## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–269, 50–270, and 50–287]**

## In the Matter of Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2, and 3); Exemption

### I

The Duke Energy Corporation (Duke/the licensee) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, that authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 (Oconee), respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities consist of three pressurized water reactors located on Duke's Oconee site in Seneca, Oconee County, South Carolina.

### II

Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix J, contains the following requirements:

a. Section III.D.2(b)(i) requires that air locks be tested prior to initial fuel loading and at 6-month intervals thereafter at an internal pressure not less than $P_a$ (the calculated peak containment internal pressure related to the design basis accident).

b. Section III.D.2(b)(ii) requires that air locks opened during periods when containment integrity is not required shall be tested at the end of such periods at $P_a$.

c. Section III.D.2(b)(iii) requires that air locks opened during periods when containment integrity is required shall be tested within 3 days after being opened. For air locks opened more frequently than once every 3 days, the air lock shall be tested at least once every 3 days during the period of frequent openings. For air lock doors having testable seals, testing the seals fulfills the 3-day test requirement.

### III

The proposed action is in accordance with the licensee's application for exemption contained in a submittal dated October 5, 1999.

Whenever the plant is in cold shutdown (Mode 5) or refueling (Mode 6), containment integrity is not required. However, if an airlock is opened when in Modes 5 or 6 (which is usually the case), 10 CFR 50, Appendix J, Section III.D.2(b)(ii) requires that an overall air lock leakage test at not less than $P_a$ be performed before plant heatup and startup (*i.e.,* before Mode 4 is entered). The licensee has requested an exemption that would allow this test requirement to be met by performing an air lock door seal leakage test per 10 CFR 50, Appendix J, Section III.D.(b)(iii) during plant startup prior to entering Mode 4 if no maintenance has been performed on the air lock that could affect its sealing capability. If maintenance has been performed that could affect its sealing capability, an overall air lock leakage test per 10 CFR 50, Appendix J, Section III.D.2(b)(ii) would be necessary prior to establishing containment integrity.

The existing air lock doors are designed so that the air lock pressure test can only be performed after a strongback (structural bracing) has been installed on the inner door, since the pressure used to perform the test is opposite that of accident pressure and would tend to unseat the door. Performing the full air lock test in accordance with the present requirements takes approximately 12 hours, since it requires installation of the strongback, performing the test, and removing the strongback. During the test, access through the air lock is prohibited, which, therefore, requires evacuation of personnel from the containment or the personnel must remain inside the containment during the test until Mode 4 is reached. The licensee has determined that pressurizing the volume between the seals to 60 pounds per square inch gauge pressure after each opening, and prior to establishing containment integrity, provides the necessary surveillance to ensure the sealing capability of the door seals.

If the periodic 6-month test of 10 CFR 50, Appendix J, Section III.D.(b)(i) and the test required by 10 CFR 50, Appendix J, Section III.D.(b)(iii) are current, no maintenance has been performed on the air lock that could affect its sealing capability, and the air lock is properly sealed as determined by the seal test, there is no reason to expect that the air lock will leak just because it has been opened in Modes 5 or 6. Therefore, there is no impact on plant operation or safety. In addition, due to the design of the air lock, the 6-month test should detect air lock deterioration.

### IV

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations.

Accordingly, the staff concludes that the licensee's proposed approach of substituting the 3-day seal leakage test requirements of 10 CFR 50, Appendix J, Section III.D.(b)(iii) for the full pressure test of 10 CFR 50, Appendix J, Section III.D.(b)(ii) is acceptable when no maintenance that could affect the sealing capability has been performed on the air lock. Whenever maintenance that could affect the sealing capability has been performed on the air lock, the full pressure test requirements of 10 CFR 50, Appendix J, Section III.D.(b)(ii) must still be met.

Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that application of the regulation is not necessary to serve the underlying purpose of the rule. The underlying purpose of the rule is to ensure that: (a) leakage through the primary containment, and systems and components penetrating the primary containment, does not exceed the allowable leakage rate values specified in the Technical Specifications or associated Bases; and (b) periodic surveillance of containment penetrations and isolation valves, and systems and components penetrating the containment, is performed so that proper maintenance and repairs are made during the service life of the containment.

### V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Duke an exemption from the requirements of 10 CFR Part 50, Appendix J, Section III.D.2(b)(ii) for containment air lock tests as described above, for the Oconee Nuclear Station, Units 1, 2, and 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (64 FR 70072).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of December 1999.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

## GPU Nuclear, Inc.

**[Docket No. 50–219]**

## Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear, Inc. (the licensee), to withdraw its April 28, 1999 application, as supplemented by letters dated August 30 and September 3, 1999, proposing to amend Facility Operating License No. DPR–16 for the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would have revised the facility operating license to approve handling of loads up to and including 45 tons using the reactor building crane during power operations. .

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 8, 1999 (64 FR 54925). However, by letter dated December 8, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated April 28, 1999, as supplemented by letters dated August 30 and September 3, 1999, and the licensee's letter dated December 8, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 23rd day of December 1999.

For the Nuclear Regulatory Commission.

**Helen N. Pastis, Sr.,**

*Project Manager, Section I, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

**[Docket 72–1014]**

## Holtec International Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Request for Exemption From Requirements of 10 CFR Part 72

By letter dated October 4, 1999, Holtec International (Holtec or applicant) requested an exemption, pursuant to 10 CFR 72.7, from the requirements of 10 CFR 72.234(c). Holtec, located in Marlton, New Jersey, is seeking Nuclear Regulatory Commission (NRC or the Commission) approval to procure materials for, and fabricate, three MPC–68 multi-purpose canisters, three HI–STORM 100 overpacks, and one HI–TRAC–125 transfer cask prior to receipt of the Certificate of Compliance (CoC) for the HI–STORM 100 cask system. The MPC–68 multi-purpose canister, the HI–STORM 100 overpack, and the HI–TRAC–125 transfer cask are basic components of the HI–STORM 100 system, a cask system designed for the dry storage and transportation of spent nuclear fuel. The HI–STORM 100 cask system is intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by New York Power Authority (NYPA) at the James A. FitzPatrick Nuclear Power Plant (JAF) located in Oswego, New York.

### Environmental Assessment (EA)

*Identification of Proposed Action:* By letter dated October 26, 1995, as supplemented, and pursuant to 10 CFR Part 72, Holtec submitted an application to the NRC for a CoC for the HI–STORM 100 cask system. This application is currently under consideration by the NRC staff. The applicant is seeking Commission approval to procure materials for, and fabricate, three MPC–68 multi-purpose canisters, three HI–STORM 100 overpacks, and one HI–TRAC–125 transfer cask prior to the Commission's issuance of a CoC for the HI–STORM 100 cask system. The HI–STORM 100 system is intended for use under the general license provisions of Subpart K of 10 CFR Part 72 by NYPA at JAF in Oswego, New York. The applicant requests an exemption from the requirements of 10 CFR 72.234(c), which state that ''Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask model.'' The proposed action before the Commission is whether to approve fabrication, including material procurement, and whether to grant this exemption pursuant to 10 CFR 72.7.

*Need for the Proposed Action:* Holtec requested the exemption to 10 CFR 72.234(c) to ensure the availability of storage casks so that NYPA can maintain full core off-load capability at JAF. JAF will lose full core off-load capability in the fall of 2002. JAF has proposed an initial cask loading in the summer of 2001. To support training and dry runs prior to the initial loading, NYPA requests the delivery of the first cask by the spring of 2001. Holtec states that to meet this schedule, fabrication, including material procurement, must begin in January 2000.

The HI–STORM 100 cask system application, dated October 26, 1995, is under consideration by the Commission. It is anticipated that, if approved, the HI–STORM–100 cask system CoC may be issued by July 2000. The proposed procurement and the fabrication exemption will not authorize use of any Holtec cask to store spent fuel. That will occur only when, and if, a CoC is issued. An NRC approval of the procurement and grant of the fabrication exemption request should not be construed as an NRC commitment to favorably consider any Holtec application for a CoC. Holtec will bear the risk of all activities conducted under the exemption, including the risk that the three MPC–68 multi-purpose canisters, three HI–STORM 100 overpacks, and one HI–TRAC–125 transfer cask that Holtec plans to construct may not be usable because they may not meet specifications or conditions placed in a CoC that the NRC may ultimately approve.

*Environmental Impacts of the Proposed Action:* Regarding the procurement approval and fabrication exemption, the Environmental Assessment for the final rule, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites'' (55 FR 29181 (1990)), considered the potential environmental impacts of casks which are used to store spent nuclear fuel under a CoC and concluded that there would be no significant environmental impacts. The proposed action now under consideration would not permit use of the casks, but would only permit procurement and fabrication. There are no radiological environmental impacts from procurement or fabrication since cask material procurement and cask fabrication do not involve radioactive materials. The major non-radiological environmental impacts involve use of natural resources due to cask fabrication. Each MPC–68 multi-purpose canister weighs approximately