



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

May 3, 2000

EA 99-135

Charles M. Dugger, Vice President
Operations - Waterford 3
Entergy Operations, Inc.
17265 River Road
Killona, Louisiana 70066-0751

SUBJECT: NRC INSPECTION REPORT 50-382/99-01 AND DENIAL OF VIOLATION

Dear Mr. Dugger:

Your response to Violation 50-382/9901-01 denied a violation of 10 CFR 26.80(b) and Regulatory Guide 5.66 as committed to in Paragraph 2.3.1 of your Physical Security Plan. Your response stated that Regulatory Guide 5.66 did not specifically define "independence" as it related to audits of the access authorization program and that independence of program management was not required. Further, your response indicated that auditors of the Waterford 3 fitness-for-duty program were independent of Waterford 3 fitness-for-duty management.

As discussed in our May 27, 1999, letter, your denial of the subject violation required further review by the NRC. Region IV referred this issue to the Office of Nuclear Reactor Regulation via a Task Interface Agreement on September 27, 1999. NRR provided guidance on what constitutes auditor independence in a response dated April 4, 2000.

The NRC staff concluded that the auditors in question were not functionally independent of program management and implementation. Further, the staff concluded that the duration of a temporary assignment to audit functions was not material, and was not addressed by the Commission in creating the requirement. The objective is that audits are to be unbiased by functional links between auditors and the supervisors involved in management of the audited programs.

Additionally, the staff noted that access authorization was required to be part of the Physical Security Plan. In considering the wording and intent of the "independent" requirement, it was clear that the Commission did not intend that a plant's physical security be diminished by a lesser audit requirement for access authorization functions. In addition, both 10 CFR 26.80(b) and 10 CFR 73.55(g)(4) define independent in equivalent terms (e.g., by individuals independent of the audited program's management and independent of personnel who have direct responsibility for implementation of audited program).

On the basis of the preceding discussion, we have determined that Violation 50-382/9901-01 remains valid as previously issued in the inspection report. The subject audits conducted at Waterford 3 were not independent, as required by the governing regulations. Therefore, we request that you reply, as required by the original Notice of Violation within 30 days of the date of this letter, with a written response discussing the corrective actions you plan to prevent recurrence of the violation. Please note that this response is confined to the specific types of audits that were the subject of the violation.

Should you have any questions regarding this letter, we will be pleased to discuss them with you.

Sincerely,

/RA/

Arthur T. Howell III, Director
Division of Reactor Safety

Docket No.: 50-382
License No.: NPF-38

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*Previously concurred

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