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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
ALABAMA POWER COMPANY
Farley Nuclear Plant

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Docket Nos. 50-348 and 50-364
License Nos. NPF-2 and NPF-8
EA 87-142

ORDER IMPOSING CIVIL PENALTY

I

Alabama Power Company (licensee) is the holder of Operating License Nos. NPF-2 and NPF-8 issued by the Nuclear Regulatory Commission (NRC/Commission) on June 25, 1977 and March 31, 1981, respectively. The licenses authorize the licensee to operate Joseph M. Farley Nuclear Plant Units 1 and 2 in accordance with the conditions specified therein.

II

Inspections of the licensee's activities were conducted on May 11-22, June 1-5, and June 11 - July 10, 1987. The results of these inspections indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the licensee by letter dated November 3, 1987. The Notice states the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalties proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by two letters, both dated December 17, 1987.

III

After consideration of the licensee's responses and the statements of facts, explanation and arguments for mitigation contained therein, the Deputy Executive

Director for Regional Operations has determined, as set forth in the Appendix to this Order, that three examples of violation I.A, one example of violation I.B.5, and one example of violation II.A should be withdrawn; that the remaining examples of violations I.A, I.B.5, and II.A and the remaining violations in their entirety occurred as stated; that the violations were properly categorized in the aggregate as two Severity Level III problems; and that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Fifty Thousand Dollars (\$50,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington,

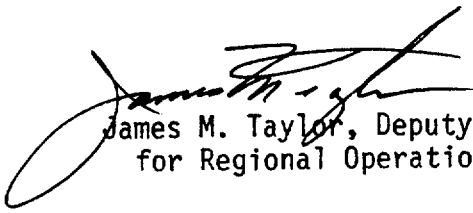
D.C. 20555, with a copy to the Regional Administrator, Region II, and a copy to the NRC Resident Inspector, Farley Nuclear Plant.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II and modified in Section III above, and
- (b) whether, on the basis of such violations, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION


James M. Taylor, Deputy Executive Director
for Regional Operations

Dated at Rockville, Maryland
this 18th day of May 1988

APPENDIX

EVALUATIONS AND CONCLUSIONS OF RESPONSE TO NOTICE OF VIOLATION

On November 3, 1987, a Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was issued for violations identified during NRC inspections. This Notice contained two Severity Level III problems each assessed a Twenty-Five Thousand Dollar (\$25,000) civil penalty. Alabama Power Company (APC) responded to the Notice by two letters, both dated December 17, 1987. In its first response, the licensee protested the issuance of Violation II.A.4, denied violations I.A, I.B.5 (in part), II.A.2, and II.A.5; admitted the remaining violations; and presented mitigating circumstances for violations I.B.1, II.A.1, II.A.3, and II.B. The licensee also requested recategorization of individual findings (as separate violations rather than aggregate violations), reduction of the severity level, and withdrawal of the proposed civil penalties. In its second response, the licensee presented arguments regarding inaccuracies in Inspection Report Nos. 50-348/87-11 and 50-364/87-11. The NRC's evaluations and conclusions regarding the licensee's initial response are as follows:

Restatement of Violation I.A

I. Inadequate Control and Installation of Purchased Equipment

- A. 10 CFR Part 50, Appendix B, Criterion VII, Control of Purchased Material, Equipment, and Services, requires that measures be established to assure that purchased material, equipment, and services conform to the procurement documents. These measures shall include provisions, as appropriate, for source evaluation and selection, objective evidence of quality furnished by the contractor or subcontractor, inspection at the contractor or subcontractor source and examination of products upon delivery. Documentary evidence that material and equipment conform to the procurement requirements is required to be available at the nuclear power plant prior to installation or use of such material and equipment.

Contrary to the above, at the time of the inspections, the licensee had nine circuit breakers with unconfirmed seismic qualification and voltage ratings installed in safety-related motor control centers at Farley Nuclear Plant (FNP) Units 1 and 2. The circuit breakers were sold by Satin American Corporation as seismically qualified safety-related circuit breakers acceptable for installation into 600-V motor control centers. The vendor provided inadequate justification for seismic and 600-V qualification. No testing or analysis that would qualify the use of these breakers as installed had been done either by the licensee or the vendor. Moreover, although the vendor represented that the circuit breakers were fully qualified for 600-V applications, the licensee should have been alerted to a possible problem since the breakers were still affixed with an Underwriters Laboratories, Inc. rating of 480-V.

Summary of Licensee's Responses to Violation I.A

Prior to allowing Satin American to supply the needed breakers, APC reviewed the Satin American Quality Assurance Program and found it acceptable. APC efforts to upgrade the 480-V breakers to 600-V standards and to resolve potential seismic qualification problems involved Siemens-ITE, Ecotech,

Telemecanique and Bechtel. The efforts by APC and the companies listed above included both testing and analysis. Therefore, APC concluded that the NRC's assertion that "No testing or analysis that would qualify the use of these breakers as installed had been done either by the licensee or vendor" is not correct.

APC additionally objected to the NRC's statement that "...the licensee should have been alerted to a possible problem since the breakers were still affixed with an Underwriters Laboratories, Inc. rating of 480-V." APC stated that it is not aware of any regulatory requirement to maintain a UL listing for these breakers. Finally, the licensee contended that the number of breakers that were installed in safety-related applications was six rather than the nine cited by the NRC in the Notice of Violation.

NRC Evaluation of Licensee Response to Violation I.A

At the exit meeting conducted at the end of the subject inspection, the NRC inspectors were told there were nine circuit breakers installed in safety-related motor control centers. If six is the correct number, the NRC staff agrees that reference to three of the nine original breakers should be withdrawn. However, the remaining six examples occurred as stated and the significance of the subject violation would not be changed.

The NRC staff was aware of and considered the circumstances surrounding the procurement of the subject breakers as described in paragraph A of the APC response to the subject violation. The staff has reviewed and considered the activities performed after the inspection as described in paragraph B of the subject response. The testing performed by Satin American and by APC was recognized and evaluated by the NRC. It was determined that this testing did not serve as a basis for ensuring the breakers would meet the applicable design requirements for the installed applications. Specifically, Bechtel specification SS-1102-61 for 600 volt, 480 volt, and 208 volt Motor Control Centers, used in the procurement of the original MCCs and breakers installed at the FNP, states in paragraph 6.1.3 that the 600-V circuit breakers should be capable of interrupting 18,000 amps rms symmetrical at 600 volts. The original supplied breakers were rated by UL as being capable of meeting this specification. To achieve this UL rating, a manufacturer is required to subject a production sample of breakers through vigorous testing performed on a quarterly basis. This testing includes subjecting the breakers to the rated interrupting current at the rated voltage (in this case 18,000 amps at 600 volts). This testing, performed on sample breakers, then serves as the basis for the UL rating associated with the other breakers manufactured during the same time period.

The circuit breakers received by FNP were UL rated for 480-V, not 600-V. Therefore, these were part of manufacturing lots subjected to testing at 480-V. No breakers manufactured during the same time period as those received by FNP were ever tested at 600-V, as would be necessary to establish an interrupting rating at 600 volts. Subsequent tests performed by Satin American and APC did not establish nor ensure that the subject breakers could interrupt 18,000 amps at 600 volts, as required by the Bechtel specification.

The staff agrees that the breakers installed at FNP are not required to have a UL rating, but in this case the UL rating served as the only assurance that the

subject breakers could meet the design specifications. Additionally, information received from Seimens and from Telemecanique has reinforced the staff's position that the subject breakers are in fact not identical to the originally qualified 600 volt breakers. In the time period reviewed by the NRC inspectors (July 1984 - June 1986) manufacturing and material changes were made to the type of breakers in question but, these changes were not evaluated for their possible effect on the 600 volt interrupting rating.

Appendix B to 10 CFR Part 50 provides the overall criteria for quality assurance programs for nuclear power plants in an effort to, among other things, provide a higher level of assurance that safety-related equipment and components are suitable for their application and will perform their intended safety function that is normally obtained with a typically commercially available off-the-shelf item. In this case, however, the 600 volt circuit breakers did not even benefit from the assurance of quality associated with a typical commercial grade quality assurance program (in this case UL) since they were not manufactured in a lot which was subject to "UL Proof Testing" at 600 volts. Consequently, APC started with a product that did not satisfy typical commercial grade testing requirements and then upgraded it to "nuclear grade" without performing equivalency tests or providing a technical basis for not doing them.

As detailed in the preceding paragraphs, based upon the information available at the time of the inspection, and with the additional knowledge obtained after completion of the inspection, the NRC staff has not seen nor does the staff know of existing documentation that would support qualification of the subject breakers for 600 volt applications. The NRC staff is concerned that APC, after thoroughly reviewing this issue and removing the subject breakers from safety-related applications, still has not addressed the technical adequacy of the available documentation as necessary to establish 600-V interrupting capabilities of the breakers. The staff considers Violation I.A valid as written for the six circuit breakers installed into the safety-related Motor Control Centers.

Restatement of Violation I.B.1

I. Inadequate Control and Installation of Purchased Equipment

- B. 10 CFR Part 50, Appendix B, Criterion III, Design Control, requires that measures be established to assure that applicable regulatory requirements and the design basis for those structures, systems, and components to which this appendix applies are correctly translated into specifications, drawings, procedures, and instructions. It also requires that measures be established for the selection and review for suitability of materials, parts, equipment, and processes that are essential to the safety-related functions of structures, systems, and components.

Contrary to the above, the licensee installed a number of commercial grade parts at Farley Nuclear Plant Units 1 and 2 without adequately evaluating their suitability for use in safety-related applications. These parts were in use at the time of the inspections indicated above. Specifically:

1. Commercial grade circuit breakers were installed into safety-related motor control centers 1U and 2U.

Summary of Licensee's Response to Violation I.B.1

APC admitted that the decision to procure the items commercial grade did not include documented evaluation or dedication of parts procured as commercial grade for use in safety-related applications and that no documented evaluation/dedication was done prior to installation. However, the licensee asserted that pre-installation trip tests were performed at the time of installation.

The licensee's reason for the violation was that inadequate procedural guidance resulted in the failure to document fully evaluation of the suitability of commercial grade parts for installation in safety-related applications. The breakers were removed from service.

NRC Evaluation of Licensee's Response to Violation I.B.1

Although a pre-installation trip test may have been performed at the time of installation, no analysis or documentation existed that would show the similarity of the procured breakers to the original breakers installed in the motor control centers. Therefore, an adequate evaluation of suitability for use in safety-related applications was not performed.

Restatement of Violation I.B.5I. Inadequate Control and Installation of Purchased Equipment

- B. 10 CFR Part 50, Appendix B, Criterion III, Design Control, requires that measures be established to assure that applicable regulatory requirements and the design basis for those structures, systems, and components to which this appendix applies are correctly translated into specifications, drawings, procedures, and instructions. It also requires that measures be established for the selection and review for suitability of materials, parts, equipment, and processes that are essential to the safety-related functions of structures, systems, and components.

Contrary to the above, the licensee installed a number of commercial grade parts at FNP Units 1 and 2 without adequately evaluating their suitability for use in safety-related applications. These parts were in use at the time of the inspections indicated above. Specifically:

5. A commercial grade Agastat timing relay (ATR) was installed as a replacement in safety-related panel #Q2R16B007-B, 600-V load distribution panel. Additionally, commercial grade ATRs were found in other safety-related electrical enclosures including two ATRs in diesel generator load sequencer panel #Q2R43E501B-B, and two ATRs in diesel generator relay terminal box #Q1R43G506-B.

Summary of Licensee's Response to Violation I.B.5

APC admitted that at the time of installation of the ATRs, it did not have documented evaluation or dedication of the ATR for safety-related use in the load distribution panel #Q2R16B007-B. However, the portion of the alleged violation associated with commercial grade ATRs in diesel generator load

sequencer panel #Q2R43E501B-B and two ATRs in diesel generators relay terminal box #Q1R43G506-B was denied because the ATRs were part of the original equipment supplied with the panel and were therefore qualified by the vendor.

NRC Evaluation of Licensee's Response to Violation I.B.5

As originally stated, commercial grade ATRs were found in other safety-related electrical enclosures, including two relays in diesel generator load sequencer panel Q2R43G501-B and two relays in diesel generator relay terminal box Q1R43E506-B. While the NRC staff agrees with the licensee's conclusion that the relays found in relay terminal box Q1R43G506-B were part of the original equipment, the staff disagrees with the licensee's conclusion for load sequencer Q2R43E501B-B and APC's verification methodology, that appears to be based solely on a document review of maintenance work requests (MWR) and material issue forms (MIF). The NRC staff bases its disagreement on the following two points:

1. Deviations were noted in the APC document control, as discussed in Section 6.A, B, C, and D of the NRC inspection report. One example concerned a commercial grade circuit breaker that was withdrawn under a MIF but was installed in a safety-related system without a MWR (Reference 6.D.(2)).
2. A comparison of relay serial numbers revealed that two additional relays found in sequencer panel Q2R43E501B-B were manufactured in the same week of 1979, which is after Unit 1 started power operations.

Serial #79091355: 1,355th relay manufactured in the 9th week of 1979
(FNP device 2-2J)

Serial #79091379: 1,379th relay manufactured in the 9th week of 1979
(FNP device 2-1J)

Additionally, one of the relays in the Unit 2 sequencer panel was also manufactured in the same week as those above.

Serial #79091380: 1,380th relay manufacture in the 9th week of 1979.

While the staff agrees that the relay terminal box Q1R43G506-B example of this violation should be withdrawn, it was concluded that your review of the remaining issues was inadequate. It would appear that relays 79091355 and 79091380 were replaced subsequent to plant startup, without using the MWR or MIF processes, since the licensee's review based on using these documents did not identify these relays as being replaced after start-up. Therefore, the remaining examples of this violation occurred as stated. NRC records will be adjusted accordingly.

Restatement of Violation II.A.1

II. Inadequate Corrective Actions and Inspections

- A. 10 CFR Part 50, Appendix B, Criterion XVI, Corrective Action, requires that measures be established to assure that conditions adverse to quality, such as failures, defective material and equipment, and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, measures are required

to assure that the cause of the condition is determined and corrective action is taken to preclude repetition. The identification of the significant conditions adverse to quality, the cause of the condition, and the corrective action taken are also required to be documented and reported to appropriate levels of management.

Contrary to the above, the inspector identified five instances where at the time of the inspections, the licensee had failed to take adequate corrective action:

1. A 10 CFR Part 21 notification by the Henry Pratt Company in May 1985 detailed problems with Pratt valves using Limitorque operators. This problem was not correctly or completely dispositioned in that seven valves were determined to be defective after the NRC inspection.

Summary of Licensee's Response to Violation II.A.1

APC admitted that the problem was not completely resolved but asserted that all seven affected valves were determined to be operable in the "as found" condition.

NRC Evaluation of Licensee Response to Violation II.A.1

Although all seven valves were determined to be operable, their condition was shown to be degrading as evidenced by slippage of 3/4 of an inch of the spline adaptor of one of the valves. The degraded state of the valves, along with licensee's admission that the problem was not completely resolved, clearly indicated a lack of effective corrective action and therefore the violation is correct as written.

Restatement of Violation II.A.2

(See II.A.1 above for full restatement of violation)

- II.A.2. A 10 CFR Part 21 notification by the Anchor/Darling Valve Company in June 1985 detailed failures with tilting disk check valve hinge pin bushings. This problem was not completely dispositioned in that only check valves in the Auxiliary Feedwater System were inspected. Other safety-related systems were not inspected.

Summary of Licensee's Response to Violation II.A.2

APC denied this violation and stated that the AFW valves were the only safety-related valves installed in Farley Nuclear Plant requiring inspection as a result of the 10 CFR Part 21 notification.

NRC Evaluation of Licensee Response to Violation II.A.2

The written and verbal information provided by the licensee at the time of the inspection [i.e., (1) Nuclear Generation Maintenance Memorandum dated May 13, 1987, from L. S. Ward to R. M. Coleman regarding Problem Report No. 7-122 Anchor Darling Tilting Disc Check Valves and (2) System Performance Group Problem Report No. 7-122 dated October 3, 1985, regarding Anchor Darling

Tilting Disc Check Valves with Tack Welded Bushings] indicated that other valves in safety-related systems may have been affected and that the inspections/work was never performed. The NRC staff does not disagree that the subject valves were only in the auxiliary feedwater system but, the licensee did not know this at the time of the inspection. The evaluation/disposition of other systems was not completed until after the problem was identified by the inspectors (post inspection) nearly two years after receipt of the Part 21 notification and approximately four years after the event (hinge pin failure) occurred at Farley Nuclear Plant. Also, the information provided by System Performance Group Problem Report, dated October 3, 1985 states, in part that, "...additional Anchor Darling T.D.C.s with tack welded bushings are installed in the plant." The valves potentially affected were prefixed with a Q, a designator used previously for safety-related equipment. These valves were in addition to the valves in the Auxiliary Feedwater System and partly formed the basis for the statement in the inspection report. APC did not demonstrate at the time of the inspection that no other valves were located in safety-related systems. It was merely fortuitous that, in fact, the valves in the Auxiliary Feedwater System turned out to be the only valves of concern in safety-related systems. APC did not appropriately pursue this issue at the time of the event, or at the time of the Part 21 notification. Therefore, this violation occurred as stated.

Restatement of Violation II.A.3

(See II.A.1 above for full restatement of violation)

- II.A.3. A Colt Industries Service Information Letter (SIL), A-2, dated February 1985, entitled "Blower Installation," was evaluated by the licensee, but not all the corrective actions determined to be appropriate by the APC engineering review were implemented in that SIL A-2, which gives service instructions, was never placed in the Colt Industries Emergency Diesel controlled vendor manual.

Summary of Licensee Response to Violation II.A.3

APC admitted that the instance occurred as described but considered that the actions taken in response to this SIL were adequate to assure operability. The licensee asserted that a Colt Service Information Letter, SIL A-2, was issued on February 18, 1985, concerning precautions regarding blower installation procedures for Model 38TD8-1/8 diesels. This SIL was received and evaluated in accordance with FNP procedures for evaluation of vendor technical information. A Problem Report was issued on March 29, 1985, recommending that the SIL be entered in the diesel generator instruction manual. Verification that the SIL had been entered in the manual was received on August 29, 1985; however, no update to the manual was actually made due to personnel error.

NRC Evaluation of Licensee Response to Violation II.A.3

The fact that the SIL was not entered into the manual is an example where vendor supplied information was evaluated; however, adequate and complete corrective action was not taken. In this case the action to be taken was to insert the SIL into the appropriate manual. The fact that this action was not performed was the basis of the violation. The NRC staff recognizes that

corrective action was taken in that the diesel generators were appropriately inspected. However, without the inclusion of the SIL into the proper manual, there is no assurance that future inspections would have been properly conducted.

Restatement of Violation II.A.4

(See II.A.1 above for full restatement of violation)

II.A.4. Maintenance Work Request Nos. 44439 and 67875, which would have implemented corrective actions to the four control room fire damper electrical circuits to ensure that the circuits would function as desired, were not completed.

Summary of Licensee's Response to Violation II.A.4

Although APC admitted that the above violation occurred as described, it protests the issuance of this violation. APC contends that this violation was identified previously as a Severity Level IV violation in the July 30, 1987, NRC inspection Reports Nos. 50-348/87-14 and 50-364/87-14. On August 25, 1987, APC, in a reply to a Notice of Violation, admitted to the violation, offered the reason for the violation, explained the corrective action taken and the results achieved, explained the corrective action taken to avoid a further violation, and reported the full compliance date. Therefore, it is inappropriate, and inconsistent with NRC Enforcement Policy, for the November 3, 1987, Notice of Violation to include this violation in a Severity Level III violation because the NRC already had cited it as a Severity Level IV violation in the July 30, 1987, Notice of Violation. The licensee contends that the imposition of two penalties on the basis of the same set of facts would result in an "undue overlapping of the penalties imposed." In the matter of Atlantic Research Corporation, 7 N.R.C. 701, 708 (1978) (footnote omitted), rev'd on other grounds, 9 N.R.C. 611 (1979).

NRC Evaluation of Licensee's Response to Violation II.A.4

The staff does not accept the proposition that the imposition of two penalties, where different regulatory requirements are based on the same facts, is prohibited. This need not be resolved here because different requirements and facts are at issue.

Violation II.A.4 is not the same as the violation issued on July 30, 1987. The July 30, 1987, violation cited the failure to inspect and/or test the four fire dampers following the completion of work authorized by CWR 1-32.86 and MWR 26982 in 1981. Had these tests been performed, it would have been discovered that wiring had not terminated on the Smoke Release Device (SRDs) for all four dampers.

Violation II.A.4 addresses the fact that in 1982 when APC discovered the failure to terminate the SRDs, two MWRs were written to correct the problem (44439 and 67875), but these work orders were not acted on until June 1987, after the issue was highlighted by the NRC.

The failure to take adequate corrective actions for an identified condition is the issue in violation II.A.4, while in the earlier violation the issue was the failure to perform an adequate test/inspection. Even though in this

case the same plant hardware is involved, two regulatory requirements were not met and therefore two violations are appropriate.

Restatement of Violation II.A.5

(See II.A.1 above for full restatement of violation)

II.A.5 Contrary to the above, the inspectors identified cracks in a number of cells of the safety-related station batteries. Despite the fact that NRC Information Notice (IN) 84-83 identified that such conditions can be caused by the use of hydrocarbon-based solvents for cleaning purposes, the licensee had not updated one of three pertinent electrical maintenance procedures to address the problem.

Summary of Licensee's Response to Violation II.A.5

APC denied this violation and presented the following arguments:

NRC IN 84-83, "Various Battery Problems," which was issued by the NRC Staff on November 19, 1984, discussed overloading D.C. buses and solvent induced battery case cracking. The subject notice detailed three cases in which battery case cracking had occurred. The notice attributed the cracking in two cases to the use of a solvent, trichloroethylene, which was used to clean battery posts while the third case of cracking was attributed to the application of a hydrocarbon based grease to the vinyl straps on the battery racks to aid in installation of the cells. IN 84-83 states, "Licensees may wish to review their maintenance and surveillance procedures for station batteries to ensure that the use of solvents in the vicinity of batteries is carefully monitored and in accordance with procedures approved by the battery manufacturer's service department." The notice did not make any recommendation for cleaners to be used. The electrical maintenance procedures at Farley Nuclear Plant for battery cleaning have always required, in the material section, that bicarbonate soda be used. The use of bicarbonate soda for cleaning of batteries is also included in the training of maintenance personnel.

APC maintained that it did provide adequate procedural guidance for cleaning batteries since only bicarbonate soda was listed in the maintenance procedures. The response to IN 84-83 was adequate since procedures specified the proper cleaning material and only electrical maintenance personnel are authorized to clean batteries. A precautionary note instructing personnel not to use solvents was added to the Units 1 and 2 procedure for cleaning the auxiliary building batteries. Although a precautionary note was not included in the procedure for cleaning the service water batteries, there is no evidence that solvents have ever been used on them. Therefore, there was no inadequacy of corrective action in this case.

Procedural guidance is provided for the purpose of directing the activities to be performed. It is not the intent of procedural guidance to provide precautions against all possible inappropriate actions. The addition of a precaution against use of hydrocarbon based solvents is a procedural enhancement which is not mandatory for adequate corrective action. Therefore, there is no basis for a violation of Appendix B, Criterion XVI.

NRC Evaluation of Licensee Response to Violation II.A.5

This issue was included as an example of violation II.A since it was another instance of a corrective action being initiated but not completed (only two of three procedures were changed). However, the staff agrees that in this instance the corrective action was an enhancement to the procedure rather than a correction and therefore the failure to change the procedure would be more appropriately categorized as an observation of a poor practice in the area of corrective actions rather than an example of a violation. Consequently, the staff agrees that example five of violation II.A should be withdrawn.

Restatement of Violation II.BII. Inadequate Corrective Actions and Inspections

- B. 10 CFR Part 50, Appendix B, Criterion X, Inspection, as implemented by Section 17 of the Final Safety Analysis Report and Joseph M. Farley Operations Quality Assurance Policy Manual, requires that inspection of activities affecting quality be established and executed to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity.

Contrary to the above, on June 2, 1987, both Train B, 125-V Service Water (SW) battery racks, were found to be improperly installed and mounted creating in an unanalyzed condition concerning seismic qualification. Specifically, the concrete anchor bolt nuts on all Train B battery rack anchors were backed off and used as leveling nuts for the rack, thus providing no preload on the concrete anchors. The battery racks were improperly installed in the SW Train B battery room approximately one year prior to this inspection and remained in this unanalyzed condition until it was identified by the NRC inspector on June 2, 1987.

Summary of Licensee's Response to Violation II.B

APC admitted that anchor bolt installation was not properly performed in accordance with procedures, but also asserted that subsequent testing demonstrated that the installed configuration resulted in no significant safety issues.

Subsequent to the NRC inspection APC selected four cells, including one of the worst cells, and contracted with the battery manufacturer to perform seismic testing using Farley specific response spectra curves. Wyle Report 48857-1 dated July 17, 1987 states that, based on the seismic test of the four cells, the specimens possessed sufficient integrity to withstand, without compromise of structure, the prescribed simulated seismic environment. The testing and inspections described herein demonstrate that no safety issues resulted.

NRC Evaluation of Licensee's Response to Violation II.B

The fact that the battery rack anchors were improperly installed and were in an unanalyzed condition was the basis of this violation. The fact that subsequent testing demonstrated that the installed configuration resulted in no significant safety issues does not change the basis for this violation.

Summary of Licensee's Objection to Aggregation of Violations I.A. and I.B

The licensee contended that violations I.A. and I.B are two separate and distinct findings and should not have been considered in the aggregate as a Severity Level III problem. The first finding concerned activities alleged to be in violation of 10 CFR Part 50, Appendix B, Criterion VII, "Control of all Purchased Material and Equipment." The second finding concerned activities alleged to be in violation of Criterion III of Appendix B, "Design Control." APC asserted that the above findings involve separate and distinct conditions not appropriate for aggregation under the applicable Commission enforcement guidance found in NRC Inspection and Enforcement Manual, Chapter 0400, Section 05.06 (4/24/85).

Additionally, with respect to the first finding, APC denied that a violation of Criterion VII occurred. With respect to the second, APC denied, in part, that a violation of Criterion III occurred.

In arguing that the violations should not have been aggregated, APC claims that the NRC recognized the underlying dissimilarity of these findings when it cited separate and distinct regulatory provisions as having been violated in each case. Thus, separate civil penalties may be appropriate if the severity of each violation so warrants [Enforcement Manual §05.06 *supra*], but aggregation of violations I.A and I.B was not appropriate. Accordingly, APC submitted that these findings should be assessed independently if, in fact, the violations occurred.

NRC Evaluation of Licensee Objection to Aggregation of Violations I.A and I.B

APC has improperly applied NRC enforcement guidance in this case. The guidance provides for aggregation when several violations stem from the same cause or problem area.

Violations I.A and I.B were aggregated due to the fact that both were the result of deficiencies identified in the procurement program in place at the APC. Both violations concerned items originally manufactured as commercial products and either improperly or inadequately evaluated for use in safety-related applications. The staff does not view characterizing the licensee's procurement program as the problem area as being inconsistent with enforcement guidance even though such a characterization may be broader than the licensee thinks is appropriate. Therefore, the aggregation of violations I.A and I.B was appropriate and the Severity Level III violation remains as stated.

Summary of Licensee's Request for Reduction of Severity Level for Violations I.A and I.B

When properly viewed as separate and distinct matters, the licensee contended that violations I.A and I.B should be classified as no greater than Severity Level IV violations. In this regard, APC relies on the NRC Enforcement Policy which states that (1) Severity Level III violations are cause for a significant concern; (2) Severity Level IV violations are less serious but are more than minor concern; i.e., if left uncorrected they could lead to a more serious concern; and (3) Severity Level V violations are of minor safety or environmental concern.

Based on the Enforcement Policy, APC asserted that the intent of the severity classification scheme is to premise enforcement action on the safety significance of the particular finding, even where a violation of a requirement may have occurred. The licensee concludes that evaluations of actions taken by APC, which are described in Attachment 1 of the licensee's response, demonstrate that no condition was identified with actual safety significance. Therefore, no adverse findings were made regarding the actual condition of the components involved and so the severity level of the violations should be reduced.

NRC Evaluation of Licensee Request for Reduction of Severity Level for Violations I.A and I.B

As described in the staff's evaluation of the licensee's response to Violation I.A, the staff still believes the subject circuit breakers were unqualified for use in 600 volt applications. This finding does involve safety significance due to the fact that the circuit breakers could actually be incapable of performing as intended during fault conditions.

Violation I.B is safety significant because the examples cited illustrated a programmatic breakdown in the APC procurement program. It is acknowledged that, for many of the examples of improperly procured parts cited in the violation, subsequent testing verified acceptability for safety-related applications. However, the very fact that further tests were necessary to verify acceptability is indicative of the programmatic shortcomings which were determined by the staff to be a significant concern. Therefore, the request for reduction of severity level for violations I.A and I.B is denied.

Summary of Licensee's Request for Mitigation of the Civil Penalty Proposed for Violations I.A. and I.B

In the NRC's November 3, 1987, letter transmitting the Notice of Violation, the Staff states that the base civil penalty of \$50,000 for this proposed Severity Level III violation was mitigated 50 percent because of "prior good performance." However, it was not fully mitigated "because of the extent of the weakness in management controls in the general area of procurement demonstrated by the number of examples cited." APC maintained that, based on its discussion above, the examples cited by the Staff in support of Violation I have been substantially reduced in both number and severity. Accordingly, APC maintains that the Staff's reason for not fully mitigating the civil penalty is no longer applicable and any remaining civil penalty should be fully mitigated. Additionally, to support further a full mitigation of the civil penalty, APC maintained that its prompt and extensive corrective action taken in response to the proposed violation warrants full and complete mitigation.

NRC Evaluation of Licensee's Request for Mitigation of the Civil Penalty Proposed for Violations I.A and I.B

The violations and corresponding examples cited by the staff have not been substantially reduced in number or severity by the discussion presented by APC. Furthermore, the corrective action taken as a result of the subject violations has not been judged to be unusually prompt or extensive in nature. Therefore, the request for full mitigation of violations I.A and I.B is denied.

Summary of Licensee's Objection to Aggregation of Violations II.A and II.B

The licensee contended that violations II.A and II.B are two separate and distinct findings and should not have been considered in the aggregate as a Severity Level III problem. The first finding concerned activities alleged to be in violation of 10 CFR Part 50, Appendix B, Criterion XVI, "Corrective Action." The second finding concerned activities alleged to be in violation of Criterion X of Appendix B, "Inspection." APC asserted that the above findings involve separate and distinct conditions not appropriate for aggregation under applicable Commission enforcement guidance. The licensee also referenced the NRC Inspection and Enforcement Manual, Chapter 0400, Section 05.06 (4/24/85). Additionally, with respect to the first finding, APC protested violation II.A.4 and denied violations II.A.2 and II.A.5. However, irrespective of the Staff's disposition of APC's denials of violations, APC claims that the findings of violation II.B should not have been aggregated as a single violation. APC's basis for this claim is that in their view the NRC recognized the underlying dissimilarity of these findings when it cited separate and distinct regulatory provisions as having been violated in each case. Thus, separate civil penalties may be appropriate if the Severity of each violation so warrants. [Enforcement Manual §05.06 supra], but aggregation of violations II.A and II.B was not appropriate. Accordingly, APC submitted that these findings should be assessed independently if, in fact, the violations occurred.

NRC Evaluation of Licensee's Objection to Aggregation of Violations II.A and II.B

Violations II.A and II.B were aggregated due to the fact that both violations involved instances where conditions adverse to quality were either not identified or were identified but never corrected. The staff views these violations as being indicative of a less than aggressive attitude toward problem identification and correction which is a significant concern. Therefore, the aggregation of violations II.A and II.B remains.

Summary of Licensee's Request for Reduction of Severity Level for Violations II.A and II.B

When properly viewed as separate and distinct matters, the licensee contended that violations II.A and II.B should be classified as no greater than Severity Level IV violations. In so claiming, the licensee referenced the NRC Enforcement Policy which states: (1) Severity Level III violations are cause for a significant concerns; (2) Severity Level IV violations are less serious but are more than minor concern; i.e., if left uncorrected they could lead to a more serious concern; and (3) Severity Level V violations are of minor safety or environmental concern.

The licensee further noted that the Enforcement Policy, (Supplement I), states that a Severity Level III violation can involve, for example "[a] system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions ..." (Supplement I, §C.2). The Enforcement Policy also provides as one example of a Severity IV violation, "[f]ailure to meet regulatory requirements [following plant procedures] that have more than minor safety ... significance." [Supplement I, D.3]. Further, the Supplement I example of a Severity Level V violation states, "Violations that have minor safety or environmental significance."

As discussed earlier, the licensee contended that the NRC incorrectly aggregated the separate and distinct conditions addressed in violations II.A and II.B, contrary to the NRC Inspection and Enforcement Manual. Further, violations II.A.2, II.A.4, and II.A.5 were shown either not to constitute violations or otherwise to have been incorrectly included in the Notice. Thus, violations II.A.1 and II.A.3 should stand alone as distinct findings.

Standing alone, the licensee stated that those three violations (II.A.2, II.A.4, and II.A.5) should only be categorized as a Severity Level V or a Severity Level IV violation because none of the three items involved a safety issue of the significance contemplated for Severity Level III violations, e.g., important safety systems "not being able to perform its intended function." As discussed in Attachment 1 of the licensee's response, additional evaluations or inspections performed with respect to violation II.A.1 demonstrated the findings involved had little safety significance. Regarding violation II.A.3, the underlying issue involved only the absence of a single item from a manual which was of no safety significance as measures were in place which would have prevented the condition from occurring in the first instance.

In reference to violation II.B, APC determined that as-found configurations of the battery racks did not involve a safety significant issue, notwithstanding the discovered position of the nuts. Thus, the observed condition had only minor, if any, safety or environmental significance. Therefore, in accordance with the Enforcement Policy, at most a Severity Level IV violation should apply to this condition.

NRC Evaluation of Licensee Request for Reduction of Severity Level for Violations II.A and II.B

Violations II.A.1, II.A.4, and II.B concerned actual hardware deficiencies that at a minimum degraded safety-related equipment. These examples, along with those of less individual significance, indicate a programmatic problem in the areas of identification and corrective action of conditions adverse to quality. The staff still considers them to be of significant concern; and therefore, the request for a reduction in severity level for Violations II.A and II.B is denied.

Summary of Licensee's Request for Mitigation of the Civil Penalty Proposed for Violations II.A. and II.B

In the NRC's November 3, 1987, letter transmitting the Notice of Violation, the Staff states that the base civil penalty of \$50,000 for this proposed Severity Level III violation was mitigated 50 percent because of "prior good performance." However, it was not fully mitigated "because of the extent of the weakness in management controls in the general area of procurement demonstrated by the number of examples cited." APC maintained that based on its discussion above, the examples cited by the Staff in support of Violation II have been substantially reduced in both number and severity. Accordingly, APC maintains that the Staff's reason for not fully mitigating the civil penalty is no longer applicable and any remaining civil penalty should be fully mitigated. Additionally, to support further a full mitigation of the civil penalty, APC maintained that its prompt and extensive corrective action taken in response to the proposed violation warrants full and complete mitigation.

NRC Evaluation of Licensee's Request for Mitigation of the Civil Penalty
Proposed for Violations II.A and II.B

As previously stated, the examples cited by the staff have not been substantially reduced in either size or number. Furthermore, the corrective action taken as a result of the subject violations has not been judged to be unusually prompt or extensive in nature. Therefore, the request for full mitigation of violations II.A and II.B is denied.

Conclusion

After careful consideration of APC's response to the Notice of Violation and Proposed Imposition of Civil Penalties, the NRC staff has concluded that three of nine examples of violation I.A, the relay terminal box Q1R43G506-B example of violation I.B.5, and example 5 of Violation II.A should be withdrawn; that the remaining examples of violations I.A, I.B.5, and II.A and the remaining violations in their entirety occurred as stated in the Notice; and that an adequate basis was not provided to warrant either recategorization of the violations, reduction of the severity level, or withdrawal of the proposed civil penalties. Although three of nine examples of violation I.A, one example of violation I.B.5, and one example of Violation II.A have been withdrawn, these examples were not considered to be major contributors to the enforcement action taken. Consequently, the proposed civil penalties in the total amount of \$50,000 should be imposed.