

August 1, 2013

Mr. Benjamin C. Waldrep
Vice President – Corporate Governance &
Operations Support
Duke Energy Corporation
526 South Church Street
Charlotte, NC 28202

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION FOR REVIEW OF THE
DECOMMISSIONING FUNDING PLANS FOR DUKE ENERGY INDEPENDENT
SPENT FUEL STORAGE INSTALLATIONS

Dear Mr. Waldrep:

By letter dated December 13, 2012, Duke Energy Carolinas, LLC submitted, for U.S. Nuclear Regulatory Commission (NRC) review and approval, decommissioning funding plans for the Independent Spent Fuel Storage Installations (ISFSIs) at Catawba Nuclear Station, McGuire Nuclear Station, and Oconee Nuclear Station, and on behalf of Carolina Power & Light Company submitted the decommissioning funding plans covering the ISFSIs at Brunswick Steam Electric Plant and H.B. Robinson Steam Electric Plant, Unit 2 (Agencywide Documents Access and Management System Accession No. ML12353A033).

The NRC staff has reviewed your submittals and determined that additional information is required to complete its review. The request for additional information is identified in the enclosure to this letter. We request that you provide the information within 60 days from the date of this letter. This information was discussed with your staff in a July 25, 2013, conference call.

If you have any questions regarding this matter, please contact me at (301) 287-0686.

Sincerely,

/RA/

Kristina L. Banovac, Project Manager
Licensing Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 72-04, 72-40, 72-38, 72-45,
72-03, 72-60, 72-06

TAC Nos.: L24717, L24718, L24719, L24720,
L24721, L24722, L24723

Enclosure: Request for Additional Information

cc: Distribution via Listserv

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Request for Additional Information
Duke Energy
Docket Nos. 72-04, 72-40, 72-38, 72-45, 72-3, 72-60, 72-06
Decommissioning Funding Plans for Independent Spent Fuel Storage Installations for Catawba
Nuclear Station, McGuire Nuclear Station, Oconee Nuclear Station, Brunswick Steam Electric
Plant and H.B. Robinson Steam Electric Plant, Unit 2

By letter dated December 13, 2012, Duke Energy Carolinas, LLC (Duke) submitted decommissioning funding plans for Independent Spent Fuel Storage Installations (ISFSIs) for Catawba Nuclear Station (Catawba), McGuire Nuclear Station (McGuire), and Oconee Nuclear Station (Oconee), and on behalf of Carolina Power & Light Company (CP&L) submitted the decommissioning funding plans covering the ISFSIs for Brunswick Steam Electric Plant (Brunswick) and H.B. Robinson Steam Electric Plant, Unit 2 (Robinson 2), for U.S. Nuclear Regulatory Commission (NRC) review and approval per 10 CFR 72.30(b) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12353A033). This request for additional information (RAI) identifies information needed by the NRC staff in connection with its review of the submittal.

RAI #1: Decommissioning Costs

On December 13, 2012, Duke provided decommissioning cost estimates for each of the subject ISFSIs, expressed in 2010 dollars. These estimates are stated to be derived from referenced Decommissioning Cost Analyses (DCAs) for each reactor unit; however, copies of, or ADAMS references to, the DCAs were not made available for analysis.

Under 10 CFR 72.30(b)(2):

Each holder of, or applicant for, a license under this part must submit for NRC review and approval a decommissioning funding plan that must contain: ... A detailed cost estimate for decommissioning, in an amount reflecting: (i) The cost of an independent contractor to perform all decommissioning activities; (ii) An adequate contingency factor; and (iii) The cost of meeting the § 20.1402 of this chapter criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of § 20.1403 of this chapter, the cost estimate may be based on meeting the § 20.1403 criteria.

The NRC staff needs either the DCAs for each reactor unit to determine how each ISFSI decommissioning cost estimate was derived from these DCAs, or other information that demonstrates how each ISFSI decommissioning cost estimate was developed. The information that Duke submitted does not show how it calculated the cost of an independent contractor to perform the decommissioning activities or the cost to decommission to unrestricted use levels in 10 CFR 20.1402. This detailed cost estimate information is needed to determine compliance with 10 CFR 72.30(b)(2). Guidance on financial assurance and compliance with 10 CFR 72.30(b) is provided in NUREG-1757, Vol. 3, Rev. 1, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness," located at ADAMS Accession No. ML12048A683. NUREG-1757, Vol. 3, Rev. 1 was issued in February 2012 and is compatible with the changes in the Decommissioning Planning Final Rule (76 FR 35512; June 17, 2011) and the current 10 CFR 72.30 requirements, which became effective on December 17, 2012. Specific guidance on cost estimates is provided in Sections 4.1 and A.3.1 of this guidance.

Enclosure

Therefore, please provide either the most recent DCA for each reactor unit (or if previously submitted to NRC, reference the ADAMS Accession Number or the date submitted to NRC) or other information that demonstrates how each ISFSI decommissioning cost estimate was developed. In addition, provide the updated ISFSI decommissioning cost estimate, expressed in 2012 dollars, for Catawba, McGuire, Oconee, Brunswick, and Robinson 2.

This information is needed to verify compliance with 10 CFR 72.30(b)(2).

RAI #2: Certification of Financial Assurance

On December 13, 2012, Duke stated for each licensee on whose behalf it submitted a decommissioning funding plan:

As a licensee who is issued a power reactor license [for its reactor site] under Part 50, [each licensee] provides financial assurance for decommissioning of the site by the method described in 10 CFR 72.30(e)(5) by complying with the methods of 10 CFR 50.75(b), (e) and (h). As evidenced by [the licensees']...Decommissioning Financial Assurance Report, filed pursuant to 10 CFR 50.75(f)(1), [each licensee has] provided financial assurance for decommissioning of the site in an amount at least equal to that required by 10 CFR 50.75(b)....

If Duke believes that a licensee's compliance with 10 CFR 50.75(b) for an operating reactor site means that the licensee also complies with 10 CFR 72.30(e)(5), then Duke is not applying § 72.30(e)(5) correctly. Under § 72.30(e)(5), licensees can use the financial assurance methods in 10 CFR 50.75(b), (e), and (h), as applicable, to satisfy § 72.30. However, to satisfy 10 CFR 72.30, the funds set aside to cover the costs of decommissioning the ISFSI cannot be the same funds the licensee will use for the Part 50 reactor decommissioning. Note that the minimum amount in 10 CFR 50.75(c) is not intended to cover the ISFSI decommissioning costs. The funds necessary to satisfy the Part 50 reactor decommissioning financial assurance requirements are not to include costs for ISFSI decommissioning. A licensee can hold ISFSI decommissioning and reactor decommissioning funds in the same financial instrument, but the licensee must be able to show that ISFSI decommissioning and reactor decommissioning funds are separately tracked. Also, 10 CFR 72.30(e)(5) references "the financial assurance methods in 10 CFR 50.75(b), (e), and (h), as applicable," but does not reference 10 CFR 50.75(f), which concerns reactor decommissioning cost estimates. Your reliance on 10 CFR 50.75(f) to help meet the requirements of § 72.30 is therefore misplaced.

For the above reasons, your certification does not meet the 10 CFR 72.30(b) requirements, under which a licensee must certify that financial assurance for decommissioning its ISFSI has been provided. This certification must show that such financial assurance equals the amount of the ISFSI decommissioning cost estimate. Specifically, under 10 CFR 72.30(b)(4):

Each holder of, or applicant for a license under this part must submit for NRC review and approval a decommissioning funding plan that must contain: ... A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility.

Further, under 10 CFR 72.30(b)(6):

Each holder of, or applicant for, a license under this part must submit for NRC review and approval a decommissioning funding plan that must contain: ... A certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning.

It is not evident from either your Decommissioning Funding Status reports submitted in 2011 or your ISFSI-related submission of December 13, 2012, that funds specific to ISFSI decommissioning are accounted for in either the radiological or non-radiological portions of your decommissioning trust accounts. Accordingly, the NRC staff cannot determine whether funds for ISFSI decommissioning reside within your trust accounts and whether Duke is in compliance with 10 CFR 72.30(b).

Therefore, provide the breakdown of the decommissioning trust funds for the Catawba, McGuire, Oconee, Brunswick, and Robinson 2 ISFSIs, including subaccounts titles and funding levels. If funds from a Part 50 external sinking fund are to be used for Part 72 decommissioning, the NRC staff must be able to determine that adequate funds for ISFSI decommissioning reside within your external sinking fund. Moreover, these funds need to be reported separately for each ISFSI and be identified as a separate line item. Also identify all additional funding methods or mechanisms that are currently being used (such as a parent company guarantee) to supplement the external sinking fund or other ISFSI decommissioning funding method(s) being used, and the current funding amounts in, or represented by, all such funding methods. For all such funding methods, funds may be held in separate subaccounts that are identified for ISFSI decommissioning. Finally, if in your previous 10 CFR 50.75(f) report you reported a single amount that included both estimated reactor and ISFSI decommissioning costs, then you should explicitly identify in your response (1) the estimated reactor decommissioning cost and (2) the estimated ISFSI decommissioning cost. In the future, if your 10 CFR 50.75(f) report includes both estimated reactor and ISFSI decommissioning costs, they should be clearly delineated.

This information is needed to verify compliance with 10 CFR 72.30(b).