

September 11, 2009

Mr. Gary R. Peterson
Site Vice President
William B. McGuire Nuclear Station
Duke Energy Corporation
12700 Hagers Ferry Road
Huntersville, NC 28078

SUBJECT: RESPONSE TO DISPUTED SEVERITY LEVEL IV NON-CITED VIOLATION IN
U.S NUCLEAR REGULATORY COMMISSION INSPECTION REPORTS
05000369/2007201 AND 05000370/2007201

Dear Mr. Peterson:

On June 22, 2007, the U.S. Nuclear Regulatory Commission (NRC) completed a security force-on-force baseline inspection at the William B. McGuire Nuclear Station (McGuire). The inspection covered one or more of the key attributes of the security cornerstone of the NRC's Reactor Oversight Process. The inspectors reviewed selected procedures and records, observed activities, interviewed personnel, and conducted performance-based exercises.

During the inspection, the NRC staff identified a potential finding under Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(p) and 10 CFR 50.9(b).

The NRC staff subsequently determined that a Severity Level IV non-cited violation (NCV) of 10 CFR 50.54(p) and 10 CFR 50.9(b) occurred when McGuire failed to adequately evaluate the effectiveness of a change to the physical security plan under 10 CFR 50.54(p) and failed to provide complete information regarding the change in accordance with 10 CFR 50.9(b), resulting in the submission of a revised physical security plan with modifications that decreased its overall effectiveness. As a result, the agency issued a Severity Level IV NCV in NRC Inspection Report 05000369/2007201 and 05000370/2007201, dated July 22, 2007.

In a letter and associated attachments dated October 10, 2007, you contested the finding of a Severity Level IV NCV of 10 CFR 50.54(p) and 10 CFR 50.9(b) on the basis that the changes to the security plan did not decrease its overall effectiveness. After further review, the NRC staff has determined that the submittal under 10 CFR 50.54(p) evaluating the effectiveness of the change to your security plan did not violate the requirements of 10 CFR 50.9(b). As a result, there was no Severity Level IV NCV of this requirement.

However, the NRC staff determined that the change to the McGuire physical security plan in accordance with 10 CFR 50.54(p) resulted in the submission of a revised physical security plan with modifications that decreased its overall effectiveness and is a minor violation of 10 CFR 50.54(p).

If you have any questions regarding this correspondence, please contact Joseph Willis at (301) 415-6869.

Sincerely,

/RA/

Barry C. Westreich,
Deputy Director for Security Oversight
Division of Security Operations
Office of Nuclear Security and Incident Response

Docket No.: 50-369 and 50-370
License No.: NPF-9 and NPF-17

However, the NRC staff determined that the change to the McGuire physical security plan in accordance with 10 CFR 50.54(p) resulted in the submission of a revised physical security plan with modifications that decreased its overall effectiveness and is a minor violation of 10 CFR 50.54(p).

If you have any questions regarding this correspondence, please contact Joseph Willis at (301) 415-6869.

Sincerely,

/RA/

Barry C. Westreich,
Deputy Director for Security Oversight
Division of Security Operations
Office of Nuclear Security and Incident Response

Docket No.: 50-369 and 50-370
License No.: NPF-9 and NPF-17

Distribution

DSO R/F

J. Curry, **DSO**

T. Howard, **PMDA**

ADAMS Accession No:ML092460626

OFFICE		NSIR/DSO/SPEB	NSIR/DSO/SPEB BC: NSIR/DSO/SPEB	QTE	BC: NSIR/DSP/RSRLB	BC: R-II/DRS/PSB2
NAME		T. Sweat	R. Felts C. Johnson	Keith Azariah-Kribbs	D. Huyck	M. Ernstes
DATE		6/18/09	6/18/09	6/17/09 via e-mail	9/ /09	7/14/09 via e-mail
OFFICE		DD: OE	OGC	BC: NSIR/DSO/SPEB	DD: NSIR/DSO	
NAME		S. Magruder	M. Barkman S. Magruder	C. Johnson	B. Westreich	
DATE		7/6/2009 via e-mail	8/12/2009 via email	9/4/09	9/11/09	

OFFICIAL RECORD COPY