November 19, 2003

Mr. William R. Kanda
Vice President - Nuclear
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
10 Center Road
Perry, OH 44081

SUBJECT: ORDERS MODIFYING LICENSES FOR REVISED DESIGN BASIS THREAT AND FOR TRAINING AND PHYSICAL FITNESS ENHANCEMENTS APPLICABLE TO SECURITY FORCE PERSONNEL (TAC NOS. MB9326 AND MB9430)

Dear Mr. Kanda:

On April 29, 2003, the U.S. Nuclear Regulatory Commission (NRC or the Commission) issued Orders modifying the operating license for Perry Nuclear Power Plant to: (1) require compliance with a revised design basis threat (DBT); (2) implement new security force personnel training and physical fitness requirements; and (3) prescribe compensatory measures related to fitness-for-duty enhancements applicable to security force personnel.

When it issued the Orders, the Commission recognized that you voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. However, as part of the Commission's review of the security and safeguards program, the Commission determined that enhancements to the DBT, as currently specified in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 73.1(a), were required. The NRC further determined that security force personnel tactical and firearms proficiency, physical fitness, and fitness-for-duty requirements needed to be enhanced. The Commission also concluded that, based on the current threat environment, these Orders were to be effective immediately.

The Orders require responses and actions within specified time frames. This letter addresses your response to the Orders pertaining to the revised DBT and the new security force personnel training and physical fitness requirements. The Commission replied to your response to the fitness-for-duty Order in separate correspondence, dated July 10, 2003.

Section III.A.1 of the Order implementing new security force personnel training and physical fitness requirements states that licensees must comply with the new requirements described in the Order, except to the extent that more stringent requirements are set forth in the licensee's security plan and security training and qualifications plan. Section III.A.1 of the DBT Order requires licensees to submit revised physical security plans, safeguards contingency plans, and guard training and qualification plans, including an implementation schedule, based on the revised DBT, to the Commission for review and approval no later than April 29, 2004. The Order requires licensees to implement the revised physical security plans, revised safeguards contingency plans, and revised security force personnel training and qualification plans no later than October 29, 2004. Section IV of both Orders noted that, in accordance with

10 CFR 2.202, licensees must submit an answer to the Orders and may request a hearing on the Orders, within thirty-five (35) days of the date of the Orders and, where good cause is shown, consideration would be given to extend the time to request a hearing.

The Orders also required licensees to notify the Commission within thirty-five (35) days if: (1) the licensee was unable to comply with the requirements specified in the attachments to the Orders; (2) compliance with the requirements is unnecessary; (3) implementation of any of the requirements would result in a violation of the provisions of any Commission regulation of the facility license; or (4) implementation of any of the requirements described in the attachments to the Orders would adversely impact safe operation of the facility. Section III.C.1 of the security force personnel training and physical fitness Order required licensees to submit to the Commission, within thirty-five (35) days of the date of the Order, a schedule for achieving compliance with each requirement described in Attachment 2 to the Order.

By letters dated June 2, 2003, you submitted responses to the Orders for the Perry Nuclear Power Plant. In your responses, you indicated that you consented to the DBT and security force personnel training Orders and did not request a hearing. The NRC staff has reviewed your responses, and finds that you have satisfied the thirty-five (35) day reporting requirements for both Orders.

In your response to the DBT Order, you also requested that the NRC provide clarification of five DBT-related issues described in the safeguards attachment to a letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. By letter dated September 25, 2003, the NRC provided you a copy of Chairman Diaz's response to Mr. Colvin, dated July 18, 2003, which clarified the five DBT-related issues.

Please contact Robert Fretz at 301-415-1324, if you have any other questions on these issues.

Sincerely,

/RA/

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-440

cc: See next page

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Perry Nuclear Power Plant, Unit 1

cc:

Mary E. O'Reilly
FirstEnergy Corporation
76 South Main St.
Akron, OH 44308

Resident Inspector's Office
U.S. Nuclear Regulatory Commission
P.O. Box 331
Perry, OH 44081-0331

Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
801 Warrenville Road
Lisle, IL 60532-4531

Sue Hiatt
OCRE Interim Representative
8275 Munson
Mentor, OH 44060

Mr. Vernon K. Higaki
Manager - Regulatory Affairs
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
P.O. Box 97, A210
10 Center Road
Perry, OH 44081

Timothy Rausch, Plant Manager
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
P.O. Box 97, SB306
Perry, OH 44081

Mayor, Village of North Perry
North Perry Village Hall
4778 Lockwood Road
North Perry Village, OH 44081

Donna Owens, Director
Ohio Department of Commerce
Division of Industrial Compliance
Bureau of Operations & Maintenance
6606 Tussing Road
P. O. Box 4009
Reynoldsburg, OH 43068-9009

Carol O'Claire, Chief, Radiological Branch
Ohio Emergency Management Agency
2855 West Dublin Granville Road
Columbus, OH 43235-7150

Mayor, Village of Perry
P.O. Box 100
Perry, OH 44081-0100

Dennis Clum
Radiological Assistance Section Supervisor
Bureau of Radiation Protection
Ohio Department of Health
P.O. Box 118
Columbus, OH 43266-0118

Zack A. Clayton
DERR
Ohio Environmental Protection Agency
ATTN: Mr. Zack A. Clayton
P.O. Box 1049
Columbus, OH 43266-0149

Chairman
Perry Township Board of Trustees
3750 Center Road, Box 65
Perry, OH 44081

Daniel Z. Fisher
Transportation Department
Public Utilities Commission
180 East Broad Street
Columbus, OH 43215-3793

Mr. William R. Kanda
Vice President - Nuclear, Perry
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
P.O. Box 97, A200
10 Center Road
Perry, OH 44081