

January 3, 2003

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

SUBJECT: DUKE ENERGY CORPORATION, REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE FOR CATAWBA AND MCGUIRE
NUCLEAR STATIONS, UNITS 1 AND 2 (TAC NOS. MB4502, MB4503, MB4504
AND MB4505)

Dear Mr. Tuckman:

By letter dated February 28, 2002, you submitted an affidavit, executed by you, dated February 8, 2002, requesting that the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

Duke Power Company Westinghouse Fuel Transition Report, DPC-NE-2009P,
Revision 2, (PROPRIETARY)

We note that although Part 4(e) of your affidavit states that the information sought to be withheld is that which is marked in Revision 0 of the report, the remainder of Part 4(e) of your affidavit clearly indicates that it is the information in Revision 2 of the report, as attached to your letter dated February 28, 2002, that you seek to be withheld in this instance. Accordingly, this letter addresses the information in Revision 2 of your topical report.

A non-proprietary copy of these documents, that was included as Attachment B to your letter, has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

4. Pursuant to the provisions of paragraph (b)(4) of 10 CFR 2.790, the following is furnished for consideration by the NRC in determining whether the information sought to be withheld from public disclosure should be withheld.
 - a) The information sought to be withheld from public disclosure is owned by Duke and has been held in confidence by Duke and its consultants.
 - b) The information is of a type that would customarily be held in confidence by Duke. The information consists of analysis methodology details, analysis results, supporting data, and aspects of development programs relative to a method of analysis that provides a competitive advantage to Duke.
 - c) The information was transmitted to the NRC in confidence and under the provisions of 10 CFR 2.790, it is to be received in confidence by the NRC.

- d) The information sought to be protected is not available in public to the best our [Duke's] knowledge and belief.
 - e) The proprietary information sought to be withheld in this submittal is that which is marked in the proprietary version of the Duke Topical Report designated DPC-NE-2009P, Revision 0, "Duke Power Company Westinghouse Fuel Transition Report," and omitted from the non-proprietary version. This information is being submitted to the NRC for review and approval as an ATTACHMENT to this Duke letter. The marked information enables Duke to:
 - (i) Respond to Generic Letter 83-11, Licensee Qualification for Performing Safety Analyses in Support of Licensing Actions.
 - (ii) Perform core design, fuel rod design, and thermal-hydraulic analyses for the Westinghouse Robust Fuel Assembly design.
 - (iii) Simulate UFSAR Chapter 15 transients and accidents for McGuire and Catawba Nuclear Stations.
 - (iv) Perform safety evaluations per 10CFR50.59.
 - (v) Support Facility Operating Licenses/Technical Specifications amendments for McGuire and Catawba Nuclear Stations.
 - f) The proprietary information sought to be withheld from public disclosure has substantial commercial value to Duke.
 - (i) It allows Duke to reduce vendor and consultant expenses associated with supporting the operation and licensing of nuclear power plants.
 - (ii) The subject information could only be duplicated by competitors at similar expense to that incurred by Duke.
5. Public disclosure of this information is likely to cause harm to Duke because it would allow competitors in the nuclear industry to benefit from the results of a significant development program without requiring a commensurate expense or allowing Duke 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, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the versions 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

Mr. K. S. Canady

-3-

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 can be reached at 301-415-1493.

Sincerely,

/RA/

Robert E. Martin, 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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