

505

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

'84 OCT 16 A9:59

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

Docket Nos. 50-413 <sup>OC</sup>  
50-414 <sup>OC</sup>

APPLICANTS' RESPONSE TO APPEAL BOARD  
MEMORANDUM AND ORDER OF OCTOBER 4, 1984

On October 4, 1984, the Atomic Safety and Licensing Appeal Board issued a Memorandum and Order in this case requesting "the parties to reconsider their previously stated positions" regarding the processing of Palmetto Alliance's appeals in this matter. The Board requested that the parties respond on October 12, 1984. This date was extended by order of the Board until October 15, 1984.

Applicants' position is that the appellate process should be held in abeyance until proposed findings of fact concerning the one remaining issue in the case (the Welder B issue) have been filed by the parties. The Licensing Board has set October 26, 1984 as the date for the filing of findings by all parties. The basis for Applicants' position is as follows.

On September 21, 1984, the Licensing Board determined that further hearings were necessary on the Welder B issue. Immediately thereafter the parties engaged in extensive discovery which involved the transmittal of numerous documents and the taking of over 12 depositions. The hearing commenced on October 9, 1984 and was completed at 12:17 a.m., October 13, 1984. The

hearing involved the testimony of approximately 30 witnesses which resulted in the compiling of approximately 1500 pages of transcript. While Applicants view the Welder B issue as a narrow issue it can be seen that a significant effort was put into this matter by all sides. Given the extent of the record, it is anticipated that all parties' efforts will be focused on scrutinizing the record carefully for inclusion of appropriate matter into the proposed findings of fact. As such it would be a burden at this time to ask the parties to proceed with the appellate process. Applicants have discussed this matter with the Board and parties and believe that each shares a similar view. Indeed, the Applicants have been asked by Intervenor Palmetto Alliance to set forth the Intervenor's position in the instant pleading. It is the Intervenor's view that the appellate process be held in abeyance until the Licensing Board issues its decision on the Welder B matter. It is anticipated that such decision would be forthcoming in the first or second week of November. Applicants do not oppose Intervenor's position but would be able to address appellate matters after

the filing of proposed findings of fact on October 26, 1984.

Respectfully submitted,

*J. Michael McGarry III*

J. Michael McGarry, III  
BISHOP, LIBERMAN, COOK, PURCELL  
& REYNOLDS

1200 Seventeenth Street, N.W.  
Washington, D.C. 20036  
(202) 857-9833

Albert V. Carr, Jr.  
DUKE POWER COMPANY  
P.O. Box 33189  
Charlotte, North Carolina 28242  
(704) 373-2570

Attorneys for Duke Power  
Company, et al.

October 15, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Appeal Board Memorandum and Order Of October 4, 1984" in the above captioned matter have been served upon the following by deposit in the United States mail this 15th day of October 1984.

Alan S. Rosenthal  
Chairman  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Thomas S. Moore  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Howard A. Wilber  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Chairman  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

George E. Johnson, Esq.  
Office of the Executive Legal  
Director  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Albert V. Carr, Jr., Esq.  
Duke Power Company  
P.O. Box 33189  
Charlotte, North Carolina 28242

Richard P. Wilson, Esq.  
Assistant Attorney General  
State of South Carolina  
P.O. Box 11549  
Columbia, South Carolina 29211

Robert Guild, Esq.  
Attorney-at-Law  
P.O. Box 12097  
Charleston, South Carolina 29412

Palmetto Alliance  
2135 1/2 Devine Street  
Columbia, South Carolina 29205

Jesse L. Riley  
854 Henley Place  
Charlotte, North Carolina 28207

Karen E. Long, Esq.  
Assistant Attorney General  
N.C. Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602

Don R. Willard  
Mecklenburg County  
Department of Environmental  
Health  
1200 Blythe Boulevard  
Charlotte, North Carolina 28203

Docketing and Service Section  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

John Clewett, Esq.  
236 Tenth Street, S.E.  
Washington, D.C. 20003

*J. Michael McGarry, III*  
J. Michael McGarry, III  
A.C.