

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

G. Paul Bollwerk, III, Chair
Dr. Sue H. Abreu
Dr. Arielle J. Miller

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

Docket Nos. 50-269-SLR-2, 50-270-SLR-2, and 50-287-SLR-2

ASLBP No. 24-985-03-SLR-BD01

August 28, 2024

MEMORANDUM

(Submitting Documents for Inclusion in the Docket as Nonpublic Information)

Pursuant to the Licensing Board's August 19, 2024 memorandum and order establishing a protective order to govern the consideration of specific Sensitive Unclassified Non-Safeguards Information (SUNSI) in this proceeding,* the Board submits for inclusion in this proceeding's docket the nonpublic information appended to this issuance as attachments A and B.

The Board notes that its designation of the documents listed in attachment B as "Identified CEII" should not be construed as a Board finding regarding whether any of the

* See Licensing Board Memorandum and Order (Granting Motion to Enter Protective Order) (Aug. 19, 2024) at 14 (unpublished); see also Licensing Board Memorandum and Order (Protective Order A Governing Specific [SUNSI]) (Aug. 19, 2024) (unpublished).

information contained in the listed documents constitutes Critical Energy/Electric Infrastructure Information.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

G. Paul Bollwerk, III, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 28, 2024

Attachment A

August 9, 2024

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

DUKE ENERGY CAROLINAS, LLC

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

Docket Nos. 50-269-SLR-2,
50-270-SLR-2,
50-287-SLR-2

**NRC STAFF AUGUST 9, 2024, IN CAMERA UPDATE REGARDING
NON-PUBLIC INFORMATION**

In accordance with the NRC Staff's (Staff) August 8, 2024, Status Report, the Staff is providing an update on its consultations with the Federal Energy Regulatory Commission (FERC) regarding the withholding of certain information from public disclosure in this proceeding. The NRC Staff wishes to share with the Licensing Board that FERC has notified the Staff that documents in this proceeding contain Critical Electric/Energy Infrastructure Information (CEII). Because these documents are currently publicly available on the current adjudicatory docket and the Staff does not want to draw attention to the CEII in them, the NRC Staff is providing this update in an *in camera* filing.

1. The NRC Staff understands that the unredacted June 24, 2024, initial prehearing conference transcript is currently and will remain non-public, consistent with the Licensing Board's June 28, 2024, Memorandum and Order (Regarding Status of Initial Prehearing Conference Transcript).
2. In order to protect information FERC has determined contains CEII, the Licensing Board should take the necessary actions to appropriately restrict access to the following documents currently available on the public docket in this proceeding:

- (i) ML24120A381 (in its entirety, including exhibits and/or attachments), Titled “Hearing Request and Petition to Intervene By Beyond Nuclear and Sierra Club”;
 - (ii) ML24122C623 (in its entirety), Titled “Corrected Hearing Request and Petition to Intervene By Beyond Nuclear and Sierra Club”;
 - (iii) ML24136A251 (in its entirety), Titled “Corrected Mitman Expert Report”; and
 - (iv) ML24159A809 (in its entirety), Titled “Reply by Beyond Nuclear and the Sierra Club to Oppositions to Their Hearing Request and Petition to Intervene.”
3. The NRC Staff would also like to make the Licensing Board aware that an email sent to the Licensing Board on August 3, 2024, at 6:13 p.m. includes some of the same sensitive information at issue in other documents containing CEII in this proceeding on which the Staff is consulting with FERC.¹ In the event that the Licensing Board has received other e-mails or correspondence in this matter that were not sent to the Staff or parties, in considering whether and how to address those documents, the Licensing Board may wish to consider whether those documents contain sensitive, non-public information, as well.
4. The NRC Staff will file an update on the public docket to notify the parties that the NRC Staff filed this *in camera* update.
5. In accordance with the NRC’s sensitive unclassified non-safeguards information (SUNSI) policies and procedures and in the absence of a Licensing Board-approved protective order and non-disclosure agreements in this proceeding, the NRC Staff has not made a notification to the other parties in this proceeding confirming the presence of CEII.² After the documents described in item 2 are made non-public, a Licensing Board-approved protective

¹ Under federal law, FERC has sole authority to determine and designate information as CEII. In comparing one recent e-mail to the Licensing Board by an individual or individuals who do not work on the Oconee Station subsequent license renewal application review with information in documents that FERC has reviewed and has determined contain CEII, the Staff wants to make the Licensing Board aware that the e-mail sent to the Staff and others in the NRC contains sensitive information. The Staff has not sent this e-mail to FERC for a determination but is treating it as though it contains sensitive information.

² It is the NRC’s policy to not publicly comment on whether a publicly available document contains SUNSI. See NRC Policy for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (ML052990146).

order is issued, and the parties execute non-disclosure agreements, the Staff will update the parties regarding FERC's notification to the Staff.

6. After the documents described in item 2 are made non-public, a Licensing Board-approved protective order is issued, and the parties execute non-disclosure agreements, the NRC Staff, after consulting with the parties, will submit the redacted June 24, 2024, initial prehearing conference transcript for the Licensing Board's consideration.

Respectfully submitted,

/Signed (electronically) by/

Mary Frances Woods
Counsel for NRC Staff
Mail Stop: O-14-A44
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Telephone: 301-287-3514
E-mail: Mary.Woods@nrc.gov

Dated in North Bethesda, MD
this 9th of August 2024

August 9, 2024

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

DUKE ENERGY CAROLINAS, LLC

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

Docket Nos. 50-269-SLR-2,
50-270-SLR-2,
50-287-SLR-2

Certificate of Service

Pursuant to 10 C.F.R § 2.305, I hereby certify that copies of the foregoing “NRC STAFF AUGUST 9, 2024, IN CAMERA UPDATE REGARDING NON-PUBLIC INFORMATION,” dated August 9, 2024, have been served upon the Licensing Board judges through the Electronic Information Exchange (the NRC’s E-Filing System), as an *in camera* filing in the captioned proceeding, this 9th day of August 2024.

/Signed (electronically) by/

Mary Frances Woods
Counsel for NRC Staff
Mail Stop: O-14-A44
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Telephone: 301-287-3514
E-mail: Mary.Woods@nrc.gov

Dated in North Bethesda, MD
this 9th day of August 2024

Attachment B

APPENDIX 1 to August 19, 2024 Protective Order A – Designated as of 08/28/2024

Sensitive Unclassified Non-Safeguards Information (SUNSI) Specified as
Identified Critical Energy/Electric Infrastructure Information (Identified CEII)
with Agencywide Documents Access and Management System (ADAMS) Accession Number

1. Transcript of June 24, 2024 Initial Prehearing Conference (ML24178A386)
2. Hearing Request and Petition to Intervene by Beyond Nuclear and Sierra Club (ML24120A381)
3. Corrected Hearing Request and Petition to Intervene by Beyond Nuclear and Sierra Club (ML24122C623)
4. Corrected Mitman Expert Report (ML24136A251)
5. Reply by Beyond Nuclear and the Sierra Club to Oppositions to Their Hearing Request and Petition to Intervene (ML24159A809)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM (Submitting Documents for Inclusion in the Docket as Nonpublic Information)** 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.resource@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
G. Paul Bollwerk, III, Chairman,
Administrative Judge
Dr. Sue H. Abreu, Administrative Judge
Dr. Arielle J. Miller, Administrative Judge
E-mail: Paul.bollwerk@nrc.gov
Sue.abreu@nrc.gov
Arielle.miller@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-14A44
Washington, DC 20555-0001
David Roth
Susan H. Vrahoretis
Mary Frances Woods
Megan Wright
Kevin Bernstein
Caitlin R. Byrd, Paralegal
E-mail: david.roth@nrc.gov
susan.vrahoretis@nrc.gov
mary.woods@nrc.gov
megan.wright@nrc.gov
kevin.bernstein@nrc.gov
caitlin.byrd@nrc.gov

Counsel for Duke Energy Carolinas, LLC
Morgan, Lewis & Bockius, LLC
1111 Pennsylvania Ave NW
Washington, DC 20004
Paul Bessette
Ryan K. Lighty
Molly Mattison
E-mail: paul.bessette@morganlewis.com
ryan.lighty@morganlewis.com
molly.mattison@morganlewis.com

Duke Energy Carolinas, LLC (Oconee Nuclear Station Units 1, 2, and 3, Docket Nos. 50-269, 50-270, and 50-287 SLR-2)
MEMORANDUM (Submitting Documents for Inclusion in the Docket as Nonpublic Information)

Duke Energy Corporation
525 South Tryon Street
Charlotte, North Carolina 28202
Tracey M. Leroy
E-mail: tracey.leroy@duke-energy.com

KRISTEN HALOJ Digitally signed by KRISTEN HALOJ
Date: 2024.08.28 13:18:38 -04'00'

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 28th day of August 2024.