

November 6, 2003

Mr. H. B. Barron, Jr.
Senior 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
(TAC NOS. MB8359, MB8360, MB8361 AND MB8362)

Dear Mr. Barron:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," for your information. This notice relates to an application by the Duke Power Company (Duke), dated March 24, 2003, as supplemented by letters dated June 25, 2003, and October 15, 2003, for amendment of the facility operating licenses for McGuire Nuclear Station, Units 1 and 2 and the Catawba Nuclear Station, Units 1 and 2. Duke proposes in the application to relocate certain parameters from the Technical Specifications (TS) to the Core Operating Limits Report and to revise the minimum measured reactor coolant flow rate required by the TS for McGuire Nuclear Station, Units 1 and 2 and the Catawba Nuclear Station, Unit 1.

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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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, 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-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station (McGuire), Units 1 and 2, 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 March 24, 2003, as supplemented by letters dated June 25, 2003, and October 15, 2003, would revise the Technical Specifications (TSs) to relocate reactor coolant system cycle specific parameter limits from the TS to the core operating limits reports for the Catawba and the McGuire Nuclear Stations. The proposed amendments would also revise the required minimum measured reactor coolant system flow rate from 390,000 gallons per minute (gpm) to 388,000 gpm for

McGuire, Units 1 and 2 and Catawba, Unit 1. 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.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (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, which is presented below.

As required by 10 CFR 50.91(a)(1), this analysis is provided to demonstrate that the proposed license amendment does not involve a significant hazard.

Conformance of the proposed amendment to the standards for a determination of no significant hazards, as defined in 10 CFR 50.92, is shown in the following:

- 1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The reduction in McGuire Units 1 and 2, and Catawba Unit 1 [reactor coolant system] RCS minimum measured flow (MMF) from 390,000 gpm [gallons per minute] to 388,000 gpm will not change the probability of actuation of any Engineering Safeguard Feature or any other device. The consequences of previously analyzed accidents have been found to be insignificantly different when this reduced flow rate is assumed. The system transient response is not affected by the initial RCS flow assumption unless the initial assumption is so low as to impair the steady-state core cooling capability or the steam generator heat transfer capability. This is clearly not the case with a 0.5% reduction in RCS flow.

The relocation of Reactor Coolant System (RCS) related cycle-specific parameter limits from the Technical Specifications (TS) to the Core Operating Limits Reports

(COLR) proposed by this amendment request does not result in the alteration of the design, material, or construction standards that were applicable prior to the change. The proposed change will not result in the modification of any system interface that would increase the likelihood of an accident since these events are independent of the proposed change. The proposed amendment will not change, degrade, or prevent actions, or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the UFSAR. Therefore, the proposed amendment does not result in the increase in the probability or consequences of an accident previously evaluated.

- 2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the facility which should introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators.

- 3) Does the proposed change involve a significant reduction in margin of safety?

No. Implementation of this amendment would not involve a significant reduction in the margin of safety. The decrease in McGuire Units 1 and 2, and Catawba Unit 1 RCS MMF has been analyzed and found to have an insignificant effect on the applicable transient analyses found in the UFSAR. Previously approved methodologies will continue to be used in the determination of cycle-specific core operating limits appearing in the COLRs. Additionally, the RCS minimum total flow rates for McGuire and Catawba are retained in their respective TS so as to assure that lower flow rates will not be used without prior NRC approval. Consequently, no safety margins will be impacted.

Based on the above, it is concluded that the proposed license amendment request does not result in a reduction in margin with respect to plant safety.

The NRC staff has reviewed the licensee's analysis and, 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 amendment 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 amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves 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, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

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

By December 18, 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/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. 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.

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 amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

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 amendment.

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, Public File Area O1 F21, 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 (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 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 24, 2003, as supplemented by letters dated June 25, 2003, and October 15, 2003, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 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, this 6th day of November, 2003.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert E. Martin, Sr. Project Manager, Section 1
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McGuire Nuclear Station
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