

are present, in that the exemption would only provide temporary relief from the applicable regulations, and the licensee has made a good faith effort to comply with the regulation. Therefore, the Commission hereby grants CCNPP1 a one-time schedular exemption from the requirements to conduct an exercise of its onsite and offsite emergency plans every 2 years as required by 10 CFR part 50, Appendix E, section IV.F.2.b and c. This conclusion is based on the licensee's commitment to conduct the postponed exercise in 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 64063).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2001.

For the Nuclear Regulatory Commission.

**Ledyard B. Marsh,**

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

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-269, Docket No. 50-270, Docket No. 50-287, Docket No. 72-040, Docket No. 72-004, Renewed License No. DPR-38, Renewed License No. DPR-47, Renewed License No. DPR-55, and License No. SNM-2503]

### Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2 and 3 and Oconee Independent Spent Fuel Storage Installation); Order Approving Transfer of Operating Authority and Conforming Amendments

Duke Energy Corporation (Duke Energy, or DEC) is the holder of Renewed Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 and Materials License No. SNM-2503, which authorizes operation of the Oconee Independent Spent Fuel Storage Installation (ISFSI). The Oconee Nuclear Station (Oconee or the Facility) and ISFSI are located in Oconee County, South Carolina.

By application dated July 10, 2001, as supplemented by letters dated October 31, November 1 and 26, and December 10, 2001, (collectively referred to herein as "the application" unless otherwise indicated) the Commission was informed that DEC, the licensed operator of the Oconee units and the

ISFSI, proposes to enter into an Operation and Maintenance Services Agreement with Duke Energy Nuclear, LLC (Duke Nuclear), and transfer operating authority under the licenses to Duke Nuclear. Under the proposed transaction, Duke Nuclear, which will be a wholly owned indirect subsidiary of DEC, will become a new licensee exclusively authorized to operate Oconee and the ISFSI in accordance with the terms and conditions of the licenses. The transaction involves no change in full ownership of the Facility and the ISFSI by DEC. DEC requested approval of the proposed transfer of operating authority under the Oconee facility renewed operating licenses to Duke Nuclear pursuant to 10 CFR 50.80 and requested approval of conforming amendments pursuant to 10 CFR 50.90 to reflect the transfer. DEC requested approval of the proposed transfer of operating authority under the Oconee ISFSI License SNM-2503 to Duke Nuclear pursuant to 10 CFR 72.50 and requested approval of conforming amendments pursuant to 10 CFR 72.56 to reflect the transfer. The proposed amendments would add Duke Nuclear to the licenses and reflect that Duke Nuclear is exclusively authorized to operate Oconee and the ISFSI. Duke Nuclear will also become a general licensee for storage of spent fuel in certified dry casks at Oconee pursuant to 10 CFR 72.210.

Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on September 25, 2001 (66 FR 49049). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. In addition, pursuant to 10 CFR 72.50, no license shall be transferred through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Duke Nuclear is qualified to hold the operating authority under the licenses, and that the transfer of the operating authority under the licenses to Duke Nuclear is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the

application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated December 20, 2001.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80 and 10 CFR 72.50, it is hereby ordered that the transfer of operating authority under the licenses, as described herein, to Duke Nuclear is approved, subject to the following conditions:

(1) Duke Nuclear shall, prior to completion of the transfer of operating authority for Oconee, provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Duke Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of operating authority to Duke Nuclear, DEC and Duke Nuclear shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 2 business days prior to the date of closing. If the transfer is not completed by December 31, 2002, this Order shall become null and void, provided however, upon written application and for good cause shown, such date may in writing be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject

transfer of operating authority are approved. The amendments shall be issued and made effective at the time the proposed transfer is completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated July 10, 2001, the supplemental letters dated October 31, November 1 and 26, and December 10, 2001, and the Safety Evaluation dated December 20, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

**Brian W. Sheron,**

*Acting Director, Office of Nuclear Reactor Regulation.*

**Martin J. Virgilio,**

*Director, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-413, Docket No. 50-414, License No. NPF-35, and License No. NPF-52]

### **Duke Energy Corporation, North Carolina Electric Membership Corporation, Saluda River Electric Cooperative, Inc., North Carolina Municipal Power Agency No. 1, Piedmont Municipal Power Agency, (Catawba Nuclear Station, Units 1 and 2); Order Approving Transfer of Operating Authority and Conforming Amendments**

Duke Energy Corporation (Duke Energy, or DEC), the North Carolina Electric Membership Corporation, and the Saluda River Electric Cooperative, Inc. are the holders of Facility Operating License No. NPF-35, which authorizes operation of the Catawba Nuclear Station, Unit 1. DEC, the North Carolina Municipal Power Agency No. 1, and the Piedmont Municipal Power Agency are the holders of Facility Operating License No. NPF-52, which authorizes operation of the Catawba Nuclear Station, Unit 2. The Catawba Nuclear Station (Catawba or the facility) is located in York County, South Carolina.

By application dated July 10, 2001, as supplemented by letters dated October 31, November 1 and 26, and December 10, 2001, (collectively referred to herein as "the application" unless otherwise indicated), the Commission was informed that DEC, the sole licensed operator of both Catawba units, proposes to enter into an Operation and Maintenance Services Agreement with Duke Energy Nuclear, LLC (Duke Nuclear), and transfer operating authority under the licenses to Duke Nuclear. Under the proposed transaction, Duke Nuclear, which will be a wholly owned indirect subsidiary of DEC, will become a new licensee, exclusively authorized to operate Catawba in accordance with the terms and conditions of the licenses. The transaction involves no change in facility ownership, which is as follows: DEC owns 25%, the North Carolina Membership Corporation owns 56.25%, and the Saluda River Electric Cooperative owns 18.75% of Catawba Unit 1, and the North Carolina Municipal Power Agency No. 1 owns 75% and Piedmont Municipal Power Agency owns 25% of Catawba Unit 2.<sup>1</sup>

DEC requested approval of the proposed transfer of operating authority under the Catawba licenses to Duke Nuclear pursuant to 10 CFR 50.80. The application also requested approval of conforming amendments pursuant to 10 CFR 50.90 to reflect the transfer. The proposed amendments would add Duke Nuclear to the licenses and reflect that Duke Nuclear is exclusively authorized to operate Catawba.

Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on September 25, 2001 (66 FR 49050). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Duke Nuclear is qualified to hold the operating authority under the licenses, and that the transfer of the operating authority under the licenses to Duke Nuclear is otherwise consistent with applicable

provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated December 20, 2001.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, it is hereby ordered that the transfer of operating authority under the licenses, as described herein, to Duke Nuclear is approved, subject to the following conditions:

(1) Duke Nuclear shall, prior to completion of the transfer of operating authority for Catawba, provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Duke Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of operating authority to Duke Nuclear, DEC and Duke Nuclear shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 2 business days prior to the date of closing. If the transfer is not completed by December 31, 2002, this Order shall become null and void, provided however, upon written application and for good cause shown, such date may in writing be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as

<sup>1</sup>DEC does not have an ownership interest in Catawba Unit 2, but nonetheless is a holder of the Unit 2 license in connection with the operating authority granted to DEC under that license.