February 5, 1998

Mr. W. R. McCollum
Vice President, Oconee Site
Duke Energy Corporation
P. O. Box 1439
Seneca, SC 29679

SUBJECT: OCONEE NUCLEAR STATION, UNITS 1, 2, AND 3 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS (TAC NOS. MA0736, MA0738, MA0739)

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 February 2, 1998, to amend the Oconee Nuclear Station, Units 1, 2, and 3 Technical Specifications to revise the wording used to specify refueling outage surveillances. The change would indicate that these surveillances are to be performed on an 18-month frequency and need not be constrained to refueling outage conditions. This action is related to the Notice of Enforcement Discretion that was granted orally at 3:30 p.m. on January 30, 1998, and issued by letter dated February 3, 1998.

Sincerely,
ORIGINAL SIGNED BY:

David E. LaBarge, Senior Project Manager
Project Directorate II-2
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

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

Enclosure: As stated

cc w/encl: See next page

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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

Enclosure: As stated

cc w/encl: See next page

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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.

If approved, the proposed amendments would amend the Oconee Nuclear Station, Units 1, 2, and 3 Technical Specifications (TS) to revise the present wording used to specify refueling outage surveillances to indicate that the surveillances are to be performed on an 18-month frequency.

The original Oconee TS required that certain surveillances be performed annually and, therefore, were not constrained to performance with a unit in the refueling condition. As a result, the licensee has not interpreted a surveillance that is specified to be performed at refueling outage frequency as meaning that the unit must be in a refueling outage to satisfy the requirement. Therefore, some surveillances specified at a refueling outage frequency were performed at times other than during a refueling outage. In discussions with the NRC staff on January 29, 1998, the licensee was informed of the staff's interpretation of Oconee's TS that concluded any surveillance that was specified to be performed during refueling outages must be performed with the unit in a refueling outage. Thus, any surveillances performed at

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power, in past forced outages, or during planned shutdowns, would not satisfy the TS requirements. The licensee then immediately began to evaluate the impact of the staff's literal interpretation of the TS. On January 30, 1998, the licensee confirmed that certain surveillances had been performed at times other than during a refueling outage and that implementation of the staff's interpretation of the surveillances designated in the TS as "refueling outage" would result in exceeding the time constraints allowed in the TS and, in accordance with TS 3.0, would result in the forced shutdown of Units 2 and 3 and interfere with the planned startup of Unit 1. However, the licensee determined that all surveillances that are presently required to be performed during refueling outages have been performed within the required interval (22.5 months), even though some have been performed with the unit in a condition other than a refueling outage. Thus, the surveillance interval requirements have been satisfied.

When these findings were discussed with the staff on January 30, 1998, a Notice of Enforcement Discretion was issued verbally on January 30, 1998, to exercise discretion not to enforce compliance with TS 3.0 for these surveillances for the period from 3:30 p.m. on January 30, 1998, until issuance of the related amendments. The request for license amendments was submitted by letter dated February 2, 1998. Since the proposed amendments are designed to complete the review process and implement the proposed TS changes, pursuant to the NRC's policy regarding exercising 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 for the period until the issuance of a related TS amendment, these circumstances require that the amendments be processed under exigent circumstances.

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 amendments 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:

> This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards, in 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 proposed change will revise the surveillance requirements for selected surveillances which have a refueling outage surveillance frequency with a maximum interval of 22 months and 15 days. The proposed change will replace the refueling outage requirement with a comparable requirement to perform the surveillance every 18 months which has a maximum interval of 22 months and 15 days. The proposed change does not increase the maximum interval between surveillances and does not change any surveillance acceptance criteria. Thus, the probability and consequences of an accident previously evaluated will not be significant[ly] increased.
>
> 2. Create the possibility of a new or different kind of accident from the accidents previously evaluated?
>
>   No. Since the proposed change does not increase the maximum interval between surveillances and does not change any surveillance acceptance criteria, a new or different kind of accident from the accidents which were previously evaluated will not occur.
>
> 3. Involve a significant reduction in a margin of safety?
>
>   No. The margin of safety will not be significantly reduced by this amendment

request because the maximum interval between the surveillances and the surveillance acceptance criteria are not changed. Thus, the operability of the plant equipment and systems will be verified within the same surveillance interval and to the same acceptance criteria.

Duke has concluded based on the above information that there are no significant hazards involved in this amendment request.

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 6D22, 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 March 12, 1998, 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 at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina. 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, 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 Mr. J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, 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 February 2, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 5th day of February 1998.

FOR THE NUCLEAR REGULATORY COMMISSION

David E. LaBarge, Senior Project Manager
Project Directorate II-2
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation