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January 2, 2013

Ms. Cindy K. Bladey  
Chief, Rules, Announcements, and Directives Branch  
Office of Administration  
Mail Stop: TWB-05-B01M  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject: Duke Energy Corporation Comments on the Scope of the Environmental Impact Statement Supporting Rulemaking to Update the Waste Confidence Decision**

Dear Ms. Bladey:

This letter provides Duke Energy comments on the scope of the Environmental Impact Statement (EIS) supporting the Nuclear Regulatory Commission's (NRC's) planned update of its Waste Confidence Decision (WCD) and rule. Duke Energy is the largest electric power holding company in the United States, supplying and delivering energy to approximately 7 million U.S. customers. Duke Energy operates the country's largest regulated fleet of nuclear plants, with 12 nuclear power reactors at seven sites in North Carolina, South Carolina and Florida<sup>1</sup>. Duke Energy has applied for licenses to construct and operate six new nuclear power reactors at three sites in the Southeast.

Nuclear industry comments on the scope of the EIS are being provided under the auspices of the Nuclear Energy Institute (NEI), and Duke Energy endorses those industry comments. In addition, Duke Energy emphasizes several points.

First, the NRC should adhere to the schedule it set forth to prepare the EIS and update the WCD within two years. The NRC has stated it does not anticipate issuing new reactor licenses, reactor license renewals, independent spent fuel storage installation (ISFSI) licenses or ISFSI license renewals until it addresses the court remand of the WCD and rule on a generic basis. Reaching licensing decisions for such facilities is a key element of the NRC mission, and it is important to the country that the NRC carries out this responsibility. Duke Energy has two new reactor licenses under NRC review that will likely be delayed<sup>2</sup> due to the court remand. Given the substantial experience base associated with on-site used fuel storage, two years should be

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<sup>1</sup> Each site has one or more pools for wet storage of used fuel, and five of the sites also have facilities for dry storage of used fuel.

<sup>2</sup> Levy Units 1 and 2 in Levy County, Florida, and W. S. Lee Units 1 and 2 in Cherokee County, South Carolina.

sufficient time to prepare a focused EIS and carry out rulemaking, while providing ample opportunity for public involvement and input.

Second, the NRC should focus additional environmental evaluations on the specific deficiencies identified by the federal court in its remand of the WCD and rule. Specifically, those deficiencies were:

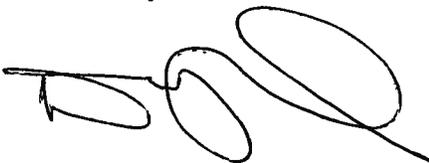
- Lack of examination of the environmental effects of failing to establish a repository for used nuclear fuel.
- Lack of examination of the risks of spent fuel pool leaks in a forward-looking fashion.
- Lack of examination of the potential consequences of spent fuel pool fires.

In addressing these deficiencies, the NRC should take advantage of the considerable body of information that exists to properly evaluate the environmental consequences on a generic basis. A key part of that experience base is the record of safe and secure on-site storage of used fuel at commercial nuclear power plants since the 1960s.

Third, the NRC indicated it is considering three potential scenarios for on-site storage of used nuclear fuel<sup>3</sup>: storage until a repository becomes available at the middle of the century, storage until a repository becomes available at the end of the century, and continued storage in the event a repository is not available. These scenarios appear to be suitably bounding; in fact, two scenarios – storage until the end of the century and continued storage – would probably be sufficient. Consistent with the Commission's direction to make maximum use of existing work, we reiterate NEI's comment that the scenario time frames should, to the extent practical, be aligned with existing assessments such as the 2010 WCD and the Department of Energy's EIS for Yucca Mountain. Moreover, in establishing EIS scenarios it would be inappropriate for the NRC to speculate inordinately about the future course of used fuel management in the United States. Such speculation is not needed in order to bound the environmental impacts of on-site storage.

Thank you for your consideration of these comments. If you have any questions regarding them, please contact Steve Nesbit of my staff at 704-382-2197 or by e-mail at [steve.nesbit@duke-energy.com](mailto:steve.nesbit@duke-energy.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Dhiaa Jamil', with a stylized flourish extending to the right.

Dhiaa Jamil

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<sup>3</sup> NRC slides presented at the November 14, 2012, public meeting in Washington, D.C. on the scoping process for the Waste Confidence EIS.