

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chairman
Nicholas G. Trikouros
Dr. Gary S. Arnold

In the Matter of

DUKE ENERGY CAROLINAS, LLC

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

Docket Nos. 50–269-SLR, 50–270-SLR,
and 50–287-SLR

ASLBP No. 22-973-01-SLR-BD01

November 10, 2021

MEMORANDUM AND ORDER

(Schedule for Responses to Applicant
Duke Energy Carolinas, LLC’s Information Notification)

Referencing (1) the obligation of adjudicatory participants to inform the presiding officer about potentially relevant information associated with a proceeding;¹ (2) the involvement in this proceeding of former Nuclear Regulatory Commission (NRC) staff member Jeffery T. Mitman on behalf of petitioners Beyond Nuclear, Inc., and the Sierra Club, Inc. (collectively Petitioners); and (3) the provisions of 18 U.S.C. § 207(a)(1) restricting the post-employment representational activities of federal executive branch (including independent agency) employees,² by notification

¹ See Sacramento Mun. Util. Dist. (Rancho Seco Nuclear Generating Station), CLI-93-5, 37 NRC 168, 170 (1993).

² In pertinent part, section 207(a)(1) provides that a former federal executive branch employee (which includes an independent agency employee) may not “knowingly make[], with intent to influence, any communication to or appearance before” any federal department, agency, or court “in connection with a particular matter . . . in which the United States . . . has a direct and substantial interest,” and in which the former employee “participated personally and substantially” as a federal employee that involved “a specific party or parties at the time of such participation[.]” 18 U.S.C. § 207(a)(1).

to the Licensing Board dated November 8, 2021, applicant Duke Energy Carolinas, LLC, has declared that it is “unclear” whether information about Mr. Mitman’s involvement in this proceeding as it may relate to the strictures of section 207(a)(1) has “been reported, considered, and dispositioned by the appropriate entities.”³ As a consequence, Duke declares in its notification, it has reported this information to the agency’s Office of Inspector General (OIG) and requested that OIG confirm whether Mr. Mitman’s involvement in this proceeding “complies with applicable requirements.”⁴

As is the case with the subjects of Petitioners’ standing and the admissibility of their first contention,⁵ this is not a matter the Board plans to explore at the scheduled November 16, 2021 oral argument. The NRC Staff and Petitioners may, however, respond to Duke’s November 8 notification on or before Friday, November 19, 2021. Further, as part of the Staff’s response, or in lieu of that filing should the Staff decide not to submit a response, the Board requests that, after consulting with OIG and/or ethics counselors from the NRC Office of the General Counsel, as appropriate, the Staff provide (1) a description of the OIG process for considering and

³ Letter from Ryan K. Lightly, Duke Counsel, to Licensing Board at 1–2 (Nov. 8, 2021).

⁴ Id. at 2.

⁵ See Licensing Board Memorandum and Order (Initial Prehearing Conference Scheduling and Procedures) (Oct. 29, 2021) at 3 n.2 (unpublished).

addressing Duke's request for confirmation; and (2) the approximate time frame within which an
OIG response to that request may be forthcoming.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland

November 10, 2021

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
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DUKE ENERGY CAROLINAS, LLC,) Docket Nos. 50-269, 50-270 & 50-287-SLR
DUKE ENERGY)
)
(Oconee Nuclear Station)
Units 1, 2 and 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the **MEMORANDUM AND ORDER (Schedule for Responses to Applicant Duke Energy Carolinas, LLC's Information Notification)** have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop: O-16B33
Washington, DC 20555-0001
E-mail: hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
Susan Vrahoretis, Esq.

G. Paul Bollwerk, III, Chairman
Administrative Judge

David E. Roth, Esq.
Megan A. Wright, Esq.
Mary F. Woods, Esq.

Nicholas G. Trikouros
Administrative Judge

Joseph M. Azeizat, Esq.
Brian Newell, Senior Paralegal
Georgiann E. Hampton, Paralegal
Amanda Black, Paralegal

Dr. Gary S. Arnold
Administrative Judge

E-mail: susan.vrahoretis@nrc.gov
david.roth@nrc.gov

Ian Curry, Law Clerk

megan.wright@nrc.gov
mary.woods@nrc.gov

Brooke Taylor, Law Clerk

joseph.azeizat@nrc.gov
brian.newell@nrc.gov

Allison Wood, Law Clerk

georgiann.hampton@nrc.gov
amanda.black@nrc.gov

E-mail: paul.bollwerk@nrc.gov
nicholas.trikouros@nrc.gov
gary.arnold@nrc.gov
ian.curry@nrc.gov
brooke.taylor@nrc.gov
allison.wood@nrc.gov

Oconee Power Station (Units 1, 2 and 3)
Docket Nos. 50-269, 50-270 and 50-287-SLR
MEMORANDUM AND ORDER (Schedule for Responses to Applicant Duke Energy Carolinas, LLC's Information Notification)

Duke Energy

Tracey LeRoy, Esq.
550 South Tryon Street, 45A
Charlotte, NC 28202
tracey.leroy@duke-energy.com

Counsel for Duke Energy

Morgan, Lewis & Bockius LLP
Paul Bessette, Esq.
Ryan Lighty, Esq.
1111 Pennsylvania Avenue, NW
Washington, DC 20004
E-mail: paul.bessette@morganlewis.com
ryan.lighty@morganlewis.com

Beyond Nuclear

Paul Vernon Gunter, Esq.
7304 Carroll Avenue #182
Takoma Park, MD 20912
paul@beyondnuclear.org

Counsel for Beyond Nuclear

Diane Curran, Esq.
Harmon, Curran, Spielberg and Eisenberg
1725 DeSales Street NW, Suite 500
Washington, DC 20036
dcurran@harmoncurran.com

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 10th day of November 2021.