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August 16, 1983

Mr. James L. Kelley  
Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Richard F. Foster  
Post Office Box 4263  
Sunriver, Oregon 97702

Dr. A. Dixon Callihan  
Union Carbide Corporation  
Post Office Box Y  
Oak Ridge, Tennessee 37830

Re: Duke Power Company, et al. (Catawba Nuclear  
Station, Units 1 and 2), Docket Nos. 50-413,  
50-414

Gentlemen:

Pursuant to the Board's request during the August 8, 1983 prehearing conference in this proceeding, I am enclosing, on behalf of Mr. McGarry, a copy of the unpublished 1980 per curiam decision of the United States Court of Appeals for the D.C. Circuit in Duke Power Company v. NRC.

Sincerely,

*Anne W. Cottingham*  
Anne W. Cottingham

cc: All Parties

Enclosure

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 80-2253

September Term, 1980

Duke Power Company, Petitioner

United States Court of Appeals  
for the District of Columbia Circuit

v.

FILED SEP 29 1981

United States Nuclear Regulatory Commission

and

GEORGE A. FISHER  
CLERK

United States of America, Respondents

PETITION FOR REVIEW OF AN ORDER OF THE UNITED STATES NUCLEAR REGULATORY COMMISSION

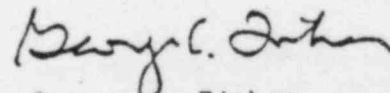
Before: TAHM and WILKEY, Circuit Judges; and FRIEDMAN\*, Chief Judge, United States Court of Claims

## ORDER

Upon consideration of Petitioner's request for review of the rule on emergency planning of the Respondent Nuclear Regulatory Commission (see 45 Fed. Reg. 55,402 (1980)), it is

ORDERED, by the Court, that the petition be dismissed, since there is no live controversy before the Court at this time. At oral argument Respondent's counsel gave unequivocal assurance that Respondent will judge Petitioner's compliance with the rule according to the standard of performance criteria promulgated in November 1980 jointly by Respondent and the Federal Emergency Management Agency, and Petitioner's counsel stated that this would be entirely satisfactory.

Per Curiam  
For the Court

  
George A. Fisher  
Clerk

\*Sitting by designation pursuant to Title 28 U.S.C. §293(a).

Bills of costs must be filed within 14 days after entry of judgment. The Court looks with disfavor upon motions to file bills of costs out of time.