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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
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April 20, 2000

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EA 00-075

Mr. Oliver D. Kingsley
President, Nuclear Generation Group
Commonwealth Edison Company
ATTN: Regulatory Services
Executive Towers West III
1400 Opus Place, Suite 500
Downers Grove, IL 60515

SUBJECT: NOTICE OF VIOLATION
(OFFICE OF INVESTIGATIONS REPORT NO. 3-1999-026)

Dear Mr. Kingsley:

This letter refers to information provided by the Commonwealth Edison Company (ComEd) to the U.S. Nuclear Regulatory Commission (NRC) that a former nurse at ComEd's Braidwood Nuclear Station failed to direct an employee to fitness for duty testing (FFD) on July 20, 1999. The NRC Office of Investigations (OI) conducted an investigation into this matter and determined that the nurse willfully failed to require the employee to submit to FFD testing after confirming the odor of alcohol on that individual. The synopsis of the OI report is attached.

Based on the information developed during the OI investigation, the NRC has determined that a willful violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice). In summary, an employee entered the protected area of the Braidwood Station on July 20, 1999, to visit the station nurse following an absence due to a family emergency. The employee was not scheduled to work at that time. While visiting the nurse, the nurse detected the odor of alcohol on the individual and the nurse failed to direct the individual to FFD for cause testing as required by ComEd procedure. The nurse subsequently discussed this issue with his supervisor. ComEd initiated an investigation into the matter and notified the NRC.

While the nurse was considered a supervisor at the Braidwood Station, the NRC recognizes that the employee was not reporting for duty and was escorted out of the protected area by the nurse. Therefore, this violation is categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level IV. Consideration was given to issuing a non-cited violation (NCV) in this matter in accordance with Section VII B.1.a.4 of the Enforcement Policy. However, ComEd considered the nurse to be a supervisor; therefore; the criteria of Section VII.B.1.a.4 (ii) of the Enforcement Policy applies, which precludes an NCV in this case, and the enclosed Notice has been issued.

Corrective actions taken by ComEd for this violation consisted of: (1) informing appropriate station and division managers of the nurse's failure to follow FFD procedures; (2) conducting

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behavioral observations for alcohol use during the employee's next scheduled work period; (3) notifying the employee that the nurse had improperly handled the event on July 20, 1999; (4) counseling the employee about disciplinary actions that can be taken for a violation of the FFD program; and (5) permitting the nurse to resign in lieu of termination. Additionally, employees were given training during Third Quarter 1999 safety meetings on the actions to be taken if the odor of alcohol was detected on an employee. The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence are addressed above. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, should you choose to reply, will be placed in the NRC Public Electronic Reading Room link at http://www.nrc.gov/NRC/ADAMS/index.html.

Sincerely,

for John A. Grobe, Director
Division of Reactor Safety

Dockets No. 50-456; 50-457
License No. NPF-72;NPF-77

Enclosures: 1. Notice of Violation
2. OI Synopsis

cc w/enclosures: D. Helwig, Senior Vice President, Nuclear Services
C. Crane, Senior Vice President, Nuclear Operations
H. Stanley, Vice President, Nuclear Operations
R. Krich, Vice President, Regulatory Services
T. Tulon, Site Vice President
K. Schwartz, Station Manager
T. Simpkin, Regulatory Assurance Supervisor
M. Aguilar, Assistant Attorney General
State Liaison Officer
Chairman, Illinois Commerce Commission

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NOTICE OF VIOLATION

Commonwealth Edison Company
Braidwood Nuclear Station
Units 1 and 2

Dockets No. 50-456; 50-457
Licenses No. NPF-72; NPF-77
EA 00-075

During an NRC investigation concluded on February 25, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 26.20 requires that each licensee establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of 10 CFR Part 26.

10 CFR 26.24(a)(3) requires, in part, testing for cause as soon as possible after receiving credible information that an individual is abusing drugs or alcohol.

Commonwealth Edison Company (ComEd) Procedure No. SY-AA-102-202, "Testing for Cause," Revision 0, dated February 26, 1999, implements 10 CFR Part 26 and is applicable to all ComEd, contractor and vendor personnel granted unescorted access to ComEd Nuclear Stations. Section 4.1.7 of Procedure No. SY-AA-102-202 provides that for cause testing is required when the odor of alcohol has been detected on someone and a supervisor has confirmed the odor of alcohol.

Contrary to the above, on July 20, 1999, a registered nurse, a supervisor, confirmed the odor of alcohol on an employee at the Braidwood Station and did not require that employee to submit to for cause fitness for duty testing. (01014)

This is a Severity Level IV violation (Supplement VII).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence was addressed in the letter transmitting this Notice of Violation (Notice). Therefore, a written response to this Notice is not required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator and the Enforcement Officer, Region III, and a copy to the NRC Resident Inspector at the Braidwood Station, within 30 days of the date of the letter transmitting this Notice.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

If you choose to respond, your response will be placed in the NRC Public Electronic Reading Room (PERR) link at http://www.nrc.gov/NRC/ADAMS/index.html. The response, to the extent possible, should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PERR without redaction.

Dated this 20th day of April 2000

SYNOPSIS

This investigation was initiated on August 3, 1999, by the U.S. Nuclear Regulatory Commission Office of Investigations, Region III, to determine if a former station nurse at the Braidwood Nuclear Generating Station had deliberately violated the Braidwood Fitness-For Duty (FFD) procedures.

Based on the evidence developed during the investigation, it is concluded that the former station nurse willfully failed to conduct a for cause FFD test on July 20, 1999, in violation of Commonwealth Edison Company procedures.

Case No. 3-1999-026