



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931**

August 20, 2003

NOED 03-2-006

Duke Energy Corporation
ATTN: Mr. D. M. Jamil
Site Vice President
Catawba Nuclear Station
4800 Concord Road
York, SC 29745

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION (NOED) FOR DUKE ENERGY CORPORATION REGARDING CATAWBA UNIT 2

Dear Mr. Jamil:

By letter dated August 18, 2003, you formally documented a verbal request made on August 16, 2003, for discretionary enforcement concerning Catawba Nuclear Station Unit 2 Technical Specification (TS) Limiting Condition for Operation (LCO) 3.0.3. Your letter addressed the information previously discussed with the NRC during a telephone conference on August 16, 2003, at 10:30 a.m. The principal NRC staff members who participated in that telephone conference included: B. Mallett, Deputy Regional Administrator, Region II (RII); E. Hackett, Director, Project Directorate II (PD2), Division of Licensing Project Management, Office of Nuclear Reactor Regulation (NRR); L. Plisco, Director, Division of Reactor Projects (DRP), RII; R. Haag, Chief, Branch 1, DRP, RII; R. Martin, Project Manager, PD2-1, NRR; E. Guthrie, Senior Resident Inspector - Catawba, DRP, RII; and R. Bernhard, Senior Reactor Analyst, Division of Reactor Safety, RII.

Catawba Unit 2 was in Mode 1 (Power Operations) when reactor water storage tank (RWST) level channels 1 and 3 failed high in response to an apparent lightning strike in the area. The two channels were declared inoperable and were placed in bypass at 7:53 a.m., on August 16, 2003. With two of the four RWST level channels inoperable and placed in bypass, the automatic suction swapover of residual heat removal pumps from the RWST to the containment sump on low RWST level was reduced from a 2 out-of 4 to a 2 out-of 2 logic. As TS 3.2.2, Engineered Safety Feature Actuation System Instrumentation, and associated TS Table 3.3.2-1 only address one inoperable RWST level channel, TS LCO 3.0.3 was entered and Unit 2 subsequently began a load reduction to 82 percent power at 8:50 a.m.

To ensure sufficient time for restoring one of the two RWST level channels, you requested an extension of the time limit in TS LCO 3.0.3 for Unit 2 to be in Mode 3. TS LCO 3.0.3 requires that action be initiated within 1 hour to place the unit, as applicable, in Mode 3 within 7 hours, in Mode 4 within 13 hours, and in Mode 5 within 37 hours. As such, with two RWST level instruments inoperable, Unit 2 would be required to be in Mode 3 (Hot Standby) on August 16, 2003, at 2:53 p.m. You requested that a Notice of Enforcement Discretion (NOED) be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.C, of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective for an additional 48 hours (from 2:53 p.m., on August 16, 2003) pending restoration of one of the two inoperable RWST level

channels. This letter documents our verbal issuance of the NOED (for an additional 48 hours) during the telephone conference on August 16, 2003. However, we recognize that the condition which caused the need for this NOED (two inoperable RWST level channels) was subsequently resolved by restoring one of the inoperable RWST level channels and exiting TS LCO 3.0.3 prior to 2:53 p.m., on August 16, 2003.

The safety basis in your NOED request letter included a discussion of proposed compensatory measures and an evaluation of the potential impact on the public health and safety and the environment. Your evaluation concluded that the request for an additional 48 hours to restore at least one of the inoperable RWST level channels was overall safety and risk neutral, and represented no net increase in radiological risk. In addition, you concluded that no significant hazard consideration was involved. The proposed compensatory measures, which were integral to your no net increase in risk determination, include: (1) a dedicated operator in the control room to monitor RWST level indication (on the two operable channels) upon receipt of a safety injection signal, as well as containment sump level, to ensure swapover occurs as required; and (2) not removing from service for maintenance or testing other Unit 2 emergency core cooling system related components, trains, or systems during the time in question.

We reviewed your request and agree that maintaining the plant stable in Mode 1 for an additional 48 hours (55 hours total) would be preferable to the potential for a plant transient that could occur during a plant shutdown to Mode 3 in this instance. Also, we agree that your proposed compensatory measures, risk analysis, and safety basis considerations were adequate to demonstrate that the additional 48 hours would not involve a net increase in radiological risk and would not adversely affect public health and safety. Our decision was based primarily on the request being overall safety and risk neutral, and the fact that the two remaining operable RWST level channels could perform the safety function (i.e., automatic swapover) of the system.

On the basis of the staff's evaluation of your request and the information provided in your letter dated August 18, 2003, we conclude that issuance of this NOED is consistent with the Enforcement Policy and staff guidance, and has no adverse impact on public health and safety. Therefore, as indicated verbally on August 16, 2003, it was our intention to exercise discretion not to enforce compliance with TS 3.0.3 during the period from August 16, 2003, at 2:53 p.m. until August 18, 2003, at 2:53 p.m. for two inoperable RWST level channels. Based on your successful repair of one of the two RWST level channels at 2:53 p.m. on August 16, 2003, this NOED was not utilized. However, as stated in the Enforcement Policy, action will be taken, to the extent that violations are involved, for the root cause or causes that led to the request for this NOED.

Sincerely,

//RA//

Luis A. Reyes
Regional Administrator

DEC

3

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PUBLIC DOCUMENT (circle one): YES

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| OFFICE | DRP/RII | DRP/RII | NRR/DPII | EICS/RII | | | |
| SIGNATURE | RHaag | LPlisco | EHackett | CEvans | | | |
| NAME | RCH | LRP | RCH/FOR | CFE | | | |
| DATE | 8/24/2003 | 8/20/2003 | 8/20/2003 | 8/20/2003 | | | |
| E-MAIL COPY? | YES NO | YES NO | YES NO | YES NO | YES NO | YES NO | YES NO |

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