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ORIGINAL  
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ORIGINAL

In the Matter of:

DUKE POWER COMPANY  
(Catawba Nuclear Station  
Units 1 & 2)

Location: Bethesda, Maryland

Pages: 4,623 - 4,639

Date: July 13, 1984

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PDR ADOCK 05000413  
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To: Eugenia Pleasant  
H-1149*

ORIGINAL  
UNITED STATES OF AMERICA  
NUCLEAR REGULATOR COMMISSION

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 In the matter of: :  
 :  
 CATAWBA NUCLEAR STATION : Docket Nos.  
 DUKE POWER COMPANY, et. al. : 50-413-OL-2  
 : 50-414-OL-2  
 (Catawba Nuclear Station, : (Emergency  
 Units 1 & 2) : Planning)  
 :  
 ----- X

4th Floor  
4350 East West Highway  
Bethesda, Maryland

Friday, July 13, 1984

Hearing in the above-entitled matter convened at  
2:07 p.m.

BEFORE:

JUDGE MORTON B. MARGULIES, ESQ.  
Chairman, Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

JUDGE ROBERT M. LAZO, ESQ.  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

APPEARANCES:

On behalf of the Applicants:

ALBERT V. CARR, ESQ.  
Duke Power Company  
422 South Church Street  
Charlotte, North Carolina

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On behalf of the NRC Regulatory Staff:

GEORGE E. JOHNSON  
Office of the Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

On behalf of the Intervenor, Palmetto Alliance:

ROBERT GUILD, ESQ.  
P.O. Box 12097  
Charleestown, South Carolina

On behalf of South Carolina:

RICHARD P. WILSON  
Assistant Attorney General  
State of South Carolina

SMITHS PAPER  
ERASE  
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BH  
NRC-78  
T-1

P R O C E E D I N G S

1  
2 JUDGE MARGULIES: This conference call has  
3 been set at the request of Mr. Guild. It relates to a  
4 request on his part to extend the time for interveners  
5 to file proposed findings of fact and conclusions of  
6 law. Will you please set out your requests, Mr. Guild?

7 MR. GUILD: Yes. Judge this is Bob Guild. I  
8 spoke earlier today with Al Collins and George Johnson.  
9 I asked if they would consent to an extension of time  
10 for the filing of the interveners proposed findings of  
11 fact and concludes the law on the emergency planning  
12 portion of the operating license hearing for a period  
13 of two weeks, that would make our findings due on  
14 August 1st, with the consequence like an extension of  
15 time for the following findings by the staff,  
16 applicants in reply. Al Carr and I spoke earlier this  
17 afternoon, and I believe that applicants are in a  
18 position where they would consent to an extension of  
19 one week period of time. I haven't had a chance to put  
20 that specific proposal before George Thompson yet.

21 We drew to move for an extension of time as  
22 provided for in the commissions rules of fact is  
23 section 2.711. On the basis of four cars and cars  
24 consisting of the present professional obligations on  
25 this council for interveners and including the

BH  
NRC-78  
T-1

1 obligations to go forward with the preparation for  
2 hearing on the diesel generator, emergency diesel  
3 generator contention that is to be heard before Judge  
4 Kelley's board in this proceeding, now set to begin  
5 August 6th, however, we have been informed of the  
6 possibility that that hearing date may shift now. That  
7 hearing preparation includes discovery obligations  
8 which are ongoing at the present time, and I assume  
9 will continue.

10 In addition, Palmeto and Timblin  
11 Environmental Service Group have filed notice of appeal  
12 the partial and initial decision of June 22, entered by  
13 Judge Kelley's board. At the present time, they have an  
14 obligation to submit our brief in that appeal,  
15 likewise, on the first of August. Further, as the board  
16 is aware, the applicants proposed findings, which were  
17 mailed the 9th of June, and received by me yesterday,  
18 the 12th of June are indeed quite extensive, some 363  
19 pages in length, not inappropriately reflective of an  
20 extensive record of over 4,000 pages. But, because of  
21 their extensiveness, calling for a need on the part of  
22 intervenors to put careful analysis and preparation of  
23 our responsive findings ourself. We think that the  
24 roles for submitting the proposed findings of fact and  
25 conclusions of law clearly contemplate that in the

BH  
NRC-78  
T-1



1 sequential filing requirement, the rebuttal attorneys  
2 to the proceeding are to have an opportunity to respond  
3 to the proposal filed by the applicants who are the  
4 party with the burden of proof. While the normal period  
5 of 30, 40, 50 allowing a 10 day period for responsive  
6 filings by the party not bearing the burden may be  
7 adequate in this proceeding with this record facing the  
8 extensiveness of the filing that was made already by  
9 the applicants.

10 We believe this provides further cause for  
11 providing a reasonable and limited additional period of  
12 time for response by Palmetto and Killian Environmental  
13 Study group. Without any further details in outline or  
14 the basis for what we would assert our ample, is good  
15 cause for an extension of the time that we seek and  
16 that is for two weeks for the first of August.

17 JUDGE MARGULIES: We would like to hear from  
18 you Mr. Carr.

19 MR. CARR: Yes sir, Judge. This is Allen Carr.  
20 I will start by saying that Bob, or Mr. Guild and I did  
21 discuss by his request for an extension of time. I  
22 understand the reasons behind it. I think he has pretty  
23 well set them out. I would say that we, our concern is  
24 that this board have an ample opportunity to consider  
25 the record before it before it issue its decision in

1 the fashion, a timely enough fashion, so it would not,  
2 impact on our ability to commence operation at full  
3 power, which currently will occur sometime, we hope  
4 around the end of September or the first of October. I  
5 had suggested to Mr. Doud, with respect to the  
6 obligations that he has on him, first, the NRC staff in  
7 a letter of a week ago today, I believe that was the  
8 fifth of July, had written Judge Kelley's board with  
9 respect to the diesel generator matter, and we had  
10 informed that board that they were somewhat behind in  
11 their anticipation.

12 JUDGE LAZO: Pardon me, Mr. Carr. This is  
13 Judge Lazo. I have just been informed that Steve  
14 Lewis would like to be on this conference call. He is  
15 waiting to be put on. I am going to ask my secretary to  
16 attempt to do that.

17 MR. CARR: Sure. Who is Steve Lewis, if I may?

18 JUDGE LAZO: He is with the NRC staff. Is that  
19 correct?

20 MR. JOHNSON: Lewis is, yes. He is with the  
21 NRC staff.

22 MR. CARR: Is he with the legal staff, George?

23 JUDGE LAZO: That was Mr. Johnson.

24 MR. CARR: He has been regional counsel, this  
25 is George Johnson. He has been regional counsel for

1 region 3, I believe, and I think he is rejoining, this  
2 month for the staff of the Office of Legal Director as  
3 a deputy in one of the sections.

4 JUDGE MARGULIES: Alright. Mr. Carr, is fuel  
5 loading been completed?

6 MR. CARR: No sir, it has not yet started. We  
7 are here today, trying to get a fuel load license from  
8 the NRC staff. We have been waiting for that license  
9 for over a week now.

10 JUDGE MARGULIES: Would that throw off your  
11 calculations as far as,?

12 MR. CARR: No, sir. Without having the  
13 schedule in front of me, I'm not sure, I think the end  
14 of September, first of October date for ascension of  
15 above 5% is still accurate. Hold on for a second, let me  
16 see if.

17 JUDGE MARGULIES: I have the letter of June  
18 18, 1984, in which you indicate the 5-100% power  
19 testing is proposed for September 27 through February  
20 6, 1985.

21 MR. CARR: Then, that date was predicated, I  
22 believe on, around July 1st. Is that correct, your  
23 honor.

24 JUDGE MARGULIES: A fuel loading of June 29th  
25 through.

BH  
NRC-78  
T-1



1 MR. CARR: Alright. Then that would be  
2 approximately two weeks.

3 JUDGE MARGULIES: Thank you. Do you wish to be  
4 heard, Mr. Johnson?

5 MR. CARR: I'm not finished yet, Judge, I was  
6 waiting on Mr. Johnson.

7 JUDGE MARGULIES: We can go ahead. He can pick  
8 up later.

9 MR. CARR: Alright. One. With respect to the  
10 diesel generator issue, as I said staff's counsel had  
11 written the Kelley board and said that they were  
12 running behind on their review in the matter and would  
13 inform the Kelley board later as to what the date was.  
14 It seems that the August 6th date will slip. We are  
15 hopeful, and I can't speak for the staff at this point,  
16 that we hope to complete the litigation of that issue  
17 during the month of August. So, to some extent, Mr.  
18 Doua's burden is relieved on that matter. Second, with  
19 respect to the appealant matter, I had talked with Mr.  
20 Guild and asked if he might want to consider contacting  
21 Judge Rosenthal and in light of the fact that we will  
22 have at least two more decisions in this case, one from  
23 Judge Kelley's board on the diesel generators, and one  
24 from this board on the emergency plans, that Judge  
25 Rosenthal might be amenable to handling the appealant

1 review of all of those decisions at the same time, and  
2 simply briefing of the issues on the June 22nd, partial  
3 initial decision until some date in the future.

4 I suggested to Mr. Guild that given that, and  
5 given our concern about the ability of this board,  
6 issued a decision that we would agree to a week's  
7 extension which supported in his requested antics. With  
8 respect to responses to our proposed findings of fact,  
9 we think, as Mr. Guild acknowledged, that our proposed  
10 findings do fully reflect the state of the record, they  
11 all make, I would simply point out that the record in  
12 this emergency plan case file, case closed five weeks  
13 ago today. It is not as though that time could not, or  
14 has not been spent on proposed findings. I don't think  
15 that our proposed findings weighs sufficient additional  
16 issues to warrant the full extension sought. That  
17 completes my comments your honor.

18 JUDGE MARGULIES: Thank you Mr. Carr. Would  
19 you state your position, Mr. Johnson.

20 MR. JOHNSON: This is George Johnson from the  
21 NRC staff. The staff is neutral on your request for an  
22 extension of time of two weeks. But, if the parties can  
23 agree to a week extension, then we would support  
24 whatever is agreed to in the period of this agreement.  
25 On the question of, specifically, the suggestion of Mr.

BH  
NRC-78  
T-1

1 Carr that the interveners may wish to contact Judge  
2 Rosenthal, with regard to consolidation of any  
3 appearance, any staff is not opposed to an effort.

4 JUDGE MARGULIES: Mr. Wilson, do you want to  
5 give us your views?

6 MR. WILSON: Just briefly, Judge, as we  
7 indicated at the close of the hearing in Rock Hill last  
8 week, we did not anticipate, and now officially are not  
9 going to be submitting any proposed findings. So,  
10 really we have no objection to the extension, but to  
11 keep with our past position, we neither object nor  
12 oppose such a position.

13 JUDGE MARGULIES: Thank you.

14 MR. JOHNSON: If I might just add, this is  
15 George Johnson. If an extension were granted, we would  
16 wish to have the extension extended to the subsequent  
17 schedule as well, as was mentioned by Mr. Guild,  
18 including the staffs' finding date.

19 JUDGE MARGULIES: Thank you.

20 MR. CARR: Yes sir. Excuse me this is Al Carr.  
21 Judge, I think that was implicit in Mr. Guild's  
22 request. But, we would also join in that group. We  
23 would want a commensurate expansion of response to the  
24 staff and intervener. If we could get it in less time  
25 we would, but we would like the extension.

1 JUDGE MARGULIES: Are the parties going to be  
2 on a conference call on Monday.

3 MR. CAPR: Yes sir. That is my understanding  
4 your honor. This is Al Carr.

5 MR. JOHNSON: Yes sir. This is George Johnson.

6 MR. WILSON: I was unaware of this. This is  
7 Richard Wilson. But, we can be.

8 JUDGE MARGULIES: It may be that Judge Lazo  
9 and I would want to discuss this and make our  
10 determination and give you our ruling on Monday.

11 MR. GUILD: That would be fine your honor. It  
12 has some bearing on to what end I drive the typist who  
13 have been foolishly been able to work on Saturday and  
14 Sunday over the weekend. Perhaps, if the one week  
15 extension is not opposed by counsel for the parties, I  
16 could ask the board to take under advisement the  
17 balance of my request. At least, give me the signal  
18 that I would have some additional days to work with.

19 MR. CARR: This is Al Carr. That would be  
20 acceptable to us, your honor. Given subject, of course  
21 whatever you wanted to do. That proposal sounds  
22 acceptable to us.

23 JUDGE MARGULIES: How about you, Mr. Johnson.

24 MR. JOHNSON: Likewise. We wouldn't have any  
25 objection to that approach.

BH  
NRC-78  
T-1



1 JUDGE MARGULIES: Judge Lazo and I would  
2 concur in granting the seven day extension. We will  
3 take under advisement the matter of the additional  
4 week's extension. We will communicate our decision to  
5 you through Judge Kelley during the conference call on  
6 Monday.

7 MR. GUILD: Judge Margulies, this is Mr.  
8 Guild, thank you sir. I would ask if it is possible, we  
9 Al Carr is thinking, and I having kicked this idea  
10 around about consolidation of these pieces on appeal.  
11 We would appreciate if the members of the board had any  
12 guidance of how these matters are handled that you  
13 might offer to us, not by the way of ruling, of course,  
14 but some suggestions. Perhaps, if you have any  
15 guidance, maybe we could ask that if you confer with  
16 Judge Kelley on this matter, we might talk about on  
17 Monday, again. That would certainly allow all of us on  
18 these various pieces to direct our attentions to  
19 emergency planning matters, and generator matters, and  
20 I think move quickly through it. I think Al Carr and I,  
21 in any event are in agreement that that would be to  
22 resolve a way of handling it. But, any guidance from  
23 the boards would be helpful.

24 MR. CARR: This is Al Carr again Judge. Bob  
25 and I did talk about this. There is one matter that I

1 wanted to check out again. I have discussed it, and I  
2 think that there is not a problem with it, but I would  
3 agree with Mr. Guild and ask that we can raise this at  
4 some point with Judge Kelley sometime Monday morning  
5 and get some, and then decide then if to approach the  
6 appeal board with it. It certainly seems to us to make  
7 sense to consolidate the appeals. There is, as I had  
8 indicated at one point, I want to check out when I get  
9 back to the office this weekend. But, certainly, it  
10 seems to make sense.

11 JUDGE MARGULIES: What time is your conference  
12 call scheduled with Judge Kelley on Monday?

13 MR. GUILD: I believe it's noon Judge.

14 JUDGE MARGULIES: Judge Lazo and I will kick  
15 that last aspect around and see what we can come up  
16 with.

17 MR. GUILD: Thank you sir.

18 JUDGE MARGULIES: Is ther anything further, do  
19 you have anything?

20 MR. GUILD: Nothing for me.

21 MR. CARR: Nothing further for me, this is Al  
22 Carr.

23 MR. JOHNSON: Nothing further from the staff.

24 JUDGE MARGULIES: Would you just hold on for a  
25 minute, hold on.

1 JUDGE LAZO: Gentlemen. This is Judge Lazo.  
2 I'm not familiar with the diesel power, diesel  
3 generator question, but do I understand that it has  
4 been decided that there will be an evidentiary hearing  
5 on that issue?

6 MR. JOHNSON: This is George Johnson from the  
7 staff. In the partial initial decision a contention on  
8 the to cite specific aspects on the diesel generators  
9 at Catawba was admitted with a tentative hearing date  
10 scheduled for August 6th at North Carolina.

11 JUDGE LAZO: Now, how would that impact on any  
12 decision to issue a low power license?

13 MR. CARR: This is Al Carr, your honor. At  
14 this point, as you may know, we had gotten permission  
15 from Judge Kelley an ordinance back to all the parties.  
16 It stipulated that the director of NRR has authorized  
17 the issue of fuel load license. That is what we are  
18 working toward now.

19 JUDGE LAZO: This would be fuel load, but no  
20 criticalities?

21 MR. CARR: That is correct, your honor. We are  
22 hopeful of having in late September, before we need to  
23 go critical, we would hope that the diesel generator  
24 issue would be resolved, if not, then we would make the  
25 appropriate motions before the licensing board to

BH  
NRC-78  
T-1

1 authorize the director of NRR to issue the requisite  
2 licensing authority that would allow us to go critical  
3 and operate at power levels of 5%.

4 JUDGE LAZO: Is that the only thing holding up  
5 or moving in that direction. Does the original  
6 licensing board decision establish other conditions  
7 that have to be met prior to the issuance of any  
8 further license?

9 MR. CARR: The original, June 22nd decision,  
10 Judge Margulies, gives some conditions on issuance of  
11 the 5% license. We are in the process of resolving  
12 those conditions now. I don't have the decision in  
13 front of me now, George, maybe you can help me there.

14 MR. JOHNSON: The matter, in particular, which  
15 is pending is called the welder issue. It has to do  
16 with quality assurance. The board that issued a DID,  
17 retained jurisdiction over that particular matter which  
18 is, they are waiting on the staff on that matter. The  
19 conference call on Monday is going to deal with the  
20 schedule for receipt by the licensing board and that  
21 court.

22 JUDGE MARGULIES: I have nothing further.

23 JUDGE LAZO: Just one more question. This is  
24 Judge Lazo again. In the even that the applicant should  
25 receive a license to load fuel, and I assume go through



1 the zero power physics testing, how much time would  
2 that entail?

3 MR. CARR: This is Al Carr again, that is if  
4 you have that letters set out in front of you, it is  
5 the, it is in Mr. Owens affidavit.

6 JUDGE LAZO: Oh, Judge Margulies has handed it  
7 to me. I do see that.

8 MR. CARR: Great. Fine. I don't have the  
9 dates. There are four or five steps in there, and my  
10 recollection is that we say in there when we want to go  
11 critical.

12 JUDGE LAZO: That would be September 14th.

13 MR. CARR: Yes sir. And, as I said, given the  
14 situation, we can add a couple of weeks to that. It is  
15 my understanding, pretty much to that effect.

16 JUDGE LAZO: Thank you sir.

17 MR. CARR: Yes sir.

18 JUDGE LAZO: I don't have anything further.

19 JUDGE MARGULIES: Does anyone else have  
20 anything further?

21 MR. GUILD: No sir, this is Guild. Thank you.

22 JUDGE MARGULIES: If nothing further, the  
23 conference call is concluded. Thank you very much  
24 gentlemen.  
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(Whereupon, at 2:45 p.m. on Friday, July 13,  
1984 the hearing adjourned.)

MEMBERS CALL  
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BH  
NRC-78  
T-1

1 CERTIFICATE OF PROCEEDINGS

2  
3 This is to certify that the attached proceedings before  
4 the NRC.

5 In the matter of:

6 DUKE POWER COMPANY  
(Catawba Nuclear Station Units 1 & 2)

7 Date of Proceeding: July 13, 1984

8 Place of Proceeding: Bethesda, Maryland

9 were held as herein appears, and that this is the original  
10 transcript for the file of the Commission.

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14 Georgia Pinkard  
15 Official Reporter - Typed

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17 Georgia Pinkard INSB  
18 Official Reporter - Signature

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