

April 2, 2004

Mr. Stephen D. Floyd
Vice President, Regulatory Affairs
Nuclear Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

SUBJECT: LETTER FROM NEI (FLOYD) TO NRC (ZIMMERMAN) ON "NRC APPROVAL OF DOCUMENTS PERTINENT TO SECURITY ORDERS," DATED MARCH 3, 2004

Dear Mr. Floyd:

I am responding to the subject letter in which you request NRC staff endorsement of (1) a white paper outlining a process to be followed by licensees as they proceed with their implementation of the April 29, 2003, Design Basis Threat (DBT) Order (Enclosure 1); and (2) a cover letter "template" to be used by licensees on or before April 29, 2004, when providing their Supplemental Response to the April 29, 2003, DBT Order (Enclosure 2).

The staff agrees, in principle, with the soundness of the process outlined in Enclosures 1 and 2 to your letter. However, note that licensees are ultimately responsible for ensuring that all measures necessary and sufficient to provide protection against the DBT set forth in Attachment 2 to the April 29, 2003, Order are fully implemented no later than October 29, 2004.

Specifically, if a licensee learns or becomes aware of an issue or vulnerability that invalidates any assumptions it made with respect to compliance with Section III.B.1 or B.2 of the DBT Order when its original response was filed, that licensee must, consistent with the Order inform the Commission of such an issue or vulnerability in its Supplemental Response due on April 29, 2004. In this case, the licensee's supplemental response should include: (1) the specific details of the issue or vulnerability (including assumptions made), (2) an assessment of its impact on the licensee's ability to fully protect its facility against the DBT, (3) measures taken by the licensee to cope with or mitigate the issue or vulnerability, and (4) a detailed summary of any specific revisions, amendments, or changes to the facility's security plan, training and qualification plan, and/or safeguards contingency plans deemed necessary to address or mitigate the issue or vulnerability.

Once NRC has approved and licensees have fully implemented the revised physical security plans (which include pertinent requirements of the Order issued on February 25, 2002), the safeguards contingency plans, and the training and qualification plans, the Commission will consider requests to relax or rescind, either in whole or in part, the requirements of the February 25, 2002, Order. Therefore, a licensee request to relax or rescind, either in whole or in part, the requirements of the February 25, 2002, or the April 29, 2003, Orders should only be included in their supplemental response due by April 29, 2004, if it determines that relief is necessary to overcome site-specific factors or due to previously unforeseen implementation issues.

Any supplemental response that includes a request to relax or rescind, either in whole or in part, any Order requirement must also include (1) the bases for the request, including site-specific factors or previously unforeseen implementation issues, (2) a discussion of the actions taken by the licensee, in good faith, to implement the specific Order requirement, and (3) a listing of the security measures that will be taken to compensate for the Order requirements for which rescission or relaxation is sought.

Finally, upon completion of the NRC's review and approval of the revised plans, the staff will make administrative, conforming changes to each facility's operating license such that the security-related license conditions will reference the correct date of the new security plans. Because licensee's are submitting their revised plans in response to the April 29, 2003, Order, no license amendment applications are needed to effect these changes in the operating licenses.

Sincerely,

/RA

Roy P. Zimmerman, Director
Office of Nuclear Security
and Incident Response

Enclosure: As stated.

cc: Mr. Douglas J. Walters, NEI
Mr. James W. Davis, NEI
Mr. Robert Bishop, NEI

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Finally, upon completion of the NRC's review and approval of the revised plans, the staff will make administrative, conforming changes to each facility's operating license such that the security-related license conditions will reference the correct date of the new security plans. Because licensee's are submitting their revised plans in response to the April 29, 2003, Order, no license amendment applications are needed to effect these changes in the operating licenses.

Please contact Mr. Scott Morris at (301) 415-7083, or me if you have any questions on this matter.

Sincerely,

/RA

Roy P. Zimmerman, Director
Office of Nuclear Security
and Incident Response

Enclosure: As stated

cc: Mr. Douglas J. Walters, NEI
Mr. James W. Davis, NEI
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