

July 21, 2003

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

SUBJECT: WILLIAM B. MCGUIRE NUCLEAR STATION, UNITS 1 AND 2 AND CATAWBA
NUCLEAR STATION, UNITS 1 AND 2 RE: PROPOSED AMENDMENT TO THE
FACILITY OPERATING LICENSE AND TECHNICAL SPECIFICATIONS TO
ALLOW INSERTION OF MIXED OXIDE FUEL LEAD ASSEMBLIES
(TAC NOS. MB7865, MB7866, MB7863 AND MB7864)

Dear Mr. Tuckman:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing," for your information. This notice relates to a application for amendment by the Duke Power Company (Duke) dated February 27, 2003, wherein Duke proposed to revise the Technical Specifications to allow the use of four mixed oxide fuel lead assemblies at either the Catawba Nuclear Station, Units 1 and 2 or the McGuire Nuclear Station, Units 1 and 2 during the spring 2005 refueling outage for the selected unit.

This notice has been forwarded to the Office of the *Federal Register* for publication.

Sincerely,

/RA/

Robert E. Martin, Senior Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-369, 50-370, 50-413 and 50-414

Enclosure: As stated

cc w/encl: See next page

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Distribution:

PUBLIC PDII-1 R/F JNakoski CHawes RMartin OGC ACRS
SBloom RHaag

* See previous concurrence

ADAMS ACCESSION NUMBER: ML032020526

OFFICE	PM:PDII-1	LA:PDII-1	OGC *	SC:PDII-1
NAME	RMartin	CHawes	SUttal	JNakoski
DATE	7/18/03	7/21/03	07/16 /03	7/18/03

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UNITED STATES NUCLEAR REGULATORY COMMISSION

DUKE ENERGY CORPORATION, ET AL.

CATAWBA NUCLEAR STATION, UNITS 1 AND 2

DOCKET NOS. 50-413 AND 50-414

MCGUIRE NUCLEAR STATION, UNITS 1 AND 2

DOCKET NOS. 50-369 AND 50-370

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE 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-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Unit Nos. 1 and 2 (McGuire), located in Mecklenburg County, North Carolina and to Facility Operating License Nos. NPF-35 and NPF-52, issued to Duke Power Company, et al, (the licensee), for operation of the Catawba Nuclear Station (CNS), Units 1 and 2, located in York County, South Carolina.

The proposed amendments, requested by the licensee in a letter dated February 27, 2003, would revise the Technical Specifications (TSs) to allow the use of four mixed oxide (MOX) lead assemblies at either the Catawba Nuclear Station or the McGuire Nuclear Station. The licensee has proposed changes to two sections of the TSs that address the storage of MOX fuel assemblies in the spent fuel storage racks: Section 3.7.15, "Spent Fuel Assembly Storage" and Section 4.3, "Fuel Storage." The licensee has also proposed changes to TS Section 4.2, "Reactor Core," to reflect the use of MOX fuel in addition to the currently specified slightly enriched uranium dioxide fuel and to reflect the use of fuel rods clad

with an M5™ zirconium alloy that has a different material specification than the materials currently referenced in the TS. Associated changes are proposed for TS Section 5.6.5, "Core Operating Limits Report (COLR)," to add several more methodologies that will be used to develop the limits that will be included in the COLR. Associated changes have also been proposed for the TS Bases section.

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.

By August 25, 2003, the licensee may file a request for a hearing with respect to issuance of the amendment 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, 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/NRC/CFR/index.html>. 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 a 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. 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 amendment 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.

A request for a hearing and 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, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Ms. Lisa F. Vaughn, Legal Department (ECIIX), 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 10CAR 2.714(a)(1)(I)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92. For further details with respect to the proposed action, see the licensee's application dated February 27, 2003. 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. 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](http://www.nrc.gov). 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 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 21st day of July 2003.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert E. Martin, Sr. Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

McGuire Nuclear Station
Catawba Nuclear Station

cc:

Ms. Lisa F. Vaughn
Legal Department (ECIIX)
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

NCEM REP Program Manager
4713 Mail Service Center
Raleigh, NC 27699-4713

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

Henry Porter, Assistant Director
Division of Waste Management
Bureau of Solid and Hazardous Waste
Department of Health and Environmental
Control
2600 Bull Street
Columbia, South Carolina 29201-1708

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. Dhiaa Jamil
Vice President, McGuire Site
Duke Energy Corporation
12700 Hagers Ferry Road
Huntersville, North Carolina 28078