

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

RAS 6865

ATOMIC SAFETY AND LICENSING BOARD PANEL

DOCKETED 10/01/03

SERVED 10/01/03

Before Administrative Judges:

Ann Marshall Young, Chair  
Anthony J. Baratta  
Thomas S. Elleman

In the Matter of

DUKE ENERGY CORPORATION

(Catawba Nuclear Station, Units 1 and 2)

Docket No's. 50-413-OLA, 50-414-OLA

ASLBP No. 03-815-03-OLA

October 1, 2003

ORDER

(Setting Prehearing Conference Dates and Location)

In this Order the Licensing Board sets the dates and location for a prehearing conference in this proceeding, which, according to a September 24, 2003, filing of Duke Energy Corporation (Duke), at this point involves an application to amend the operating license for its Catawba Nuclear Station units by revising certain Technical Specifications (TSs) to allow the use of four mixed oxide (MOX) lead assemblies at the Catawba station. In response to Duke's original February 2003 application (which involved both the Catawba Station and the McGuire Nuclear Station, see 68 Fed. Reg. 44,107 (July 25, 2003)), prior to Duke's September amendment to the application, Petitioners Nuclear Information and Resource Service (NIRS) and Blue Ridge Environmental Defense League (BREDL) filed, on August 21 and 25, 2003, respectively, petitions to intervene and requests for hearing.

Based on availability of all participants and of a courtroom, the prehearing conference, at which the Licensing Board will hear oral argument on the Petitioners' standing to participate in this proceeding and on the admissibility of their contentions, will be held on **December 3-4, 2003**, in Courtroom 2 of the U.S. Courthouse, 401 W. Trade Street, Charlotte, North Carolina, commencing at 9:00 a.m. each morning and continuing into the evening as required.

It is noted that this date and location were set after, in an Order issued September 23, 2003, the Licensing Board offered the parties three dates on which the conference might be held, depending upon the availability of a court room and of all parties, November 13-14 and 24-25, and December 3-4, 2003; all participants were required to notify the Board in writing of their availability on these dates no later than September 30, 2003. On September 30, after hearing from both Petitioners and after ASLBP Staff had heard from personnel at the Federal Courthouse in Charlotte, the Chair of the Board notified all participants that the only dates the courthouse would be available were December 3 and 4, 2003, and suggested, given one participant's indication that the only available dates for it were likewise December 3 and 4, 2003, that all participants focus on these dates with regard to their availability. Duke counsel subsequently indicated that they would be available on these dates, and Staff counsel as well responded, indicating that, "because [counsel did] not yet have the proposed contentions, it [was] difficult to accurately determine which NRC staff members will be needed for the pre-hearing conference[, but that w]ith that caveat, as of this date, December 3-4 is acceptable to the Staff." Staff counsel and all participants were subsequently advised via e-mail that the conference would be set for December 3-4, but that, if at a later time the Staff needs to request that the conference be rescheduled, this can be addressed at that time.

It is so ORDERED.

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

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Ann Marshall Young, Chair  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
October 1, 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

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DUKE ENERGY CORPORATION	)	Docket Nos. 50-413-OLA
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SETTING PREHEARING CONFERENCE DATES AND LOCATION) 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. 50-413-OLA and 50-414-OLA  
LB ORDER (SETTING PREHEARING CONFERENCE  
DATES AND LOCATION)

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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 1<sup>st</sup> day of October 2003