

March 20, 2003

Mr. M. S. Tuckman
Executive Vice President
Nuclear Generation
Duke Energy Corporation
526 South Church St
Charlotte, NC 28202

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION RE: RESPONSE TO NRC
ORDER FOR COMPENSATORY MEASURES RELATED TO ACCESS
AUTHORIZATION (TAC NOS. MB7059, MB7060, MB7093, MB7094, MB7102,
MB7103 AND MB7104)

Dear Mr. Tuckman:

On January 7, 2003, the Nuclear Regulatory Commission (NRC) issued an Order for compensatory measures related to access authorization for all power reactor licensees. This Order required a 20 day response. On January 22, 2003, the NRC received the response to the Order from Duke Energy Corporation (Duke, or the licensee).

The NRC staff reviewed Duke's response against the requirements specified in the January 7, 2003, Order and requested a conference call with Mr. Dana Boies of your staff to clarify specific language used in the response to compensatory measure B.1.3(c). Based on the discussions between the NRC and Duke, NRC staff requests the following additional information regarding that response.

Regulatory Issue Summary (RIS) 2002-13, "Confirmation of Employment Eligibility," provided direction to licensees regarding a specific program offered by, at that time, the Immigration and Naturalization Service (INS). The NRC did not require subscription then, nor does the NRC require subscription now, to that program or any other program offered by the Department of Homeland Security, Bureau of Citizenship and Immigration (BCIS), the former the INS. However, as stated in RIS 2002-13, "verification of identity is just one (required) component of a facility's [licensee] access authorization program." As the background discussion in RIS provides, while the typical means for meeting this objective are routinely successful, the acceptable measures to meet this requirement have, on occasion, been subverted. The efforts undertaken to subvert the process in the past can be overcome through application of the programs specified in RIS 2002-13. Should a licensee choose to subscribe to the programs available through the BCIS, the licensee could then claim to have gone to the fullest extent possible.

In your response to the Order, you quoted three words from compensatory measure B.1.3(c), specifically, to the "fullest extent possible," regarding your compliance with the Order. Your response also provided, in part, that, "...RIS 2002-13 notes the limitations facing licensees on this point as well." From your response, the NRC staff would expect implementation of clearly accessible measures to, in fact, be able to make a determination of identity "to the extent

M. S. Tuckman

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possible." The language in the compensatory measure does not provide an "only" limitation, but instead encourages licensees to take an affirmative approach to ensure the accuracy of a programmatic element required in the existing rule, as supplemented by the Order. The NRC staff has reviewed RIS 2002-13, and finds no limitations facing licensees as referred to in your response.

Absent application of the programs available to Duke and other licensees from the BCIS, how do you intend to meet the requirements of this compensatory measure to the fullest extent possible?

Sincerely,

/RA/

Christopher Gratton, Senior Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, 50-287,
50-369, 50-370, 50-413
and 50-414

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