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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  
Catawba Nuclear Station, Units 1 and 2  
Docket Nos. 50-413-OLA, 50-414-OLA**

Dear Administrative Judges:

Attached for the information of the administrative judges and the parties in this proceeding is a copy of a letter, submitted today, by Duke Energy Corporation to the NRC Staff regarding the proposed fuel cycle design for the next cycle of operation at Catawba Nuclear Station, Unit 1. This is the cycle in which the proposed mixed oxide ("MOX") fuel lead assemblies are currently expected to be loaded. This letter is being provided as potentially material and relevant to Contentions I and II in this proceeding.

Very truly yours,

  
David A. Repka  
Counsel for Duke Energy Corporation

Enclosure

cc: Service List (w/Enclosure) via U.S. mail and e-mail:

Template=SECY-043

SECY-02

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April 16, 2003

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**Subject:** Duke Energy Corporation Catawba Nuclear Station Units 1 & 2, Docket Nos. 50-413, 50-414 Proposed Amendments to the Facility Operating License and Technical Specifications to Allow Insertion of Mixed Oxide (MOX) Fuel Lead Assemblies (MOX in Catawba 1 Cycle 16)

**Reference:**

- (1) Letter, M. S. Tuckman (Duke) to U. S. Nuclear Regulatory Commission, Proposed Amendments to McGuire and Catawba Facility Operating Licenses to Allow Insertion of Mixed Oxide Fuel Lead Assemblies, February 27, 2003.
- (2) Letter, M. S. Tuckman (Duke) to U. S. Nuclear Regulatory Commission, Proposed Amendments to McGuire and Catawba Facility Operating Licenses to Allow Insertion of Mixed Oxide Fuel Lead Assemblies, September 23, 2004.
- (3) Letter, D.M. Jamil (Duke) to U. S. Nuclear Regulatory Commission, Catawba Unit 1, Cycle 15 Startup Report, March 22, 2004.
- (4) Westinghouse Presentations at the Westinghouse Semi-Annual Fuel Performance Update Meeting, Columbia, SC, December 9-10, 2003.
- (5) Letter, H. B. Barron (Duke) to U. S. Nuclear Regulatory Commission, Response to Request for Additional Information on the MOX Fuel Lead Assembly License Amendment Request, November 3, 2003.

This letter provides additional information to the Nuclear Regulatory Commission (NRC) regarding Duke's current cycle-specific implementation plan for MOX fuel lead assembly use at Catawba. This submittal clarifies information that was provided to the NRC in the Reference 1 license amendment request (LAR) and in associated responses to NRC Requests for Additional Information.

In Reference 1, Duke applied to the NRC for amendments to the McGuire and Catawba operating licenses that would provide for receipt and use of four MOX fuel lead assemblies. In Reference 2, Duke narrowed the scope of the LAR to Catawba only. Due to schedule uncertainty associated with MOX fuel lead assembly fabrication and transportation, the Duke LAR did not designate a specific unit and cycle for initial insertion of the MOX fuel lead assemblies. The analyses and evaluations supporting the LAR were performed generically, first to cover both McGuire and Catawba stations, and later for both Catawba units.

As the schedule for lead assembly fabrication and transportation has become more certain, Duke has targeted a specific cycle - Catawba 1, Cycle 16 (C1C16) - for initial insertion of MOX fuel lead assemblies. This plan is consistent with the availability of the Cadarache facility to fabricate MOX fuel pellets and rods, and with a desire to minimize storage time for unirradiated MOX fuel onsite at Catawba. Duke initiated C1C16 cycle design in late 2003, and Duke expects to finalize the design this month. The currently-planned core design, incorporating the four MOX fuel lead assemblies, is shown on Attachment 1. While this core design is subject to change, Duke considers it appropriate and timely to inform the NRC about aspects of the currently-planned design.

The planned cycle design includes 181 Westinghouse Robust Fuel assemblies (RFAs). The planned cycle design also includes eight Westinghouse Next Generation Fuel (NGF) lead test assemblies (LTAs). The eight NGF LTAs were previously loaded in C1C15 (see Reference 3); hence those assemblies will be in their second cycle of operation in C1C16. The NGF LTA design is very similar to the predominant fuel at Catawba 1, the Westinghouse Robust Fuel Assembly (RFA) design. The primary differences are [

] Duke understands that Westinghouse has provided some information on NGF features to the NRC staff during previous meetings, including most recently the semi-annual Westinghouse fuel performance meeting on December 9-10, 2003 (Reference 4). Key design features of the MOX fuel lead assemblies, Westinghouse RFA fuel, and Westinghouse NGF fuel are summarized in Attachment 2 which contains proprietary information.

In Reference 1, Duke characterized the co-resident fuel (fuel that will be operated with the MOX fuel lead assemblies) as Westinghouse RFA fuel. This was intended to reflect that RFA fuel would be the predominant fuel design in the core. Duke did not intend to preclude operation with other fuel designs present in the core (e.g., Framatome ANP Mk-BW re-inserts, Westinghouse NGF LTAs, etc.). However, Duke recognizes that the information conveyed in Reference 1 was not clear in that regard.

The technical analyses performed in support of the MOX fuel lead assembly LAR remain valid and conservative for cores containing eight Westinghouse NGF LTAs. The reasons supporting this position are summarized in Attachment 3. As part of the normal reload design process, C1C16 cycle-specific safety analyses and evaluations will be performed later this year. Those analyses and evaluations will appropriately factor in the presence of the eight NGF LTAs. The small differences in the design of eight NGF assemblies relative to RFA assemblies have no

impact on the conclusions reached in the MOX fuel LAR environmental evaluation or No Significant Hazards Consideration (NSHC) evaluation that was included in Reference 1.

Duke is in the process of reviewing the LAR and related application materials to ensure consistency between those documents and the currently-planned C1C16 cycle design. Duke will inform NRC promptly of any significant findings during this review and will provide the NRC with a summary of that review. Please contact Mike Cash at (704) 382-5826 to arrange for any desired followup discussions on this or any other matters related to the MOX fuel lead assemblies.

Sincerely,



H. B. Barron  
Executive Vice President – Nuclear Generation  
Duke Energy Corporation

[ ] Material in Brackets Proprietary  
Attachments (4)  
Attachment 1 - Preliminary Core Design for Catawba 1, Cycle 16  
Attachment 2 - Comparison of Fuel Assembly Design Features (Proprietary)  
Attachment 3 - Technical Basis for Validity of MOX Fuel Lead Assembly Application Analyses  
Attachment 4 – Affidavit Proprietary Information

Oath and Affirmation

I affirm that I, H.B. Barron, am the person who subscribed my name to the foregoing, and that all the matters and facts set forth herein are true and correct to the best of my knowledge.

H.B. Barron

H.B. Barron

Subscribed and sworn to before me on this 16<sup>th</sup> day of April 2004.

Michael T. Cash

Notary Public

My Commission expires:

January 22, 2008  
Date

**MICHAEL T. CASH**  
Notary Public  
Lincoln County, North Carolina  
Commission Expires January 22, 2008

cc: w/attachments

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NRIA File/ELL - EC050  
MOX File 1607.2304  
Catawba Document Control File 801.01– CN04DM  
Catawba RGC Date File (J. M. Ferguson – CN01SA)



Attachment 1

Preliminary Core Design for Catawba 1, Cycle 16

	H	G	F	E	D	C	B	A
8	4.70 17 1.364	4.58 104 / 12 18 1.434	4.32 17 1.337	4.85 128 / 16 18 1.357	4.32 17 1.168	4.35 4.13 / 24 48 1.372	4.33 16 0.972	4.33 16 0.588
9	4.58 104 / 12 18 1.434	4.32 17 1.344	4.70 17 1.411	4.70 17 1.336	4.58 104 / 24 18 1.295	4.70 17 1.292	4.85 48 / 0 18 1.408	4.33 16 0.655
10	4.32 17 1.336	4.70 17 1.411	4.32 17 1.295	4.58 32 / 24 18 1.430	4.32 17 1.229	4.58 80 / 24 18 1.303	4.58 128 / 0 18 1.253	4.63 16 0.627
11	4.85 128 / 16 18 1.357	4.70 17 1.336	4.58 32 / 24 18 1.430	4.32 17 1.283	4.58 16 / 24 18 1.426	4.70 17 1.317	4.85 16 / 0 18 1.434	4.63 16 0.605
12	4.32 17 1.165	4.58 104 / 24 18 1.294	4.32 17 1.230	4.58 16 / 24 18 1.427	4.32 17 1.282	4.85 80 / 0 18 1.428	4.32 17 1.018	
13	4.35 4.13 / 24 48 1.371	4.70 17 1.292	4.58 80 / 24 18 1.303	4.70 17 1.316	4.85 80 / 0 18 1.426	4.32 17 1.031	4.63 16 0.629	
14	4.33 16 0.974	4.85 48 / 0 18 1.409	4.58 128 / 0 18 1.253	4.85 16 / 0 18 1.433	4.32 17 1.017	4.47 15 0.602		
15	4.33 16 0.584	4.33 16 0.655	4.63 16 0.627	4.63 16 0.604	U235 Enr / Pu Conc LBP Identifier Fuel Batch Number 4 EFPD Peak Pin Power			

Notes

1. MOX fuel lead assembly locations - C8 and H13.
2. NGF fuel locations - B12 and D10.
3. LBP refers to burnable poison. For LEU fuel, first number is number of IFBA pins, second number is the number of WABA fingers. For MOX fuel, first number is boron concentration in BPRA fingers, second is number of fingers.

Attachment 2

Comparison of Fuel Assembly Design Features

Parameter	RFA	NGF	Mk-BW MOX1
<b>Pellets</b>			
Fuel Pellet Material	Enriched UO <sub>2</sub>	Enriched UO <sub>2</sub>	PuO <sub>2</sub> & Depleted UO <sub>2</sub>
Fuel Pellet Diameter, in	0.3225	[ ]	0.3225
Fuel Pellet Density, %TD	95.5	[ ]	95
<b>Rods</b>			
Fuel Rod Length, in	152.8	[ ]	152.4
Fuel Rod Cladding Material	ZIRLO <sup>®</sup>	[ ]	M5 <sup>®</sup>
Fuel Rod OD, in	0.374	[ ]	0.374
Fuel Rod ID, in	0.329	[ ]	0.329
Active Fuel Stack Height, in	144	[ ]	144
<b>Assemblies</b>			
Fuel Assembly Length	160	[ ]	159.85
Lattice Geometry	17x17	[ ]	17x17
Fuel Rod Pitch, in	0.496	[ ]	0.496
Number Of Fuel Rods / FA	264	[ ]	264
Heavy Metal Loading per FA, kg	455.4	[ ]	463
Number of Grids	12	[ ]	11
Bottom End	1	[ ]	1
Top End	1	[ ]	1
Protective (Debris)	1	[ ]	0
Intermediate	6	[ ]	6
IFM	3	[ ]	3

Notes:

[ ] Indicate values Westinghouse considers proprietary in nature.

### Attachment 3

#### Technical Basis for Validity of MOX Fuel Lead Assembly Application Analyses

1. MOX fuel and NGF fuel will not be loaded in adjacent locations, thus precluding adverse unanalyzed local inter-assembly effects between the two designs.
2. Neutronics: NGF fuel is essentially identical to RFA fuel (same fuel material, lattice dimensions, etc.).
3. Thermal-hydraulics: Departure from Nucleate Boiling analyses are performed on a hot channel with the balance of the core included in the model. Eight NGF fuel assemblies (out of 189 total co-resident fuel assemblies) are a very minor perturbation to the balance of the core. Co-resident fuel was assumed to be RFA design. Any impact on MOX fuel of substituting eight NGF fuel assemblies for RFA assemblies will be conservative, i.e., the slightly higher flow resistance of the NGF fuel will cause a very slight increase in flow through the MOX fuel assembly, thereby enhancing cooling.
4. Loss of coolant accident (LOCA): Co-resident fuel was assumed to be RFA design. Substituting eight NGF fuel assemblies for RFA assemblies will result in a minor increase in the core average flow resistance. This minor increase will have an insignificant effect on the LOCA analysis of the MOX fuel assemblies.
5. Non-LOCA transient and accident analyses: As indicated in Reference 5, Response to Question 30, most safety analyses are driven by global core physics parameters, which are unaffected by the use of eight NGF fuel assemblies (see neutronics above). For those analyses involving thermal-hydraulic hot channel analyses, any impact on MOX fuel of substituting eight NGF fuel assemblies for RFA assemblies will be conservative, i.e., the slightly higher flow resistance of the NGF fuel would cause a very slight increase in flow through the MOX fuel assembly, thereby enhancing cooling.
6. Dose: The presence of the NGF LTAs should not affect the results of MOX fuel dose analyses, which are driven by radionuclide inventories and release assumptions.

Attachment 4  
Affidavit Proprietary Information

CAW-04-1818

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

COUNTY OF ALLEGHENY:

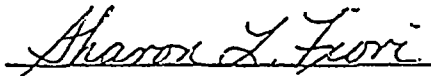
Before me, the undersigned authority, personally appeared J. A. Gresham, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC (Westinghouse), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

  
\_\_\_\_\_

J. A. Gresham, Manager

Regulatory Compliance and Plant Licensing

Sworn to and subscribed  
before me this 16<sup>th</sup> day  
of April, 2004



Notary Public

Notarial Seal  
Sharon L. Fiori, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires January 29, 2007  
Member, Pennsylvania Association Of Notaries

- (1) I am Manager, Regulatory Compliance and Plant Licensing, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse application for withholding accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
  - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.
  - (ii) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public. Westinghouse has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitutes Westinghouse policy and provides the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

    - (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Westinghouse's competitors without license from Westinghouse constitutes a competitive economic advantage over other companies.
    - (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage, e.g., by optimization or improved marketability.
    - (c) Its use by a competitor would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing a similar product.

- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.
  - (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.
  - (c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.
  - (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
  - (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.
  - (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the Commission.
  - (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.

- (v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in "Fuel Design Comparison Data in support of Duke Power letter to Nuclear Regulatory Commission on MOX Fuel Lead Assemblies containing Proprietary Westinghouse Information." (Proprietary), dated April 16, 2004 for information in support of NRC's Request for Additional Information, being transmitted by Duke Energy Corporation letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted for use by Westinghouse for Catawba Units 1 and 2 is expected to be used for information only in the NRC's review of Duke Energy's submittal on MOX fuel in either Catawba Unit 1 or 2.

This information is part of that which will enable Westinghouse to:

- (a) Provide technical information in support of NRC's request for information on fuel design parameters.
- (b) Assist customers to obtain license changes.

Further this information has substantial commercial value as follows:

- (a) Westinghouse can use this information to further enhance their licensing position with their competitors.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar fuel designs and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further the deponent sayeth not.



### Proprietary Information Notice

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).

### Copyright Notice

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.