

279
1

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

*84 OCT -4 AM 1:44

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Alan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

October 4, 1984

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

SERVED OCT 4 1984

Docket Nos. 50-413 OL
50-414 OL

MEMORANDUM AND ORDER

On June 22, 1984, the Licensing Board issued a partial initial decision in this operating license proceeding.¹ Thereafter, intervenors Palmetto Alliance and Carolina Environmental Study Group filed a notice of appeal and, on July 16, moved without opposition for deferral of the briefing of the appeal. The foundation of the motion was that:

There remains pending in this proceeding a Partial Initial Decision on emergency planning matters for which Proposed Findings are presently in preparation, and at least one further session of hearings and another Partial Initial Decision on safety matters, all of which require extensive attention by the parties during the coming weeks. On the basis of these outstanding obligations of the parties we hereby move that the time for filing briefs of all parties be extended such that as provided in 10 C.F.R. §2.762 briefs of Appellants are to be filed forty (40) days after

¹ LBP-84-24, 19 NRC ____.

8410050033 841004
PDR ADDCK 05000413
G PDR

0502

service of the last remaining Partial Initial Decision in this proceeding. Briefs of the other parties would be due thereafter as provided in 10 C.F.R. §2.762(c).

On July 20, we granted the motion.

On September 18, the Licensing Board issued a supplemental partial initial decision disposing of the emergency planning issues.² On September 28, the intervenors filed a notice of appeal from that decision.

Because it appeared to us that the June 22 and September 18 decisions had disposed of all but one relatively narrow issue, we decided to make an informal inquiry respecting whether the parties might now be willing to proceed with the appeals from those decisions. At our request, NRC staff counsel canvassed the other parties. We were orally informed that all of the parties (including the staff) still desired to hold the appeals in abeyance pending the disposition of the remaining issue.


If we are correct in our impression respecting the limited scope of what remains before the Licensing Board, it is difficult to perceive a legitimate reason why the appeals on the numerous and far-reaching issues resolved in the June 22 and September 18 decisions should not now go forward. Accordingly, we are calling upon the parties to reconsider

² LBP-84-37, 20 NRC ____.

their previously stated positions in this regard and to advise us in writing by October 12, 1984 of the outcome of that reconsideration. In the event that it adheres to its prior position, a party is to provide a full explanation. That explanation should include a statement of the significance, if any, that the party attaches to a reasonably expeditious ultimate resolution of the issues determined in the two decisions.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board