



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 12, 1994

Docket Nos. 50-296, 50-270, 50-287
50-369, 50-370
50-413 and 50-414

Mr. M. S. Tuckman
Senior Vice President
Nuclear Generation
Duke Power Company
P. O. Box 1006
Charlotte, North Carolina 28201

*Done
3/22/94
[Signature]*

Dear Mr. Tuckman:

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE
OCONEE NUCLEAR STATION, UNITS 1, 2, AND 3; MCGUIRE NUCLEAR STATION,
UNITS 1 AND 2; AND CATAWBA NUCLEAR STATION, UNITS 1 AND 2

By letter and affidavit dated September 23, 1993, Duke Power Company (DPC) submitted Topical Report DPC-NE-2007P, "Fuel Reconstitution Analysis Methodology," to the NRC for review. The Topical Report was prepared in response to NRC Generic Letter 90-02, Supplement 1, which required that fuel reconstitution be performed according to approved methodologies.

Duke Power stated that this report contains proprietary information and should be withheld from public disclosure pursuant to 10 CFR 2.790 of the Commissions regulations in accordance with the following criteria.

- a. The information sought to be withheld from public disclosure is owned by Duke and has been held in confidence by Duke and its consultants.
- b. The information is of a type that would customarily be held in confidence by Duke. The information consists of analysis methodology details, analysis results, supporting data, and aspects of development programs, relative to a method of analysis that provided a competitive advantage to Duke.
- c. The information was transmitted to the NRC in confidence and under the provisions of 10 CFR 2.790, it is to be received in confidence by the NRC.
- d. The information sought to be protected is not available in public to the best of Duke's knowledge and belief.
- e. The proprietary information sought to be withheld in this submittal is that which is marked in the proprietary version of the report DPC-NE-2007, "Fuel Reconstitution Analysis Methodology" and supporting documentation, and omitted from the non-proprietary versions.

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The NRC staff notes that criterion "e" above refers to a non-proprietary version of the submitted report. This is potentially confusing since DPC's letter of September 23, 1993, provided only a proprietary version of the report. While this is not considered to be a fatal flaw with respect to the essential purposes of the affidavit in requesting that designated information be maintained as proprietary, we do request that future affidavits be revised to reflect the specific submittal. The most appropriate practice would be to include separate proprietary and non-proprietary versions of all such submittals. In this case, we request that, upon the conclusion of the staff's review and issuance of the staff's safety evaluation on the report, DPC shall submit both a non-proprietary and a proprietary version of the final report. The final report should be marked with an "A" designator to indicate that it is the approved version and it should also include the NRC staff's safety evaluation report.

The NRC staff has reviewed DPC's information based on the requirements and criteria of 10 CFR 2.790 and, on the basis of DPC's statement, has determined that the submitted material sought to be withheld contains proprietary commercial information. Therefore, the proprietary information will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act, as amended.

Withholding from public disclosure shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public disclosure should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

Original signed by:
 David B. Matthews, Director
 Project Directorate II-3
 Division of Reactor Projects - I/II
 Office of Nuclear Reactor Regulation

cc: See next page

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Mr. M. S. Tuckman

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Sincerely,



David B. Matthews, Director
Project Directorate II-3
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

cc: See next page

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Oconee Nuclear Station

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