

August 20, 2002

Mr. M. S. Tuckman
Executive Vice President
Nuclear Generation
Duke Energy Corporation
P. O. Box 1006
Charlotte, North Carolina 28201-1006

SUBJECT: CATAWBA AND MCGUIRE NUCLEAR STATIONS, UNITS 1 AND 2 RE:
NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS (TAC NOS.
MB3343 MB3344, MB3222, AND MB3223)

Dear Mr. Tuckman:

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

This notice relates to your application dated October 7, 2001, as supplemented by letter dated August 7, 2002, to revise the McGuire and Catawba Nuclear Stations, Units 1 and 2 Technical Specifications 5.6.5.a regarding the Core Operating Limits Report.

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 w/encl: See next p

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UNITED STATES NUCLEAR REGULATORY COMMISSION

DUKE ENERGY CORPORATION, ET AL.

DOCKET NOS. 50-413, 50-414, 50-369, AND 50-370

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

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF-35, NPF-52, NPF-9, and NPF-17 issued to Duke Energy Corporation, et al., (the licensee) for operation of the Catawba Nuclear Station, Units 1 and 2, and McGuire Nuclear Station, Units 1 and 2, located in York County, South Carolina and Mecklenburg County, North Carolina.

The proposed amendments would revise Technical Specification (TS) 5.6.5 regarding the Core Operating Limits Report (COLR). TS 5.6.5.a lists the parameters for which the limiting values have been relocated by previous TS amendments from the TS to the COLR.

Specifically, for both Catawba and McGuire Nuclear Stations, the amendments would revise the TS 5.6.5.a by (1) adding "60 ppm" to Item 5.6.5.a.1 regarding the moderator temperature coefficient (MTC) surveillance limit for Specification 3.1.3, and (2) by adding Item 5.6.5.a.12, "31 EFPD [effective full-power day] surveillance penalty factors for Specifications 3.2.1 and 3.2.2." In addition, for Catawba Nuclear Station, the amendments would add Item 5.6.5.a.13, "Reactor makeup water pumps combined flow rates limit for Specifications 3.3.9 and 3.9.2."

The limiting values for these parameters were previously relocated from the TS to the COLR without the parameter identifier being retained in the TS. Inclusion of the parameter identifier in

Enclosure

the TS will improve consistency between the TS and the COLR. The amendments would also change Bases 3.2.1 and 3.2.3 to remove the specific date of the referenced topical report.

Before issuance of the proposed 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.

The Commission has made a proposed determination 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; (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. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Would implementation of the changes proposed in these amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

No. These amendments make clarifications and additions to the list of referenced TS listed in both McGuire and Catawba Nuclear Stations TS 5.6.5.a. The additions to the list of referenced TS are consistent with the COLR and provide additional clarifications. Therefore, the proposed changes have no impact on any accident probabilities or consequences.

2. Would implementation of the changes proposed in these amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes contained in these amendments only make additions or clarifications that are consistent with the McGuire and Catawba Nuclear Stations COLR and

established plant operating practices. Therefore, no new or different kinds of accidents are being created.

3. Would implementation of the changes proposed in these amendments involve a significant reduction in a margin of safety?

No. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. These barriers are unaffected by the changes proposed in these amendments. The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event and thereby protect the fission product barriers. The changes proposed in these amendments make additions to a list of referenced TS that are currently approved for use at McGuire and Catawba Nuclear Stations. These changes have no effect on the applicable McGuire and Catawba Nuclear Stations licensing bases, and following implementation of the proposed changes, all applicable acceptance criteria will continue to be met. Consequently, no margin of safety will be significantly impacted by these amendments.

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 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 and provide for opportunity for a hearing after 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. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

By September 23, 2002, the licensee may file a request for a hearing with respect to issuance of the amendments 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 2.714,¹ which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@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 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.

¹ The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: "In all other circumstances, such ruling body or officer shall, in ruling on--

- (1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:
 - (i) The nature of the petitioner's right under the Act to be made a party to the proceeding.
 - (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
 - (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest .
- (2) The admissibility of a contention, refuse to admit a contention if:
 - (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or
 - (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief."

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 amendments 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. 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 amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

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 amendments.

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 (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov. A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201-1006, 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 amendments dated October 7, 2001, as supplemented by letter dated August 7, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, 20th day of August.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Chandu P. Patel, Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management

McGuire Nuclear Station
Catawba Nuclear Station

cc:

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

County Manager of Mecklenburg County
720 East Fourth Street
Charlotte, North Carolina 28202

Mr. Michael T. Cash
Regulatory Compliance Manager
Duke Energy Corporation
McGuire Nuclear Site
12700 Hagers Ferry Road
Huntersville, North Carolina 28078

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

Senior Resident Inspector
c/o U. S. Nuclear Regulatory
Commission
12700 Hagers Ferry Road
Huntersville, North Carolina 28078

Mr. Peter R. Harden, IV
VP-Customer Relations and Sales
Westinghouse Electric Company
6000 Fairview Road
12th Floor
Charlotte, North Carolina 28210

Dr. John M. Barry
Mecklenburg County
Department of Environmental
Protection
700 N. Tryon Street
Charlotte, North Carolina 28202

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

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

Elaine Wathen
Lead REP Planner
Division of Emergency Management
116 West Jones Street
Raleigh, North Carolina 27603-1335

Mr. T. Richard Puryear
Owners Group (NCEMC)
Duke Energy Corporation
4800 Concord Road
York, South Carolina 29745

McGuire Nuclear Station
Catawba Nuclear Station

cc:

Mr. Gary Gilbert
Regulatory Compliance Manager
Duke Energy Corporation
4800 Concord Road
York, South Carolina 29745

North Carolina Municipal Power
Agency Number 1
1427 Meadowwood Boulevard
P. O. Box 29513
Raleigh, North Carolina 27626-0513

County Manager of York County
York County Courthouse
York, South Carolina 29745

Piedmont Municipal Power Agency
121 Village Drive
Greer, South Carolina 29651

Saluda River Electric
P. O. Box 929
Laurens, South Carolina 29360

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

North Carolina Electric Membership
Corporation
P. O. Box 27306
Raleigh, North Carolina 27611

Senior Resident Inspector
4830 Concord Road
York, South Carolina 29745

Mr. G. R. Peterson
Site Vice President
Catawba Nuclear Station
Duke Energy Corporation
4800 Concord Road
York, South Carolina 29745

Mr. H. B. Barron
Vice President, McGuire Site
Duke Energy Corporation
12700 Hagers Ferry Road
Huntersville, North Carolina 28078