

to reflect established policy and procedures for administering user fees. In addition, the final rule advised the public that the fees relating to part 15 testing of explosives would be modified. In recent years, MSHA has relied on the Department of Health and Human Services' National Institute for Occupational Safety and Health (NIOSH) to conduct part 15 testing on its behalf. Since NIOSH no longer has the facilities to conduct all of the part 15 tests, the tests will be contracted out to other organizations. For additional information regarding part 15 testing, please contact Steven J. Luzik, Chief, Approval and Certification Center, 304-547-2029 or 304-547-0400.

Dated: December 28, 2005.

**Robert M. Friend,**

*Acting Deputy Assistant Secretary for Mine Safety and Health.*

**FEE SCHEDULE EFFECTIVE JANUARY 1, 2006**

[Based on FY 2005 data]

Action title	Hourly rate
Fees for Testing, Evaluation, Approval and Retesting for Approval as a Result of Post-Approval Product Audit of all Mining Products <sup>1</sup> .....	\$71

<sup>1</sup> Full approval fee consists of evaluation cost plus applicable test costs.

**Note:** When the nature of the product requires that MSHA test and evaluate the product at a location other than on MSHA premises, MSHA must be reimbursed for the travel, subsistence, and incidental expenses of its representative in accordance with Federal government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

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**NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-269, 50-270, 50-287, and 72-004]

**Duke Energy Corporation; Oconee Nuclear Station, Units 1, 2, and 3; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Conforming Amendments, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the indirect transfer of

Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55 and NRC Materials License No. SNM-2503 for the Oconee Nuclear Station, Units 1, 2, and 3, currently held by Duke Energy Corporation, as owner and licensed operator of Oconee Nuclear Station, Units 1, 2, and 3. The indirect transfer would be to a new holding company to be named Duke Energy Corporation. The Commission is also considering amending the licenses for administrative purposes to reflect the proposed change of the name of the licensee from Duke Energy Corporation to Duke Power Company LLC.

According to an application for approval filed by Duke Energy Corporation, following approval of the proposed indirect license transfers, a new holding company would be created to become the parent of the licensee. No physical changes to the Oconee Nuclear Station, Units 1, 2, and 3, facility or ISFSI or operational changes are being proposed in the application.

The proposed amendments would reflect the proposed change in the name of the licensee from Duke Energy Corporation to Duke Power Company LLC, following the licensee's conversion from a corporation to a limited liability company. Although the Part 50 licenses contain antitrust conditions, there are no proposed changes to these conditions.

Pursuant to 10 CFR 50.80 and 10 CFR 72.50, 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. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed underlying transaction resulting in the indirect transfer will not affect the qualifications of the holder of the license, and that the indirect transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or to the license of an independent spent fuel storage installation which does no more than conform the license to reflect the indirect transfer action involves no

significant hazards consideration or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

Requests for a hearing and petitions for leave to intervene should be served upon Timika Shafeek-Horton, Assistant General Counsel, Duke Energy Law Department, Mail Code EC07H-7109, P.O. Box 1006, 526 South Church St., Charlotte, NC 28201-1006, (704) 382-6373, (704) 382-6056 fax; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 (e-mail address for filings regarding license transfer cases only: [OGCLT@NRC.gov](mailto:OGCLT@NRC.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.302 and 2.305.

The Commission will issue a notice or order granting or denying a hearing

request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, within 30 days from the date of publication of this notice, persons may submit written comments regarding the indirect license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated August 5, 2005, available for public inspection at the Commission'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 System's (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, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 23rd day of December 2005.

For the Nuclear Regulatory Commission.

**Leonard N. Olshan,**

*Senior Project Manager, Plant Licensing  
Branch II-1, Division of Operating Reactor  
Licensing, Office of Nuclear Reactor  
Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

### **Duke Energy Corporation; McGuire Nuclear Station, Units 1 and 2; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Conforming Amendments, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating Licenses Nos. NPF-9 and NPF-17 for the McGuire Nuclear Station, Units 1 and 2, currently held by Duke Energy Corporation, as owner and licensed operator of McGuire Nuclear Station, Units 1 and 2. The indirect transfer would be to a new holding company to be named Duke Energy Corporation. The Commission is also considering amending the licenses for administrative purposes to reflect the proposed change of the name of the licensee from Duke Energy Corporation to Duke Power Company LLC.

According to an application for approval filed by Duke Energy Corporation, following approval of the proposed indirect license transfers, a new holding company would be created to become the parent of the licensee. No physical changes to the McGuire Nuclear Station, Units 1 and 2, facility or operational changes are being proposed in the application.

The proposed amendments would reflect the proposed change in the name of the licensee from Duke Energy Corporation to Duke Power Company LLC, following the licensee's conversion from a corporation to a limited liability company. Although the licenses contain antitrust license conditions, there are no proposed changes to these conditions.

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. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed underlying transaction resulting in the indirect transfer will not affect the qualifications of the holder of the license, and that the indirect transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the

Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the indirect transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

Requests for a hearing and petitions for leave to intervene should be served upon Timika Shafeek-Horton, Assistant General Counsel, Duke Energy Law Department, Mail Code EC07H-7109, P.O. Box 1006, 526 South Church St., Charlotte, NC 28201-1006, (704) 382-6373, (704) 382-6056 (fax); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-