

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

DOCKETED
USNRC

February 1, 2002 (11:15AM)

Before Administrative Judges:

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

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

DUKE ENERGY CORPORATION

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

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

October 29, 2001

MOTION TO EXTEND TIME

We find it necessary to file this request for extension of time with regard to filing our amended petition and contentions. Circumstances beyond our control, which were deemed "unavoidable and extreme" by the Nuclear Regulatory Commission (NRC) when they made the recent decision to suspend public access to many documents formerly available on their web site, have an "unavoidable and extreme" impact on our ability to file timely contentions in the license renewal of Catawba and McGuire nuclear stations.

While we have received assurance that one crucial document, the Generic Environmental Impact Statement on License Renewal will be posted on the NRC web site today (as yet not confirmed), this leaves many other documents still not accessible. We note NRC staff's willingness to try and cooperate with our need for documents, however, since we were not given any notice that the NRC web resource would be terminated for some time, we did not create a record of documents, nor could we replace the research opportunity by a list of documents already

examined. When the U.S. Nuclear Regulatory Commission made the decision to close down and phase out its Local Public Document Rooms (LPDR) the agency made a commitment to keeping the affected public informed of licensing and safety conditions at U.S. reactors by electronic format through its website (www.nrc.gov) and the Agency-wide Document Access and Management System (ADAMS). While ADAMS only provides information added to the NRC system after October 28, 1999, the agency provided a historical context in large part through its web site. Key areas of non-safeguards information are still being withheld from the public record that are not provided either in total or in part on the NRC Agency-wide Document and Access Management System (ADAMS).

While the agency continues to maintain direct communications with its licensees through telephone calls, emails, correspondence and direct meetings, the agency's primary tool for communicating with the public and documenting the agency's licensing and regulatory communications has been severely curtailed. This places the public at an unfair disadvantage for the timely response to the current license extension proceedings for McGuire and Catawba. The agency has thus reneged on its commitment to keeping the public informed on non safeguards related information as it directly relates to the current licensing proceeding.

Examples of non-safeguard document types crucial to preparing contentions for the current license extension proceeding that are no longer available on the NRC website:

- 1) Daily Event Reports (DER) that monitor and document a wide variety of station conditions and operational/environmental impacts. DERs are not provided through ADAMS.

Key areas of public concern directly relating to the license extension proceeding include, but are not limited to, such things as the licensee's historical record of exceeding discharge water temperatures as required for compliance with the National Pollution Discharge Elimination

System (NPDES) and the environmental impact on water resources and wildlife. Daily Event Reports also provided the public with non-safe guarded information currently being withheld include the public monitoring of station conditions including age-related degradation, maintenance failures, of Systems, Structures and Components (SSC) such as cracking of reactor safety components and emergency diesel generator.

- 2) NRC Inspection Manuals formerly on the NRC website
- 3) A historic account of Generic Communications such as Information Notices, Bulletins, and Generic Letters that relate to such pertinent areas of licensing conditions as age-related degradation.
- 4) The online documentation of specific power reactor age-related degradation mechanisms such as the Control Rod Drive Mechanism Vessel Head Penetration Cracking which was first noted at the relicensed Oconee nuclear power station.
- 5) Regulatory Guides as to how the licensees are to meet and manage such issues as aging and licensing renewal.
- 6) Technical Reports that provide abstracts of a variety of NUREGS.
- 7) Generic Environmental Impact Statement on License Renewal

As per the October 16, 2001, Order of Honorable Judge Ann Marshall Young, NIRS consulted with the other Parties in this license proceeding. Responses were received via e-mail from Susan Uttal representing the NRC Staff and from Sharlene Hawkins representing Duke Energy

Corporation. Since we do not want to risk inappropriate paraphrase of these responses, and they are brief, we insert them here:

Subject: Re: Query: Consultation prior to filing Motion to Extend Time, Duke License Renewal

Date: Mon, 29 Oct 2001 09:35:35 -0500

From: "Susan Uttal" <SLU@nrc.gov>

To: <lfvaughn@duke-energy.com>, <mtuckman@duke-energy.com>, <donmoniak@earthlink.net>, <nirs.se@mindspring.com>, "Antonio Fernandez" <AXF2@nrc.gov>, "James Cutchin" <JMC3@nrc.gov>, <BREDL@skybest.com>, <acotting@winston.com>, <dreпка@winston.com>

CC: <nirsnet@nirs.org>, <pgunter@nirs.org>, "Ann Young" <AMY@nrc.gov>,

"Charles Kelber" <CNK@nrc.gov>, <RSL4@qwest.net>

Dear Ms. Olson;

I am responding to your October 25, 2001 e-mail requesting consultation prior to the filing of NIRS' motion to extend time in connection with the McGuire/Catawba license renewal matter.

NRC staff is willing to agree to an extension of time, not to exceed three weeks, for NIRS to file its amended and supplemented petition, based on the unavailability of the Generic Environmental Impact Statement on License Renewal (GEIS) on the NRC website. The three week period corresponds approximately to the period of time that the GEIS was unavailable - from October 11, 2001 until today, October 29, 2001. It is my understanding that the GEIS will be available on the NRC website by close of business today.

The staff's agreement is conditioned upon a corresponding extension of time to file its response to NIRS' amended petition.

Susan Uttal

Counsel for NRC staff

Subject: Query: Consultation prior to filing Motion to Extend Time, Duke License Renewal

Date: Fri, 26 Oct 2001 15:47:43 -0400

From: "Sharlene Hawkins " <SHawkins@winston.com>

To: <lvaughn@duke-energy.com>, <mtuckman@duke-energy.com>,
<nirs.se@mindspring.com>, <amy@nrc.gov>, <axf2@nrc.gov>, <cnk@nrc.gov>,
<slu@nrc.gov>, <rls4@qwest.net>, <bredl@skybest.com>

CC: "David Repka" <DRepka@winston.com>

Ms. Olsen:

On behalf of Duke Energy Corporation ("Duke"), I am responding to your October 25, 2001 e-mail message re "consultation prior to filing motion to extend time," in connection with the ongoing Duke Energy Corporation license renewal proceeding for the McGuire and Catawba Nuclear Stations.

We understand that NIRS intends to file a "motion to extend time" on or by October 29, 2001. Without having seen the motion outlining the specific information deemed to be needed and unavailable, and the extent of the relief sought, Duke cannot agree to the NIRS request. Duke's current intent is to respond to the motion when filed and to oppose it absent a sufficient showing.

We received no response from Blue Ridge Environmental Defense League (BREDL), or any other party.

We note that we fully support BREDL's Petition to Dismiss Licensing Proceeding, or in the Alternative, hold it in Abeyance of October 23, 2001 and in no way intend for the current Motion to appear to be an alternative to this Petition. We will file a separate Response to BREDL's Petition to Dismiss within 10 days of Service, which we take to have been October 23, 2001.

In keeping with their Motion to Dismiss, we have, since deciding to file our Petition to Intervene held that intended plutonium fuel use is adequate basis for this license action to be rescheduled to coincide with, or follow that approval process. However, in order to be able to make that, and other contentions that are vital to the interests, concerns and safety of our members, we believe that we should be granted an extension that will correspond to the full 21 days from the date of order (10-16-01) to the original deadline of 11-07-01 to commence with the restoration to the NRC website the type of documents on Catawba, McGuire and Oconee that are listed above.

We certainly agree with NRC staff position that any extension of time should include a concomitant extension in time for response. Nonetheless we reject the notion that the GEIS on License Renewal is the only document needed.

We have made other attempts to obtain data and documents and find them to be unworkable in the time given (extended stays in Rockville, MD are beyond our financial means, FOIA requests do not leave time for using the documents even if they are obtained against all previous experience and massive print orders from NRC document files are similarly out of our budget range). These alternatives place an undue burden upon the parties. Therefore we hope that our

Motion to Extend Time will be granted in the event that reason does not prevail and the BREDL
Motion to Dismiss is denied.

Respectfully Submitted,

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

Mary Olson

Nuclear Information & Resource Service, Southeast Office

P.O. Box 7586

Asheville, NC 28802

828-251-2060

nirs.se@mindspring.com

10-29-2001

Copies of this Motion were sent via e-mail to all parties on the above date. Hard copies will be
mailed on 10-30-2001 due to transportation limitations on the 29th.

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

Before Administrative Judges:

Ann Marshall Young, Chair
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October 29, 2001

CERTIFICATE OF SERVICE

I hereby certify that copies of "Nuclear Information and Resource Service's Motion to Extend Time" in the captioned proceeding have been served on the following by deposit in the United States mail, first class, on the 30th day of October 2001. Additional courtesy e-mail service has been made this day as shown below.

Atomic Safety and Licensing Board Panel

The Honorable Ann Marshall Young
The Honorable Lester S. Rubenstein
The Honorable Charles N. Kelber
U.S. Nuclear Regulatory Commission
Washington, DC 20555

U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Rulemakings and Adjudications Staff
(original + two copies)
(e-mail: HEARINGDOCKET@nrc.gov)

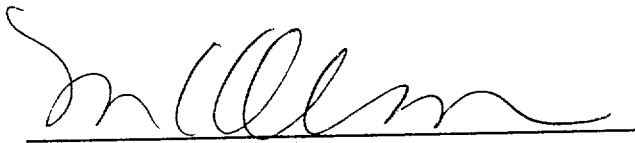
Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Adjudicatory File

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Lisa Vaughn
Duke Energy Corporation
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A handwritten signature in black ink, appearing to read "M. Olson", written over a horizontal line.

Mary C. Olson

Nuclear Information & Resource Service, Southeast Office
P.O. 7486
Box Asheville, NC 28802
828-251-2060

10-29-2001