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Exelon Nuclear

December 18, 2009

LTR: BYR 2009-0134
FILE: 1.10.0101

U.S. Nuclear Regulatory Commission
ATTN: Region III Regional Administrator
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4352

Byron Station, Unit 2
Facility Operating License No. NPF-66
NRC Docket No. STN 50-455

Subject: Request for Change of Cross-Cutting Aspect

References: 1) U.S. NRC Inspection Report, "Byron Station, Units 1 and 2 Integrated Inspection Report 05000454/2009003; 05000455/2009003," dated August 7, 2009

2) Letter from U.S. NRC to C. G. Pardee, Exelon Generation Company, LLC, "Response to Disputed Non-Cited Violation Byron Station, Unit 2, Inspection Report 05000455/2009003," EA-09-247, dated November 18, 2009

Reference 1 documented a finding of very low safety significance and associated violation of the Technical Specification (TS) 3.4.13.B for failure to repair or isolate reactor coolant pressure boundary leakage, under the leakage definition of TS 1.1, within the required six hours. Non-Cited Violation 050004-55/2009003-01, "Failure to Comply with TS 3.4.13.B Reactor Coolant Pressure Boundary Leakage," is stated as follows:

> A finding of very low safety significance and associated Non-Cited Violation of Technical Specification 3.4.13.B was identified by the NRC inspectors on June 24, 2009, when reactor coolant pressure boundary leakage was identified on a Unit 2 process sampling line and the licensee continued to operate the unit but did not repair or isolate the leak within the Technical Specification Limiting Condition for Operation requirement of 6 hours. The licensee entered this issue into the corrective action program and replaced the leaking section of pipe.

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The NRC concluded the primary cause of this finding was related to the cross-cutting area of Human Performance and its associated component for Decision Making (H.1(b)) because licensee management personnel concluded that this leak did not represent reactor coolant pressure boundary leakage due to the closure of an isolation valve.

In Reference 2, the NRC concluded that:

> Although the leakage through the weld was very small, the staff concluded the leak through the pinhole in the weld was a breach in the pressure boundary and indicative of degradation of the material of pressure retaining components. Therefore, the leak through the pinhole in the weld constituted pressure boundary leakage and the violation as stated is valid. With respect to an apparent inconsistency with how the NRC approached similar situations at other utilities, each situation was evaluated independently. The staff does believe that the Standard Technical Specifications should be clarified to avoid future confusion on this issue. Accordingly, the staff will engage the Technical Specifications Task Force, and work with them to provide a solution, which can be made available for adoption by licensees through the NRC's Consolidated Line Item Improvement process.

Reference 1 provided guidance that if Exelon Generation Company, LLC (EGC) disagreed with the characterization of any finding in the report, a response within 30 days should be provided to the NRC. EGC challenged the NCV contained in the referenced inspection report (Reference 1). Reference 2 provided additional information regarding the status of that violation. Based on the NRC review and subsequent decision, a discussion was held with NRC Region III Branch Chief, Richard Skokowski, and it was agreed that EGC would respond within 30 days from the date of Reference 2 to the finding's characterization. This letter documents the EGC response.

EGC is respectfully disagreeing with the primary cause for the violation. This NCV documents that EGC failed to comply with TS 3.4.13.B, and the primary cause for this finding was categorized in the cross-cutting area of Human Performance with an associated component of Decision Making (H.1(b)). EGC is challenging the cross-cutting aspect of this violation as Human Performance and its associated component of Decision Making (H.1(b)). Based on the event described in the violation and the additional information provided by the NRC in Reference 2, EGC believes that the cross-cutting aspect of this violation is better characterized in the area of Human Performance with an associated component of Resources (H.2(c)).

The following provides a basis for the change in characterization.

EGC's decision on leak classification was based on available resources including the site procedures, processes and training with respect to isolating the line to eliminate the pressure boundary leakage (PBL) condition. EGC placed the plant in a safe and conservative configuration as a result. The violation was attributed to the TS, as recognized by the NRC in Reference 2, not being clear in this area, specifically that the definition of PBL is associated with a "non-isolable" reactor coolant system leakage through a fault. EGC applied the TS as understood to be written at the time by "isolating" the fault condition without making an assumption in its decision making. The underlying basis regarding the meaning and application of this definition requires clarification so that future applications are consistently implemented. Therefore, this violation should not be classified as Human Performance with an associated component of Decision Making (H.1(b)).

EGC believes that a more accurate classification and characterization of the cause for the violation, based on the TS definition available and the existing documentation not being clear/complete, would be in the cross-cutting area of Human Performance with an associated component of Resources (H.2(c)):

> The licensee ensures that personnel, equipment, procedures, and other resources are available and adequate to assure nuclear safety. Specifically, those necessary for:
>
> (c) Complete, accurate and up-to-date design documentation, procedures, and work packages, and correct labeling of components. H.2(c)

The cause of this violation is that the decision made at the time was based on the available information currently in TS. Unfortunately, that information was not as clear as it could be to ensure consistent and accurate implementation and contributed to this violation.

There are no regulatory commitments contained in this letter. Should you have any questions concerning this letter, please contact Mr. David T. Gudger, Regulatory Assurance Manager, at (815) 406-2800.

Respectfully,

Daniel J. Enright
Site Vice President
Byron Station

cc: NRC Senior Resident Inspector, Byron Station