



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

February 2, 2009

Mr. Dave Baxter
Vice President, Oconee Site
Duke Energy Carolinas, LLC
7800 Rochester Highway
Seneca, SC 29672

SUBJECT: OCONEE NUCLEAR STATION, UNITS 1, 2, AND 3, ACCEPTANCE REVIEW OF LICENSE AMENDMENT REQUEST TO ADOPT THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD NO. 805, "PERFORMANCE-BASED STANDARD FOR FIRE PROTECTION FOR LIGHT WATER REACTOR ELECTRIC GENERATING PLANTS," (2001 EDITION) (TAC NOS. MD8832, MD8833, AND MD8834)

Dear Mr. Baxter:

By application dated May 30, 2008, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML081650475) and October 31, 2008, (ADAMS Accession No. ML083120362), Duke Energy Carolinas, LLC (Duke, the licensee), submitted a proposed license amendment request (LAR) for the Oconee Nuclear Station Units 1, 2, and 3. The proposed amendment would enable the licensee to adopt a new fire protection licensing basis which complies with the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.48(a) and (c). Specifically, the licensee would transition their fire protection program to one based on the National Fire Protection Association standard number 805 (NFPA 805), "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," (2001 Edition).

Consistent with 10 CFR 50.90, an amendment to the license (including the technical specifications) must fully describe the changes requested, and follow, as far as applicable, the form prescribed for original applications. Section 50.34 of 10 CFR addresses the content of technical information required. This section stipulates that the submittal address the design and operating characteristics, unusual or novel design features, and principal safety considerations.

The U.S. Nuclear Regulatory Commission (NRC) staff performed an acceptance review of the LAR in accordance with Revision 0 of the Office of Nuclear Reactor Regulation's (NRR's) Office Instruction LIC-109, "Acceptance Review Procedures," (ADAMS Accession No. ML081200811). The NRC staff identified several issues involving missing or incomplete information which present challenges to completing a comprehensive review of the LAR on an acceptable schedule.

On January 12 and 22, 2009, telephone conference calls were held with the licensee to discuss the LAR issues identified by the NRC staff during the acceptance review. The NRC staff will forward a request for LAR issues to the licensee in a separate letter. The licensee intends to provide additional technical information to address each of the identified issues. The licensee verbally committed to provide the information that does not require approval from Oconee site management by February 9, 2009, and the remaining information that requires Oconee site management approval by February 23, 2009.

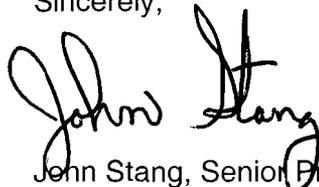
Under the normal NRC acceptance review process, this licensing action would not be accepted because of the missing or incomplete information. However, the NRC staff concluded that since the licensee is an NFPA 805 pilot plant, providing the licensee with the option of providing responses to these issues while the NRC staff continues its review of acceptable sections of the LAR is in the best interest of the licensee, the NRC, the public, and the non-pilot NFPA 805 licensees because the pilot process serves a dual purpose. In addition to assisting in the development of the LARs for the pilot plant licensees, the process also provides a significant benefit to the NRC staff, the other NFPA 805 transitioning licensees, and the industry as a whole.

As with any pilot evolution, there are many lessons to be learned in both the development of NFPA 805 submittals and the associated NRC staff's review of those submittals. These lessons are being factored into the regulatory infrastructure (Regulatory Guides (RG), Standard Review Plan, Inspection Procedures, etc.). On this basis, the NRC finds it should invoke the rare exception provision of LIC-109 and accept the LAR for review which would otherwise be unacceptable.

Therefore, for the reasons identified above, the NRC staff recommends the use of the rare exception provision of LIC-109, recommending that the submittal be conditionally accepted while additional supplemental material is provided at a later date. Continuing to review the submittal in order to capture the lessons learned from the pilot process on an expedited basis and disseminate those lessons is a benefit to the various stakeholders.

If you have any questions, please call me at 301-415-1345.

Sincerely,



John Stang, Senior Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

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/RA/

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