



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931

February 11, 2003

Duke Energy Corporation
ATTN: Mr. D. Jamil
Vice President
McGuire Nuclear Station
12700 Hagers Ferry Road
Huntersville, NC 28078-8985

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION FOR DUKE ENERGY
CORPORATION REGARDING MCGUIRE UNIT 1 - (NOED NO. 2003-2-003)

Dear Mr. Jamil:

By letter dated February 7, 2003, you formally documented a verbal request made on February 6, 2003, for discretionary enforcement concerning McGuire Nuclear Station Unit 1 Technical Specification (TS) 3.7.5, Auxiliary Feedwater System and TS 3.6.3, Containment Isolation Valves. Your letter addressed the information previously discussed with the NRC in a telephone conference on February 6, 2003, at 3:00 p.m., EST. The principal NRC staff members who participated in that telephone conference included: B. S. Mallett, Deputy Regional Administrator, Region II (RII); H. N. Berkow, Director, Project Directorate II (LPD2), Office of Nuclear Reactor Regulation (NRR); L. R. Plisco, Director, Division of Reactor Projects (DRP), RII; H. O. Christensen, Deputy Director, Division of Reactor Safety (DRS), (RII); D. Terao, Section Chief, Mechanical and Civil Engineering Branch (EMEB), Division of Engineering (DE), NRR; P. E. VanDoorn, DRS, RII; R. E. Martin, Project Manager, LPD2-1, NRR; T. G. Scarbough, EMEB, NRR; and M. Franovich, Probabilistic Safety Assessment Branch, Division of Systems Safety and Analysis, NRR.

Because of a failure of an auxiliary feedwater (AFW) isolation valve, 1CA-42B, you stated that on February 7, 2003, at 8:26 a.m., McGuire Unit 1 would not be in compliance with TS 3.7.5, Limiting Condition for Operation (LCO), Action B.1, which requires restoration of a failed AFW train to operable status within 72 hours, and TS 3.6.3 LCO, Action C.1, which requires isolation of the affected penetration within 72 hours. As such, per TS 3.7.5, Action C.1, and TS 3.6.3, Action F.1, Unit 1 would be required to be in Mode 3 (Hot Standby) in 6 hours. You requested that a Notice of Enforcement Discretion (NOED) be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c, of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective for an additional 72 hours to complete a temporary modification, testing, and the restoration of valve 1CA-42B to operable status. An additional telephone conference was held on February 8, 2003, to discuss the results from your post-repair testing and additional technical information you obtained regarding the design of valve 1CA-42B. This letter documents our verbal issuance of the NOED for an additional 72 hours during the telephone conference on February 6, 2003. We understand that the condition causing the need for this NOED was corrected by you causing you to exit from TS 3.7.5 and TS 3.6.3 and from this NOED at 4:58 a.m., on February 9, 2003.

McGuire Unit 1 was operating at 100 percent power when the stem for AFW valve 1CA-42B failed during post-maintenance testing. While electrically stroking the valve in the open direction, the stem sheared due to an open limit switch malfunction in combination with an improperly set open torque switch setting. This caused the valve actuator to generate excessive loads in the open direction and failure of the valve stem. The safety basis in your NOED request letter included a discussion of compensatory measures and an evaluation of the potential impact on the public health and safety and the environment. Your evaluation concluded that the request for an additional 72 hours to restore valve 1CA-42B to an operable status represented no net increase in radiological risk. In addition you concluded that no significant hazard consideration was involved. The compensatory measures that were in place until 1CA-42B was returned to service were integral to your no net increase in risk determination. These compensatory measures included: (1) no unnecessary maintenance or testing for valves 1CA-40B or 1CA-39, which provided an alternate means of isolating AFW flow to the "D" steam generator (S/G); (2) no unnecessary maintenance or testing that would render other Unit 1 AFW components unavailable; (3) no unnecessary work that would render risk-significant equipment unavailable or have a high likelihood of causing a plant trip or transient; (4) procedural guidance available to provide alternatives to manually isolate AFW flow should it be necessary; and (5) operators were briefed on existing procedures to address control of AFW following a loss of instrument air.

We have reviewed your request and agreed that maintaining the plant stable in Mode 1 for an additional 72 hours was preferable to the potential for a plant transient that could occur during a plant shutdown to Mode 3. Also, we agree that your compensatory measures, risk analysis, and safety basis considerations were adequate to demonstrate that the additional 72 hours would not involve a net increase in radiological risk and would not adversely affect public health and safety or the environment. Our decision was based primarily on the fact that the safety function for valve 1CA-42B to close and isolate flow to a S/G could be accomplished by two other valves and your repair plans minimizing the time that valve 1CA-42B would be closed.

Based on the above considerations, the staff concluded that Criterion B.2.1.1.a and the applicable criteria in Section C.4 to NRC Manual Chapter 9900, "Technical Guidance, Operation - Notices of Enforcement Discretion" were met. Criterion B.2.1.1.a states that for an operating plant, the NOED is intended to avoid unnecessary transients as a result of compliance with the license condition and, thus, minimize potential safety consequences and operational risks.

On the basis of the staff's evaluation of your request and the information provided in your letter dated February 7, 2003, we concluded that issuance of this NOED is consistent with the Enforcement Policy and staff guidance, and has no adverse impact on public health and safety. Therefore, it is our intention to exercise discretion not to enforce compliance with TS 3.7.5 and TS 3.6.3 for inoperable AFW valve 1 CA-42B for the period from February 7, 2003, at 8:26 a.m., (EST) until February 10, 2003, at 8:26 a.m., (EST).

However, as stated the Enforcement Policy, action will be taken, to the extent that violations were involved, for the root cause or causes that led to the request for this NOED.

Sincerely,

/RA/

Luis A. Reyes
Regional Administrator

Docket No.: 50-369
License No.: NPF-9

cc: C. J. Thomas
Regulatory Compliance Manager
(MNS)
Duke Energy Corporation
Electronic Mail Distribution

Peggy Force
Assistant Attorney General
N. C. Department of Justice
Electronic Mail Distribution

E-Mail Distribution: (See page 4)

M. T. Cash, Manager
Regulatory Issues & Affairs
Duke Energy Corporation
526 S. Church Street
Charlotte, NC 28201-0006

Lisa Vaughn
Legal Department (EC11X)
Duke Energy Corporation
422 South Church Street
Charlotte, NC 28242

Anne Cottingham
Winston and Strawn
Electronic Mail Distribution

Beverly Hall, Acting Director
Division of Radiation Protection
N. C. Department of Environmental
Health & Natural Resources
Electronic Mail Distribution

County Manager of Mecklenburg
County
720 East Fourth Street
Charlotte, NC 28202

E-Mail Distribution:

- B. Smith, EDO
- L. Reyes, RII
- B. Sheron, NRR
- J. Zwolinski, NRR
- F. Congel, OE
- OEWEB
- NOED
- RIDSNRRDIPMLIPB
- PUBLIC
- R. Haag, RII
- R. Martin, NRR
- H. Berkow, NRR
- J. Nakoski, NRR
- S. Shaeffer, RII
- C. Evans, RII
- O. DeMiranda, RII

PUBLIC DOCUMENT (circle one): YES NO

| | | | | | | | |
|--------------|-----------|-----------|-----------|--------|--------|--------|--------|
| OFFICE | DRP/RII | DRP/RII | NRR/DPII | | | | |
| SIGNATURE | RCH | LRP | HNB | | | | |
| NAME | BHaag:vyg | LPlisco | HBerkow | | | | |
| DATE | 2/11/2003 | 2/11/2003 | 2/11/2003 | | | | |
| E-MAIL COPY? | YES NO | YES NO | YES NO | YES NO | YES NO | YES NO | YES NO |

OFFICIAL RECORD COPY

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML030430422.wpd