

November 8, 2001
DOCKETED 11/09/01

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
DUKE ENERGY CORPORATION)	Docket Nos. 50-369, 370, 413 and 414
)	
(McGuire Nuclear Station,)	
Units 1 and 2, and)	
Catawba Nuclear Station,)	
Units 1 and 2))	

NRC STAFF'S RESPONSE TO ATOMIC SAFETY AND LICENSING BOARD'S ORDER
REGARDING PRODUCTION OF DOCUMENTS

INTRODUCTION

The Staff hereby files its response to the order issued by the Licensing Board in a conference call on November 7, 2001.

DISCUSSION

On November 7, 2001, the Licensing Board presiding over this proceeding ordered the staff to justify its withholding of "daily event reports" related to the Catawba and McGuire plants that were previously available through the NRC website. Specifically, the Licensing Board ordered that: (1) the staff consider producing the documents to the petitioners (if necessary, using a protective order); (2) if the staff refuses to produce the documents, explain the legal basis for withholding them; and (3) the staff should consider whether the documents would ever be publicly available.

The NRC Staff has reviewed the daily event reports related to the Catawba and McGuire plants and has concluded that it is able to make them available to the petitioners and the applicant in the instant proceeding. The Staff today will send through overnight mail the reports that were previously available on the NRC website through October 31, 2001. Any

reports generated subsequent to October 31, 2001 will be sent through overnight mail on a weekly basis to the petitioners and the applicant in this proceeding. This procedure, however, will cease upon termination of the proceeding or when the agency makes a determination on the public availability of these documents.¹

The NRC Staff is making these documents available as a courtesy to help expedite the current proceeding. However, the Staff maintains that it is under no obligation to make these documents available prior to discovery. Therefore, the Staff action should not be construed as a waiver of any rights or objections to the production of these documents or other documents similarly unavailable.

Respectfully submitted,

/RA/

Antonio Fernández
Counsel for NRC Staff

Dated at Rockville, Maryland
this 8th day of November 2001.

¹The Staff is not now making a final decision on the future public availability of all daily event reports.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	
DUKE ENERGY CORPORATION)	Docket Nos. 50-369, 370, 413 and 414
)	
(McGuire Nuclear Station,)	
Units 1 and 2, and)	
Catawba Nuclear Station)	
Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO ATOMIC SAFETY AND LICENSING BOARD'S ORDER REGARDING PRODUCTION OF DOCUMENTS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class; or as indicated by an asterisk (*), by deposit in the Nuclear Regulatory Commission's internal mail system, this 8TH day of November, 2001.

Ann Marshall Young, Chair*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: AMY@nrc.gov)

Lester S. Rubenstein*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: Lesrrr@msn.com)

Charles N. Kelber*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: CNK@nrc.gov)

Office of the Secretary*
ATTN: Docketing and Service
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555
(E-mail: HEARINGDOCKET@nrc.gov)

Office of Commission Appellate Adjudication*
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555

Janet Marsh Zeller
Executive Director
Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629
(E-mail: BREDL@skybest.com)

Paul Gunter
Nuclear Information and Resource Service
1424 16th St. N.
Washington, D.C. 20026
(E-mail: pgunter@nirs.org)

Mary Olsen
Southeast Director of NIRS
P.O. Box 7586
Asheville, NC 20882
(E-mail: nirs.se@mindspring.com)

David A. Repka, Esq.
Anne W. Cottingham, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005-3502
(E-mail: drepka@winston.com
acotting@winston.com)

Atomic Safety and Licensing Board Panel*
U.S. Nuclear Regulatory Commission
T-3F23
Washington, D.C. 20555

Lisa F. Vaughn, Esq.
Legal Dept. (PBO5E)
Duke Energy Corporation
422 So. Church St.
Charlotte, NC 28201-1006
(E-mail: lfVaughn@duke-energy.com)

/RA/

Antonio Fernández
Counsel for NRC Staff