



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

October 14, 2005

Duke Power Company
ATTN: Mr. G. R. Peterson
Vice President
McGuire Nuclear Station
12700 Hagers Ferry Road
Huntersville, NC 28078-8985

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION (NOED) FOR DUKE POWER
REGARDING MCGUIRE NUCLEAR STATION UNIT 2 [TAC NO. MC8625,
NOED NO. 05-2-002]

By letter dated October 12, 2005, you requested that the NRC exercise discretion to not enforce compliance with the actions required in McGuire Nuclear Station Unit 2 Technical Specification (TS) Limiting Condition for Operation (LCO) 3.7.10 (Required Action E.1), which resulted in the immediate entry of Unit 2 in TS LCO 3.0.3. This letter documents our telephone conversation wherein the NRC verbally granted discretion from TS LCO 3.0.3.

The immediate entry into TS LCO 3.0.3 was directed by Required Action E.1 of TS LCO 3.7.10, when both control room area chilled water system (CRACWS) trains were declared inoperable at 3:20 a.m., on October 8, 2005. Your letter documented information previously discussed with the NRC in two telephone conferences on October 8, 2005 (i.e., a NOED call at 7:30 a.m., and an information followup call at 10:00 a.m.). The principal NRC staff members who participated in these two telephone conferences included: (1) from Region II - William Travers, Regional Administrator; Charles Casto, Director, Division of Reactor Projects (DRP); Joseph Shea, Deputy, DRP; Stephen Cahill, Acting Chief, DRP Branch 1; Walt Rogers, Senior Reactor Analyst; Joseph Brady, Senior Resident Inspector - McGuire; and Shakur Walker, Resident Inspector - McGuire; and (2) from the Office of Nuclear Reactor Regulation - Ledyard Marsh, Division Director, Division of Licensing Project Management (DLPM); Catherine Haney, Deputy Division Director, DLPM; Cornelius Holden, Director, Project Directorate I; Herbert Berkow, Project Director, Project Directorate IV; Harold Chernoff, Senior Project Manager, Project Directorate III; Sean Peters, Project Manager - McGuire, Project Directorate II; and Mike Franovich, Senior Reliability and Risk Analyst, Probabilistic Safety Assessment Branch. You stated that on October 8, 2005, at 3:20 a.m., Unit 2 entered TS LCO 3.0.3., which required the Unit be in Mode 3 (Hot Standby) within 7 hours. In order to facilitate repairs to the "A" train of CRACWS and preclude the inherent operational risks from an unnecessary plant shutdown, you effectively asked for an extension of the time required to be in Mode 3 from 7 hours to 24 hours. As such, you requested that a NOED be granted pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.C, of the NRC Enforcement Policy, and be effective for the period from 3:20 a.m., on October 8, 2005, to 3:20 a.m., on October 9, 2005. This letter documents our telephone conversation on October 8, 2005, at 7:30 a.m., when we orally issued this NOED. We understand that the condition causing the need for this NOED was corrected by you, resulting in Unit 2 exiting from Required Action E.1 of TS LCO 3.7.10, TS LCO 3.0.3, and from this NOED on October 8, 2005, at 8:06 p.m.

On October 8, 2005, Unit 1 was in a refueling outage (Mode 6) and Unit 2 was in Mode 1 at 100 percent power. At 3:20 a.m., train "A" of the CRACWS, which was electrically aligned to Unit 2, tripped during a start attempt due to a defective oil pressure switch. Having previously been electrically aligned to Unit 1 for "B" train engineered safety features testing, train "B" of the CRACWS was technically inoperable, albeit available and functional, due to its reliance on an inoperable emergency power supply. Specifically, shared portions of this system must be operable for each unit in a mode of applicability; therefore, with Unit 2 in Mode 1, train "B" of the CRACWS must have an emergency power supply. The inoperability of the emergency power supply stemmed from its support system (i.e., nuclear service water) being considered inoperable. Consequently, both trains of the Unit 2 CRACWS were declared inoperable, and in accordance with TS LCO 3.7.10, Required Action E.1, TS LCO 3.0.3 was immediately entered. You verbally stated during our first phone conference on October 8, 2005, that it would take approximately three hours to align the "B" train of control room ventilation back to Unit 2 and did not want the control room to be without ventilation for that amount of time due to overheating concerns. Additionally, you indicated that there was not sufficient time to execute repairs, as compliance with TS LCO 3.0.3 required Unit 2 to be in Mode 3 by 10:20 a.m., on October 8, 2005. We understand from your letter that at 7:23 a.m., on October 8, 2005, a Unit 2 power reduction was initiated in accordance with TS LCO 3.0.3. Unit 2 was reduced to approximately 88 percent power prior to receiving verbal enforcement discretion. The load reduction was subsequently terminated at 8:09 a.m., on October 8, 2005.

Your letter of October 12, 2005, stated that the proposed NOED would avoid an unnecessary transient as a result of compliance with Required Action E.1 of TS LCO 3.7.10; thereby, minimizing the potential safety consequences and operational risks. It also stated that the requested NOED would provide adequate time for completing the necessary engineering and administrative activities for implementing a temporary modification to bypass the CRACWS "A" train defective oil pressure switch with jumpers. During operation of the "A" chiller with its oil pressure switch bypassed, you stated that personnel would be assigned to monitor oil pressure by local indication. In addition, your letter indicated that CRACWS had no impact on the calculated core damage frequency or large early release frequency at McGuire, as its loss can be mitigated by: (1) pre-planned actions to open doors and utilize portable ventilation to cool affected areas and equipment; (2) the ability to maintain hot standby conditions and cool down to cold shutdown conditions from the alternate shutdown panel (ASP); and (3) the independent ability to maintain hot standby conditions from the standby shutdown facility (SSF).

Furthermore, the stated compensatory actions during the NOED period included: (1) protection of the "B" chiller, service water, and normal/emergency power supplies on Unit 1 at the same level as Unit 2; (2) deferring non-essential activities on Unit 2, the switchyard, and transformer yard; and (3) deferring non-essential surveillances or other maintenance activities on other risk significant equipment, such as the emergency diesel generators, SSF, and the ASP. As such, your letter concluded that the proposed NOED would not be of potential detriment to the public health and safety, because there is no net increase in radiological risk to the public. Moreover, there were no activities affecting the supporting systems and equipment, including offsite and onsite power sources, for the "B" chiller, which continued to operate and remain fully functional during the loss of the "A" chiller. Your review also determined that the Unit 2 emergency core cooling system components, the SSF, and the ASP were operable. The Unit 2 "B" nuclear service water train, "B" emergency diesel generator, "B" annulus ventilation train, and the "B"

boration flow path were declared technically inoperable due to the same issues surrounding the "B" CRACWS; however, the systems were available and able to perform their intended function.

In your letter of October 12, 2005, you confirmed your commitment to submit a followup license amendment request (LAR) by close of business October 14, 2005, which incorporates the effective change contained in this NOED into the McGuire TS on a temporary, one-time basis. We plan to complete our review and disposition of your followup license amendment request within 4 weeks of the date of this letter. Recognizing the need for a more in-depth evaluation, your letter also confirms Duke's plans to pursue the underlying equipment operability issues in a future LAR proposing a permanent TS change.

On the basis of the staff's evaluation of your request, we have concluded that granting this NOED is consistent with the Enforcement Policy and staff guidance, and has no adverse impact on public health and safety or the environment. Therefore, it is our intention to exercise discretion to not enforce compliance with TS LCO 3.0.3 for the period from 3:20 a.m., on October 8, 2005, to 3:20 a.m., on October 9, 2005. Your need for the NOED differed from the approved NOED effective duration because a temporary modification was implemented and the "A" train control room chiller was returned to service prior to 3:20 a.m., on October 9, 2005.

As stated in the Enforcement Policy, action will be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary.

Sincerely,

/RA by Douglas M. Collins Acting For/

William D. Travers
Regional Administrator

Docket No. 50-370
License No. NPF-17

cc: See page 4

DPC

4

cc:

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

R. L. Gill, Jr., Manager
Nuclear Regulatory Issues
and Industry Affairs
Duke Energy Corporation
526 S. Church Street
Charlotte, NC 28201-0006

Lisa Vaughn
Legal Department (PB05E)
Duke Energy Corporation
422 South Church Street
P. O. Box 1244
Charlotte, NC 28201-1244

Anne Cottingham
Winston & Strawn LLP
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

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

Distribution:

B. Wetzel, OEDO
 W. Travers, ORA, RII
 B. Sheron, NRR
 C. Haney, DLPM
 L. Marsh, DLPM
 M. Johnson, OE
 M. Kotzalas, NRR
 NOED
 OEWEB
 M. Ernstes, DRP, RII
 C. Evans, RII
 S. Peters, NRR
 H. Berkow, NRR
 C. Holden, NRR
 J. Brady, DRP, RII
 RIDSNRRDIPMLIPB
 PUBLIC

X SISP REVIEW COMPLETE: Initials: _MEE_ SISP REVIEW PENDING*: Initials: _____ *Non-Public until the review is complete
 X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE X NON-SENSITIVE
 ADAMS: Yes ACCESSION NUMBER: _____

OFFICE	DRP/RII	NRR	DRP/RII	ORA/RII	EICS/RII		
SIGNATURE	MEE	EMH1	JWS1 for	not in office	SES for		
NAME	MErnstes	EHackett	CCasto	LPlisco	CEvans		
DATE	10/14/2004	10/14/2005	10/14/2005		10/14/2005		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO