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September 24, 2003

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Anthony J. Baratta  
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Thomas S. Elleman  
Administrative Judge  
5207 Creedmoor Road # 101  
Raleigh, N.C. 27612

Re: **In the Matter of Duke Energy Corporation**  
**McGuire Nuclear Station, Units 1 and 2**  
**Catawba Nuclear Station, Units 1 and 2**  
**Docket Nos. 50-369-OLA, 50-370-OLA, 50-413-OLA, 50-414-OLA**

Dear Administrative Judges:

Attached for the information of the Licensing Board and petitioners in this matter is a copy of a September 23, 2003 letter filed yesterday by Duke Energy Corporation with the U.S. Nuclear Regulatory Commission, relating to Duke's mixed oxide (MOX) fuel lead assembly license amendment application. Duke's September 23 letter amends its February 27, 2003 license and Technical Specification amendment request to limit that request to the use of MOX fuel lead assemblies at Duke's Catawba Nuclear Station.

Sincerely,



Anne W. Cottingham  
Counsel for Duke Energy Corporation

cc: Service List (w/Enclosure)

AWC:swb

Template = SECY-043

SECY-02

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

DUKE ENERGY CORPORATION

(McGuire Nuclear Station,  
Units 1 and 2, and  
Catawba Nuclear Station,  
Units 1 and 2)

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Docket Nos. 50-369-OLA  
50-370-OLA  
50-413-OLA  
50-414-OLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the September 24, 2003 letter to the Atomic Safety and Licensing Board in the captioned proceeding, and copies of the September 23, 2003 Duke Energy Corporation submittal to the NRC referenced in that letter, have been served on the following by deposit in the United States mail, first class, this 24th day of September, 2003. Additional e-mail service, designated by \*\*, has been made this same day, as shown below.

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Attn: Rulemakings and Adjudications Staff  
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Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Adjudicatory File  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
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Anne W. Cottingham  
Counsel for Duke Energy Corporation

September 23, 2003

U. S. Nuclear Regulatory Commission  
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**Subject:** Catawba Nuclear Station Units 1 & 2, Docket Nos. 50-413, 50-414  
McGuire Nuclear Station Units 1 & 2, Docket Nos. 50-369, 50-370  
Mixed Oxide Fuel Lead Assembly License Amendment Request  
(TAC Nos. MB7863, MB7864, MB7865, and MB7866)

**Re:** M.S. Tuckman letter dated February 27, 2003 to U.S. Nuclear Regulatory  
Commission, Proposed Amendments to the Facility Operating License and Technical  
Specifications to Allow Insertion of Mixed Oxide (MOX) Fuel Lead Assemblies and  
Request for Exemption from Certain Regulations in 10 CFR Part 50

In the referenced letter, Duke Energy (Duke) requested a change to the licenses and Technical Specifications for McGuire Nuclear Station (McGuire) and Catawba Nuclear Station (Catawba) to allow the use of four mixed oxide (MOX) fuel assemblies in a McGuire or Catawba reactor. Duke has always intended to insert the four MOX fuel lead assemblies at only one of the four units, with the selection depending on unit operational schedules and the timing of availability of the lead assemblies. The request to amend all four licenses was made because of schedule uncertainty at the time the amendment requests were submitted to the Nuclear Regulatory Commission (NRC). This approach provided the most flexibility in adapting to changing circumstances with regard to fabrication of the MOX fuel lead assemblies.

Duke now intends to focus the MOX fuel lead assembly program solely on Catawba. The Department of Energy (DOE) and Duke Cogema Stone & Webster (DCS) recently made preliminary manufacturing arrangements for the MOX fuel lead assemblies. The fabrication schedule should support providing lead assemblies to Duke in the spring of 2005. Therefore, Duke has selected Catawba Unit 1 Cycle 16, with a late spring 2005 startup date, for insertion of the four MOX fuel lead assemblies. Catawba Unit 2 will remain as an alternative should the schedule change. Concentrating the regulatory review of the MOX fuel lead assembly license amendment request on one station (Catawba) instead of two (McGuire and Catawba) will enable Duke and the NRC to use the resources of both organizations in the most efficient manner.

Accordingly, Duke hereby amends the February 27, 2003 license and Technical Specification amendment request to apply only to the use of MOX fuel lead assemblies at the Catawba units,

**U. S. Nuclear Regulatory Commission**

**September 23, 2003**

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and not the McGuire units. With this change, Attachment 1 to Duke's February 27, 2003 submittal (marked up copy of the current McGuire Tech Specs) is no longer applicable. Attachment 2 (marked up copy of the current Catawba Tech Specs) is unaffected. Attachment 3 (technical justification), Attachment 4 (no significant hazards consideration analysis) and Attachment 5 (environmental consequences) are predominantly generic in nature and therefore are not affected in a substantive way by the limitation to Catawba. Attachment 6 (exemption requests) should now apply to Catawba only.

On September 15, 2003 Duke submitted proposed Security Plan changes and associated exemption requests to the NRC to address the possession and use of MOX fuel assemblies at both McGuire and Catawba. The proposed Security Plan changes would apply to both the MOX fuel lead assembly program (at Catawba) and eventual batch use of MOX fuel (at McGuire and Catawba). The proposed Security Plan changes therefore are equally applicable to both McGuire and Catawba and remain appropriate. The amendment of the MOX fuel lead assembly license amendment request to Catawba only does not affect the Security Plan submittal.

If there are any questions on this matter, please contact G. A. Copp at (704) 373-5620.

Very truly yours,

*M. S. Tuckman*

M. S. Tuckman

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September 23, 2003  
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**cc:**

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