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

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Before Administrative Judges:

Ann Marshall Young, Chair  
Dr. Charles N. Kelber  
Lester S. Rubenstein

In the Matter of

Docket No's. 50-369-LR, 50-370-LR,  
50-413-LR, and 50-414-LR

DUKE ENERGY CORPORATION

ASLBP No. 02-794-01-LR

(McGuire Nuclear Station, Units 1 and 2,  
Catawba Nuclear Station, Units 1 and 2)

November 12, 2001

REPORT AND APPEAL BY NUCLEAR INFORMATION AND RESOURCE SERVICE  
OF JUDGE YOUNG'S 11-09-01 MEMORANDUM AND ORDER  
(Denying Request for Additional Extension of Time)

Nuclear Information and Resource Service wishes to register the following STATUS

REPORT: As of 11:00 a.m. on Monday November 12, 2001 (Veteran's Day, observed) no Daily Event Reports for any reactor have arrived at any office of Nuclear Information and Resource Service, nor at our Post Office Box in Asheville, NC where mail was deposited in boxes today by postal employees even though the postal counters were closed.

We were informed by Nuclear Regulatory Commission (NRC) counsel for staff, Antonio Fernández, via electronic service on November 8, 2001 that NRC staff intended to provide us with Daily Event Reports (DER) for Catawba and McGuire by overnight mail. We were not informed, nor have been able to reach NRC staff by telephone to inquire as to which NIRS office(s) the materials would be sent to. In any case, it has not arrived. Paul Gunter entered a

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response to the NRC Staff response, clarifying that we had been requesting not only the DERs of the Duke reactors in question, but in fact the whole class of reactors of which they are a part.

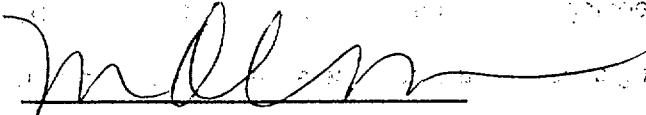
We would like to note that the Order issued by Judge Young on November 9, 2001 appears to have assumed that the document access issue had been resolved. If, in fact the NRC website had been available throughout the proceeding, the original time line for contentions to be due, November 6<sup>th</sup> would have allowed 20 working days from the date the schedule was originally announced, on October 1, 2001 (counting October 2 – November 6<sup>th</sup>). As of today, there are only 10 working days left (we are choosing to communicate this on a holiday).

We ask the Judges to consider that we have all been making a good effort with regards to this difficult situation which is largely beyond our control, and has unavoidable and extreme impact on the public's and the petitioner's ability to participate, and therefore receive our legal protection under the Atomic Energy Act. We further ask the Judges to consider that while their order was based on the perception that there was an NRC staff action and remedy with respect to the petitioner's access to documents, in fact, there has been no remedy, and no effect from the promised action. It is also the case that the perceived remedy was only a partial one with respect to the original request, which was for all DERs. To be cooperative, we now seek only to obtain DERs for PWR reactors.

We ask the Judges to recognize that a 100% reduction in time, which assumes that the documents do in fact arrive by morning of November 13, 2001 (tomorrow), which will be the case if the deadline of November 27 is maintained. The petitioner will only have 10 work days IF the documents are in hand on the 13<sup>th</sup> compared to the original 20 work days. If the documents still are not provided, then there is effectively no change at all from the original condition that was the basis for our Motion to Extend Time, filed on October 29, 2001. We ask you to revisit this

situation and insure that we have access to documents and the full 20 working days effectively allowed in Judge Young's original scheduling Order.

Respectfully Submitted,



Mary Olson  
Director, Southeast Office  
Nuclear Information & Resource Service

Asheville, North Carolina  
November 12, 2001

November 12, 2001

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY 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)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "REPORT AND APPEAL BY NUCLEAR INFORMATION AND RESOURCE SERVICE OF JUDGE YOUNG'S 11-09-01 MEMORANDUM AND ORDER (Denying Request for Additional Extension of Time) in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, th 13<sup>th</sup> day of November, 2001, as well as by e-mail on the 12<sup>th</sup>.

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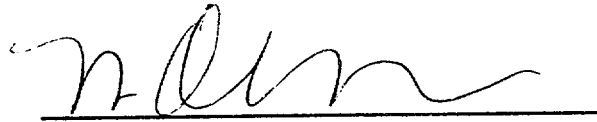
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Mary Olson  
Nuclear Information & Resource Service  
Southeast Office, Asheville, NC

This 12<sup>th</sup> Day of November, 2001