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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

Docket Nos. 50-413
50-414

MOTION TO BIFURCATE THE HEARING AND
REQUEST FOR THE APPOINTMENT OF A SEPARATE
ATOMIC SAFETY AND LICENSING BOARD TO RULE
ON THE EMERGENCY PLAN CONTENTIONS

During a conference call of January 12, 1984, Applicants' raised the question of the scheduling of the emergency plan hearing phase. In camera Tr. 1264-1266. Applicants suggested a mid-March 1984 date. The Board expressed the view that such date was unattainable. The Board stated that it would not be prepared to hear emergency plan issues until it had issued its decision on the safety phase of the case, which decision is presently contemplated in May 1984. It thus appears that the emergency plan hearing cannot commence until June 1984.

Applicants anticipate that the emergency plan hearing should take 2-4 weeks to try, that 30-50 days would be provided for proposed findings and that Board deliberation would consume an additional 2-3 months. As a result, under the schedule this Board appears to be contemplating, an emergency plan decision does not appear likely until late October-November 1984.

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As set forth in the attached Affidavit of Warren Owen, Applicants current operating schedule calls for fuel loading on May 1984, and for ascension above 5% power in August 1984. A favorable decision on the safety phase of the case could entitle Applicants to load fuel, and to conduct tests at power levels of up to 5%. However, it appears that ascension to levels above 5% could be precluded by current regulations absent favorable findings on emergency planning issues. Accordingly, there is a very real prospect that Catawba will be standing idle between August and November of 1984, while awaiting the Board's decision on emergency planning.

To avoid the prospect of Catawba standing idle, Applicants request that this proceeding be bifurcated and that a separate Atomic Safety and Licensing Board be appointed to hear and resolve the emergency planning contentions. As support Applicants rely upon the Statement of Policy On Conduct Of Licensing Proceedings, CLI-81-8, 13 NRC 452 (1981) which encourages adjudicatory boards to employ various procedural devices to expedite the licensing process.

Applicants would note that this is not the first time they have sought bifurcation to remedy this adverse potential. On June 28, 1983, recognizing the prospect for delay, Applicants moved for bifurcation. In non-transcribed conference calls during July-August 1983, this Board initially indicated its inclination to grant bifurcation, but upon objection by Intervenor Palmetto Alliance reversed its position and denied Applicants' request.

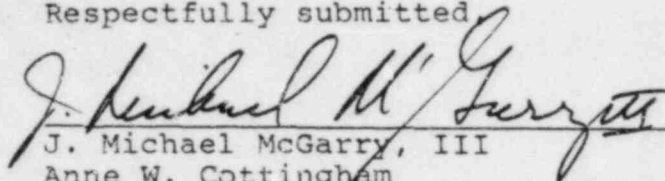
The Board's action was taken prior to the commencement of the evidentiary hearing of the safety phase of this proceeding. Since that time 43 days of hearings have elapsed. Two more hearing days are scheduled in January and the resolution of yet another issue (the adequacy of the diesel generator crankshaft) is still outstanding.

Given the volume of the case as developed to date, and that remaining Applicants maintain that reconsideration of the Board's earlier rule on bifurcation is appropriate. The timely grant of Applicants' motion could result in the appointment of a separate Licensing Board within the next month and the commencement of hearings in the March-April time frame. Under such a schedule 2-3 months could be saved which could well be the 2-3 months that, absent bifurcation, Catawba would be standing idle awaiting this Board's decision on emergency planning.

Further, in the event other safety matters arise during the first half of 1984, this Board would be in a position to more readily deal with such matters having relieved itself of emergency planning responsibility.

On the basis of the above, Applicants request that their motion be granted.

Respectfully submitted,



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