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50-287	Oconee Nuclear Station, Unit 3, Duke Power Co.		05000287
50-369	William B. McGuire Nuclear Station, Unit 1, Duke Powe		05000369
50-370	William B. McGuire Nuclear Station, Unit 2, Duke Powe		05000370
50-413	Catawba Nuclear Station, Unit 1, Duke Power Co.		05000413
50-414	Catawba Nuclear Station, Unit 2, Duke Power Co.		05000414

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SUBJECT: Forwards response to 890407 questionnaire re backfitting process.

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May 25, 1989

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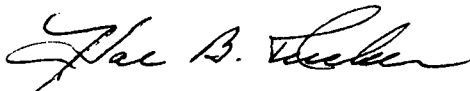
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Washington, D. C. 20555

Subject: Oconee Nuclear Station
Docket Nos. 50-269, 270 and 287
McGuire Nuclear Station
Docket Nos. 50-369 and 50-370
Catawba Nuclear Station
Docket Nos. 50-413 and 50-414
Backfitting Process

Attached are responses to the questionnaire you distributed to all licensees on April 7, 1989. I have had the opportunity to review both the Nuclear Utility Backfitting and Reform Group (NUBARG) and the Nuclear Utility Management Resources Council's (NUMARC) comments. I endorse these comments as well. Please use all the comments to strengthen the backfit process.

If more information is desired in this area, please do not hesitate to contact me.

Very truly yours,



Hal B. Tucker

Attachment

PGL/IV/37

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1. Are NRC procedures (i.e., Manual Chapter 0514) sufficiently clear and effective on how backfits are identified and transmitted to licensees, and how claims of backfit and appeals are handled? If not, would you please comment on the need for specific improvement?

For the most part, the Manual Chapter is sufficiently clear on the identification of backfits and on the handling of claims and appeals. However, the Manual Chapter should be clarified in at least the following areas:

- Section 041 should be clarified on the use of 10CFR50.54(f) information requests. In particular, the section should provide that Section 50.54(f) information requests may not be used to mandate new licensee programs or require extensive new analyses.
- Discussion in Section B.1 of the Appendix to the Manual Chapter, relating to the use of SRP criteria in the review of license amendment requests, should be clarified to make clear the backfitting rule applies whenever the Staff raises questions or proposes positions that are technically unrelated to a proposed license amendment.
- Language should be added to Section C.4 of the Appendix, relating to reanalysis of issues, to emphasize new Staff positions on what is necessary for compliance with an existing requirement are to be treated as backfits.
- It should be stated in 0514:

The only savings (benefits) that may be considered in justifying a proposed backfit may be safety costs - costs associated with lower doses to the public from a lower probability of accident scenarios occurring. Costs or savings from increased capacity factor or reduced downtime are not to be included in calculating direct and indirect costs. Savings included in regulatory analyses should be quantifiable and identifiable. Qualitative judgements are not to be used in calculating direct and indirect costs.

If the staff is allowed to try to balance costs of a backfit with expected savings, it can only lead the staff into areas well beyond their expertise. Also this can lead to the staff merely stretching savings enough merely to ensure the imposition of backfits. This practice has already been noted (see NUBARG's letter of February 27, 1989 at paragraphs C.1 and C.2 on the proposed Maintenance Rule).

Also, the staff should not be allowed to make qualitative judgements as to the improvement backfits will cause. This could also cause the staff to stretch expected benefits of backfits until the benefits balance the estimated costs of implementation. This practice has already been noted (see NUBARG's letter of March 24, 1989 at paragraph II.A on the proposed SRO Rule).

- A time period for responding to backfit and backfit appeal claims needs to be established. I have not received a response to my letter of June 20, 1988 appealing the staff's position regarding Containment Integrated Leak Testing.

This untimeliness has already caused an unnecessary cost of approximately \$400,000 (see my letter of April 3, 1989). Adding constraints to the response time would aid in alleviating this type of situation.

- Also, a definition of "previous position" should be provided. Examples of a previous position should be provided (e.g. a staff conclusion in the plant specific SER, approval of a test method documented in an inspection report)
2. Is NRC staff practice consistent with the 0514 process in identifying and implementing backfits? If not, would you please comment on any specific observed inconsistencies?

While the backfitting rule has had a positive impact, the Staff has not been completely faithful to the spirit of the rule in identifying positions as backfits. The NRC appears to consider the rule an obstacle to be avoided. It is usually licensees that must identify Staff positions as backfits. Also, the Staff's evaluation of licensee backfitting appeals has sometimes been very cursory. For example, the main contention points in our claim regarding the Safety Parameter Display System for the Catawba and McGuire plants were never addressed by the Staff. On page 2 of my letter of February 18, 1988, I reiterated the position that although the staff responded in a 48 page letter, no attempt was made to address the specific points of the backfit appeal.

3. In the past year have you experienced, in your judgment, the imposition of one or more backfits, which would not fit one of the exceptions listed in 10 CFR 50.109(a)(4) or did not have a regulatory analysis, for which you did not file a claim or appeal? If so, please indicate why you did not file a claim or appeal.

Although there have been no plant specific backfits imposed against any Duke Power facility in the past year that we have not filed a claim or an appeal, it appears that several generic backfits were proposed. These issues have apparently been resolved without the need for rulemaking at this time. However, it appeared the staff was using flawed regulatory analyses in the proposed rules for Effectiveness of Maintenance Programs (Maintenance Rule) and Education and Experience Requirements for Senior Reactor Operators and Supervisors at Nuclear Power Plants (SRO Rule). Please see my response to question #1.

4. Please describe any impediments or weaknesses in the backfit process, or in the communications and understanding of that process, and any suggestions for improvements.

Currently, a backfitting claim may be dispositioned by the same person or personnel responsible for the Staff position being challenged. A mechanism should be established for an independent review of backfitting claims.

A manual chapter similar to 0514, needs to be developed for generic backfits.

At the May 16, 1989 NUBARG meeting, Jack Hetemes and Cheryl Sakenas indicated they are drafting a NUREG for the staff's use on both plant specific and generic backfitting. This this should be encouraged as it would help strengthen the backfit process and help ensure more consistent application of the backfit rule.

Backfits Imposed in 1988

<u>Issue</u>	<u>Actual Cost</u>
1. NRC Bulletin 88-01 (Westinghouse Circuit Breakers)	No cost accounting was maintained for this Bulletin.
2. NRC Bulletin 88-02 (S/G Tube Cracks)	Catawba 2 only - \$ 250,000
3. NRC Bulletin 88-05 (Non-Conforming Materials)	Oconee - \$ 4,717 McGuire - \$ 5,783 Catawba - \$ 14,125
4. Generic Letter 88-01 (IGSCC in BWR stainless steel)	N/A - Duke does not operate any BWRs.
5. Generic Letter 88-03 (Steam Binding in Auxiliary Feedwater Pumps)	No cost accounting was maintained for this Generic Letter.