

October 22, 2001

Mr. Tom Gurdziel  
9 Twin Orchard Drive  
Oswego, NY 13126

Dear Mr. Gurdziel:

Thank you for the comments you submitted in June and July 2001 on our preliminary impact assessments of nuclear industry consolidation. We received many good comments and are currently evaluating them. We will address all comments relevant to the scope of our effort at our public workshop scheduled for November 1 and 2, 2001, and in our subsequent Commission Paper.

Two of your comments, while expressing valid concerns, are unrelated to nuclear industry consolidation and, therefore will not be addressed in our workshop or Commission Paper. However, I am responding to these two comments by means of this letter.

Comment: "If double (or more) valve lineups are still being done, the NRC needs, in my opinion, to determine how much risk is really reduced compared to just the first valve line up. Also, determine if accountability is diluted. My feeling is that the industry can't afford to do business this way today."

This is a comment pertaining to the area of plant operational safety. While Category 1 of the NRC staff's preliminary assessment pertains to the potential impacts from industry consolidation in the area of plant operational safety, it is not apparent how your concern with one or more independent valve lineup verification activities by licensees would be impacted by industry consolidation.

The NRC expects licensees to implement sufficient configuration controls such that structures, systems, and components (SSCs) that are required to ensure safe operation of a plant are operable, meaning the SSCs are capable of performing their intended function. The SSCs required to be operable are typically specified in the plant's Technical Specifications. Maintaining operability of SSCs includes ensuring that valves and equipment in systems are properly aligned to enable the systems to operate when needed. The NRC does not specify what configuration control measures a licensee must implement to ensure operability of plant systems. Licensees, if they choose, can implement administrative controls requiring that valve lineups be independently verified by one or more individuals. While it is prudent from a safety perspective to implement additional controls to ensure that valves are properly aligned following activities where the system configuration has been altered (e.g., maintenance and surveillance activities, this is not a specific NRC requirement).

If a licensee or the NRC determines that a given safety-related SSC is inoperable due to an improper valve lineup, the NRC, as part of its inspection program, will evaluate the licensee's efforts to determine the root cause and implement appropriate corrective actions.

T. Gurdziel

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Maintaining the operability of SSCs, which includes ensuring systems are aligned to perform their intended safety function, is not a function of industry consolidation.

Comment: You suggest that the NRC consider penalizing licensees by requiring them to reduce plant power for some specified period of time rather than using the current approach of “fining” licensees.

This is a comment pertaining to the NRC’s enforcement program. The principal impact of issuing a civil penalty to a licensee is not the dollar amount of the penalty, but rather the public attention, including media coverage, that a licensee receives from the NRC’s decision to issue an escalated enforcement action. Historically, this has served as an effective deterrent to licensee performance that results in violations, and it has served to emphasize the importance of compliance with NRC requirements as well as encourage the prompt identification and prompt, comprehensive correction of violations.

Assuming that the violation does not impact current or future safe operation of a plant, requiring a licensee to reduce power results in less power being available to meet the energy demands of the public. This would impose an unnecessary burden on the public. In addition, there is no evidence to indicate that the lost revenue as a result of not being able to operate a plant at full power would serve as a more effective deterrent to poor licensee performance than the current enforcement policy with civil penalties.

Thank you again for taking the time and interest to provide your comments. The transcript of our forthcoming workshop and our Commission Paper will be publicly available.

Sincerely,

*/RA/*

Herbert N. Berkow, Director  
Project Directorate II  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

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