

September 12, 2000

Mr. W. R. McCollum, Jr.  
Vice President, Oconee Site  
Duke Energy Corporation  
7800 Rochester Highway  
Seneca, SC 29672

SUBJECT: OCONEE NUCLEAR STATION, UNITS 1, 2 AND 3 RE: NOTICE OF  
CONSIDERATION OF ISSUANCE OF AMENDMENTS (TAC NOS. MA9904,  
MA9905, AND MA9906)

Dear Mr. McCollum:

The Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing" to the Office of the Federal Register for publication.

This notice relates to your application dated September 7, 2000, to amend the Oconee Nuclear Station, Units 1, 2, and 3 Technical Specification Surveillance Requirement 3.8.1.9.a as it relates to the upper voltage and frequency limits for the annual test of the Keowee Hydro Units. Specifically, a note would be added that the upper limits on frequency and voltage are not required to be met until the NRC issues an amendment that removes the note in response to an amendment request to be submitted by you no later than April 5, 2001. This action is related to the Notice of Enforcement Discretion that was granted orally on September 5, 2000, and by letter dated September 8, 2000.

Sincerely,

*/RA/*

David E. LaBarge, Senior Project Manager, Section 1  
Project Directorate II  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

Enclosure: As stated

cc w/encl: See next page

September 12, 2000

Mr. W. R. McCollum, Jr.  
Vice President, Oconee Site  
Duke Energy Corporation  
7800 Rochester Highway  
Seneca, SC 29672

SUBJECT: OCONEE NUCLEAR STATION, UNITS 1, 2 AND 3 RE: NOTICE OF  
CONSIDERATION OF ISSUANCE OF AMENDMENTS (TAC NOS. MA9904,  
MA9905, AND MA9906)

Dear Mr. McCollum:

The Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing" to the Office of the Federal Register for publication.

This notice relates to your application dated September 7, 2000, to amend the Oconee Nuclear Station, Units 1, 2, and 3 Technical Specification Surveillance Requirement 3.8.1.9.a as it relates to the upper voltage and frequency limits for the annual test of the Keowee Hydro Units. Specifically, a note would be added that the upper limits on frequency and voltage are not required to be met until the NRC issues an amendment that removes the note in response to an amendment request to be submitted by you no later than April 5, 2001. This action is related to the Notice of Enforcement Discretion that was granted orally on September 5, 2000, and by letter dated September 8, 2000.

Sincerely,

**/RA/**

David E. LaBarge, Senior Project Manager, Section 1  
Project Directorate II  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

Enclosure: As stated

cc w/encl: See next page

Distribution: DLaBarge (paper copy)  
PUBLIC RidsOgcRp  
PD II-1 Rdg. RidsAcrcAcnwMailCenter  
RidsNrrDlpm RidsRgn2MailCenter  
RidsNrrDlpmLpdii  
RidsNrrDlpmLpdii1 (paper copy)  
CHawes (paper copy)

Document Name: G:\PDII-1\OCONEE\A9904 EXINOT.WPD

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	PM:PDII/S1	LA:PDII/S1	SC:PDII/S1
NAME	DLaBarge:cn	CHawes	REmch
DATE	9/12/2000	9/12/2000	9/12/2000

OFFICIAL RECORD COPY

UNITED STATES NUCLEAR REGULATORY COMMISSION

DUKE ENERGY CORPORATION

DOCKET NOS. 50-269, 50-270, AND 50-287

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO  
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, issued to the Duke Energy Corporation (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2, and 3, respectively, located in Seneca, South Carolina.

The proposed amendment would revise Technical Specification (TS) Surveillance Requirement (SR) 3.8.1.9.a as it relates to the annual test of the Keowee Hydro Units (KHUs) by adding a Note stating: "The upper limits on frequency and voltage are not required to be met until the NRC issues an amendment that removes this Note (license amendment request to be submitted no later than April 5, 2001)."

The present annual SR requires verification on an actual or simulated emergency actuation signal that each KHU automatically starts and achieves an output frequency  $\geq 57$  Hertz (Hz) and  $\leq 63$  Hz and an output voltage  $\geq 13.5$  kilo-volts (kV) and  $\leq 14.49$  kV in  $\leq 23$  seconds. Currently, when a KHU is started, it reaches rated frequency and voltage within the required 23 seconds. However, due to the physical characteristics of the KHU, its speed continues to increase, causing the frequency to exceed the limits specified in SR 3.8.1.9.a for a short period of time. Following this brief overshoot, the frequency returns to within the limits

specified in SR 3.8.1.9.a. This is consistent with the way the KHUs have been operated since initial licensing and complies with the licensee's interpretation of the SR.

As a result of recent discussions with the NRC, it became clear that interpretation differences existed between the staff and the licensee concerning this SR. The staff interpreted the SR to imply that the limits on frequency and voltage constitute upper and lower limits for operation of the KHUs. In a telephone conference call on September 5, 2000, the staff informed the licensee of this interpretation, and that Oconee Nuclear Station, Units 1, 2 and 3, were not in compliance with TS 3.8.1 because the frequency briefly exceeded the upper limit specified in the SR in response to an actual or simulated emergency actuation signal. The licensee stated that this would require declaring the KHUs inoperable, entry into TS 3.0.3, and shutdown of the three units. Therefore, the licensee requested that a Notice of Enforcement Discretion (NOED) be granted pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c, of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective until such time as the staff approves an amendment modifying the SR, which was submitted on September 7, 2000. The staff granted the NOED on September 5, 2000, and, as a result, is processing this amendment under exigent circumstances in accordance with the NRC's policy regarding exercising of enforcement discretion.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1)

involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.91, Duke Power Company (Duke) has made the determination that this amendment request involves a No Significant Hazards Consideration by applying the standards established by the NRC regulations in 10 CFR 50.92. This ensures that operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No. The License Amendment Request (LAR) involves adding a note to Surveillance Requirement (SR) 3.8.1.9[a] to waive the surveillance requirements associated with the upper limits for KHU voltage and frequency. The waiver of these requirements will allow Duke to avoid an unplanned forced shutdown of all three Oconee units, and the potential safety consequences and operational risks associated with that action. It will also provide an opportunity for Duke to work with the NRC to resolve any technical concerns.

This LAR involves an interpretation issue, rather than the inability of the KHU to perform its intended safety function.

Waiving the requirements to meet the upper voltage and frequency limits associated with SR 3.8.1.9.a does not involve: 1) a physical alteration to the Oconee Units; 2) the installation of new or different equipment; 3) operating any installed equipment in a new or different manner; or 4) a change to any set points for parameters which initiate protective or mitigative action.

There is no adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve set points, or radwaste systems. No new radiological release pathways are created.

Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

No. The LAR involves adding a note to allow for a temporary waiver of [the upper voltage and frequency limits of] SR 3.8.1.9.a associated with the KHUs.

Waiver of this surveillance requirement does not involve a physical effect on the unit, nor is there any increased risk of a unit trip or reactivity excursion. No new failure modes or credible accident scenarios are postulated from this activity.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created.

3. Involve a significant reduction in a margin of safety.

No. The LAR involves adding a note to allow waiver of the requirements to meet [the upper voltage and frequency limits of] SR 3.8.1.9.a. Temporarily waiving the requirement to meet this [upper voltage and frequency limits of this] SR will allow Duke to avoid an unplanned forced shutdown of all three Oconee Units and the potential safety consequences and operational risks associated with that action. It will also allow Duke the opportunity to work with the NRC to resolve any technical concerns.

Temporarily waiving the requirement to meet the upper voltage and frequency limits associated with SR 3.8.1.9.a does not involve: 1) a physical alteration of the Oconee Units; 2) the installation of new or different equipment; 3) operating any installed equipment in a new or different manner; 4) a change to any set points for parameters which initiate protective or mitigative action; or 5) any impact on the fission product barriers or safety limits.

Therefore, this request does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day

notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 19, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board

Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists

with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Anne W. Cottingham, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 7, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 12th day of September 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

David E. LaBarge, Senior Project Manager, Section 1  
Project Directorate II  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Oconee Nuclear Station

cc:

Ms. Lisa F. Vaughn  
Legal Department (PBO5E)  
Duke Energy Corporation  
422 South Church Street  
Charlotte, North Carolina 28201-1006

Anne W. Cottingham, Esquire  
Winston and Strawn  
1400 L Street, NW  
Washington, DC 20005

Mr. Rick N. Edwards  
Framatome Technologies  
Suite 525  
1700 Rockville Pike  
Rockville, Maryland 20852-1631

Manager, LIS  
NUS Corporation  
2650 McCormick Drive, 3rd Floor  
Clearwater, Florida 34619-1035

Senior Resident Inspector  
U. S. Nuclear Regulatory  
Commission  
7812B Rochester Highway  
Seneca, South Carolina 29672

Virgil R. Autry, Director  
Division of Radioactive Waste Management  
Bureau of Land and Waste Management  
Department of Health and Environmental  
Control  
2600 Bull Street  
Columbia, South Carolina 29201-1708

Mr. L. E. Nicholson  
Compliance Manager  
Duke Energy Corporation  
Oconee Nuclear Site  
7800 Rochester Highway  
Seneca, South Carolina 29672

Ms. Karen E. Long  
Assistant Attorney General  
North Carolina Department of  
Justice  
P. O. Box 629  
Raleigh, North Carolina 27602

Mr. C. Jeffrey Thomas  
Manager - Nuclear Regulatory  
Licensing  
Duke Energy Corporation  
526 South Church Street  
Charlotte, North Carolina 28201-1006

Mr. Richard M. Fry, Director  
Division of Radiation Protection  
North Carolina Department of  
Environment, Health, and  
Natural Resources  
3825 Barrett Drive  
Raleigh, North Carolina 27609-7721

Mr. Steven P. Shaver  
Senior Sales Engineer  
Westinghouse Electric Company  
5929 Carnegie Blvd.  
Suite 500  
Charlotte, North Carolina 28209

# PD II-1 DOCUMENT COVER PAGE

**DOCUMENT NAME:** C:\A9904 Exinot.wpd  
**ORIGINATOR:** D. LABARGE  
**SECRETARY:** CHERI NAGEL  
**SUBJECT:** OCONEE NUCLEAR STATION, UNITS 1, 2 AND 3 RE:  
NOTICE OF CONSIDERATION OF ISSUANCE OF  
AMENDMENTS (TAC NOS. MA9904, MA9905, AND MA9906)  
**DATE:** September 15, 2000

## \*\*\*\*\*ROUTING LIST\*\*\*\*\*

<u>NAME</u>	<u>DATE</u>
1. <u>D. LABARGE</u>	<u>/ /00</u>
2. <u>C. HAWES</u>	<u>/ /00</u>
3. <u>R. EMCH</u>	<u>/ /00</u>
4. _____	<u>/ /00</u>
5. _____	<u>/ /00</u>
6. _____	<u>/ /00</u>
7. <u>Secretary - dispatch - 08-H-12</u>	

return incoming/background to licensing assistant/project manager