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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKET
USNRC

COMMISSIONERS:

'84 JUN -8 P1:02

Nunzio J. Palladino, Chairman
Victor Gilinsky
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal

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SERVED JUN 8 1984

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

Docket Nos. 50-413
50-414

ORDER

By Memorandum and Order of February 27, 1984, the Atomic Safety and Licensing Board (Licensing Board) admitted a contention regarding Applicant's report of certain problems associated with the operation of a diesel generator manufactured by Transamerica Delaval, Inc. (TDI). The Licensing Board did not find that these problems by themselves constituted a serious safety matter for the purposes of 10 CFR 2.760a. Rather the Licensing Board found that these problems, when viewed in the light of the NRC staff's investigation of a range of similar problems and its lack of present confidence in TDI diesels, supported the admission of a contention sua sponte to consider the site-specific problems experienced with Catawba's TDI diesel.

Under these circumstances, the Commission believes that the Licensing Board should terminate its consideration of the sua sponte

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issue. The Licensing Board noted in its decision of February 23, 1984, that the staff will not authorize the operation of nuclear power plants with TDI diesels until problems with those diesels have been addressed. The Commission believes that such staff action will provide the appropriate means for considering the diesel problems which led to the sua sponte adoption of this issue. Cf. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), CLI-82-12, 16 NRC 1 (1982).

The dissenting views of Commissioners Gilinsky and Asselstine are attached.

It is so ORDERED.



For the Commission

Samuel J. Chilk
 SAMUEL J. CHILK
 Secretary of the Commission

Dated at Washington, D.C.

this 8th day of June, 1984.

Catawba - Sua Sponte

Separate Views of Commissioner Asselstine

The Commission should have remanded this issue to the Licensing Board so that it could have specifically addressed whether the site specific diesel general issues presented a serious safety matter for purposes of 10 CFR 2.760a. If so, the Board should have been permitted to hear those issues sua sponte. If not, the issues would have been dismissed.

6/7/84

SEPARATE VIEWS OF COMMISSIONER GILINSKY
(CATAWBA SUA SPONTE ISSUE)

By now, it is quite clear that there are significant questions about the reliability of the Transamerica Delaval, Inc. emergency diesel generators being installed in nuclear power plants. Instead of resorting to arcane legal maneuvers to limit consideration of these matters in the hearing, the Commission should mandate a prompt and thorough review of the adequacy of these diesels.