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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
DUKE POWER COMPANY, et al.) Docket Nos. 50-413
) 50-414
(Catawba Nuclear Station,)
Units 1 and 2))

APPLICANTS' MOTION TO REQUIRE PALMETTO ALLIANCE'S
COMPLIANCE WITH THE TERMS OF THE BOARD'S
JUNE 20, 1983 MEMORANDUM AND ORDER

On August 3, 1983, a conference call between the parties and the Licensing Board members in this proceeding was held. The subject of this conference call was the possibility of the Board's requesting the appointment of another Licensing Board panel to preside over the adjudication of any emergency planning contentions admitted in the proceeding, to attempt to assure that litigation of emergency plan issues would not impinge upon Applicants' May, 1984 fuel loading date.

Palmetto Alliance objected to this bifurcation proposal. One of the reasons advanced by Palmetto Alliance's counsel, Mr. Guild, in opposition to such proposal was that, as a result of what he characterized as a rush to complete construction, serious construction deficiencies exist at Catawba which have come to the attention of Palmetto Alliance. Counsel for Palmetto Alliance provided

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no further detail concerning these allegations either during the conference call or afterwards. The clear implication of Mr. Guild's assertion was, however, that these purported deficiencies are distinct from any other concerns previously raised by Palmetto Alliance pursuant to Contention 6.

Subsequently, during an August 11, 1983 conference call, counsel for Applicants requested that Palmetto Alliance identify and explain specifically this new serious construction deficiency, or deficiencies, so that these concerns could be discussed and resolved at the upcoming hearing. Speaking on behalf of the Applicants, Mr. McGarry stated:

Now we would like Palmetto to identify this new serious construction deficiency. What is it or what are they we think we are entitled to know because, quite frankly, one of [our] concerns with respect to bifurcation was that in the QA area, based on our experience, it seems that you can't get the case closed because it seems like there is always a new allegation being raised either right at the beginning of the hearing, during the hearing or right after the hearing is closed and we are fearful that we are going to see an effort to reopen and reopen again the record on QA. (Tr. 1160)

However, Mr. Guild refused to specify the nature of the alleged deficiencies, saying, "I don't have anything further to say to Mr. McGarry. If he has a problem, he should put it in writing. I stand by our statements."

(Id.) Applicants accordingly file this Motion.

As Applicants pointed out during the August 11 conference call (Tr. 1159), Palmetto Alliance is under a Board-imposed obligation to make known promptly to the other parties to this proceeding the specific nature of any additional concerns it may have that are "based on information first becoming available to Palmetto between May 27, 1983, and the time of hearing that are within the scope of Contention 6" June 20, 1983 Memorandum and Order, p. 8. As to such concerns, the Board stated:

[P]ursuant to 10 C.F.R. § 2.740(c)(3), the Board is imposing a duty on Palmetto to supplement promptly its interrogatory responses under Contention 6 to the Applicants and the Staff as to any such new areas of concern under that contention, other than welding concerns and concerns of Messrs. Hoopingarner and McAfee. (Id.)(emphasis added).

In accordance with the Board's clear direction, Applicants submit that Palmetto Alliance must now supplement its relevant interrogatory responses in order to verify and explain the exact nature of these alleged new construction deficiencies to which it alluded in the August 3 conference call. In the event that Palmetto Alliance fails so to comply, within five working days, with the Board's June 20, 1983 Order, Applicants urge that the Intervenor be barred from raising additional allegations under Contention 6 in the upcoming hearing. Applicants also urge that if Palmetto Alliance fails to provide promptly the requested information, it should be

foreclosed from later attempting to reopen the hearing record on Contention 6 on the basis of any additional allegations.

Respectfully submitted,

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August 15, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion To Require Palmetto Alliance's Compliance With The Terms Of The Board's June 20, 1983 Memorandum and Order" in the above captioned matter have been served upon the following by deposit in the United States mail this 15th day of August, 1983.

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