board's efforts and a sound record to not have to "bring up to speed" a newly appointed board.

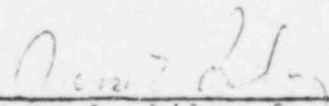
It is also essential to fairness and due process to not accelerate the pace to a point where it is completely impossible for Intervenor's to contribute to a valid record. It is hardly necessary to compare the Applicant's abundant resources, six counsel of record to date and ample technical support to intervenor's.

#### Conclusion

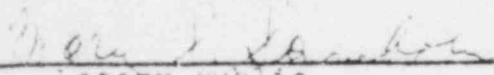
This Board should deny Applicant's request to appoint a new board to hear the emergency planning contentions. There will be no benefit to the public nor is the record likely to benefit. Intervenor will be unduly burdened. The issuance of the license will hasten the day at which the public is subjected to a rate

increase reflecting the high cost of capital for Catawba as compared to the anticipated fuel saving. There is no basis in fact or in equity for imposing an arbitrary early decisional date on the Catawba proceeding. The public will be the loser, both economically and safety-wise in terms of developing an adequate record on such emergency planning issues as the development of emergency plans for part of Charlotte.

Respectfully submitted,

  
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Jesse L. Riley for the  
Carolina Environmental  
Study Group

Sworn to and subscribed before me  
this 2 day of February, 1984

  
\_\_\_\_\_  
Notary Public

My Commission Expires November 2, 1987

COLLECTED

## '84 FEB -6 P1:12

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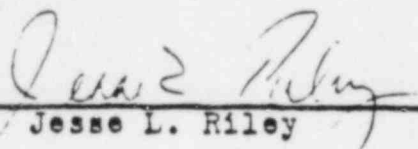
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