

**RAS 6801**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

**DOCKETED 09/11/03**

**SERVED 09/11/03**

Before Administrative Judges:

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

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

ASLBP No. 02-794-01-LR

September 11, 2003

**MEMORANDUM to COMMISSION**

**(Responding to Memorandum & Order of September 8, 2003)**

In response to the Commission's September 8, 2003, Memorandum and Order (CLI-03-11) regarding decisions on the remaining contentions in this proceeding (i.e., Amended Contention 2 and the requested reinstatement of a contention previously dismissed by the Commission that relates to the environmental impacts of using Mixed Oxide ("MOX") fuel in the McGuire and Catawba units), and as the Commission is now aware, certain unusual circumstances, including incomplete agreement of all Board members on certain issues and certain staffing difficulties, have made it impossible for the Board to comply with the previously-set schedule. The Board, however, shares the Commission's interest in fair and efficient proceedings that avoid unnecessary delay, and will issue the rulings in question at the earliest possible time or times, utilizing whatever measures are necessary and possible to achieve this goal; specifically, the Board hopes to rule on Amended Contention 2 by or before mid-October

2003, and on the request to reinstate the MOX contention within the month following issuance of the ruling on Amended Contention 2, if not sooner and/or as part of the same issuance.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>1</sup>

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Ann Marshall Young, Chair  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
September 11, 2003

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<sup>1</sup>Copies of this Order were sent this date by Internet e-mail or facsimile transmission, if available, to all participants or counsel for participants.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM TO COMMISSION (RESPONDING TO MEMORANDUM AND ORDER OF SEPTEMBER 8, 2003) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

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Docket Nos. 50-369/370/413/414-LR  
LB MEMORANDUM TO COMMISSION  
(RESPONDING TO MEMORANDUM AND ORDER  
OF SEPTEMBER 8, 2003)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 11<sup>th</sup> day of September 2003