

May 17, 2002

Mr. K. S. Canady
Duke Energy Corporation
526 South Church Street
P.O. Box 1006
Charlotte, NC 28201-1006

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
RE: CATAWBA NUCLEAR STATION, UNITS 1 AND 2, AND MCGUIRE
NUCLEAR STATION, UNITS 1 AND 2 (TAC NOS. MB2726, MB2729, MB2578,
AND MB2579)

Dear Mr. Canady:

By your application dated August 3, 2001, and your affidavit dated August 3, 2001, you submitted Duke Power (Duke) topical report, DPC-NE-1005P, "Nuclear Design Methodology Using CASMO-4/SIMULATE-3 MOX," for NRC staff review and approval. Along with your affidavit you also submitted an affidavit from Mr. James F. Mallay of Framatome Advance Nuclear Power (FRA-ANP) executed on July 26, 2001, and an affidavit from Mr. Michel Ponticq of Electricite de France (EDF) executed on June 19, 2001, and requested that the subject topical report be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. This document is owned by Duke, FRA-ANP, and EDF. You submitted a nonproprietary copy of this topical report on August 6, 2001. The nonproprietary copy has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

In your affidavit you stated that this information enables Duke to:

- (a) Support license amendment and Technical Specification revision requests for its McGuire and Catawba reactors.
- (b) Perform nuclear design calculations on McGuire and Catawba reactor cores containing low enriched uranium fuel.
- (c) Perform nuclear design calculations on future planned McGuire and Catawba reactor cores containing a mixture of low enriched uranium and mixed oxide fuels.

The affidavit from Mr. James F. Mallay stated that the following criteria are customarily applied by FRA-ANP to determine whether information should be classified as proprietary:

- (a) The information reveals details of FRA-ANP's research and development plans and programs or their results.
- (b) Use of the information by a competitor would permit the competitor to significantly reduce its expenditures, in time or resources, to design, produce, or market a similar product or service.
- (c) The information includes test data or analytical techniques concerning a process,

methodology, or component, the application of which results in a competitive advantage for FRA-ANP.

- (d) The information reveals certain distinguishing aspects of a process, methodology, or component the exclusive use of which provides a competitive advantage for FRA-ANP in product optimization or marketability.

The affidavit from Mr. Michel Ponticq stated that the proprietary information sought to be withheld from public disclosure has substantial commercial value to EDF because the information:

- (a) Is not available to other parties and would require substantial cost to develop independently.
- (b) Has been sought by other parties in return for monetary payment.
- (c) Consists of reactor operating data, which is not readily available to others and therefore has value to EDF.

Mr. Ponticq's affidavit also stated that the public disclosure of this information is likely to cause harm to EDF because it would allow other competitors in the nuclear industry to benefit from the results of an extensive reactor monitoring and measurement program without requiring commensurate expense or allowing EDF to recoup a portion of its expenditures or benefit from the sale of the information.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements and those of Mr. Mallay and Mr. Ponticq, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review

this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-3025.

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, 50-414, 50-369, and 50-370

cc: See next page

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McGuire Nuclear Station
Catawba Nuclear Station

cc:

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McGuire Nuclear Station
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