

December 2, 2003

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

SUBJECT: MCGUIRE NUCLEAR STATION, UNIT NOS. 1 AND 2 RE: WITHDRAWAL OF APPLICATION FOR AMENDMENT (TAC NOS. MB7865, MB7866, MB7869, MB7870, MB7873, AND MB7874)

Dear Mr. Tuckman:

By letter dated February 27, 2003, you applied for an amendment to the McGuire Nuclear Station, Units 1 and 2, Facility Operating License Nos. NPF-9 and NPF-17. The proposed change would have modified the facility technical specifications to allow the use of four mixed oxide (MOX) fuel lead test (LTA) assemblies at either the Catawba Nuclear Station (Catawba), Units 1 and 2, or the McGuire Nuclear Station (McGuire), Units 1 and 2. Subsequently, by letter dated September 23, 2003, you indicated that you now intend to focus the MOX LTA program solely on Catawba. Your letter also amended the application dated February 27, 2003, to apply only to the use of MOX LTAs at the Catawba units and not the McGuire units. With the withdrawal of the LTA amendment request for McGuire, the Nuclear Regulatory Commission (NRC) staff is closing TACs MB7865 and MB7866. In addition, the NRC staff is closing McGuire TACs MB7873 and MB7874, and MB7869 and MB7870 associated with the exemption requests for MOX fuel composition requirements and the use of M5 fuel cladding, respectively.

The Commission has filed the enclosed Notice of Withdrawal of Application for Amendment with the Office of the *Federal Register* for publication.

Sincerely,

/RA/

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

Docket Nos. 50-369 and 50-370

Enclosure: As stated

cc w/encl: See next page

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

December 2, 2003

SUBJECT: MCGUIRE NUCLEAR STATION, UNIT NOS. 1 AND 2 RE: WITHDRAWAL OF APPLICATION FOR AMENDMENT (TAC NOS. MB7865, MB7866, MB7869, MB7870, MB7873, AND MB7874)

Dear Mr. Tuckman:

By letter dated February 27, 2003, you applied for an amendment to the McGuire Nuclear Station, Units 1 and 2, Facility Operating License Nos. NPF-9 and NPF-17. The proposed change would have modified the facility technical specifications to allow the use of four mixed oxide (MOX) fuel lead test (LTA) assemblies at either the Catawba Nuclear Station (Catawba), Units 1 and 2, or the McGuire Nuclear Station (McGuire), Units 1 and 2. Subsequently, by letter dated September 23, 2003, you indicated that you now intend to focus the MOX LTA program solely on Catawba. Your letter also amended the application dated February 27, 2003, to apply only to the use of MOX LTAs at the Catawba units and not the McGuire units. With the withdrawal of the LTA amendment request for McGuire, the Nuclear Regulatory Commission (NRC) staff is closing TACs MB7865 and MB7866. In addition, the NRC staff is closing McGuire TACs MB7873 and MB7874, and MB7869 and MB7870 associated with the exemption requests for MOX fuel composition requirements and the use of M5 fuel cladding, respectively.

The Commission has filed the enclosed Notice of Withdrawal of Application for Amendment with the Office of the *Federal Register* for publication.

Sincerely,

/RA/

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

Docket Nos. 50-369 and 50-370

Enclosure: As stated

cc w/encl: See next page

DISTRIBUTION:

PUBLIC PDII-1 R/F E Hackett J Nakoski CHawes R Martin
OGC ACRS RHagg, RII

ADAMS Accession No: ML033360385

OFFICE	PDII-1/PM	PDII-1/LA	PDII-1/SC
NAME	RMartin	CHawes	JNakoski
DATE	12/02/03	12/02/03	12/02/03

OFFICIAL RECORD COPY

UNITED STATES NUCLEAR REGULATORY COMMISSION

DUKE ENERGY CORPORATION

DOCKET NO. 50-369 AND 50-370

NOTICE OF WITHDRAWAL OF APPLICATION FOR

AMENDMENT TO FACILITY OPERATING LICENSE

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Duke Energy Corporation (the licensee) to withdraw its February 27, 2003, application for proposed amendment to Facility Operating License No. NPF-9 and NPF-17 for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendment would have revised the Technical Specifications to allow the use of four mixed oxide (MOX) fuel lead test (LTA) assemblies at either of the Catawba Nuclear Station, Units 1 and 2, (Catawba) or the McGuire Nuclear Station, Units 1 and 2.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the FEDERAL REGISTER on July 25, 2003 (68 FR 44107). However, by letter dated September 23, 2003, the licensee amended the application to apply only to the use of MOX LTAs at the Catawba units and not to the McGuire units. The NRC staff is treating this as a withdrawal of application for amendment dated February 27, 2003, for McGuire.

For further details with respect to this action, see the application for amendment dated February 27, 2003, and the licensee's letter dated September 23, 2003, which is being treated as a withdrawal of application for amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 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/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, or 301-415-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 2nd day of December 2003.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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

McGuire Nuclear Station

cc:

Ms. Lisa F. Vaughn
Duke Energy Corporation
Mail Code - PB06E
422 South Church Street
P.O. Box 1244
Charlotte, North Carolina 28201-1244

County Manager of
Mecklenburg County
720 East Fourth Street
Charlotte, North Carolina 28202

Mr. C. Jeffrey Thomas
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

Dr. John M. Barry
Mecklenburg County
Department of Environmental
Protection
700 N. Tryon Street
Charlotte, North Carolina 28202

Mr. Peter R. Harden, IV
VP-Customer Relations and Sales
Westinghouse Electric Company
6000 Fairview Road
12th Floor
Charlotte, North Carolina 28210

Ms. Karen E. Long
Assistant Attorney General
North Carolina Department of
Justice
P. O. Box 629
Raleigh, North Carolina 27602

Michael T. Cash
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. 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

Mr. T. Richard Puryear
Owners Group (NCEMC)
Duke Energy Corporation
4800 Concord Road
York, South Carolina 29745