

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

ORIGINAL

3  
4  
5 In the matter of:

6 DUKE POWER COMPANY, et al

Docket No. 50-413 OL

7 (Catawba Nuclear Station,  
8 Units 1 and 2)

50-414 OL

9  
10  
11  
12  
13  
14  
15  
16 TELEPHONE CONFERENCE  
17  
18  
19  
20  
21

22  
23 Location: Bethesda, Maryland

Pages: 12,718 - 12,770

24 Date: Monday, July 16, 1984  
25

8407190337 840716  
PDR ADOCK 05000413  
A PDR

*1/01 org - E. Pearsant  
0/1*

1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION  
3 BEFORE THE ATOMIC SAFETY & LICENSING BOARD PANEL  
4 TELEPHONE CONFERENCE

5  
6 In the Matter of:  
7 DUKE POWER COMPANY, et al.  
8 (Catawba Nuclear Station,  
9 Units 1 and 2)

Docket No's.  
50-413 OL  
50-414 OL  
ASLB NO. 81-463-01

10  
11 Bethesda, Maryland

12 Monday, July 16, 1984

13 The telephone conference call in the above-  
14 entitled matter was convened at 12:00 p.m., pursuant  
15 to notice.

16 APPEARANCES:

17 Board Members:

18 JAMES L. KELLEY, ESQUIRE, CHAIRMAN  
Administrative Law Judge  
19 Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
20 Washington, D.C. 20555

21 RICHARD F. FOSTER, Member  
Atomic Safety & Licensing Board Panel  
22 U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

23 PAUL W. PURDOM, Member  
Atomic Safety & Licensing Board Panel  
24 U.S. Nuclear Regulatory Commission  
25 Washington, D.C. 20555

1                   On Behalf of the Applicants:

2                   J. MICHAEL MCGARRY, ESQUIRE  
3                   Debevoise & Lieberman  
4                   1200 Seventeenth Street, N.W.  
                  Washington, D.C.

5                   ALBERT V. CARR, ESQUIRE and  
6                   RONALD L. GIBSON, ESQUIRE  
7                   Duke Power Company  
                  422 South Church Street  
                  Charlotte, North Carolina

8                   On Behalf of the NRC Staff:

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

11                  On Behalf of the Intervenor, Palmetto Alliance:

12                  ROBERT GUILD, ESQUIRE  
13                  P. O. Box 12097  
                  Charleston, South Carolina

P R O C E E D I N G S

1  
2 JUDGE KELLEY: (inaudible) it's short, and  
3 I'll just read it to you so you'll, you'll know its  
4 text.

5 It's captioned Order on Request for Extension  
6 of Time. In a telephone conference call on July 13,  
7 '84, Intervenors requested a two week extension to  
8 August 1, '84, to file for post findings of fact and  
9 conclusions of law.

10 After hearing the positions of all the  
11 parties in the matter, we interimly granted Intervenors  
12 a seven day postponement to July 25, '84. Following  
13 further consideration of the matter, we allowed the  
14 extension to July 27, '84, with the understanding  
15 Intervenors will not be given any additional extensions.

16 The times for further filings to be made by  
17 the other parties are also extended by nine days. It is  
18 so ordered, signed Judge Margeliese (Phonetic).

19 And I understand that you had already talked  
20 through all these points last Friday, but haven't heard  
21 the text, and I take it that conforms with what just  
22 you knew before.

23 Okay. The primary purposes of this  
24 conference call today was to talk about scheduling with  
25 reference to the diesel generator contention in the



1 Welder B matter. And in light of some indications that  
2 things may not be quite on the prior schedule and also  
3 to rule on a pending motion to compel filed by (inaudible)  
4 with respect to some earlier discovery on diesels..I'll  
5 just note parenthetically, by the way, you'll get in  
6 the mail in a day or two, I suppose, a copy of an  
7 Order, not an order, it's a memorandum, from the  
8 Secretary of Commission simply saying that the Commission  
9 had decided not to review ALAB (Phonetic) 678.

10 You'll recall the time when that was extended  
11 once or twice, but..

12 MR. GUILD: But what is ALAB 678, if you  
13 know offhand?

14 JUDGE KELLEY: That's the one that we referred  
15 up about whether..let's see. We rejected two parts  
16 of your three-part diesel contention, you know, way  
17 back when and..

18 MR. GUILD: Right.

19 JUDGE KELLEY: ..then we referred that and  
20 said, in effect, did we do the right thing? And they  
21 wrote back in 678 and said that they weren't going  
22 to take the certification.

23 MR. GUILD: Right.

24 JUDGE KELLEY: And they said various things  
25 about whether things were generic or not and so forth.

1 And that then was, time was extended by the Commission,  
2 oh I think two or three times, but now they've, they've  
3 signed off without acting on it.

4 Let me ask each of you gentlemen for the  
5 Reporter's benefit on this end..Mr. Guild had just  
6 asked me that question. And then others of you, on  
7 all of you as you, as you come in, would you lead with  
8 your name so she will be better able to get the names  
9 straight.

10 Let's talk, first, about timing milestones.  
11 First of all, let me ask Mr. McGarry or Mr. Carr, as  
12 appropriate, whether as of today you've got a license  
13 to load fuel at Unit 1?

14 MR. CARR: This is Albert Carr, Judge. No,  
15 we don't.

16 JUDGE KELLEY: You have any fixed expectation  
17 in terms of a date?

18 MR. CARR: No, we don't, Judge. The plant has  
19 been ready since a week ago Friday.

20 JUDGE KELLEY: So, as to the staff, is that,  
21 is that, is your position, it's in their, the ball is  
22 in their court? Is that what you're saying?

23 MR. CARR: No, sir. We've been working with  
24 them, trying to resolve whatever matters they bring  
25 up, primarily relating to the interpretation of the

1 Commission's (inaudible). Perhaps Mr. Johnson can  
2 speak better to the schedule than I can.

3 JUDGE KELLEY: Yeah. Well, we intend to  
4 ask him. I just thought I'd ask you gentlemen first.  
5 But, okay. As of now, no fuel loading license has  
6 been issued?

7 MR. CARR: That's correct, sir.

8 JUDGE KELLEY: Okay. Thank you. Mr. Johnson,  
9 do you have any comment on the status of the Duke  
10 application for a fuel load application and when or  
11 whether we might expect to see such an authorization  
12 issued?

13 MR. JOHNSON: The staff is working on it on  
14 an expedited basis at the present time. And I'm  
15 personally involved with it. I, I'm not sure I'm  
16 able to say what day or time it will be issued, but we're  
17 trying to get it out as soon as possible.

18 I'm not sure..it's, it's a matter of days,  
19 in any case.

20 JUDGE KELLEY: Do you expect it out in the  
21 month of July?

22 MR. JOHNSON: I, I would expect this week.

23 JUDGE KELLEY: Thank you. Well, related  
24 questions as far as their timing is concerned, Mr.  
25 Johnson, what about the status of the SER on the

1       diesels?

2               We all got Mr. Gray's letter of, let's see,  
3 July 6th, indicating that there was some slippage  
4 in the staff's SER. Where, where does that stand  
5 now as far as you know?

6               MR. JOHNSON: Yes, sir. George Johnson,  
7 again.

8               JUDGE KELLEY: Right.

9               MR. JOHNSON: The staff has, has informed  
10 me that it will be prepared to serve its technical  
11 report, which I believe will be a report of the, of  
12 the contractor assigned to the Catawba diesel  
13 generators on August 6th. That's a Monday.

14              JUDGE KELLEY: Now, you're using the term  
15 the contractor's technical report. Will there be  
16 subsequent to that a staff analysis of the report or  
17 something of the sort to call an SER?

18              MR. JOHNSON: I, I believe this will be the  
19 technical report of the staff. I think it has, it  
20 probably will have to be adopted formally, but it's  
21 anticipated that this will be the staff's report.

22              JUDGE KELLEY: I see. Well, we've talked  
23 about SERs just because I think if you go back far  
24 enough on the Board notifications, there was a Board  
25 notification, oh last October, expressing a staff



1 intention to issue supplemental SERs on these various  
2 diesels at different sites, and that's why I think  
3 we've been using that term. But I take it you're  
4 saying that this technical report you expect to get  
5 would be the functional equivalent for that?

6 MR. JOHNSON: I think it will be issued  
7 as the safety evaluation report, but I couldn't say  
8 that it will be issued on August 6th, as such.

9 JUDGE KELLEY: The report would be made  
10 available on August 6th or at least you hope it will  
11 be; right?

12 MR. JOHNSON: Somebody just handed a note  
13 to me. Could you repeat that, please?

14 JUDGE KELLEY: The report from the con..who's  
15 the contractor, by the way?

16 MR. JOHNSON: Pacific, Battelle Pacific  
17 Northwest Labs, I believe.

18 JUDGE KELLEY: Okay. Okay. So, they  
19 deliver a report and then the staff looks it over and  
20 the staff can then make it available to the Board and  
21 parties, I take it. And that target date is 8/6?

22 MR. JOHNSON: Yes.

23 JUDGE KELLEY: But there might be some  
24 subsequent document from the staff. It might say no  
25 more than we agree with Battelle, but it would be a



1 staff, staff position on the report; is that right?

2 MR. JOHNSON: I believe that's correct. I  
3 was led to believe that this would be substantially  
4 the staff's document.

5 JUDGE KELLEY: All right. I guess in order  
6 to get all the main factors before us, let me ask  
7 Mr. Johnson, concerning the Welder B, it's a question  
8 really initially to both Mr. Johnson and the applicants,  
9 where does the weld, the investigation of the  
10 Welder B matter stand and when do you expect..first  
11 the staff, when does the staff..well, no, maybe I  
12 ought to ask the applicant first.

13 I understand the applicant has been investiga-  
14 ting the aspects of this matter. Are you through yet?  
15 If not, when do you think you'll be through? And  
16 do you envision having some kind of report or, or  
17 what does come at the conclusion as far as the  
18 applicants are concerned?

19 MR. MCGARRY: This is McGarry.

20 JUDGE KELLEY: Right.

21 MR. MCGARRY: We will have a report to the  
22 staff on August the 3rd.

23 JUDGE KELLEY: Okay. And then, Mr. Johnson,  
24 the staff then would review the report; is that the  
25 next step?

1 MR. JOHNSON: Yes, sir. As I understand the  
2 schedule for the staff review, that we have an  
3 intention to submit our review of the matter by the  
4 end of August in the form of a, of a report that would  
5 be more or less a final report on, on the matter,  
6 depending on what the report contains, a possibility  
7 of having follow-up items, but it's currently  
8 (inaudible) to have a final report on, by the end of  
9 August.

10 JUDGE KELLEY: All right. Now, the Board  
11 was careful to leave open the question of next steps  
12 with regard to Welder B. I believe we said in our  
13 opinion of June 22nd and I think we said it other  
14 times, that we expect that we'll be getting reports  
15 of the kind that just describe by the applicants the  
16 staff, and then we would consider what next step or  
17 steps, if any, were called for, but, certainly, one  
18 possible option would be to have a further hearing  
19 on the basis of the reports.

20 Now, if that turned out to be the course  
21 we thought ought to be taken and I'm assuming there  
22 would be a request from Palmetto to have a further  
23 hearing, if that's so, do you think we should be  
24 thinking in terms of doing Welder B and the diesels  
25 at the same time?

1           Let me just ask the different parties about  
2 that. Mr. McGarry, what's your thought on that?

3           MR. MCGARRY: No, sir. I think we should  
4 move forward with the diesels in August.

5           JUDGE KELLEY: Okay. Staff?

6           MR. JOHNSON: The staff..this is George  
7 Johnson. The staff would want to point out an  
8 additional factor or two before it responds.

9           JUDGE KELLEY: Sure.

10          MR. JOHNSON: I was being handed some notes,  
11 some updated information when I being asked to respond.  
12 So, it was a little difficult to get all my points  
13 in.

14          The staff also would intend to have its  
15 testimony read, could have its testimony ready by  
16 August 10th.

17          JUDGE KELLEY: Testimony on the diesels?

18          MR. JOHNSON: Yeah, which would be based  
19 substantially on their technical report, of course.

20          JUDGE KELLEY: Yes.

21          MR. JOHNSON: So, I wanted to add that. And  
22 in addition, we would be ready to go to hearing the  
23 week of August 20th, I'm told. This is what I was  
24 just informed of. But we'd prefer to go the week of  
25 the 27th because of the potentiality of a conflict.

1 And what that, that, that potential conflict is, at  
2 this time I don't know.

3 JUDGE KELLEY: Okay.

4 MR. JOHNSON: It may have to do with, with  
5 requirements of the contractor. I'm not sure. But  
6 I just wanted to add that information in.

7 JUDGE KELLEY: Thank you.

8 MR. JOHNSON: Our position would be that  
9 we ought to try to get the hearing in in August on  
10 the diesel generators because come the beginning of  
11 September, the, this schedule commencement of the  
12 Shoreham hearing on September 5th, I think the Tuesday  
13 after Labor Day or it's the Wednesday after Labor  
14 Day..

15 JUDGE KELLEY: Right.

16 MR. JOHNSON: .. and that would substantially  
17 tie up, at least some of the, the people who are  
18 involved, during the month of September and could  
19 conceivably delay everything.

20 JUDGE KELLEY: I understand. Now, let's  
21 go to Mr. Guild. We've covered a fair amount of water-  
22 front with that. Calling on you, Mr. Guild, I thought  
23 you might want to hear what the other parties had to  
24 say and then you could respond, but with, based on what  
25 we've heard so far about timing and availability of



1 this and that, let me ask you, first, what's your view  
2 on timing for the diesel, hearing on the diesel matter?

3 MR. GUILD: Yes, sir. I've talked with  
4 applicants a little bit about this, nothing much  
5 with George Johnson, but we certainly are interested  
6 in going forward <sup>soon as</sup> as/possible on the matter. And in  
7 August, in the abstract, sounded fine. And I think  
8 Al Carr and I talked about (inaudible) given what I  
9 knew, August sounded fine.

10 I guess my fundamental problem is it now  
11 appears that, that the Catawba treatment, in terms of  
12 a record treatment of the diesel matter going to  
13 hearing, will precede evidentiary hearings on TDI  
14 diesel matters anywhere else, including Shoreham,  
15 which we understood was set for early September.

16 I hear George Johnson telling me that, that  
17 the technical report that Battelle is putting together  
18 will be largely what the staff relies on, but that  
19 the staff's final position on the Catawba diesels, and  
20 I presume, therefore, their technical position on  
21 the TDI diesels questions generically will likely  
22 come after the circulation of the Battelle report,  
23 perhaps after the circulation of testimony on  
24 August 10th schedule and perhaps after the hearing  
25 dates that have been set or suggested by the staff or



1 Catawba. And what that all, what that all suggests  
2 to me, Judge, is that we may be premature in, in  
3 trying to resolve technical facts that relate not just  
4 to Catawba diesels but to general questions where  
5 records developed in, in other proceedings and further  
6 staff review may have a substantial effect on the  
7 outcome of what we do. That suggests wasted time and  
8 effort and energy on the part of the parties and  
9 Board in the Catawba case.

10 Just, for example, let's say one issue that's,  
11 that I'm informed is likely to, to take, to come up  
12 is the adequacy of the replacement piston skirt  
13 design and manufacture. I happen to know that that  
14 is an issue that is going to be taken up likely in  
15 the Shoreham case because it's a common component  
16 on both the Shoreham machines and the Catawba machine.  
17 And it's obviously an issue that's going to have  
18 implications, generally, for the TDI diesels at all  
19 the other installations.

20 Now, we know that at Shoreham where the,  
21 the Intervenor, Suffolk County, has, you know,  
22 considerable more resources at their disposal than  
23 the parties in this proceeding, we know that there  
24 will be an extended and detailed consideration of that  
25 issue as well as many others that bear directly on, on

1 the Catawba diesel issues and that those issues will  
2 be matters of record beginning the 5th of September.

3 I just, I just submit that, that it makes  
4 no sense to go to hearing on Catawba issues unless or  
5 until there is a full set of technical resolutions  
6 of these matters and to try to shoe horn hearings in  
7 on Catawba, understanding applicant's desire to, to  
8 get a decision at Catawba, it seems to me will, is  
9 impractical when this Board is going to have to take  
10 into account the technical resolutions that ultimately  
11 come from the staff that will bear on Catawba matters  
12 as well as factual matters that, that are, that arise  
13 say in the Shoreham proceeding to the extent that  
14 they're material to Catawba.

15 So, the short and the long of it is, an  
16 August hearing in the abstract sounds fine, but that  
17 was sort of based on the presumption that there would  
18 be a supplemental SER that would reflect a federal  
19 position of the staff with respect to the Catawba  
20 diesels. I guess that's not likely to be the case  
21 now or that's what I'm gathering from what I heard  
22 George say. And we would, we would aoppose going to  
23 hearing before there is a formal staff positional  
24 on the safety of the Catawba machines. We think that  
25 that is the way the Commission policy statement

1 anticipates that licensing will, will, will be taken  
2 up, that the staff as a party will take a formal  
3 licensing position for the issuance of a safety  
4 evaluation report or supplement (inaudible) or a  
5 narrow technical issue and that contested hearings  
6 will be, will be, will be heard once the issues are  
7 joined, in effect, by a staff formal position and not  
8 on the basis of preliminary position such as by  
9 contract or technical..

10 MR. JOHNSON: If I could..this is George  
11 Johnson. Could I address that last point?

12 JUDGE KELLEY: Yes.

13 MR. JOHNSON: Maybe I was unclear, but I  
14 don't want to be misunderstood. My impression is that  
15 this, what we submit to the parties will be a  
16 position, will be the staff's position. It's not  
17 going to be something that is in the works or, or, or  
18 something that's a draft.

19 My, my information is that this will be the  
20 staff's position. The only question is whether we  
21 will have time to actually issue something that's  
22 wrapped in a package called a safety evaluation report  
23 because of format, questions and logistics, but in  
24 terms of the position of the staff, I don't think  
25 it will be a draft or a proposal or something that's

1 incomplete.

2           And certainly by the time we file our  
3 (inaudible) testimony, I would anticipate that we would  
4 be taking a formal position.

5           MR. GUILD: Well..Judge Kelley, this is, this  
6 is Guild again.

7           JUDGE KELLEY: Right.

8           MR. GUILD: I'm, I'm not trying to, to rely  
9 on, on a technical distinction and if the distinction  
10 is only a technical or formalistic one then, obviously,  
11 my point is, is of less moment there. So, to the  
12 extent that it is a final staff position and it's  
13 just not called SER, then, then that's one thing, but  
14 I'm just sort of anticipating that, that perhaps  
15 the Battelle report will have significant questions  
16 or unresolved matters in it that, that do have  
17 substantive import and do preclude the staff having  
18 an SER supplement out if it takes a final position.

19           And if that's the case, it should speak for  
20 itself. We'll know by the time it comes, but trying  
21 to anticipate if that is the case, then I would think  
22 that it would be inappropriate to go to hearing  
23 without a formal staff position. I suppose that will  
24 be clear when the time comes.

25           On the second question, Judge, with respect



1 to the Welder B matter, one of the problems that we've  
2 had, of course, is that we as a party are largely  
3 in the dark about what is going on on this unresolved  
4 matter.

5 We, we have been troubled by the staff  
6 methodology in approaching the treatment of the,  
7 what were these camera issues in this case. And that  
8 had to do, you know, in effect with the record  
9 dispute we had about the so-called anonymous interview  
10 format that we believe simply shields the staff's  
11 work from effective review and criticism by, by the  
12 public and by this party.

13 So, we don't know what's going on with  
14 Welder B and have not been kept informed in a, in a,  
15 in a substantive fashion with what's going on, either  
16 by applicants or by the staff. That being the case,  
17 all I know about Welder B is what I, what I'm told  
18 indirectly by, by what staff documents reference the  
19 subject (inaudible) and by sort of, if you will, the  
20 scuttle-butt that circulates that, you know, is  
21 somewhat troubling about the extent of the problems  
22 reflected and what ultimately, what originally was a  
23 (inaudible) concern about (inaudible) over rise.

24 So, I make a point, first, that, that it's  
25 hard to take a position on a matter where you're kept



1 substantially in the dark. And we would hope that  
2 when, when the company completes in its investigation,  
3 that as a party to the proceeding would circulate the  
4 results of that investigation that it gives to the  
5 NRC staff so that we would have that that would help  
6 us (inaudible) our position.

7 JUDGE KELLEY: I guess I, I was assuming  
8 on that, was it..I've forgotten whether Mr. McGarry or  
9 Mr. Carr was talking about a Welder B report on the  
10 3rd of August.

11 MR. MCGARRY: That's correct, McGarry.

12 JUDGE KELLEY: And I, I guess I was assuming  
13 you would serve the staff and parties.

14 MR. MCGARRY: We've been traditionally  
15 serving the Intervenor with documents that we serve  
16 upon the NRC or the region. And, in effect, that's  
17 the case here.

18 JUDGE KELLEY: Right, okay. Well, I'm not,  
19 Mr. Guild, suggesting you take any position insofar  
20 as your position depends on what the report says.  
21 You can't pick one today, obviously. I'm just trying  
22 to get a little bit of a feel for where we are and  
23 whether these two are necessarily tied together or  
24 not.

25 I've heard two parties..

1 MR. JOHNSON: (inaudible) I have no problem  
2 with, with taking both of them up at the same time  
3 so long as the considerations underlying being ready to  
4 go on each one supports their, their readiness for  
5 hearing.

6 JUDGE KELLEY: Right.

7 MR. JOHNSON: And..

8 JUDGE KELLEY: Right.

9 MR. JOHNSON: ..that's sort of hard to judge  
10 independently of what's to come on both Welder B  
11 and on, on the diesel generators yet, but we would  
12 ask that we be circulated copies of, of what the, the  
13 company and staff are doing on, on Welder B.

14 And we would, of course, like to be able  
15 to be in a position to prepare on that subject as well,  
16 I would just state for the record that Sam Nunn remains  
17 in touch with us and expresses an interest in the  
18 subject of the Welder B matter and is desirous of, of  
19 being assistance to the Board and parties and in  
20 p rsuing an investigation of that matter.

21 And the more information that we have, the  
22 more information, the more ability we'll have to be  
23 able to help to get to the bottom of this matter. We  
24 don't think it should be a matter that's solely  
25 relegated to staff and company pursuit, particularly

1 given the fact that it is a matter that was raised in,  
2 in an adversary context and, obviously, the interest  
3 of the company and the staff are in supporting their  
4 general position that there is no quality assurance.

5 The breakdown in our view is to the contrary.  
6 So, I think, I think all interest would be served  
7 by having a full adversary pursuit of this matter.  
8 And, and if we can get more information about it, it  
9 will help us do our job.

10 JUDGE KELLEY: Okay. I think I would have  
11 assumed that that would be your, your general position,  
12 that you'd want to go to hearing on it. I think if  
13 we go to hearing on that issue, it may or may not  
14 get tried with the diesels. There are some ways that..  
15 some reasons cutting both ways.

16 But, in any event, I assume we wouldn't go  
17 any further right now with, with that until we at least  
18 see the applicant's report due to be circulated to  
19 all of us the first week in, in August. And then..

20 MR. JOHNSON: Judge Kelley, this is George  
21 Johnson, if I may just, for your information. I  
22 have just received, I think it was Thursday or Friday  
23 last week, an inspection report dated July 11th, which  
24 is in the nature of an interim report.

25 JUDGE KELLEY: Yeah, I've got it.

1 MR. JOHNSON: You do?

2 JUDGE KELLEY: Yeah, 73 and 32?

3 MR. JOHNSON: Yes, sir.

4 JUDGE KELLEY: Right.

5 MR. JOHNSON: I was going to circulate it  
6 to the Board and parties.

7 JUDGE KELLEY: We probably all got it. At  
8 least I do.

9 MR. CARR: This is Al Carr. I hadn't seen  
10 it.

11 MR. JOHNSON: I'm a little confused. I was  
12 trying to get an expedited treatment of the FOI  
13 clearance so that I could send it out to everyone, and  
14 that's in the process.

15 I asked Bradley Jones today to convey that  
16 information through the staff to the applicants. I  
17 guess by phrasing it here, I'm also doing that.

18 JUDGE KELLEY: Well, I'm not very short. It's  
19 just a couple of pages.

20 MR. CARR: Yes, sir.

21 JUDGE KELLEY: Right, okay.

22 MR. CARR: It sounds like it started and  
23 circulated by the staff. This is Al Carr. If Judge  
24 Kelley has a copy.

25 JUDGE KELLEY: Yeah. Well, I glazed at this.



1 I didn't study it. I didn't think it told me all that  
2 much about where things stand, but perhaps I didn't  
3 read it carefully enough.

4 MR. JOHNSON: Well, it is an interim report.  
5 I just wanted to bring that to..

6 JUDGE KELLEY: Right, okay.

7 MR. JOHNSON: ..to your attention, party's  
8 attention, the context of Mr. Guild's (inaudible).

9 JUDGE KELLEY: Okay.

10 MR. GUILD: I just..this is Guild. I just  
11 don't know whether I got it or not. I'm sort of  
12 shuffling through papers here to see if I do have it.  
13 And I certainly didn't notice it when it did come in.

14 MR. JOHNSON: What I'm saying is that when  
15 I have the go ahead from the applicants, I will under  
16 clearance, under FOIA, I will circulate it.

17 JUDGE KELLEY: Okay. Let's proceed for the  
18 moment, and then we'll be getting to this Motion to  
19 Compel, but let's just take a few more minutes on  
20 the question of timing and possible hearings.

21 Now, if the staff's technical report is  
22 available about the 6th of August, the staff's  
23 preferred date, I believe I heard you say, Mr. Johnson,  
24 was the 27th of August; is that right?

25 MR. JOHNSON: Yes, sir. The, the note I had



1 just received was that the witness available the week  
2 of the 20th but would prefer the week of the 27th  
3 because of some potential conflict. That's the..

4 JUDGE KELLEY: Based on what you know now,  
5 Mr. Johnson, and we're all groping a little bit, but  
6 you envision this a hearing of, of how long?

7 MR. JOHNSON: Well, the staff has been  
8 under the impression that there was some agreement  
9 since we're talking about a week..

10 JUDGE KELLEY: Okay.

11 MR. JOHNSON: ..as a ball park outside  
12 figure.

13 JUDGE KELLEY: Okay. Mr. McGarry, do you  
14 have a specific preference?

15 MR. MCGARRY: Yes, sir. We're prepared to  
16 go to hearing on the 27th. We will be prepared. If  
17 the Board's pleasure is earlier, we'll be prepared  
18 also, but be, again, like the staff our operating  
19 under the assumption that this is a one week hearing.

20 And, again, it was the understanding of all  
21 the parties back in, in May, I think it was May 21st,  
22 we made a conference call.

23 JUDGE KELLEY: Okay.

24 MR. MCGARRY: We have some specific dates  
25 if we want to get into the, the dates of reports or

1 dates of discovery, the dates of testimony, the dates  
2 of..

3 JUDGE KELLEY: Well, we might go to some  
4 others, but I just thought we might try first to look  
5 at a hearing date and then look at other things like  
6 testimony, filing and so on.

7 Mr. Guild, what's your reaction to that  
8 specific date? I no in general what your position is  
9 and what your concerns are, but what, what is, what  
10 would you say to the 27th as a date?

11 MR. GUILD: Again, the abstract, the 27th is  
12 fine, Judge. I did, I am concerned about being  
13 ready to go, and I am concerned about the Shoreham  
14 hearings that are going, beginning the 5th in terms  
15 of, in terms of their effect on resolution of issues  
16 that are a little overlapped, but..

17 Yeah, I guess, I guess fundamentally I  
18 think it's more intelligent to, to, to have available  
19 the, the Shoreham record where issues are going to  
20 be duplicative and, frankly, I think that's likely to  
21 save us hearing time and get us all in the position  
22 of being better prepared.

23 The issues are going to be inevitably more  
24 finally resolved in, in Shoreham where all the parties  
25 have resources that they're going to put, bring to

1 bear than they could possibly on, on Catawba and to  
2 the extent that we know that they're going to take up  
3 the issue of the adequacy of piston skirts, it seems  
4 to me no reason to, for us to invent that wheel before,  
5 before they do.

6 So, my, I guess my general position would  
7 be that, that we should set our, our diesel generator  
8 hearing to follow theirs or, or coordinate it with  
9 them to the extent that, that there are areas which  
10 we'll likely duplicate in time and effort, but that  
11 aside from that, being ready to go to hearing, the  
12 27th is fine by us.

13 JUDGE KELLEY: All right.

14 MR. CARR: Your Honor, this is Al Carr.

15 JUDGE KELLEY: Yeah.

16 MR. CARR: I have to be heard just for a  
17 second on that last point. It appears to me to be not  
18 much more than an extension of Palmetto's position in  
19 this thing all along that it should not be limited  
20 to the Catawba diesel generators and that, instead,  
21 consider the generic sweep of (inaudible) with  
22 respect to quality assurance (inaudible) these  
23 problems.

24 And I think that the Board has already ruled  
25 on that matter a couple of times, recognizing that some

1 issues may, in fact, be duplicative, but focusing on the  
2 Catawba diesel generators. And I would, would just  
3 like to state my opposition to Mr. Guild's position  
4 in that we often go on and move forward on the  
5 Catawba issues and not concern ourselves with what  
6 may be going on in other cases around the country.

7 JUDGE KELLEY: Let me, let me just say,  
8 generally, gentlemen that I think a little more light  
9 might be shed on this general question of the scope  
10 of hearing when we get into the Motion to Compel  
11 because we're going to be making rulings on that.

12 I think our rulings viewed in the aggregate  
13 will show that we see this hearing somewhat more  
14 narrowly than Mr. Guild does and we see it a little  
15 more broadly than the applicants apparently do, but  
16 one has to start with something. So, we start talking  
17 about schedulings instead of doing that first, but  
18 we will, I think, have a little better scope outline  
19 when we get through that part of today's conversation.

20 MR. GUILD: Judge, this is Guild. May I  
21 just (inaudible) but I don't want to reargue the  
22 point that Al just referred to. I think you understand  
23 my view. But ..

24 JUDGE KELLEY: Right.

25 MR. GUILD: .. on scheduling, generally, in



1 the call with Judge Margeliese we raised the question  
2 of, of proceeding now or later with appellate work  
3 that's also going to be going on at the same time or  
4 would be going on at the same time, otherwise.

5 JUDGE KELLEY: Right.

6 MR. GUILD: Did he bring that to your  
7 attention?

8 JUDGE KELLEY: He mentioned it to me and he  
9 and I both thought, well, it's up to Rosenthal. It's  
10 up to the Appeal Board. You know, if you want an  
11 extension to file a brief, you want to file one  
12 consolidated brief instead of two or, or whatever, I  
13 think all those matters are, are up to him.

14 MR. GUILD: All right. So, I guess the  
15 question that Al Carr and I had was, you know, are,  
16 whether any of the licensing board people were aware  
17 of any, you know, policy pronouncements on that  
18 question that would make it a waste of time or whether  
19 that simply remains an open, open question as far as  
20 you know.

21 JUDGE KELLEY: I think there's no harm in..  
22 I don't know whether you ought to maybe, both of you  
23 or the staff, too. You want to call Rosenthal up or  
24 are you just going to talk to him or do you want, you'll  
25 file a motion for time to file a brief?

1 MR. GUILD: Okay. I really don't know  
2 because that's sort of a (inaudible) presence in the  
3 back of my mind and I know that to the extent that,  
4 that I'm filing things, it's going to be making work  
5 for the other parties as well.

6 I think we all have a common position that,  
7 that consolidation would suit all of our interests  
8 and allow us to pursue the diesel issues and others,  
9 you know, without looking over our shoulder on appeal  
10 board (inaudible).

11 JUDGE KELLEY: I think it's my general  
12 impression that the Appeal Board is pretty reasonable.  
13 It's quite important for the consolidation question.  
14 They're pretty reasonable about extensions. And, you  
15 know, if there's no stay involved, then I think they're,  
16 have an open ear to other commitments and desires to  
17 get a little more time.

18 MR. GUILD: Yes. Well, perhaps, I could  
19 just leave this point by saying that if I can, could  
20 try to get with, with Al or Mike and George after  
21 the conference call, maybe we can sort of figure out  
22 about how to approach that issue (inaudible).

23 For my purposes, given a, what's now an  
24 August 1st deadline to file an appeal brief on this  
25 Board's partial initial decision, I need to get some

1 kind of read pretty quick to be able to allocate  
2 my work..

3 JUDGE KELLEY: And why, why don't you take  
4 it up with them and then go to the Chairman up there.  
5 And I think it can be worked out.

6 MR. GUILD: Okay. Thank you, Judge.

7 JUDGE KELLEY: I might just add that we  
8 Board members haven't talked in any great detail  
9 about alternative times. When we saw a couple of  
10 these things slipping like the staff's report slipping,  
11 that it became apparent to us that the 6th of August  
12 was not going to be a duelable time but this suggestion  
13 for the 27th is on the assumption it's a week, week  
14 hearing, is okay with me.

15 I think, in general, anybody, any of my  
16 colleagues have conflicts with the week of the 27th?

17 JUDGE FOSTER: This is Foster, and the 27th  
18 is all right with me.

19 JUDGE PURDOM: This is Purdom. The 27th  
20 is all right with me.

21 JUDGE KELLEY: Okay. So, continuing in a,  
22 in a selfish (inaudible), it looks like the Board is  
23 okay for that time. I think I mentioned before but  
24 I'll just say again, that I run into trouble in  
25 September. I've got a hearing on the, starting on

1 the 5th and Sharon Harris of probably a couple of weeks  
2 or so. And then a break and then another hearing  
3 of two or three more weeks probably in October.

4 Now, you know, if you run into a need for  
5 hearing time in that time frame, one thing you can do  
6 is get another Chairman in there, there's people  
7 here who could do it. So, it's not any big problem,  
8 but I'll just mention that I'm kind of pre-empted in  
9 much of September and October, but I'm available on  
10 the week of the 27th.

11 Why don't we..did we say that ten, on a  
12 tentative basis, the 27th looks like a pretty good  
13 date? Do my colleagues agree with that based on  
14 what you've heard?

15 JUDGE FOSTER: Right.

16 JUDGE PURDOM: Right.

17 JUDGE KELLEY: Okay. Well, gentlemen, what we  
18 we really need very badly except..well, we need to  
19 close discovery, I suppose. And that depends on  
20 some things yet to come. And we need a date or at  
21 least a target date for filing pre-file testimony.  
22 Hold on a moment.

23 (PAUSE)

24 JUDGE KELLEY: What about filing..I'll tell  
25 you, if we went with the 27th, what about filing



1 testimony or getting it into the Board's hands by the  
2 20th? Mr. McGarry?

3 MR. MCGARRY: No problem, Your Honor.

4 JUDGE KELLEY: Mr. Johnson?

5 MR. JOHNSON: It's okay with the staff.

6 JUDGE KELLEY: Okay. Mr. Guild?

7 MR. GUILD: Yes, sir. I, I assume that that  
8 would be getting into the hands of the parties as well  
9 that day?

10 JUDGE KELLEY: Yes, if you could, yeah. Right.  
11 And your, your Dr. Anderson, you, you expect him to  
12 be a witness?

13 MR. GUILD: I just, I can't commit at this  
14 point, Judge. He's, he is, I understand, to be a  
15 witness in, in the Shoreham proceeding the following  
16 week.

17 JUDGE KELLEY: Well, if he isn't a witness,  
18 is he at least going to be present at the hearing so  
19 they can help you when crossed?

20 MR. GUILD: He's going to assist, Judge.  
21 And whether or not we can have him at the counsel table  
22 to do that is not yet determined.

23 JUDGE KELLEY: Well, could you give us an  
24 indication of, of sort of a minimal contribution you  
25 expect that he, that he is committed to at this point?

1 MR. GUILD: Well, to the review the, the  
2 documentation that's forthcoming from applicants and  
3 staff and to provide us what assistance he can given  
4 his commitments in the Shoreham proceeding.

5 He's performing his, his assistance for  
6 us on a wholly volunteer basis, although he's a paid  
7 consultant to, to Suffolk County and performing work  
8 on these very issues for that party in that proceed-  
9 ing.

10 JUDGE KELLEY: But can the Board proceed  
11 on the assumption that the men will actually put  
12 in some substantial effort in this, the Catawba  
13 case?

14 He's not just lending his name to, to your  
15 pleadings I take it? He's going to do some work on  
16 Catawba; right?

17 MR. GUILD: Yes, sir. He's doing work, he's  
18 doing work on..the point that I was trying to  
19 emphasize earlier is that I'm not certain that the,  
20 that we communicated effectively to this Board, but  
21 we're talking about issues here that are not unique to  
22 Catawba.

23 We're talking about issues here that can't  
24 be tried at Catawba in the abstract, although the  
25 applicants and staff seem to want to approach it that

1 way, but we've got essentially the same machines here  
2 that we have in a whole bunch of other places but  
3 the same problem is not in manufacture.

4 And those problems are being addressed with,  
5 you know, a great deal of commitment of resources,  
6 generally. And we are fortunate enough or this  
7 Board is fortunate enough to have available the  
8 product of that work, but, again, Dr. Anderson and the  
9 others who are performing that work have agreed to  
10 assist us on a pro bono basis, and that pro bono  
11 basis, by definition, applies the limits on, on their  
12 time and their commitment of their resources.

13 So, the assistance will be there, Judge, and,  
14 and in many respects its analysis that it's being  
15 done on a broad scale that focuses on (inaudible)  
16 problems which are general to Catawba as well as  
17 Shoreham and other (inaudible).

18 And that, of course, is the point we've been  
19 trying to make all along.

20 JUDGE KELLEY: Well, as we said I think  
21 before and we'll be saying again in a minute on  
22 these motions to compel, the contention we've got in  
23 this case has to do with the site specific problems  
24 we had at Catawba. And that's what we expect the  
25 staff's technical report to be on, what we expect the

1 applicant's case to be on and that I have no doubt some  
2 of those problems may well have occurred at other  
3 places. Maybe their head crack solar head at Shoreham.  
4 I frankly don't know.

5 But that's our focus. And we are going to  
6 be looking at a specific set of problems, not general  
7 problems. We're not going to be looking at QA  
8 problems or TDI, wherever they may be.

9 And that's what we want, somebody like  
10 Dr. Anderson to, to bear down on and look at hard and  
11 give us some help.

12 MR. GUILD: Yes, sir. I, I. I appreciate the  
13 Chair's view and to the extent you express it (inaudible)  
14 I think we do have a bit of, you know, difference of  
15 view. Perhaps, I'm sort of anticipating your ruling  
16 on the Motion to Compel as providing some guidance  
17 on this question, but..

18 JUDGE KELLEY: I think it will, yeah.

19 MR. GUILD: Right. I think, you know, I do  
20 my best to try to preserve our position for the  
21 record, you know, notwithstanding what, what, what  
22 your ruling may be on this Motion to Compel, that  
23 you can't decide those Catawba specific questions  
24 and the abstract, the staff, the staff understands  
25 that when they approach the owner's group work and,



1 you know, to the extent we disagree about that point,  
2 I'm just trying to preserve my position for the  
3 record.

4 JUDGE KELLEY: Well, I, I understand. I  
5 think, I think your position is, you know, it's been  
6 stated and I think it is pretty clear. We want  
7 ours to be equally clear and then we want to be  
8 assured that you've got, this is a technical area.

9 With all due respect to lawyers like you and  
10 me, Mr. Guild, we don't know much about metalurgy (PH.)  
11 and engines and stuff like that. And we, we do need  
12 some experts to come in here and focus on these  
13 matters.

14 And what we don't want is Dr. Anderson simply  
15 lending his name to the Catawba case and not  
16 testifying, not showing up at the hearing and really  
17 not doing much of anything because then the Board's  
18 condition which said you can have this contention  
19 if you get an expert is circumvented.

20 So, we want the man focusing on the papers  
21 here and doing some work. Specifically, when, when  
22 the staff comes out with their Battelle report in  
23 early August, we'd expect Dr. Anderson to analyze  
24 that and come back to you with some useful information.

25 And I assume, we can assume that, can't we?

1 MR. GUILD: Yes, sir, but I think that you  
2 missed my point if you say, well, we'll have a hearing  
3 the 27th of August on Catawba and we won't lose the  
4 value of Dr. Anderson and the other technical experts  
5 review of the same, very same issues that are to be  
6 treated in great detail in the Shoreham proceeding.  
7 That's not a fair burden to put on, on this party  
8 because, Judge, Dr. Anderson and the others will have  
9 thorough analyses of the very same issues that this,  
10 that the Catawba, that I believe the Catawba board  
11 will have to confront in order to vouch for the safety  
12 of the Catawba deals given the problems that have  
13 existed there.

14 And they'll have less of, you'll have less  
15 of that expertise available to you. To the extent  
16 that the very same work was being done that would  
17 be applicable here, has yet to be completed at  
18 Shoreham.

19 That's the position that I was trying to  
20 communicate to you. And if you want expertise and  
21 you want the most expertise, then I submit to you  
22 that the way, the way to get that expertise is to  
23 allow for the records to develop in the Shoreham  
24 proceeding, but I understand, I understand what  
25 you're..

1 JUDGE KELLEY: Okay. I think we have a  
2 differing approach to that, and I'm just saying  
3 that there are going to be some matters that require  
4 expert assistance in the Catawba proceeding, and this  
5 Board is assuming in allowing the case to go forward,  
6 that you have an expert whose name is Anderson who's  
7 going to work on the case and who will help you  
8 prepare your case and contribute to the proceeding  
9 in that way.

10 MR. GUILD: Yes, sir.

11 JUDGE KELLEY: Okay. Now, okay. I think  
12 that takes us to the Motion to Compel. We had  
13 reviewed and are prepared to issue rulings on the  
14 Motion to Compel, dated May 31st, from Palmetto and  
15 CESC directed against the applicants. And the  
16 applicants answered that on the 28th of June, after  
17 a hiatus that followed the Commission's ruling on the  
18 *sues sponie* (Phonetic) issue.

19 Let us make a few general observations, and  
20 then we can move into the specific rulings. Overall,  
21 we're, we're, we're granting the Motion to Compel in  
22 certain parts and we're denying it in certain parts.  
23 In addition, we are modifying a few interrogatories  
24 and then granting the Motion to Compel and answer to  
25 that interrogatory as modified.

1           Secondly, that's just a bottom line general  
2 description of the result. Secondly, insofar as we're  
3 denying the Motion to Compel, those denials as to  
4 particular interrogatories rest primarily on the  
5 fact that we think they exceed the scope of the  
6 contention as we construe it. In a few cases, it  
7 turns on such considerations as undue burden on the  
8 applicants.

9           Now, thirdly, a few general observations  
10 about the scope of this contention as, as we have  
11 understood it. The contention is limited to problems  
12 that have actually arisen at Catawba. Specifically,  
13 the contention does not include quality assurance  
14 at the TDI Company. It does not include operational  
15 problems at other reactors that have not arisen at  
16 Catawba.

17           You might have a problem with Catawba about  
18 a cracked cylinder head. Okay, that's, that's part of  
19 the hearing, but if you've got the problem about a  
20 carburetor at some other reactor, Grand Gulf or  
21 Shoreham or wherever, never been any such problem at  
22 Catawba, that's not in this hearing.

23           In light of these limitations, this conten-  
24 tion is not and it's not intended to be a comprehensive  
25 safety review of the Catawba diesels. It looks at



1 certain safety aspects; namely, those that have cropped  
2 up, we were testing at Catawba.

3 There are other safety aspects of these  
4 diesels being viewed by the staff, but they're not  
5 before this Board. Finally, one specific limitation.  
6 We read the contention as limited to engine problems.  
7 That is to say we're not concerned about problems in  
8 the generator part of the TDI diesel generator.

9 Now, it's true that the literal wording  
10 refers to "generators" but their concern so far as  
11 we're aware have all focused on the engines, not  
12 merely the ones that have been reported at Catawba,  
13 but there's now almost a two foot stack of Board  
14 notifications, everybody has on their, on their  
15 shelf, that focuses engines. That's what we're looking  
16 at, not the generators.

17 I might add that the one specific thing that  
18 came up about generators was the files that were  
19 misplaced somehow in the Catawba generator. We did  
20 already have some litigation on that issue in the  
21 QA hearing, but we don't see it as a part of the  
22 hearing that we're going to now.

23 Now, with those sort of general observations,  
24 I think our individual rulings will follow pretty  
25 (inaudible) from what we've said, but we will go

1 through, through them and read them off. The reasons  
2 for granted denial are going to be kind of short form,  
3 though, in view of what's already been said.

4 We want to break them into two parts as  
5 the motion does. There's a large grouping of  
6 contentions, for which we don't have a particular as  
7 basis. It's just a broad, if you will, blanket  
8 request for relief. And I'll read off which ones  
9 they are.

10 Numbers 13 through 18, 20 through 25, 36, 41,

11 ..

12 MR. GUILD: Judge, 46?

13 JUDGE KELLEY: 36.

14 MR. GUILD: 36.

15 JUDGE KELLEY: 41, 42, 50, 52. Those are  
16 all Palmetto. And CESG 12 and 18. Now, as to those  
17 that I just read off, there are about oh 18 or 20  
18 there, we are granting the Motion to Compel as  
19 follows: And I'll read the numbers and certain  
20 changes.

21 Number 15, strike out the phrase, "describe  
22 in detail", those three words. Otherwise, Motion  
23 granted.

24 Number 16, Motion granted.

25 Number 17, add the words "in your possession,

1 not previously given to the Intervenor". After the  
2 word "records" in the first line. Next add the word  
3 "or" at the end of the first line. And, finally,  
4 add the words "origin"..correction, finally strike the  
5 words "origeneric testing" in the second line. Now,  
6 those are all on No. 17.

7 Number 18, Motion granted.

8 Number 19, strike the word "generators" in  
9 line 1 and substitute the phrase "engines in your  
10 possession".

11 Number 21, strike the first sentence. Motion  
12 granted as to the rest of 21. So, that by way of  
13 summary, No. 16, 18, the motion is granted as to  
14 the interrogatory as written. Numbers 15, 17, and  
15 19, the interrogatories are modified and as modified,  
16 the motion is granted.

17 Now, next we will give you briefly our  
18 reasons for denying the motion with respect to the  
19 rest of these blanket requests. Really as to all of  
20 them, we see them as outside the scope of the  
21 contention.

22 Now, there, there are two different  
23 categories, however. The series of interrogatories  
24 as follows, and I'll give them numbers. 13, 14, 20,  
25 36, 41, 42, and 52 all relate to QA (inaudible) Trans

1 America Company, we see it as outside, see those  
2 interrogatories as outside the scope of the contention  
3 for that reason.

4 Numbers 22 through 25 are outside the scope  
5 because they go to the generator and not the engines.  
6 That leaves one, CESGAT. A short answer to that  
7 contention is that interrogatory is the word, yes.  
8 However, we're not going to grant a motion to compel  
9 because it's not phrased to elicit a useful response.

10 We turn next to what I'll call the particular  
11 as requests, and these are requests for which the  
12 Palmetto motion has a separate paragraph, perhaps  
13 several sentences on each one. And they are as  
14 follows: I'll just read them all off, first.

15 19, 27, 28, 30 through 33, 35(a), 39, 44(a)  
16 and 51. We are granting the Motion to Compel with  
17 respect to just one of those I just read; namely,  
18 No. 35(a). And we are saying, in addition, however,  
19 that as to 35(a) our grant of the motion is subject  
20 to the possibility that information may have been  
21 supplied at least in part by the applicant's  
22 June 1, '84 report which came in after the question.

23 In that regard, the applicants and Palmetto  
24 should take a look at that again and see if they can't  
25 work out a compromise or agree it's been answered.



1 If not, you can come back to the Board.

2 As to the others I read off a moment ago,  
3 I'll read them again. 19, 27, 28, 32, 33, 38, 44(a)  
4 and 51 are denied. And, briefly, and indicate the  
5 reasons for that.

6 Okay. Continuing the reasons for denying  
7 the particularized requests. Number 19 goes to the  
8 generators and not to the engines. Number 27 at least  
9 was worded, requires a survey of the entire industry.  
10 And we think is too burdensome. So, (inaudible) a  
11 question of that sort might be put to the staff. We  
12 don't think it's properly placed through the  
13 applicants.

14 We have the same observation about Numbers  
15 30, 32 and 33. They're to be put, they ought to be  
16 put to the staff and not the applicants. Three  
17 others, 28, 33 and 44(a) speak to other types of  
18 engines, engines other than TDI engines, outside the  
19 scope as we see it.

20 31, we think, is premature. And 39 we  
21 also think is outside the scope, goes to compiling  
22 information about various power levels. 51 is  
23 denied as outside the scope because it seeks  
24 circumstances under which the diesels might be used.  
25 It doesn't relate to defects, possible defects in the

1 engines.

2 So, that, gentlemen, compromises our rulings  
3 on those interrogatories. There's one thing left.  
4 No. 50 of Palmetto of No. 12 of CESG, both refer to  
5 a filing the applicants made with the staff on  
6 February 22, 1984. And the questions and the answers  
7 are both, the reference to this filing. We don't  
8 have that filing, so we can't rule on it. And I'd  
9 like to ask I think, Mr. Johnson, could you send us,  
10 send over a copy of that?

11 MR. JOHNSON: Yes, sir.

12 JUDGE KELLEY: And then at the next  
13 available opportunity or pretty soon, we can, we can  
14 look at that and give you a ruling on those two.

15 MR. JOHNSON: A February 22nd submission  
16 of the applicants to the staff?

17 JUDGE KELLEY: Right. That's my sort of  
18 shorthand description now chat..you'll see it  
19 referenced in No. 50, Palmetto, either the question or  
20 the, or the objection, or both. There may be a more  
21 precise reference there.

22 MR. JOHNSON: Okay.

23 MR. CARR: Judge Kelley?

24 JUDGE KELLEY: Yes.

25 MR. CARR: This is Albert Carr. You mentioned

1 the June 1st report to the staff.

2 JUDGE KELLEY: Yes.

3 MR. CARR: And letter of I believe July 11th.  
4 I mailed, I sent to the Board copies of our June 29th  
5 report to the staff.

6 JUDGE KELLEY: Yeah.

7 MR. CARR: Which replaces that June 1st  
8 report, and I explain that..

9 JUDGE KELLEY: Okay.

10 MR. CARR: And the parties were previously  
11 served at the June 29th report.

12 JUDGE KELLEY: All right. So, you're saying,  
13 are you saying that that's what ought to be the focus  
14 in deciding whether that question needs a further  
15 answer?

16 MR. CARR: I believe that the, I believe  
17 that the information you relied on in the June 1st  
18 report is the same in the June 29 report. I just  
19 want to point out there is that follow-up report.

20 JUDGE KELLEY: Okay. Thank you.

21 MR. CARR: And my letter probably hadn't  
22 gotten to everybody yet, but it explains that.

23 JUDGE KELLEY: Okay. That seems to take  
24 me through my outline. Let me ask, Judge Foster,  
25 Judge Purdom?

1 JUDGE FOSTER: I, I have nothing further.  
2 This is Foster.

3 JUDGE PURDOM: Purdom, nothing else.

4 JUDGE KELLEY: Well, gentlemen, what we'll  
5 have to do is talk among ourselves and, and I guess  
6 get, get back to you one way or another.

7 MR. MCGARRY: Your Honor?

8 JUDGE KELLEY: Yes.

9 MR. MCGARRY: This is McGarry.

10 JUDGE KELLEY: Yeah.

11 MR. MCGARRY: I just have one final thing  
12 on procedure. In terms of a schedule, we're shooting  
13 for August 27th for one week. And we would just  
14 suggest the following dates for your consideration.  
15 I assume you'll get out an order confirming..

16 JUDGE KELLEY: Okay

17 MR. MCGARRY: ..the hearing, but taking as  
18 a guide the time frames that we were talking about  
19 in the May 21st conference call and assuming that the  
20 staff's report will come out August 6th, we would  
21 suggest that discovery close on August 15th and that  
22 we think we've agreed that the testimony be hand on  
23 August 20th.

24 JUDGE KELLEY: Can you define, not commenting  
25 on that particular date one way or the other. When



1 you mean, when you say closed, does that mean that  
2 all the answers have to be in?

3 MR. MCGARRY: Yes, sir.

4 JUDGE KELLEY: So, you're.. interrogatories, they  
5 would have to be allowed some earlier time?

6 MR. MCGARRY: Yes, sir.

7 JUDGE KELLEY: Okay. Okay. Well, we can  
8 consider that. Staff, any comment on those suggestions?

9 MR. JOHNSON: The staff, of course, has no  
10 problem with the August 20th date for testimony.

11 JUDGE KELLEY: Mr. Johnson.

12 MR. JOHNSON: Assuming that the Intervenor  
13 may have questions or what have you with regard to  
14 the technical report, we tried to work something out  
15 so that we could, in fact, get any answers to them  
16 by that date. It seems like a reasonable date, that  
17 August 15th.

18 JUDGE KELLEY: Can you..take your report,  
19 for example, can you express mail..does express mail  
20 help you much, Mr. Guild?

21 MR. GUILD: Sure, Judge Kelley. We have a  
22 real problem getting mail quick from D.C. So, express  
23 mail is very helpful.

24 JUDGE KELLEY: I think if you can do it on  
25 the key things like the staff report and maybe Mr.

1 McGarry or Carr, too, if you have a filing earlier,  
2 that might be useful. Okay. Any, Mr. Guild, any  
3 comment on Mr. McGarry's discovery suggestion?

4 MR. GUILD: Well, I think that (inaudible)  
5 closing discovery on the 15th is fine, but what that  
6 really means is that discovery closes, you know, 14 days  
7 before that, that is fine because we certainly  
8 anticipate that there will be a base, a need for  
9 directing more questions between now and then.

10 And I guess I would, I guess what I would  
11 suggest is that if, if we're working to an expedited  
12 hearing schedule, there's no need for wasting the  
13 time that's, that's called for in the exchange of  
14 formal paper work as we get closer to the time.  
15 And, yet, the real point is that there's a, there  
16 are questions that arise close to the 15th and a 14  
17 day turnaround time for, for written interrogatories  
18 is just not possible.

19 You know, I submit that the way to handle  
20 that intelligently is to, is to try to work it out  
21 among the parties with questions and then if we can't  
22 work it out, take it to the Board for ruling in  
23 (inaudible) vehicle like this conference call.

24 And that means that, that means that  
25 information in the way of discovery can be exchanged,

1 can be sought and exchanged much closer to the  
2 August 15th deadline without having to essentially  
3 waste time in production of paper and waiting for it  
4 to arrive in the mail.

5 So, I suggest that if you're going to  
6 follow, that it makes sense for testimony to, to  
7 follow shortly on the close of discovery but that  
8 whatever period you pick, whatever date you pick  
9 for the close of discovery, should not be seen as  
10 precluding discovery requests that come much closer  
11 to that date.

12 And that's primarily because there's  
13 stuff that we're expecting to come closer to the 15th  
14 in terms of creation. That would be in the NRC's  
15 report, for one. And second given, given the other  
16 existing obligations that we have, we're going to  
17 need everyday that we have to work on the diesel  
18 matter and to prepare for hearing.

19 And, otherwise. if, if you essentially cut  
20 off our discovery rights two weeks before the 15th,  
21 you deprive us a lot of opportunity.

22 MR. MCGARRY: This is McGarry. I think  
23 we can work it out. Our concern, of course, is  
24 being confronted with a, a substantial list of  
25 questions a day or two before the 15th because that

1 was (inaudible) preparation time. I don't think that's  
2 what popped out on..

3 MR. GUILD: No, I don't envision that.

4 MR. MCGARRY: I think we can work that  
5 out.

6 MR. GUILD: I think we can, too, Judge, It's  
7 just that I don't think it should be rigid.

8 JUDGE KELLEY: Okay. I think, I think  
9 we've heard both of you gentlemen. We can put in  
10 something that will accommodate that and stay a little  
11 bit flexible toward the end, anyway.

12 MR. GUILD: Judge, this is Guild, one, one  
13 question from my, my side. It would be very helpful if  
14 we could be provided a copy of the Board's ruling,  
15 a transcript of the Board's ruling.

16 JUDGE KELLEY: Yeah. I'll, well, we may,  
17 I think we may have an order going out of OLS the  
18 next couple of days which which I'll just send you.  
19 And all you need is the discovery ruling. I'll just  
20 send you a copy of it, all right?

21 I'll send you a copy of the transcript.

22 MR. GUILD: That would be helpful, Judge.  
23 Thank you.

24 JUDGE KELLEY: Okay. Anything else from  
25 anybody. Okay. Well, we will..perhaps an Order



1 within the next few days get one out. At least  
2 a little later this week.

3 And I think, though that you owe her to  
4 participate in the conversation and her drift, and  
5 there probably won't be any great surprises, but you  
6 should have in hand the first part of next week an  
7 Order setting various dates.

8 MR. GUILD: Oh, Judge, this is Guild. One  
9 small question. Did you decide where these things  
10 are going to be, where these hearings are going to be?

11 JUDGE KELLEY: Don't think we've ever..

12 MR. GUILD: Over Rockhill.

13 JUDGE KELLEY: I don't think we've even  
14 talked about it. I don't think we've really even  
15 talked about it. We haven't, we haven't decided it,  
16 no. Well, why don't we take a minute anyway and  
17 where would you preview, Mr. Guild?

18 MR. GUILD: It doesn't really matter to  
19 me. It's just that I like to know a little bit in  
20 advance so I can make some logistical..

21 JUDGE KELLEY: Okay. The Board has a mild  
22 preference, I think, and you can kind of (inaudible)  
23 me, gentlemen. Please do if I'm wrong, for  
24 Charlotte, mostly for logistical reasons.

25 Mr. McGarry?

1 MR. MCGARRY: I think will be guided by the  
2 Board's pleasure, obviously. We have no strong  
3 feeling. We just do observe that the Courthouse in  
4 Rockhill was a great place to try a case, and it was  
5 fairly convenient in terms of the various other  
6 accomodations.

7 JUDGE KELLEY: Right. Mr. Johnson.

8 MR. JOHNSON: The only observation I would  
9 make and it's a personal observation, and that is  
10 that I don't believe that the (inaudible) Center is  
11 an appropriate hearing room.

12 JUDGE KELLEY: That's a (inaudible) we  
13 appreciate the applicant's finding it. It wasn't  
14 that great in a lot of ways. You know, it served  
15 our purposes at t..e time, but if we were (inaudible)  
16 we might try to get something a little more open in  
17 area and so forth.

18 MR. JOHNSON: And I also, I wouldn't expr is  
19 a preference as between Charlotte and Rockhill, although  
20 I would observe that Rockhill Courthouse is an  
21 excellent place to have a hearing.

22 JUDGE KELLEY: Okay. Okay, gentlemen. Can  
23 I ask my colleagues to stay on for a minute, too,  
24 and then with that, I guess, I guess we can hang up.

25 (Whereupon, the conference call ended at 1:16pm)

CERTIFICATE OF PROCEEDINGS

This is to certify that the attached proceedings before  
the NRC COMMISSION

In the matter of: Telephone conference  
regarding Catawba Nuclear Station, Units 1 and 2

Date of Proceeding: July 16, 1984

Place of Proceeding: Bethesda, Maryland

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

CAROLYN STRAUSS  
Official Reporter - Typed

*Carolyn Strauss*  
Official Reporter - Signature  
CAROLYN STRAUSS