FENOC

FirstEnergy Nuclear Operating Company

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May 26, 2009
L-09-085

10 CFR 2.202

ATTN: Ms. Cynthia A. Carpenter
Director, Office of Enforcement
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT:
Beaver Valley Power Station, Unit Nos. 1 and 2
Docket Nos. 50-334 and 50-412, License Nos. DPR-66 and NPF-73

Davis-Besse Nuclear Power Station
Docket No. 50-346, License No. NPF-3

Perry Nuclear Power Plant
Docket No. 50-440, License No. NPF-58
Actions Required by Confirmatory Order EA-07-199

By letter dated August 15, 2007, the Nuclear Regulatory Commission (NRC) issued a Confirmatory Order (Order) to the FirstEnergy Nuclear Operating Company (FENOC) to formalize commitments made by FENOC following the NRC issuance of a Demand for Information (DFI) on May 14, 2007. In addition to the commitments made by FENOC in response to the DFI in letters dated June 13, 2007 and July 16, 2007, the Order contains requirements to provide letters to the Director, NRC Office of Enforcement, prior to implementation and following completion of selected commitments.

By letter dated December 31, 2007, FENOC informed the NRC that Order Items 1, 3, 4, 5, 6, and 7 were complete. By letter dated March 18, 2008, FENOC notified the NRC that the first of the required effectiveness reviews from Order Item 2 was completed on January 18, 2008. By letter dated March 13, 2009, FENOC notified the NRC that the remainder of Order Item 2, the required follow-up effectiveness review, was completed on January 22, 2009.

This letter is to inform the NRC of the completion of the required Order Items. A summary of the actions taken by FENOC with respect to the Order is included in the Attachment.

Contained in NRC Inspection Report (IR) 05000346/2009-002, the NRC concurred that the actions were completed, stating that "based on the results of this inspection and actions documented in IRs 05000346/2007005, 05000346/2008002, and 05000346/2008004, the inspectors concluded that the licensee had completed all actions required by the Confirmatory Order (EA-07-199)."

There are no regulatory commitments contained in this submittal. If there are any questions or if additional information is required, please contact Mr. Gregory H. Halnon, Director – Fleet Regulatory Affairs at 330-384-5638.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2009.

Sincerely,

Joseph J. Hagan

Attachment:
Completion of Actions Required by Confirmatory Order EA-07-199

cc: Document Control Desk
Assistant General Counsel for Materials Litigation and Enforcement
NRC Region I Administrator
NRC Region III Administrator
NRC Resident Inspector – Beaver Valley
NRC Resident Inspector – Davis-Besse
NRC Resident Inspector – Perry
NRC Project Manager – Beaver Valley
NRC Project Manager – Davis-Besse and Perry
Director BRP/DEP
Site BRP/DEP Representative
Utility Radiological Safety Board

The items of Confirmatory Order EA-07-199 issued by the Nuclear Regulatory Commission (NRC) are listed below in bold. The response by the FirstEnergy Nuclear Operating Company (FENOC) directly follows the Order item.

Order Item 1. The Licensee shall conduct regulatory sensitivity training for selected FENOC and non- FENOC FirstEnergy employees to ensure those employees identify and communicate information that has the potential for regulatory impact either at FENOC sites or within the nuclear industry to the NRC. At least 30 days prior to conducting the training, the Licensee shall submit by letter to the Director, NRC Office of Enforcement, a description of 1) the population to be trained, 2) the planned training methodology and materials, and 3) the training objectives. The Licensee shall complete its regulatory sensitivity training no later than November 30, 2007, and within 60 days following completion shall inform the Director, NRC Office of Enforcement, by letter.

FENOC described the regulatory sensitivity training in a letter dated September 20, 2007. This training was completed on November 29, 2007.

NRC Integrated Inspection Report 05000346/2007005 reviewed this training and stated that the "training was appropriate to instill in the individuals a sensitization to issues which may impact FirstEnergy's nuclear facilities and may be of interest to the NRC and the industry."

This Order Item is considered to be complete.

Order Item 2. The Licensee shall conduct effectiveness reviews to determine if an appropriate level of regulatory sensitivity is evident among FirstEnergy employees including those who received regulatory sensitivity training. The first effectiveness review shall be conducted in January 2008 by an external consultant. A follow-up effectiveness review shall be conducted in January 2009. At least 45 days prior to starting each external effectiveness review, the Licensee shall inform, by letter, the Director, NRC Office of Enforcement, of the identity of its external consultant, the qualifications of its external consultant, and the scope and depth of its plan for assessing effectiveness. Within 60 days following completion of each external effectiveness review, the Licensee shall inform, by letter, the Director, NRC Office of Enforcement, of a summary of the results of the review and a description of any actions taken or planned in response to those results.

The 2008 regulatory sensitivity training effectiveness review summary of results and actions was provided to the NRC by FENOC in a letter dated March 18, 2008.

Follow up NRC Integrated Inspection Report 05000346/2008002 stated that, "inspectors concluded that the licensee had met the Order required effectiveness review in 2008 to determine if an appropriate level of regulatory sensitivity was evident among FirstEnergy employees." Further, the inspectors concluded that the training provided had been effective in increasing the sensitivity of the organization as a whole.

As part of the NRC's ongoing activities to monitor the implementation of the Order, the Davis-Besse Nuclear Power Station NRC Integrated Inspection Report 05000346/2008-004 stated that the "inspectors concluded that the training was effective at instilling within the FirstEnergy management an enhanced awareness/sensitivity to issues and the need to ensure that any issues that could potentially impact Davis-Besse, Perry, or Beaver Valley are promptly brought to FENOC's attention." The report also stated that, "issues raised to the Regulatory Affairs organization are appropriately reviewed for applicability to the nuclear facilities. Further, in a pro-active move, the Regulatory Affairs organization has implemented a practice of attending meetings where issues that could affect the nuclear facilities would likely arise."

The 2009 follow-up regulatory sensitivity training effectiveness review summary of results and actions was provided to the NRC by FENOC in a letter dated March 13, 2009.

To assess the activities associated with the effectiveness reviews, Order Item 2, the NRC observed the independent assessment team's activities during the week of January 19, 2009 at FirstEnergy Headquarters in Akron, Ohio. The observations were documented in Inspection Report 05000346/2009-002 and included review of the standard questions being asked of FirstEnergy individuals, observations of the team members conducting the interviews, and observation of the team's internal meetings assessing the results from the interviews.

Based on the documentation reviews and observations, the NRC concluded that "the licensee had met Order Item 2, to conduct an effectiveness review in 2009, to determine whether an appropriate level of regulatory sensitivity was evident among previously selected FirstEnergy employees."

This Order Item is considered to be complete.

Order Item 3. The Licensee shall develop a formal process to review technical reports prepared as part of a commercial matter. The process shall provide criteria for the Licensee to use in determining whether a report has the potential for regulatory implications, or impact on nuclear safety either at FENOC sites or within the nuclear industry. The Licensee shall implement the process no later than December 14, 2007, and within 30 days following implementation shall

submit a description of the process by letter to the Director, NRC Office of Enforcement.

The formal process that implements this policy and includes the requirement and method to review technical reports prepared as part of a commercial matter was described in a letter to the NRC dated December 31, 2007.

This Order Item is considered to be complete.

Order Item 4. The Licensee shall assess its Regulatory Communications policy and make process changes to its NRC Correspondence procedure to ensure specific questions are asked during the process relative to the experience gained from efforts to respond to the NRC's May 14, 2007, Demand for Information. The Licensee shall complete any revisions to its NRC Correspondence procedure or Regulatory Communications policy no later than December 14, 2007, and within 30 days following completion shall submit a description of the policy and procedure changes, if any, or the basis for the determination that such revisions were not necessary, by letter to the Director, NRC Office of Enforcement.

The revisions to the Regulatory Communications policy and the NRC Correspondence procedure were described in a letter to the NRC dated December 31, 2007.

This Order Item is considered to be complete.

Order Item 5. The Licensee shall provide an Operating Experience (OE) document to the nuclear industry through the industry's established OE process. The document shall discuss the issues surrounding the NRC's May 14, 2007, Demand for Information, including the review of technical reports prepared as part of a commercial matter. The OE document shall be provided to the nuclear industry, and to the Director, NRC Office of Enforcement, within 30 days of the date of this Order.

The Operating Experience document was provided to the nuclear industry on August 10, 2007. It was also provided to the Director, NRC Office of Enforcement, in a letter dated September 13, 2007.

This Order Item is considered to be complete.

Order Item 6. The Licensee shall complete a root cause evaluation of the events that culminated in the issuance of the NRC's May 14, 2007, Demand for Information. The licensee shall make the root cause evaluation available for review by NRC inspectors and summarize the results of the evaluation in a letter to the Director, NRC Office of Enforcement, no later than December 14, 2007. The Licensee's letter to the NRC shall document the results of an assessment as to whether the results of the root cause evaluation reflect a need for any corrective

actions different from or in addition to the requirements of this Confirmatory Order.

The root cause evaluation was completed on August 20, 2007 and a summary of the results was provided to the NRC in a letter dated November 26, 2007. This summary included the additional corrective actions that were identified by the root cause evaluation team.

This Order Item is considered to be complete.

Order Item 7. The Licensee shall maintain the interim corrective actions, discussed, in part, in Section II of this Order and implemented as a result of the events leading up to the issuance of the NRC's May 14, 2007, DFI, until the procedural changes described in paragraphs 3 and 4 of Section IV of this Confirmatory Order are implemented.

With the completion of Order Items 3 and 4, as discussed above, the interim corrective actions are no longer in effect.

This Order Item is considered to be complete.