

October 4, 2002

EA 02-141

Dr. Robert C. Mecredy
Vice President, Nuclear Operations
Rochester Gas and Electric Corporation
89 East Avenue
Rochester, New York 14649

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION AT THE R. E. GINNA NUCLEAR POWER PLANT
(NRC Inspection Report 50-244/02-04)

Dear Dr. Mecredy:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding identified during an inspection completed on June 29, 2002. The results of the inspection were discussed with you and other members of your staff at an exit meeting on July 2, 2002. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White, a finding with low to moderate importance to safety, which may require additional NRC inspections.

This preliminary White finding involved the alert and notification system (ANS), which consists of sirens used to alert members of the public of an emergency at Ginna. Specifically, problems with the ANS siren feedback system prevented Rochester Gas and Electric Corporation (RG&E), Monroe County and Wayne County from being able to identify which, if any, sirens failed to activate. Identifying such failures is necessary so that backup route alerting can be conducted within approximately 45 minutes for the populace covered by the failed sirens. If siren failures should occur, the ability to provide early notification would be compromised, and therefore, was considered a preliminary White finding because the deficiency was associated with 10 CFR 50.47(b)(5), a risk significant emergency planning standard.

In a letter dated July 25, 2002, the NRC transmitted the inspection report and provided you an opportunity to either request a regulatory conference to discuss this finding, or explain your position in a written response. In a telephone conversation with Ms. Michele Evans of NRC, Region I, on August 8, 2002, you indicated that RG&E declined the opportunity to discuss this issue in a Regulatory Conference, but that you would submit a written response to provide: (1) additional perspective on the characterization of the risk significance of this finding, and (2) additional insight regarding the Federal Emergency Management Agency (FEMA) position regarding the need for backup route alerting within 45 minutes.

In your response dated August 21, 2002, you requested that the basis for the apparent violation and the preliminary White finding be further reviewed. You contended that the FEMA position regarding Special Alerting methods for alternative primary means of alerting the public is not applicable at Ginna. You stated that this is documented in the RG&E ANS design submittal that was used as the basis for the FEMA evaluation of the system. You stated that backup route

alerting was a supplemental, not primary means of public notification, and there is no regulatory requirement concerning the capability to immediately identify that sirens have failed, or to complete backup route alerting within 45 minutes of the siren failures.

Notwithstanding your contention, the NRC maintains that the ANS siren feedback system is necessary and vital to ensure that the ANS can meet its design objectives because your Nuclear Emergency Response Plan, Section 6.3.13, states that the ANS siren feedback system was installed to provide remote feedback capability to both Monroe and Wayne Counties, as well as RG&E, to verify proper siren activation. This feedback system is relied upon in both the Monroe County and Wayne County Emergency Response Plans to identify failed sirens so backup route alerting may be implemented in the affected areas. Therefore, the planning standard could not be met because there must be a basis to assure that route alerting would be timely. Since the siren feedback system could not be used to verify proper siren activation, and the reports took as long as several hours to retrieve, timely route alerting could not be assured.

In your August 21, 2002 response, you also indicated that although the planning standard may be risk significant, the risk significance was negligible at Ginna and there was no impact on the protection of public health and safety. You noted that RG&E performed a conservative risk assessment that showed the combined risk to be very low due to the low likelihood of an accident, the high reliability of the sirens, and overlap of the sirens.

We note that the NRC Policy Statement on *Safety Goals for the Operations of Nuclear Power Plants* states that Emergency Preparedness is a defense in depth measure. It is implemented like many other elements of reactor safety (e.g., remote siting and containment) as a matter of prudence rather than in response to a quantitative analysis of accident probabilities. The probability of a reactor accident that would require implementation of the emergency plan is not relevant in determining the significance of an Emergency Preparedness problem. Rather, the significance of the deficiency must be evaluated based on its impact on the program's ability to respond to the emergency, assuming it has occurred.

Furthermore, with respect to your contention that overlap of the sirens would compensate for isolated siren failures, the FEMA QAVR does not rely on such overlap in case of siren failures, which is the basis for the original commitment that the counties will effect route alerting if one or more sirens fail to activate. In light of longstanding problems with Ginna's ANS system (as noted in NRC Inspection Report 50-244/02-09 dated May 16, 2002), there is not reasonable assurance that siren failures would be isolated to one per local area. Further, the system would be degraded in sound level such that some portion, although small, would not be notified in case of a radiological emergency.

You also stated in your letter that two adjacent sirens (#44 and #48), which failed during the May 9, 2002 full activation tests, were not in a heavily populated zone. We acknowledge your position that the zone in question was not heavily populated. However, the validity of your contention does not affect the overall significance of this finding.

After considering the information developed during the inspection and the information provided in your August 21, 2002 response, the NRC has concluded that the inspection finding is appropriately characterized as White, an issue with low to moderate importance to safety, which may require additional NRC inspections. You have 10 business days from the date of this letter to appeal the staff's determination of the significance for the identified White finding. Such

appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2. In addition, the White finding resulted in a violation of 10 CFR 50.47(b)(5) as cited in the attached Notice of Violation. The circumstances surrounding the violation were described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, this Notice of Violation is considered escalated enforcement action because it is associated with a White finding.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket as summarized herein, in NRC Inspection Reports 50-244/02-04 dated July 25, 2002 and 50-244/02-09 dated May 16, 2002, and in your letters dated June 28, 2002, and August 21, 2002. Therefore, you are not required to respond to this letter unless the description therein 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.

Because plant performance for this issue has been determined to be in the regulatory response band, we will use the NRC Action Matrix to determine the most appropriate NRC response for this event. We will notify you, by separate correspondence, of that determination.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Docket No. 50-244
License No. DPR-18

Enclosure: Notice of Violation

Dr. Robert C. Mecredy

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cc w/encl: P. Wilkens, President, Rochester Gas and Electric Corporation
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C. Donaldson, Esquire, State of New York, Department of Law
N. Reynolds, Esquire
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* per phone call from D. Nelson, OE

** via e-mail from L Dudes, NRR to D. Nelson, OE

NOTICE OF VIOLATION

Rochester Gas and Electric Corporation
R. E. Ginna Nuclear Power Plant

Docket No. 50-244
License Nos. DPR-18
EA-02-141

During an NRC inspection conducted between May 19 through June 29, 2002, 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 50.54(q) requires in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b) and the requirements of Appendix E of this part.

10 CFR 50.47(b)(5) requires in part, that procedures have been established for notification, by the licensee, of State and local response organizations; and means to provide early notification to the populace within the plume exposure pathway Emergency Planning Zone (EPZ) have been established.

The Ginna Nuclear Emergency Response Plan, Section 6.3.13, states in part, that a Siren Verification System was installed to provide remote feedback capability to both counties and RG&E to verify proper siren activation.

Contrary to the above, between May 2001 and May 2002, proper siren activation could not be verified because of problems with the licensee's Alert and Notification System (ANS) siren feedback system. Specifically, siren feedback system reports could not differentiate between operable and inoperable sirens, and the reports took as long as several hours to retrieve. As a result, the licensee could not demonstrate that State and local officials could provide early notification to the populace within the plume exposure pathway EPZ.

This violation is associated with a WHITE significance determination process finding.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket as summarized herein, in NRC Inspection Reports 50-244/02-04 dated July 25, 2002 and 50-244/02-09 dated May 16, 2002, and in your letters dated June 28, 2002, and August 21, 2002. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein 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, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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

Dated this 4th day of October 2002