

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)
DUKE POWER COMPANY, et al.)
(Catawba Nuclear Station,)
Units 1 and 2))

Docket Nos. 50-413
50-414

April 11, 1983

PALMETTO ALLIANCE MOTION
TO COMPEL DISCOVERY FROM APPLICANTS

Pursuant to 10 CFR Sections 2.740(f) and 2.744, Palmetto Alliance hereby moves to compel discovery from Applicants with respect to its "Follow-Up Interrogatories and Requests to Produce", served March 16, 1983, on the grounds that Applicants' Responses of March 25, 1983, are evasive, incomplete or otherwise not fully responsive to the interrogatories and requests posed.

On or about Wednesday April 6, 1983, counsel for Palmetto and counsel for Applicants, Mr. Carr, conferred by telephone in an effort to resolve by agreement the production of further or more responsive answers to these subject interrogatories and requests for production. Counsel for Palmetto is informed and believes that the bulk of these matters have been resolved by such agreement and awaits only the confirmation of such of agreement either by a further written response or by further identification and production of documents by Applicants.

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Subject to such agreement and further response, and reserving its right to seek further relief in the absence of such agreement or response, Palmetto Alliance hereby moves to compel discovery on such matters as remain in dispute between it and Applicants. Palmetto moves to compel answers to the following Interrogatories and related Requests to Produce:

Contention 6

Interrogatories 2,3,4 and 5.

Contention 7

Interrogatory 1

Each of these interrogatories on Palmetto's Quality Assurance and track record Contentions represents intervenor's effort to respond to this Board's criticisms of earlier discovery questions to Applicants which have been unanswered and objected to by Applicants generally on the grounds of burden and relevance. The Board has sustained these objections by Applicants, at least in part, and in the absence of "more specific follow-up questions in this area," have directed that

the burden of digesting those reports
must fall on Palmetto, notwithstanding
its limited resources.

Order of February 9, 1983, at p. 3.

In the face of these narrowed and revised interrogatories Applicants continue to refuse to provide any responsive answers, direct Palmetto to their earlier answers and reassert their earlier objections to providing any additional information.

Palmetto asks this Board to direct Applicants to answer these revised interrogatories.

Contention 6

Interrogatory 2 reflects a narrowing of earlier question 12 to limit the subject of inquiry to each "deficiency in plant construction reflecting faulty workmanship or deficiency in plant design change control," which coextensive with the now narrowed scope of this contention as admitted. Interrogatory 3 reflects the same narrowing of earlier question 13. Interrogatory 4 reflects this same narrowing of earlier question 14.

Interrogatory 5 seeks identification of persons terminated by Applicants from QA programs "for reasons related to deficiencies in the performance of their quality assurance or quality control duties." This reflects a narrowing of earlier question 22 in response to the Board's criticism that such termination information, if not so limited, "might have had nothing to do with QA or QC matters." Order of February 9 at p. 5. This Follow-Up Interrogatory is now clearly within the scope of the contention and should be answered.

Contention 7

Interrogatory 1 reflects Palmetto's effort to respond to the Board's criticism of earlier questions on this track record contention the focus of which the Board has characterized as follows:

...it is the attitudes and practices of the Applicants' management, as evidenced only in part by the ways in which they have dealt with problems that are most germane to this contention.

Order of February 9 at p. 6. This interrogatory is further limited to instances of non compliance "known to senior management of Duke Power Company" whose attitudes, knowledge of compliance with NRC regulation and practices in this area bear directly on proof of Palmetto contention 7.

As to all of these revised Follow-Up Interrogatories Palmetto Alliance seeks some measure of relief from the absolutely overwhelming physical and financial burden of sifting through masses of the Applicants' own records at great distance and copying them at great expense. Palmetto has already made extensive efforts to perform such a review as best it can. However the answers by Applicants to a specific factual question in effect says 'search several thousand pages of paper and the answer to your question "would be reflected in at least one of four documents: an Incident Report, a Reportable Occurrence Report, a Quality Assurance audit, or an NRC IE Inspection Report," Applicants' March 25 Response at pp. 24-25, ... 'see if you can find it!'

Palmetto concedes that providing any answers to discovery involves burden in searching records, inquiring of staff personnel, assembling and compiling materials in non-customary formats. Such burden is relatively lighter on Applicants themselves who have developed and control virtually all the primary source material containing such discovery answers. Further, this burden of compilation falls more appropriately on Applicants rather than Palmetto Alliance

on the basis both of relative resources and hardship. Finally it is Duke Power Company that seeks entitlement to this license to the detriment of the interests of Palmetto and its members who must defend in this forum. The relative equities among the parties warrant imposing this slight burden upon Applicants, ever assuming all other factors are equal.

Palmetto Alliance therefore, respectfully requests that responsive answers and production of documents be compelled by Applicants as herein urged.

April 11, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of
PALMETTO ALLIANCE MOTION TO COMPEL DISCOVERY FROM APPLICANTS

in the above captioned matters, have been served upon the follow-
ing by depositing same in the United States mail, postage prepaid,
on this 11th day of April , 1983.

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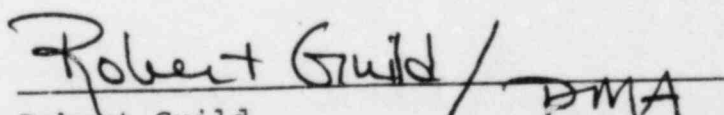
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