

DUKE POWER COMPANY

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June 28, 1984

Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Mr. Harold R. Denton, Director

Re: Catawba Nuclear Station, Unit 1
Docket No. 50-413

Subject: Applicants' Application for Partial
Exemption from GDC 17

Dear Mr. Denton:

This letter supplements the letter to you of June 26, 1984 requesting an exemption from the requirements of 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 17, as such relates to fuel load and pre-critical testing activities. In its Shoreham decision the Commission stated that an applicant for an exemption request should discuss:

"the 'exigent circumstances' that favor the granting of an exemption under 10 CFR 50.12(a) should it be able to demonstrate that, in spite of its noncompliance with GDC 17, the health and safety of the public will be protected."

The components of the "exigent circumstances" are

"the stage of the facility's life, any financial or economic hardships, any internal inconsistencies in the regulation, the applicant's good faith effort to comply with the regulation from which an exemption is sought, the public interest in adherence to the Commission's regulations, and the safety significance of the issues involved."

With respect to each of those matters, the Applicants represent the following:

(a) The Stage of the Facility's Life

Attachment 2 to the letter of June 26, 1984 sets forth the current schedule for Catawba Unit 1. As that schedule makes clear, fuel loading is scheduled to commence on June 29, 1984. As we have discussed, if that date is not met, it will be missed only by a few days. In short, the Applicants anticipate that, with respect to all systems necessary for fuel load and pre-critical testing, the plant will be ready to load fuel within the next week. In addition, as we have discussed in some detail,

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construction is essentially complete on all systems in the plant (whether or not necessary for fuel loading and pre-critical testing) and preoperational testing of all such systems is nearing completion. Therefore, it is clear that Catawba Unit 1 is at an extremely late stage of completion and will be ready in the next few days to load fuel.

(b) Financial or Economic Hardships

Attachment 2 to the June 26, 1984 letter shows scheduled fuel loading commencing June 29, 1984, and completion of 100% power testing on February 6, 1985. Commercial operation of Catawba Unit 1 is now scheduled for March 1985.

As the June 26 letter makes clear, neither Catawba Unit 1 diesel generator will be available for service during July 1984, and both will not be available until September 1984. If the sought exemption is not granted so that fuel loading may commence within the next week, and fuel loading is therefore delayed for one to two months pending availability of either or both diesel generators, a substantial probability exists that commercial operation of Catawba Unit 1 will be commensurately delayed. Such delay will have a substantial financial and economic impact. For each day's delay in commercial operation of Catawba Unit 1, costs of approximately \$500,000 a day will accrue against the Applicants' customers. I would further point out that Duke itself owns only a small portion (25 percent) of the Catawba plant and the remainder is owned by small cooperative or municipal electric systems.

(c) Internal Inconsistencies in the Regulations

At this time, the Applicants do not contend that the regulation itself contains an internal inconsistency. What the Applicants do contend is that the regulation itself is not applicable to this situation. In other words, in our view the application of GDC 17 to the authorization sought, e.g., fuel load and pre-critical testing, is inconsistent with the purpose of that regulation. To explain, the safety functions that are to be performed by the Catawba diesel generators are described in GDC 17 which states:

"Electric power systems. An onsite electric power system and an offsite electric power system shall be provided to permit functioning of structures, systems, and components important to safety. The safety function for each system (assuming the other system is not functioning) shall be to provide sufficient capacity and capability to assure that

(1) specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded as a result of anticipated operational occurrences and (2) the core is cooled and containment integrity and other vital functions are maintained in the event of postulated accidents."

In its May 1, 1984 response (at p.9) to the Applicants' Motion before the ASLB for an order authorizing issuance of a license to load fuel, the NRC Staff stated:

"...GDC-17 is concerned with assuring the safety of the plant during postulated accidents and anticipated operational occurrences upon normal critical power operation of the plant. The activities for which authorization is sought here -- fuel load and non-critical testing -- do not involve critical power operation."

Given that, as the NRC Staff recognized, the activities for which authorization is sought here do not involve critical power operation and therefore do not involve consideration which is explicit in GDC 17, we believe that the internal inconsistency of application of the regulation is reflected on its face.

(d) Applicants' Good Faith Effort to Comply with the Regulation

The NRC Staff is well aware of the substantial effort undertaken by the Applicants to demonstrate reasonable assurance that the TDI diesel generators at the Catawba plant will perform their intended function, and thus to achieve compliance with GDC 17. Such effort has been spelled out in detail in numerous meetings and reports, including a meeting of March 21, 1984, a letter of April 5, 1984, and a report of June 1, 1984. Of course, the Applicants are also participating in the TDI Owners' Group effort.

Those letters and meetings describe in detail the Applicants' program to test and inspect the Catawba TDI diesels. Such a program includes running the 1A and 1B diesel generators for more than 750 hours at a high load, a complete teardown of the 1A diesel, and inspection of all critical parts of that diesel. Such inspection has been completed for the 1A and the results were reported to you on June 1. Diesel generator 1B is currently completing its 750 hour run and in the near future will undergo disassembly and inspection.

We believe that this program demonstrates conclusively the Applicants' good faith effort to comply with the regulations.

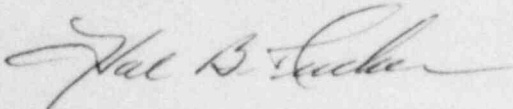
(e) The Public Interest in Adherence to the Commission's Regulations

The public interest lies with the expeditious and efficient completion of the Commission's process. This point is recognized by Chairman Palladino in his separate views in the Commission's Shoreham decision. No one would dispute that the purpose of the Commission's regulations, and the required compliance therewith, is to protect the public health and safety. Clearly, where an exemption from a regulation can be granted on a demonstration that the grant will have no effect on the public health and safety, while it will promote efficiency and expedition in the licensing process, the public interest requires granting the exemption. Such is our case.

(f) Safety Significance of Issues Involved

Attachment 1 to the June 26 letter demonstrates that for the authority for which permission is sought, e.g., fuel load and pre-critical testing, no safety significance is involved. This fact has been recognized by the NRC Staff in its response before the Atomic Safety and Licensing Board to our application for an order from that Board authorizing fuel load and pre-critical testing. I would further point out that all parties to the proceeding before that Board stipulated to the issuance of a license to the activities sought. Consequently, it is clear that granting the exemption sought has no safety significance.

Respectfully submitted,



Hal B. Tucker

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cc: Mr. James P. O'Reilly, Regional Administrator
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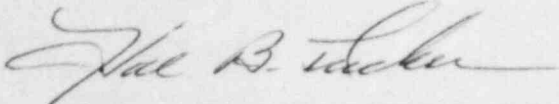
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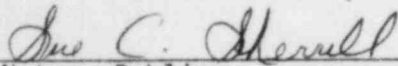
Mr. E. S. Christenbury
Office of the Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

HAL B. TUCKER, being duly sworn, states that he is Vice President of Duke Power Company; that he is authorized on the part of said Company to sign and file with the Nuclear Regulatory Commission this Application for Partial Exemption from GDC-17, and that all statements and matters set forth therein are true and correct to the best of his knowledge.



Hal B. Tucker, Vice President

Subscribed and sworn to before me this 28th day of June, 1984.



Notary Public

My Commission Expires:

Sept. 20, 1984