

19592

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'98 OCT -2 A8:02

Before Administrative Judges:

B. Paul Cotter, Jr., Chairman  
Dr. Richard F. Cole  
Dr. Peter S. Lam

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

SERVED OCT -2 1998

In the Matter of  
  
DUKE ENERGY CORPORATION  
  
(Oconee Nuclear Station,  
Units 1, 2, and 3)

Docket Nos. 50-269/270/287-LR

ASLBP No. 98-752-02-LR

October 1, 1998

ORDER

(Ruling on Request for Extension of Time)

This Order rules upon the September 28, 1998 request by Petitioners, Chattooga River Watershed Coalition and Messrs. Norman "Buzz" Williams, William "Butch" Clay, and W. S. Lesan ("Petitioners"), for an extension of 30 days to enlarge the time required to submit an amended petition to intervene. Petitioners' request is opposed by both NRC staff and applicant, Duke Energy Corporation.

The background to the motion is as follows. On September 18, 1998, this Board issued a schedule which required Petitioners to address shortcomings in their initial petition and to submit amendments thereto by no later than September 30, 1998. This Board also required that Petitioners file their proffered

9810050047 981001  
PDR ADOCK 05000269  
G PDR

contentions for this proceeding by October 19, 1998. We stated in our September 18, 1998 Order that motions for extension of time must demonstrate "unavoidable and extreme circumstances" that support permitting the extension.

The reason given by Petitioners for a 30 day extension was that they needed time to find and retain counsel so that they could adequately meet the legal requirements for intervention. However, they did not explain why they had not retained counsel earlier. They also referred to "unavoidable circumstances" for needing this additional time, but did not elaborate on what these circumstances were.<sup>1</sup> These explanations are clearly insufficient to qualify as "unavoidable and extreme circumstances" for an extension of time required by our September 18, 1998 Order. In fact, indications are that "unavoidable circumstance" do not exist since Petitioners should have been put on notice by staff's notice of opportunity for a hearing issued August 11, 1998 that they might have to retain legal counsel. For these reasons, Petitioners' request for a 30 day extension to amend their intervention petition is denied.

Nevertheless, because Petitioners are *pro se* and are obviously unfamiliar with NRC licensing proceedings, we will

---

<sup>1</sup> Following this request, on September 30, 1998, Petitioners e-mailed this Board two amendments to their intervention petition. One of these amendments possibly mooted Petitioners' need for a 30 day extension since it stated that they did not have funds available to retain counsel at that date.

revise the current schedule so that Petitioners will have some eleven days of additional time by allowing them until October 30, 1998 to supplement their intervention petition and furnish their contentions.<sup>2</sup> This extension is in keeping with treatment recently extended to a petitioner seeking intervention in the Calvert Cliffs license extension proceeding where the Commission allowed a 20 day extension for Petitioners' experts to complete their review before submitting contentions. See Baltimore Gas Electric Company (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-19, Slip Opinion at p. 2 (September 17, 1998). We note that this extension will not cause loss of time in the overall schedule in this proceeding. Applicant and staff shall file responses to the Petitioners' supplement and contentions by November 16, 1998.

---

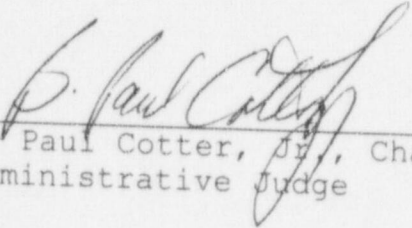
<sup>2</sup> Petitioners are advised that they must strictly adhere to the requirements of 10 C.F.R. § 2.714 (b) (2) in framing their contentions. See "Statement of Policy on Conduct of Adjudicatory Hearings," Section II.2 and 3, CLI-98-12, 48 NRC 18, 21-22 (1998). In addition, to establish the requisite injury in fact for establishing standing, Messrs. Williams, Clay and Lesan should state the distances (in miles) they reside from the Oconee facility and explain how the license amendment in question will adversely affect them. The Chattooga River Watershed Coalition should demonstrate its standing by obtaining affidavits from one of its members that the Coalition is authorized to represent the member and that the member lives or has activities in close enough proximity to the facility (stated in miles) to be adversely affected by the objected to license amendment. See Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-1, 43 NRC 1, 6 (1966); Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-92-27, 36 NRC 196, 199 (1992).



For all the foregoing reasons, it is, this 1<sup>st</sup> day of October  
ORDERED

1. That Petitioners' motion for a 30 day extension to file an amended petition to intervene is denied.
2. That Petitioners Chattooga River Watershed Coalition and Messrs. Williams, Clay and Lesan have an additional eleven days until October 30, 1998 to file a supplement to their petition to intervene containing all their proffered contentions. Applicant and NRC Staff shall file their responses on or before November 16, 1998.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
B. Paul Cotter, Jr., Chairman  
Administrative Judge

Rockville, Maryland

October 1, 1998

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

DUKE ENERGY CORPORATION

(Oconee Nuclear Station,  
Units 1, 2, and 3)

Docket No.(s) 50-269/270/287-LR

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (..EXTENSION OF TIME) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
B. Paul Cotter, Jr., Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Richard F. Cole  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Peter S. Lam  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Marione L. Zobler, Esquire  
Robert M. Weisman, Esquire  
Office of the General Counsel  
Mail Stop - 0-15 B18  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Paul R. Newton, Esquire  
Lisa F. Vaughn, Esquire  
Duke Energy Corporation  
422 South Church St. (Mail Code PB05E)  
Charlotte, NC 28202

J. Michael McGarry, III, Esquire  
David A. Repka, Esquire  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20005

Norman "Buzz" Williams  
190 Mountain Cove Rd.  
Mountain Rest, SC 29664

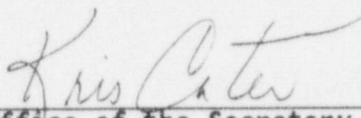
Docket No.(s)50-269/270/287-LR  
LB ORDER (...EXTENSION OF TIME)

William "Butch" Clay  
P.O. Box 53  
Long Creek, SC 29658

W. S. Lesan  
P.O. Box 66  
Long Creek, SC 29658

Chattooga River Watershed Coalition  
P.O. Box 2006  
Clayton, GA 30525

Dated at Rockville, Md. this  
2 day of October 1998

  
Office of the Secretary of the Commission