

provision to require an FCU to include a mail ballot with its electronic election procedure instructions rather than require a member without the requisite electronic device to request a ballot. Requiring members to contact the FCU in order to receive a ballot may discourage member participation in the election process. If the mail ballot is included with the electronic election instructions, members will have a choice as to the voting method without having to contact the FCU.

*Article V, Option A4, Section 2(d)(5).* This provision addresses mail ballots and states that, if one form is used for the ballot and identification form, it must be "properly designed." NCUA's Office of General Counsel has interpreted this provision to require secrecy in the balloting process. OGC Legal Opinions 03-510, dated July 30, 2003; 03-1048, dated March 12, 2004. Prior editions of the FCU Bylaws provided instructions that stated: "[t]he ID form will be separated from your ballot when it reaches the credit union, and before any ballots are opened." Federal Credit Union Standard Bylaw Amendments and Guidelines, Sample Ballot, p. 41, October 1991.

The Board is interested in comments on whether this bylaw should be revised to address the secrecy requirement in conjunction with what constitutes a "properly designed" ballot. One issue to consider is the manner in which an FCU can establish an election process that assures members their votes remain confidential and secret from all interested parties when an independent third-party teller reviews the ballots with the members' signatures.

In another matter related to properly designed ballots, the Board is considering a change that would allow names printed on ballots to be placed in alphabetical order as an alternative to determining the order by drawing lots. The Board seeks comment on this suggestion and other alternatives to a fair and properly designed ballot.

*Article V, Section 4.* This section currently reads: "Members cannot vote by proxy, but a member other than a natural person may vote through an agent designated in writing for the purpose. A trustee, or other person acting in a representative capacity, is not as such, entitled to vote." The Board proposes deleting the second sentence. The second sentence reflects a prior legal view when FCU authority to establish trust accounts was limited to trust accounts for minors. Among other restrictions on these accounts at the time, the trustee had to be a member but was not entitled to vote. The provision is now outdated because a trust is

recognized as a legal entity and may qualify for membership in its own right. Also, formal trust agreements generally provide that a trustee has the power to vote on behalf of a trust when the trust holds shares or stock that entitle the owner to vote.

*Article V, Section 7.* The Board seeks comment on whether to include a provision that sets a minimum age as a qualification for eligibility to vote and hold office, as a second option to Section 7, which currently allows an FCU's board to establish the age by resolution.

*Article IX, Section 1.* The FCU Act precludes the director who is the "compensated officer" from being the director who can also be on the supervisory committee. 12 U.S.C. 1761(b). The bylaw currently states that "[t]he supervisory committee is appointed by the board from among the members of this credit union, one of whom may be a director other than the financial officer." The bylaw incorrectly assumes that the financial officer is the "compensated officer." We propose replacing "financial officer" with "compensated officer" so that the bylaw is consistent with the FCU Act.

The Board is seeking comment on all of the above mentioned proposed changes and also suggestions on other ways to update, clarify and simplify the existing FCU Bylaws. For example, NCUA has encouraged FCU managers and directors to consider improvements in matters relating to corporate governance and auditing in a manner similar to the requirements imposed on public companies under the Sarbanes-Oxley Act of 2002. NCUA Letter to Federal Credit Unions 03-FCU-07 (October 2003). The Board believes that sound corporate governance practices begin with prepared directors and managers. The Board welcomes comments on whether particular corporate governance practices or related issues should be added to the FCU Bylaws, such as board training or ethics. Based upon the comments, the Board will issue a notice with proposed bylaws and request for comment.

By the National Credit Union Administration Board on September 23, 2004.

**Mary Rupp,**

*Secretary of the Board.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270, and 50-287]

### Duke Energy Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duke Energy Corporation (the licensee) to withdraw its June 7, 2002, application for proposed amendment to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, for Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina.

The proposed amendments would have revised the Updated Final Safety Analysis Report with regard to tornado mitigation. The proposed amendments would have eliminated credit for the flow path from the spent fuel pool to the high pressure injection pump following a tornado and would have credited the standby shutdown facility as the assured means of achieving safe shutdown following a tornado.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment that was originally published in the **Federal Register** on July 23, 2002 (67 FR 48216). A revised Notice of Consideration of Issuance of Amendment was published in the **Federal Register** on February 18, 2003 (67 FR 7814). However, by letter dated September 9, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 7, 2002, and the licensee's letter dated September 9, 2004, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Publicly available records will be accessible electronically 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>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

Dated at Rockville, Maryland, this 22nd day of September, 2004.

For the Nuclear Regulatory Commission.

**Leonard N. Olshan, Sr.**

*Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 and 50-316]

### Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendments To Facility Operating Licenses and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-58 and DPR-74 issued to Indiana Michigan Power Company (I&M or the licensee) for operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, (D. C. Cook) located in Berrien County, Michigan.

The proposed amendment, requested by I&M in its application dated April 6, 2004, represents a full conversion from the Current Technical Specifications (CTS) to a set of Improved Technical Specifications (ITS) based on NUREG-1431, "Standard Technical Specifications (STS) for Westinghouse Plants," Revision 2, dated April 2001. NUREG-1431 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the NRC staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TSs) for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in the Commission's "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement)," published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS and using NUREG-1431 as a basis, proposed an ITS for D. C. Cook. The criteria in the Final Policy Statement was subsequently added to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50.36, "Technical Specifications," in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

In addition to the conversion, the licensee also proposed: (1) To delete three license conditions in the operating

licenses for D. C. Cook Units 1 and 2 and relocate the requirements to either the ITS or the Technical Requirements Manual of the D. C. Cook Updated Final Safety Analysis Report (UFSAR); and (2) 34 beyond scope issues (BSIs) where the proposed requirements are different from the CTS or the STS NUREG-1431. The BSIs are identified later in this notice.

This notice is based on the application dated April 6, 2004, and the information provided to the NRC through the Cook ITS Conversion Web page. To expedite its review of the application, the NRC staff issued its requests for additional information (RAIs) through the Cook ITS Conversion Web page and the licensee addressed the RAIs by providing responses on the Web page. Entry into the database is protected so that only licensee and NRC reviewers can enter information into the database to add RAIs (NRC) or providing responses to the RAIs (licensee); however, the public can enter the database to only read the questions asked and the responses provided. To be in compliance with the regulations for written communications for license amendment requests and to have the database on the D. C. Cook dockets before the amendments would be issued, the licensee will submit a copy of the database in a submittal to the NRC after there are no further RAIs and before the amendments would be issued. The public can access the database through the NRC Web site at <http://www.nrc.gov> by the following process: (1) Click on the tab labeled "Nuclear Reactors" on the NRC home page along the upper part of the web page, (2) then click on the link to "Operating Reactors," which is under "Regulated Activities" on the left hand side of the web page, (3) then click on the link to "Improved Standard Technical Specifications" which is on right hand side of the page, and (4) finally click on the link to "Comments on the application and responses by D. C. Cook," near the bottom of the Web page, to open the database. The RAIs and responses to RAIs are organized by ITS Sections 1.0, 2.0, 3.0, 3.1 through 3.9, 4.0, and 5.0, which are listed first, and the 34 BSIs, which are listed later. For every listed ITS section or BSI, there is an RAI which can be read by clicking on the ITS section or BSI number. The licensee's responses are shown by a solid triangle adjacent to the ITS section or BSI number, and, to read the response, you click on the triangle. To page down through the ITS sections to the BSIs, click on "next" along the top

of the page or on "previous" to return to the previous page.

The licensee has categorized the proposed changes to the CTS into five general groupings within the description of changes (DOC) section of the application. These groupings are characterized as administrative changes (*i.e.*, ITS x.x, DOC A.xx), more restrictive changes (*i.e.*, ITS x.x, DOC M.xx), relocated specifications (*i.e.*, ITS x.x, DOC R.xx), removed detail changes (*i.e.*, ITS x.x, DOC LA.xx), and less restrictive changes (*i.e.*, ITS x.x, DOC L.xx). This is to say that the DOCs are numbered sequentially within each letter designator for each ITS Chapter, Section, or Specification, and the designations are A.xx for administrative changes, M.xx for more restrictive changes, R.xx for relocated specifications, LA.xx for removed detail changes, and L.xx for less restrictive changes. These changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

Administrative changes are those that involve restructuring, renumbering, rewording interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG-1431 and does not involve technical changes to the CTS. The proposed changes include: (a) Providing the appropriate numbers, etc., for NUREG-1431 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant); (b) identifying plant-specific wording for system names, etc.; and (c) changing NUREG-1431 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses. For each requirement in the STS that is more restrictive than the CTS that the licensee proposes to adopt in the ITS, the licensee has provided an explanation as to why it has concluded