

March 8, 2002
DOCKETED 03/08/02

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	
DUKE ENERGY CORPORATION)	Docket Nos. 50-369, 370, 413 and 414
)	
(McGuire Nuclear Station,)	
Units 1 and 2, and)	
Catawba Nuclear Station,)	
Units 1 and 2))	

NRC STAFF'S RESPONSE TO THE MOTION
 OF THE NUCLEAR ENERGY INSTITUTE
FOR LEAVE TO FILE AN AMICUS BRIEF

On February 27, 2002, the Nuclear Energy Institute ("NEI") filed a motion for leave to file a brief *amicus curiae*,¹ along with its proposed brief,² in response to the Commission's Orders of February 6, 2002, requesting briefs from the parties in four separate adjudicatory proceedings.³ NEI's Motion seeks leave to file a brief concerning an issue that is now under review by the Commission -- *i.e.*, whether the Commission's responsibility under the National Environmental Policy Act of 1969 ("NEPA") requires consideration of intentional malevolent acts, such as those

¹ See "Motion By the Nuclear Energy Institute for Leave to File an Amicus Brief in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts" ("Motion"), dated February 27, 2002.

² See "Amicus Brief of Nuclear Energy Institute in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts" ("Brief"), dated February 27, 2002.

³ See (1) *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-02-03, 55 NRC ____ (Feb. 6, 2002); (2) *Duke Cogema Stone & Webster* (Savannah River Mixed Oxide Fuel Fabrication Facility), CLI-02-04, 55 NRC ____ (Feb. 6, 2002); (3) *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear power Station, Unit No. 3), 55 NRC ____ (Feb. 6, 2002); and (4) *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 & 2, and Catawba Nuclear Station, Units 1 & 2), CLI-02-06, 55 NRC ____ (Feb. 6, 2002).

directed against the United States on September 11, 2001. The NRC Staff ("Staff") herewith responds to NEI's Motion.

In the Staff's view, NEI's Motion establishes that the issue under review by the Commission is of concern to NEI's members and to the nuclear energy industry, in general. In addition, it is apparent that the Commission's resolution of this issue may affect NEI's members' interests, in that the issue appears to have generic applicability to NRC licensees and license applicants other than those involved in the instant proceeding, and the resolution of this issue could affect other licensing proceedings in the future. Accordingly, the Staff does not object to NEI's filing of its *amicus* brief relating to this issue in the instant proceeding.

Respectfully submitted,

/RA/

Susan L. Uttal
Counsel for NRC Staff

Dated at Rockville, Maryland
this 8th day of March, 2002

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO THE MOTION OF THE NUCLEAR ENERGY INSTITUTE FOR LEAVE TO FILE AN AMICUS BRIEF," in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, or through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, with copies by electronic mail, as indicated by double asterisk, this 8th day of March, 2002:

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