

September 19, 2001

Mr. M. S. Tuckman
Executive Vice President
Nuclear Generation
Duke Energy Corporation
526 South Church Street
Charlotte, NC 28201-1006

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF
OPERATING AUTHORITY UNDER FACILITY OPERATING LICENSES AND
CONFORMING AMENDMENTS, AND OPPORTUNITY FOR A HEARING,
CATAWBA NUCLEAR STATION, UNIT NOS. 1 AND 2 (TAC NOS. MB2380
AND MB2381)

Dear Mr. Tuckman:

Enclosed is a copy of a "Notice of Consideration of Approval of Transfer of Operating Authority Under Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing" related to the application dated July 10, 2001, from the Duke Energy Corporation. This application seeks approval under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.80 of the transfer of operating authority under the Facility Operating Licenses Nos. NPF-35 and NPF-52 for Catawba Nuclear Station, Unit Nos. 1 and 2. The transfer would be to a new nuclear operating company, Duke Energy Nuclear, LLC, (DEN LLC) which will be formed as part of a corporate restructuring of Duke Energy Corporation. The application also seeks approval of conforming amendments, pursuant to 10 CFR 50.90, to reflect the transfer.

This notice is being forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Chandu P. Patel, Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-413 and 50-414

Enclosure: Notice

cc w/encl: See next page

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UNITED STATES NUCLEAR REGULATORY COMMISSION
DUKE ENERGY CORPORATION
NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION
SALUDA RIVER ELECTRIC COOPERATIVE, INC.
NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1
PIEDMONT MUNICIPAL POWER AGENCY
CATAWBA NUCLEAR STATION, UNIT NOS. 1 AND 2
DOCKET NOS. 50-413 AND 50-414
NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF
OPERATING AUTHORITY UNDER
FACILITY OPERATING LICENSES AND
CONFORMING AMENDMENTS AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of operating authority under Facility Operating Licenses Nos. NPF-35 and NPF-52 for Catawba Nuclear Station, Unit Nos. 1 and 2 (Catawba). The Facility Operating License for Catawba Unit 1 is currently held by Duke Energy Corporation (DEC), as a 25% owner and the exclusive licensed operator, and by the North Carolina Electric Membership Corporation and the Saluda River Electric Cooperative, Inc. as co-owners. The Facility Operating License for Catawba Unit 2 is currently held by DEC as the exclusive licensed operator, and by North Carolina Municipal Power Agency No. 1 and the Piedmont Municipal Power Agency as the co-owners. The transfer of authority to operate Catawba Unit Nos. 1 and 2 would be to a new limited liability company, Duke Energy Nuclear, LLC (DEN LLC). DEN LLC will be a subsidiary of DEC, as a result of a corporate restructuring

of DEC. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer. The facility is located in York County, South Carolina.

According to an application for approval filed by DEC, the proposed transfers do not involve any change in ownership of the nuclear units. DEC will retain its current 25% ownership interest in Catawba Unit 1. The ownership shares of the Catawba Units not held by DEC will be unaffected by the DEC restructuring and change in operator. No physical changes to the facility or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By October 15, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Lisa F. Vaughn, Legal Department, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201-1006; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the FEDERAL REGISTER and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by October 25, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this FEDERAL REGISTER notice.

For further details with respect to this action, see the application dated July 10, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site (<http://www.nrc.gov/ADAMS/index.html>). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 19th day of September 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Leonard N. Olshan, Acting Section Chief, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Catawba Nuclear Station

cc:

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Catawba Nuclear Station

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