

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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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 29, 2001

AMENDED PETITION TO INTERVENE
REPLY TO ARGUMENTS WITH RESPECT TO STANDING

Nuclear Information and Resource Service ("NIRS") hereby responds to Duke Energy Corporation's Response to Requests for Hearing and Petitions for Leave to Intervene (October 1, 2001) and NRC Staff's Response to Request for Hearing and Petitions for Leave to Intervene (October 1, 2001).

1. As stated in our original "REQUEST FOR HEARING and PETITION TO INTERVENE" (hereafter "Petition") dated September 11, 2001, Nuclear Information and Resource Service is a non-profit corporation with over 6000 members, many of whom live in the Southeastern part of the United States. We petition to join Duke Energy's license renewal action for Catawba 1 & 2 and McGuire 1 & 2, as representatives of our members in the vicinity of these Duke reactors. These members have raised their personal interests in the question of license renewal for these four nuclear power stations and have asked and agreed to NIRS representation.
2. At this time, Nuclear Information and Resource Service is entering this license action as a staff and volunteer effort, without legal representation. NIRS has authorized the

undersigned, Mary Olson, to represent it in this proceeding. Ms. Olson is the Director of the Southeast Office.

3. As stated in the Petition, the members of NIRS who live or have property and family within the immediate area of McGuire 1 & 2 and / or Catawba 1 & 2 are Ronald Phillip Barnette, Phyllis St. Clair and Jan Jenson. Copies of Declarations made by these individuals under penalty of perjury were filed with the US Nuclear Regulatory Commission Secretary's office and served on all parties. We, and they, believe that their interests would not be adequately represented without this action to intervene, and participation as a full party in this proceeding. If the McGuire and Catawba licenses are renewed without resolving NIRS' safety and environmental concerns, these plants may operate unsafely and pose an unacceptable risk to the environment, thereby jeopardizing the health and welfare of NIRS members who live in the vicinity.
4. Unfortunately, for reasons beyond our ability to know, the signed Declaration of Phyllis St. Clair only reached the Secretary's office when it was filed on September 11. NIRS did not realize that the Board and parties had not been served with Ms. St. Clair's Declaration until the NRC Staff filed its response to NIRS' Petition to Intervene. At that point, NIRS obtained a copy from the NRC and mailed it to the Board and all parties. Ms. St. Clair's Declaration clearly states that she lives within 40 miles of both Catawba and McGuire. An electronic copy of the St Clair Declaration from the Docket is provided with this filing.
5. Duke and the Staff argue that Mr. Barnette has not demonstrated standing because he has not done an adequate job of describing the contacts he has with his property or his relatives in the area of the Catawba and McGuire plants. However, the Commission recognized property interests as sufficient to establish standing in *North Atlantic Energy Services Corp.* (Seabrook Station, Unit 1), CLI-99-6, 49 NRC 201, 215-16 (1999). Mr.

Barnette also provides adequate information about his family contacts in the area to demonstrate that he has standing: he visits a large number of family members there, six to eight times a year; and intends to keep visiting in the future. This is sufficient to establish standing. *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 324 (1999); *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-98-13, 48 NRC 26, 32 (1998).

6. The NRC Staff also argues that Ms. Jenson lacks standing to participate with respect to the Catawba plant, because she lives at least 60 miles away. Ms. Jenson's assertion that she lives within 40 miles of Catawba was based on her best information and belief. On re-examining maps of the area, it now appears that Ms. Jensen may live more than 40 miles from the plant. However, the exact distance of her home from the plant is a difficult determination to make, given the fact that the Catawba nuclear power plant does not appear on most state road maps. In any event, Ms. Jensen does live within 40 miles of the McGuire plant. Moreover, NIRS does not rely exclusively on her declaration to establish standing with respect to the Catawba plant.
7. Since the September 11 Petition was filed, another Nuclear Information and Resource Service member has come forward to join this proceeding. The Declaration of Mr. Jesse Riley of Charlotte is being filed on paper to all parties with this Amended Petition. His declaration shows that he lives at 854 Henley Place in Charlotte, NC 28207, which is within 20 miles of both the Catawba and McGuire plants. Mr. Riley represented the Carolina Environmental Group during the licensing of both the Catawba and McGuire nuclear power stations. He has asked and agreed to NIRS representation of his interests in the current proceeding.

8. We respectfully assert that Nuclear Information and Resource Service has satisfied the requirements for representational standing. We are representing members who live in the immediate area of Duke's Catawba and McGuire reactors, who have real interests in this matter based on the possibility of grave injury if the license renewal process proceeds without addressing the issues that are raised in our appended contentions.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. Olson', written over a horizontal line.

Mary Olson
Director, Southeast Office
Nuclear Information & Resource Service
November 29, 2001
Asheville, NC

**United States of America
Nuclear Regulatory Commission**

**Before the Atomic Safety and Licensing Board
Judge Ann Marshall Young, Presiding**

**Secretary
Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Rockville, Maryland
Postal Address: Washington, DC 2055**

In the Matter of

Duke Energy Corporation
McGuire Units 1 and 2, and
Catawba 1 and 2

Regarding Renewal of Operating
License Nos. NPF-9, NPF-17, NPF-35,
and NPF-52 for an
Additional 20-year Period

Docket Nos. 50-309, 370,
413 and 414

DECLARATION OF JESSE RILEY

Comes now Jesse Riley, who declares under penalty of perjury as follows:

1. I authorize and request Nuclear Information and Resource Services (NIRS) to represent me and my interests in the above proceeding involving Duke Energy's application to extend the operating license of each of four reactors located within 20 miles of my home. More specifically, I authorize Mary Olson, or anyone else she designates, to represent me and my interests.

2. I have been a member of NIRS since shortly after its inception and at least ten years. As previously stated, I have authorized NIRS to represent my interests in this proceeding.

3. I reside at 854 Henley Place, Charlotte, NC 28207. I believe my life and health are jeopardized by the extended operation of the four Duke nuclear power reactors, McGuire 1 and 2 and Catawba 1 and 2.

4. I became a member of the Carolina Environmental Group in 1970. I was the primary representative of CIESG in the Construction Permit and Operating License proceedings for both McGuire and Catawba nuclear plants. I am now eightysix years old and am not physically able to undertake intervention.

5. I live within 20 miles of both the McGuire and Catawba plants. My life and health, and that of immediate family and friends would be impacted by increased radioactive releases from the proposed extended operations, the radioactive wastes generated, and any accident which becomes more likely with time, due to such processes as stress corrosion cracking and metal fatigue, and prospective changes in reactor operation. Our air, drinking water, bodies and property are all at risk and would be irreparably damaged in the event of a nuclear accident which resulted in contamination in this region.

6. I am concerned about future shipments of plutonium oxide-containing fuel on roads near my home. I believe that exposure to materials released in an accident could injure my health.

7. I am concerned about the safety of the extended operation, as well as prospective changes in the operation of the four Duke reactors in my vicinity. I have read NIRS' Request for Hearing, and subsequent documents in this proceeding, and believe that extended and unsafe operation of these nuclear power reactors could result in offsite releases of radioactive substances that would have an adverse effect on my health. If NIRS's position is upheld, there is a reduced likelihood of a serious accident at these facilities and I am less likely to suffer injury.

This statement is made under penalty of perjury.


Jesse Riley

Nov 12, 2001
Date

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Rockville, Maryland
Postal Address: Washington, DC 20555**

In the Matter of)
)
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Duke Energy Corporation)
McGuire Units 1 and 2, and)
Catawba, Units 1 and 2)

Docket Nos. 50-369, 370, 413
and 414

Regarding Renewal of Facility Operating)
License Nos. NPF-9, NPF-17, NPF-35,)
and NPF-52 for an)
Additional 20-Year Period)

DECLARATION OF PHYLLIS ST. CLAIR

Comes now Phyllis St. Clair, who declares under penalty of perjury as follows:

1. I authorize and request Nuclear Information and Resource Service (NIRS) to represent me and my interests in the above proceeding involving Duke Energy's application to renew the operating license of the Catawba Units 1 and 2 and McGuire Units 1 and 2 nuclear power plants. More specifically, I authorize Mary Olson, a staff member of NIRS, or anyone else NIRS designates, to represent me and my interests.

2. Since September 2000, I have been a dues paying member of NIRS.

3. I reside at 3817 Smokerise Hill, Charlotte N.C. 28277, with my husband. My home lies within forty miles of both the Catawba and McGuire reactors. I believe my life and health are jeopardized by the extended operation of the four Duke nuclear power reactors, Catawba 1 and 2 and McGuire 1 and 2. I am also concerned for the safety and health of my immediate family and most of my extended family, who either live with me or nearby. Our safety and health would be adversely impacted by increased radioactive releases from extended operations, wastes generated, and any accident, something which

is becoming more likely with time, age and changes in reactor operations. Our air, drinking water, bodies and property are all at risk. Further, my livelihood in the field of Real Estate is impacted now by uncertainty associated with selling property near these nuclear facilities, and would be irreparably damaged in the event of a nuclear accident which resulted in contamination in this region.

4. I am concerned about future shipments of plutonium fuel on the roads near my home. I believe that exposure to radiation and vehicle exhaust from these shipments could injure my health.

5. I have read NIRS' Request for Hearing, and am concerned that the problems raised in that document could affect the health and safety of myself and my family. If NIRS's position is upheld, there is a reduced likelihood of a serious accident at these facilities and I am less likely to suffer injury.

This statement is made under penalty of perjury.

Phyllis St. Clair
Phyllis St. Clair
Sept. 12, 2001
Date

November 29, 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 "AMENDED PETITION TO INTERVENE and REPLY TO ARGUMENTS WITH RESPECT TO STANDING" and "CONTENTIONS OF NUCLEAR INFORMATION AND RESOURCE SERVICE" and "MOTION TO SUSPEND LICENSE RENEWAL PROCEEDING PENDING PUBLIC RELEASE OF FINAL SAFETY ANALYSIS REPORTS" and "COMPILED EXHIBITS ASSOCIATED WITH NUCLEAR INFORMATION & RESOURCE SERVICE CONTENTIONS WITH RESPECT TO DUKE LICENSE RENEWAL" in the above-captioned proceeding have been served on the following parties by this 29th day of November, 2001 as ordered on November 15th: hard copy delivered to Parties, by electronic transmission to all, and by US First Class mail to others on the distribution list. Signed originals have been sent by US First Class mail to the Office of the Secretary, including signed original Declaration of Jess Riley and a copy of the previously docketed Declaration of Phyllis St. Clair both of which are also included in the delivery and US Mail distributions since neither is available in electronic format. Additionally, hard copies of other Exhibits have also been provided by delivery and US First Class mail, since they are not available for electronic transmission.

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

This 29th Day of November, 2001