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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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In the Matter of:

DUKE POWER COMPANY, ET AL.

(Catawba Nuclear Station,
Units 1 and 2)

Location: Bethesda, Maryland

Pages: 12,837-12,864

Date: September 21, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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DUKE POWER COMPANY, ET AL. :
: Docket Nos. 50-413
: 50-414
(Catawba Nuclear Station, :
Units 1 and 2) :
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September 21, 1984

4350 East West Highway
Bethesda, Maryland

The Board met pursuant to notice at 11:00 a.m.

BEFORE:

JAMES L. KELLEY, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

DR. PAUL W. PURDOM
Administrative Judge
235 Columbia Drive
Decatur, Georgia 30030

DR. RICHARD F. FOSTER
Administrative Judge
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Sunriver, Oregon 97702

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13 BRAD JONES

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15 ROBERT GUILD

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20 Purcell and Reynolds
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1 Foreman Override question having to do with Welder B's
2 concerns and that's clear from the opinion. I'm just para-
3 phrasing briefly.

4 We received from the applicants a report dated
5 August 3rd and it was received from the Staff their report
6 in reviewing, essentially reviewing the applicant's report.
7 The Staff report was dated August 31st.

8 And then in the Board's order of September 4 we
9 called for comments from the parties, as we had previously
10 indicated we would do, asking in effect what we ought to
11 do next.

12 We received filings from the applicant and the
13 Staff and the intervenor. The intervenor had an extension
14 due to some weather conditions down in his area, but we
15 did receive all three comments in a timely fashion.

16 And so the issue before us this morning is, is
17 how we are to resolve the, the question of what next, and
18 we have considered the pleadings and we have decided that
19 it is necessary to provide some opportunity for further
20 discovery and also some opportunity for further hearing
21 on the question of the, what I'll call the Welder B
22 Foreman Override concerns.

23 I'll simply state briefly the positions of the
24 respective parties and our basic conclusion with respect
25 to them. Some of the pleadings were lengthy. I don't

1 propose to go through discussions of cases and discussions
2 of all arguments, but simply to state the result of our
3 consideration of the pleadings.

4 The applicants, first of all, asked us to close
5 the record. It was their position that the reports con-
6 clusively demonstrate, without any further evidence, that
7 Foreman Override does not represent a significant breakdown
8 of QA at Catawba.

9 We do not agree with that position. It seems to
10 us that the reports contain at least elements on which
11 cross examination would be useful. For example, this is
12 not by way of faulting the report, but simply to point out
13 that there's a fair amount of double and triple hearsay
14 contained in those reports.

15 Furthermore, the conclusions of the reports in
16 many respects are quite judgmental, and these are the
17 kinds of things that cross examination, it seems to us,
18 is really designed to test.

19 We do not view Foreman Override as merely a
20 Board issue. It seems to us that Foreman Override, as
21 it's been, come to be under, as it's come to be understood,
22 is clearly within the confines of Contention 6.

23 Indeed that contention speaks of company
24 pressure to approve faulty workmanship and that's really
25 the essence of Foreman Override. So we think that the,

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1 the normal rules pertaining to discovery and hearings have
2 at least some application here where this particular piece
3 of Contention 6 is still open for consideration.

4 We have considered the cases, numerous cases
5 cited to us, particularly by the applicants, with regard
6 to whether or not further cross examination or hearing was
7 needed, and let us just say that we see those cases as
8 turning very largely on their facts, and we think that on
9 the facts of this particular case there is warrant for
10 further hearing.

11 Might just note specifically that Palmetto's
12 Wirtz Case, W-i-r-t-z Case, seems to us to be the most
13 directly in point of the various cases cited to us. The
14 Staff's position was that we should call for written replies
15 on the reports and then perhaps allow further for an
16 applicant response to that, leaving open the possibility
17 that upon review of these further comments we may still
18 need to have a hearing.

19 The main problem we see with the Staff's position,
20 if we had plenty of time that might be the way to go, but
21 we don't, at least with reference to the kind of operational
22 schedule that the applicants are on and the Commission's
23 policy that we don't need to elaborate on about attempting
24 to finish these proceedings consistent with those schedules,
25 provided that can be done with fairness to all parties.

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1 Our point here is that if we call for more
2 comments, we might just delay the whole thing for another
3 month or so and still have to call for a hearing, and that
4 we think that the warrant for an opportunity for further
5 hearing is sufficiently evident at this point that we just
6 wouldn't gain very much by, by further written comment.

7 We might just add that at this juncture, at
8 least, there doesn't seem to be very much more that the
9 intervenors could say, simply because they don't have much
10 information other than the two reports that have been
11 served on them and us and other parties.

12 So we're not taking the Staff's approach for
13 what we see as essentially a practical reason. The
14 Palmetto position essentially is that they need some
15 discovery and they need a further hearing cross examination
16 in order to get an adequate exploration of the facts, and
17 that position in these particular circumstances, the Board
18 basically agrees with.

19 This situation, we might just add, is, we think,
20 distinguishable from the situation we faced with the in-
21 camera witnesses last fall. There was at least an oppor-
22 tunity, a fairly lengthy opportunity, for informal dis-
23 covery at that time.

24 Perhaps more significantly, although those
25 witnesses were treated as Board witnesses and referred

1 to as such, all four of those witnesses were cooperating
2 fully with Palmetto. Palmetto not only knew who they were,
3 I think Palmetto found them in the first place, so that
4 they had access to at least what criticisms were, a kind
5 of access that they don't have in this situation.

6 Indeed, in this situation Palmetto has the reports.
7 They don't know who these employee witnesses are. They
8 don't know who Welder B is and unless and until they get
9 some information underlying those reports, that's really
10 the limit of, of their knowledge, at least as far as we're
11 aware.

12 The Board then concludes from these considerations
13 that we summarized briefly that some opportunity for dis-
14 covery and a hearing must be provided. And having come
15 to that conclusion and being aware of some conflicting
16 pressures with regard to times and schedules, and those
17 conflicting pressures are really pretty obvious.

18 On the one hand we have to provide a fair hearing
19 for all parties. On the other hand, we have to keep an
20 eye on where the applicants, the Staff are with regard to,
21 with regard to the facility and the time at which they
22 would be prepared to, to go critical.

23 And in order to go critical, as they pointed out
24 in their pleadings, they need to get resolution of the
25 Welder B matter first. So with those considerations in

1 mind, we have prepared a tentative schedule and some
2 tentative discovery procedures and we're going to adopt
3 that schedule and those procedures.

4 We are adopting them now as we announce them to
5 you. And what we're going to do is read our way through,
6 slowly, this schedule and this description of procedures,
7 and as you will see, you'll have an opportunity the first
8 part of next week to comment on them and argue about them
9 if you think we're wrong.

10 But as a way of getting started, we think it's
11 most expeditious for us to go ahead and put out a tentative
12 schedule this morning, which we will now proceed to do.
13 Now, let me ask you all if you have a yellow pad and a
14 pencil or pen.

15 We will ask you to at least take some fairly
16 good notes on what, what I'm about to say because we're
17 going to want you to consider this tentative schedule and
18 discuss it among yourselves before you'll ever have a
19 chance to see a transcript setting forth word-for-word
20 what I'm saying now. So are you all in a position to
21 take notes and follow me on this?

22 ALL: Yes.

23 JUDGE KELLEY: And if I'm going too fast, just
24 stop me and we'll slow down and make sure you get all of
25 this. I have it set up here as a two-column affair, and

1 the left column has a date, like today is 9/21, and then
2 in the right column there's a description of what happens
3 on that day and it just marches on in that format.

4 So I'll start, 9/21, that's today, the Board is
5 ordering a hearing and adopting tentative schedule and
6 procedures. The next item, 9/24, that's Monday, parties
7 to attempt to negotiate any problems with tentative schedule
8 or procedures.

9 Nine twenty-five, telephone conference among
10 Board and parties at 11 a.m.

11 MR. RILEY: Let me just interject, Judge Kelley.
12 I'll be on an airplane at that time, but I'll waive my
13 participation in favor of Bob Guild.

14 JUDGE KELLEY: That's Mr. Riley. Thank you,
15 Mr. Riley. Okay, continuing on 9/25, which is Tuesday,
16 I finished saying telephone conference, Board and parties,
17 11 a.m.

18 Board will hear comments on tentative schedule
19 and procedures and finalize schedule and procedures. Nine
20 twenty-six, that's Wednesday, applicants and Staff to
21 deliver underlying documentary bases for their reports
22 on Foreman Override to intervenors, including copies of
23 affidavits or interview summaries.

24 However, drafts of reports need not be delivered.
25 Copies of any documents for which any privilege is claimed,

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1 including Staff pledges of confidentiality, to be delivered
2 to Board. Ten, one, it's the following Monday, intervenors
3 to provide applicants and Staff with names of persons it
4 wishes to interview or depose as prospective witnesses.

5 Maximum number of persons for that purpose to be:
6 NRC Staff - number 2; applicant's investigators - 4; other
7 applicant employees - 12. Next item, 10/2-4, that is to
8 say October 2nd through 4th, which is Tuesday, Wednesday,
9 Thursday, named persons to be made available by applicants
10 and Staff to intervenors for interviews or depositions in
11 Charlotte or Catawba Site Area.

12 Ten, five, it's a Friday, intervenors to provide
13 applicants and Staff with list of any specific documents
14 not yet supplied. Ten eight, Monday, delivery of any
15 written testimony to Board and parties, other than Staff
16 and applicant reports which can serve as testimony, if
17 appropriately sponsored.

18 Ten, nine and ten, that's October 9th and 10th,
19 Tuesday and Wednesday, and possibly 10/11, which is
20 Thursday, hearing in Charlotte or Rockhill under ground
21 rules similar to those followed in prior hearing sessions.

22 Board expects to hear one panel of applicant
23 investigators, one panel of Staff reviewers, and as many
24 noncumulative employee witnesses as time allows. Ten
25 seventeen...

1 MR. RILEY: Hold a second, please.

2 JUDGE KELLEY: Okay.

3 MR. RILEY: Okay, 10/17?

4 JUDGE KELLEY: Right. Mr. Riley? Right. Okay,
5 10/17, simultaneous filing of proposed findings and con-
6 clusions by all parties, subject to a Board page limit to
7 be determined.

8 Findings to be delivered to the Board and served
9 on all parties. Now, the last entry is not a specific
10 day, but rather a time period. It's called Week of
11 October 22nd, and in that week the Board expects to issue
12 its decision on Foreman Override.

13 Now, that is the end of our schedule and ten-
14 tative procedures. Obviously, it's a combination of the
15 two. We have several additional comments we want to make.
16 You will note that right up front on the schedule we said
17 we were going to tell you today what the tentative is and
18 you'd have a fully opportunity to comment and suggest and
19 object to it the first part of next week.

20 When we get through saying what we feel we need
21 to say, if you want to make some comments this morning,
22 that's fine. But you're -- the idea is you should have
23 a little time to think about this and talk among yourselves
24 and then for all parties to, to do a little discussion
25 among themselves before we go back to, to reconsidering

1 what we've just said. Let me just add these few other
2 considerations.

3 First of all, the Board encourages any other
4 practical expedition of prehearing procedures. For example,
5 if you can interview witnesses earlier, by all means go
6 ahead.

7 That's just a time frame that seemed reasonable
8 to us. The schedule that we've suggested here, not
9 suggested but adopted tentatively, again, seems to us to
10 be a reasonable compromise. I might just mention I don't
11 want to make a big thing out of this, but I'm, for one,
12 am involved in another hearing, Shearon Harris, which I'm
13 going to have to postpone and rearrange even under this
14 schedule.

15 So there's a pressure there as far as I'm
16 concerned. I did, I might just add, briefly look into
17 whether we can find another chairman to, to sit with you
18 on Foreman Override and that just does not seem to be
19 feasible.

20 This hearing, we ought to say, clearly is
21 limited to Foreman Override, as we've defined in the past.
22 I think everybody understands basically what that concept
23 means, although there may be some arguments out at the
24 edges.

25 We make that point because there appear to be

1 sections of the applicant's report which speak to sort of
2 miscellaneous safety concerns not involved with Foreman
3 Override, and I'm referring to the whole Attachment B
4 which is half the report or so.

5 As we understand it, the applicants included
6 that in the name of completeness since they came up in the
7 course of these interviews, but we don't view those matters
8 as before the house.

9 We're not necessarily saying that we parced
10 every of Attachment B and we agree there's no Foreman
11 Override in there. We're simply noting that it's labeled
12 that way and we presume the applicants have applied the
13 definition.

14 And so prima facie in that sense, that's not
15 part of the case that we're looking at. We might add,
16 too, that there are some indicated concerns in the appli-
17 cant's report which relate to non-safety systems,
18 Class G pipe or whatever.

19 You'll recall back in the in-camera hearing
20 days we were pretty systematically excluding non-safety
21 matters of that kind and we would expect to do the same
22 thing in looking at Foreman Override this time around.

23 One comment on a procedural matter. When it got
24 to the place having to do with interviews or depositions,
25 we deliberately chose that phrase, "interviews or

1 depositions". We don't mean to foreclose how the parties
2 do this procedurally. It seems to us you could do it in
3 an informal interview context with perhaps an intervenor
4 representative and an employee and a Duke representative
5 and an NRC person sitting around a coffee table taking some
6 notes and talking if you want to do it that way.

7 On the other hand, you can go all the way to
8 formal depositions. You can do it under the stipulation
9 you worked out. That's something for you to work out, and
10 we didn't mean to...

11 Not only did we not mean to foreclose your dis-
12 cussing that, we encourage you to do so and the Board is
13 not trying to set detailed ground rules for that part of
14 the process.

15 If you have difficulty agreeing on how you want
16 to proceed, you can bring it to the Board and we'll
17 resolve it, but hopefully that won't happen. Another
18 thing that we think we should bring to your attention as
19 a possible schedule option, if we had to characterize the
20 schedule we just gave you we would characterize it as
21 reasonable, workable, but fairly tight and it might be
22 desirable to have a little more time for prehearing
23 preparation, and we see one way in which that might be
24 done and still end up at about the same end point.

25 And in that regard we want to point out that

1 the tentative schedule provides almost a week for preparing
2 for post-findings of fact and conclusions of law. We have
3 included that because the applicable rules, the NRC Rule
4 of Practice 2.754, gives parties the right to file findings
5 if they wish to.

6 It seems clear also, though, that parties can
7 waive that right where they conclude that in the circum-
8 stances findings aren't necessary. The Board has given
9 us, given this some thought.

10 We don't think findings are necessary here.
11 After all, we're looking at a fairly small topic. We
12 anticipate a hearing of two or three days, a limited number
13 of exhibits and we think that that's just worlds away from
14 a Board being confronted with 12, 12,000 pages of
15 testimony and 2 or 300 exhibits where findings are really
16 essential.

17 In other words, we think if we, we hear this
18 case in the time that we anticipate it'll take and we
19 have the amount of paper we think we're going to have, we
20 think we can have a pretty good handle on what we've heard
21 and what we've read and we can get along without findings.

22 We certainly don't intend to require findings
23 and if the parties, upon their own consideration of the
24 matter, decide that they don't need to file findings and
25 willing to waive that, then it seems to us that we could

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1 hold the hearing, say, a week later, sometime during the
2 week of the 15th.

3 This would allow another week for preparation and
4 we expect the Board could reach a decision in about the
5 same time. So that's something that you might factor into
6 your own considerations and discussions and let us know
7 whether that seems to you to be an attractive option.

8 Well, those are the points that we have noted
9 down that we wanted to definitely get across. I have no
10 doubts that we've raised some questions in your minds
11 and probably left some gaps, but, again, we expect to
12 talk to you Tuesday morning and see what you think about
13 the, about the roadmap we've laid out. Are there comments
14 that the parties do want to make at this point? Might be
15 useful to hear at this point? Mr. McGeary?

16 MR. McGEARY: One thing that strikes me is the
17 confidentiality question that the affidavits, that
18 Palmetto's referenced in their motion, were given in a
19 confidential fashion.

20 Palmetto indicated that they would be willing...
21 She indicated they would be willing to enter into
22 appropriate agreements of confidentiality and we'll have
23 to address that expeditiously.

24 JUDGE KELLEY: Let me just ask the general
25 question so we have some notion of the possible scope of

1 the problem. We all remember that Welder B was given a
2 pledge of confidentiality a way long time ago. Mr. Johnson,
3 has the Staff extended other pledges of confidentiality
4 in this connection that you know of?

5 MR. JOHNSON: Yes, sir. However, Mr. Jones is
6 on the line. I think he's more intimately familiar with
7 the process by which confidentiality was given by the
8 Staff inspectors or investigators and maybe he can more
9 accurately respond to that.

10 JUDGE KELLEY: Okay, Mr. Jones, can you just
11 give us an idea of the dimensions of the matter?

12 MR. JONES: There were others that were granted
13 confidentiality. I don't think it's an extremely large
14 number, maybe a half a dozen, something of that nature.

15 MR. McGEARY: This is McGeary. Could I ask
16 Al Carr just a question? Isn't it true that Duke extended
17 confidentiality to every interviewee?

18 MR. CARR: That's correct. For the interviewees,
19 the 217 people, roughly, that we've interviewed were all
20 promised confidentiality by Duke. Their names have not
21 been released.

22 JUDGE KELLEY: Well, I suppose it might be, you
23 know, a matter for discussion, how that impacts the hearing
24 process. Now, thinking just in terms of the Commission's
25 policy statement and even the more recent statement that

1 came out just last week on these pledges, the Commission's
2 position, as I understand it, applies only to pledges given
3 by the NRC, correct?

4 MR. CARR: To be quite honest with you,
5 Judge Kelley, I, I have not seen the issue come up before.

6 JUDGE KELLEY: Yeah, I'm just... I'm not clear.
7 If a utility licensee applicant in this kind of a context
8 says to an employee tell me what you know about this and
9 we'll keep your name secret, I can understand the utility's
10 desire to do that, but I'm not clear what the NRC law is
11 on the subject.

12 I thought the NRC policy only applied to the
13 NRC giving such pledges. I guess maybe that's something
14 we'll have to find out between now and Tuesday.
15 People still there? Hello? Have I lost the whole call?

16 (Off the record.)

17 MR. McGEARY: Judge Kelley?

18 JUDGE KELLEY: Yeah?

19 MR. McGEARY: Okay, I think everybody's still on.

20 JUDGE KELLEY: Am I the only...

21 MR. McGEARY: You were just raising the question
22 of confidentiality and the NRC position...

23 JUDGE KELLEY: Yeah.

24 MR. McGEARY: ...and I was just about ready to
25 make a comment and I think that's where we were.

1 JUDGE KELLEY: Okay, you want to...

2 MR. McGEARY: May I go forward?

3 JUDGE KELLEY: Yeah, go ahead.

4 MR. McGEARY: Judge Kelley, everybody else on?

5 UNIDENTIFIED SPEAKER: Everybody else... No,
6 lost them again.

7 JUDGE KELLEY: Okay.

8 UNIDENTIFIED SPEAKER: We should also establish
9 if the court reporter is on.

10 JUDGE KELLEY: Yeah, she's here.

11 UNIDENTIFIED SPEAKER: Is the court reporter on?

12 JUDGE KELLEY: Yes.

13 UNIDENTIFIED SPEAKER: Probably none of that.
14 She may be with Judge Kelley. Just a second.

15 UNIDENTIFIED SPEAKER: I thought I heard a phone
16 hang up, or a sound similar to that.

17 JUDGE KELLEY: Well, the court reporter...

18 UNIDENTIFIED SPEAKER: Do you want me to try to
19 get them through? I can...

20 JUDGE KELLEY: Just a minute, let's do this one
21 at a time.

22 UNIDENTIFIED SPEAKER: You want to try it again,
23 George?

24 MR. JOHNSON: Let me ask my secretary to...

25 UNIDENTIFIED SPEAKER: Why don't you do it one

1 more time?

2 JUDGE KELLEY: Maybe they've lost me again.

3 UNIDENTIFIED SPEAKER: And then if that doesn't
4 work, I'll try it.

5 JUDGE KELLEY: Excuse me, can anybody hear
6 Judge Kelley at this point? Hello? Apparently... this
7 is Judge Kelley. Can anybody hear me? What's that number
8 again?

9 (Off the record.)

10 JUDGE KELLEY: Mr. Guild?

11 MR. GUILD: Yes, sir.

12 JUDGE KELLEY: Mr. Riley's there? Riley?

13 MR. JOHNSON: Okay, this is George Johnson.
14 They say that this guy's on.

15 JUDGE KELLEY: Yeah, I'm on. Can you hear me?

16 MR. JOHNSON: Oh, okay, fine.

17 JUDGE KELLEY: I was just asking if Mr. Riley
18 was there.

19 MR. RILEY: Yes, I am.

20 JUDGE KELLEY: Oh, okay. Well, I guess we're
21 all on. Okay, well, the question was what rules, if any,
22 apply in the case where the licensee applicant, the
23 utility, does an investigation of this kind and in that
24 connection, gives its employees the pledge of confidentiality.
25 Is that binding on the Board? Is it binding on this hearing?

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1 And I frankly don't know. I'm just familiar with
2 the pledges given by the NRC Staff, and I think
3 Mr. McGeary wanted to comment on that.

4 MR. McGEARY: Yes. The first point is I think
5 we can work this out with the intervenors, but my obser-
6 vation would be, I think you were saying that the, that
7 it appeared to be the NRC practice was related only to
8 NRC witnesses or to witnesses that the NRC had, had granted
9 confidentiality.

10 And I would just observe that the four in-camera
11 witnesses, three of them were granted confidential treatment
12 and they were not, had not at that time been interviewed
13 by the NRC Staff.

14 JUDGE KELLEY: That's true, but the Board did
15 that.

16 MR. McGEARY: That's right. So I'm saying the
17 Board can do it in this case.

18 JUDGE KELLEY: Yeah, I think they could, but
19 the...

20 MR. McGEARY: That's my observation.

21 JUDGE KELLEY: Okay. And maybe we could all...
22 I want to look again at the NRC's recent policy statement
23 on this subject, but this is a topic you, I would think,
24 could take up when you get together and talk over whatever
25 needs to be talked over on Monday.

1 MR. CARR: Judge, this is Carr. I'm not familiar
2 with that recent policy statement. Is that something
3 that's come out since the Catawba hearings? I remember
4 we talked about something on the record.

5 JUDGE KELLEY: Yeah, it came out in the past
6 couple of weeks, I believe, and I'm sure we could get one
7 to you. Does Mr. Jones have, he must have one in Atlanta.

8 MR. JONES: I beg your pardon. Could you repeat
9 that?

10 JUDGE KELLEY: The Commission's most recent
11 statement of policy on confidentiality pledges and
12 appealing things to the Commission and all the rest.
13 Don't you have that down there?

14 MR. JONES: I don't have it handy. We must,
15 must have it. I'm not sure which the most recent one
16 would be.

17 MR. JOHNSON: I think you're talking... This
18 is George Johnson. The statement of policy...

19 JUDGE KELLEY: Yes.

20 MR. JOHNSON: Negotiations, inspections and
21 adjudicatory proceedings?

22 JUDGE KELLEY: Exactly.

23 MR. JOHNSON: September 7th.

24 JUDGE KELLEY: Could you mail a copy to
25 Guild, Mr. Johnson?

1 MR. JOHNSON: Sure.

2 JUDGE KELLEY: Thank you. That's what I was
3 referring to.

4 MR. JONES: Thank you, Judge.

5 MR. McGEARY: Then the only other question I
6 think I have would be because we're on the phone now where
7 we could locate you on Monday and you can locate us.

8 MR. GUILD: If you would mail, George, that to
9 the Palmetto Office and if you would send that...

10 JUDGE KELLEY: Excuse me.

11 MR. GUILD: ...quick mail, I'd appreciate it.
12 It would be helpful to have that when we talk on Monday.

13 JUDGE KELLEY: Gentlemen, the reporter's having
14 all kinds of trouble. She doesn't know your voices.

15 MR. GUILD: This is Guild speaking. I was just
16 saying if George Johnson could send that to me quick mail
17 please, it would be helpful to have that in front of all
18 of use for discussion on Monday.

19 And I just don't know where I'm going to be on
20 Monday, but I can let you know. I'm at the Palmetto Office
21 in Columbia now and I'm going to have to rearrange some
22 of my schedule.

23 MR. McGEARY: This is McGeary. We'll leave it
24 to you, Bob, then to call us Monday or sometime today to
25 let us...

1 MR. GUILD: This is fine. I'll get in touch
2 with you, Mike, and let you know where I'm going to be.

3 MR. CARR: This is Al. Let me ask a question.
4 Is your mailing address in...

5 MR. McGEARY: Yes, it is. It's just that it
6 gets to me more slowly than I...

7 MR. CARR: Okay. We got something we had sent
8 by express mail. You had gotten it anyway, but it came
9 back.

10 MR. McGEARY: Well, you know, you can't send
11 express mail to a post office box. I'm sorry, I take
12 that back.

13 MR. CARR: They keep it for a couple of days.

14 MR. McGEARY: Okay. If you need to get some-
15 thing to me quickly, the Columbia address, Palmetto, is
16 better. Judge, I think that's all we have. This is
17 McGeary. At this time.

18 JUDGE KELLEY: Okay. Mr. Guild?

19 MR. GUILD: No, sir. I think with respect to
20 this confidentiality matter that we should make a stab at
21 trying to resolve it among ourselves and I think we can.

22 JUDGE KELLEY: Fine. Okay. Mr. Johnson?

23 MR. JOHNSON: I had one comment. Perhaps we
24 can deal with it again on Monday, on Tuesday when, or
25 Monday and Tuesday, and that is what is the scope of

1 discovery and the scope of the hearing? It occurred to me
2 that two possible focuses could be the issue of the scope
3 of the Foreman Override problem, that being whether it was
4 limited to the particular welding foreman and crew that
5 was the subject and the focus of, primary focus of the
6 interviews and inspection.

7 And since it is acknowledged to a large extent
8 that there was a problem with the one crew, that the real
9 question would be whether it extended beyond that crew or
10 not. That would be one possible focus.

11 And the second would be the focus of the issue
12 of technical significance to the, or safety significance
13 of the matters that were raised with specific reference
14 to the foreman and crew that were focused on.

15 JUDGE KELLEY: I think it's useful here to raise
16 both points. My reaction is it wouldn't be a good idea
17 to try to debate those this morning, but rather you've
18 put on the table, you know, one approach.

19 To the extent the parties could agree on a
20 refinement of exactly what the issues are, I think that
21 would help. To the extent, you know, even that you could
22 agree to some extent, and perhaps disagree as to some
23 further point, then you could present that in your
24 positions to us on Tuesday, hopefully, and then the Board
25 might be able to, to make a ruling or give you some guidance.

1 But I don't think we ought to go beyond raising
2 the point that you've raised this morning.

3 MR. JOHNSON: This is George Johnson. Fine.

4 JUDGE KELLEY: Okay. Well, with that, I guess
5 we've covered the waterfront pretty well. Do my fellow
6 judges have points and questions? Purdom?

7 JUDGE PURDOM: No questions.

8 JUDGE KELLEY: Foster?

9 JUDGE FOSTER: No, I have none.

10 JUDGE KELLEY: Okay, well, we will then be
11 back on conference call Tuesday morning, 11. Would it
12 be useful to give the parties a little more time to talk
13 and make it Tuesday afternoon at 2 instead or is there any
14 feeling on that one way or the other?

15 MR. McGEARY: This is McGeary. I would prefer
16 11.

17 JUDGE KELLEY: Okay. Nobody really objects to
18 11, let's leave it at 11. So we will call you... Do we
19 have a number for you Tuesday, Mr. Guild? Will we need
20 one?

21 MR. GUILD: I'll let you know if it's going to
22 be other than the Palmetto number, Judge. I will.

23 JUDGE KELLEY: The Palmetto number, again, is...

24 MR. GUILD: 803-254-8132.

25 JUDGE KELLEY: Got it. Okay, so if it's anything

1 other than that, you'll let us know?

2 MR. GUILD: Yes, sir.

3 JUDGE KELLEY: Okay, thank you very much, ladies
4 and gentlemen. Then we will be back in touch with you on
5 Tuesday. Bye.

6 (Whereupon, the conference call ended at 11:45 a.m.)

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1 CERTIFICATE OF PROCEEDINGS

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

5 In the matter of: Duke Power Company, et al.
6 (Catawba Nuclear Station,
Units 1 and 2)

7 Date of Proceeding: September 21, 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.

11
12 Georgia Pinkard
13 Official Reporter - Typed

14 Georgia Pinkard / 9/21/84
15 Official Reporter - Signature

16
17 Lew Deasaran
18 Transcriber