

Clinton Power Station
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U-603982
September 1, 2010

U.S. Nuclear Regulatory Commission
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Washington, DC 20555-0001

Clinton Power Station, Unit 1
Facility Operating License No. NPF-62
NRC Docket No. 50-461

Subject: Response to NRC Integrated Inspection Report 05000461/2010-003

- References:
- (1) Letter from M. A. Ring (U.S. NRC) to M. J. Pacilio (Exelon Generation Company, LLC), "Clinton Power Station NRC Integrated Inspection Report 05000461/2010-003," dated August 3, 2010
 - (2) Memorandum from J. N. Hannon (NRC Division of Reactor Projects) to W. L. Axelson (NRC Region III), "Task Interface Agreement – Fermi 2 Performance of an Operation with the Potential to Drain the Reactor Vessel with Less than the Minimum A. C. Electrical Power Sources Available," dated August 28, 1995
 - (3) Letter from W. L. Axelson (U.S. NRC) to D. P. Gipson (Detroit Edison), "NRC Integrated Inspection Report No. 50-341/95009," dated September 19, 1995

Exelon Generation Company, LLC (EGC) is contesting non-cited violation (NCV) 05000461/2010003-02, "Failure to Perform an Adequate 10 CFR 50.59 Evaluation for CPS Procedure 3711.01," contained in Reference 1. The NCV was associated with a decision that resulted in a failure to obtain prior NRC approval for a change made to procedure CPS 3711.01, CPS Operations with the Potential to Drain the Reactor Vessel (OPDRV). This issue was entered into the Corrective Action Program and use of CPS 3711.01 has been suspended.

NCV 05000461/2010003-02

Reference 1 documented a finding of very low safety significance and associated NCV of 10 CFR 50.59. The NCV is stated below.

The inspectors identified a finding of very low safety significance with an associated NCV of 10 CFR 50.59, "Changes, Tests and Experiments." The licensee failed to perform an adequate 10 CFR 50.59 evaluation and obtain a license amendment prior to implementing CPS 3711.01, "CPS [Clinton Power Station] Operations with the

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Potential to Drain the Reactor Vessel [OPDRV],” Revision 0 on January 11, 2010. The procedure established a definition of an OPDRV for use in determining the applicability of several TS requirements while in Modes 4 and 5. The licensee failed to recognize that implementing this new procedure, in effect, constituted a change to the TS incorporated into its licensing basis, which would, therefore, require a license amendment pursuant to 10 CFR 50.59(c)(1)(i) and 10 CFR 50.90. No immediate corrective actions were taken to address this finding; however, the licensee entered this issue into its corrective action program for evaluation.

The finding was of more than minor significance because there was a reasonable likelihood that the change requiring a 10 CFR 50.59 evaluation would require NRC review and approval prior to implementation. Because this issue affected the NRC's ability to perform its regulatory function, the inspectors evaluated it using the traditional enforcement process and assessed the significance of the underlying issue using the SDP. Based on the results of a modified Phase 2 SDP evaluation, this finding was determined to be of very low safety significance. Consistent with the guidance in Supplement I, Paragraph D.5, of the NRC Enforcement Policy, the violation associated with this finding was determined to be a Severity Level IV Violation. The inspectors concluded that this finding affected the cross-cutting area of human performance. Specifically, the licensee did not use conservative decision making to demonstrate that the proposed action did not require prior NRC approval. The inspectors noted that the licensee was aware of potential concerns regarding the new procedure prior to completing the initial 10 CFR 50.59 evaluation and again prior to revising the evaluation in response to concerns raised by the inspectors; however, the incorrect conclusion was reached in both revisions of the evaluation that the new procedure was not a change to the TS and that a license amendment was not necessary.

EGC is contesting this NCV.

Basis for NCV 05000461/2010003-02 Denial

There is no specific definition in the CPS Technical Specifications (TS), nor is there an industry or regulatory definition for what constitutes an OPDRV. CPS TS have always had provisions regarding actions to suspend OPDRVs despite this lack of definition. The conversion of CPS Technical Specifications to the improved Standard Technical Specifications did not redefine an OPDRV nor did it change any TS action if an OPDRV condition existed. Due to the lack of a regulatory guidance and the lack of a definition of an OPDRV in the CPS licensing basis, CPS developed a new procedure to allow certain activities to be performed during cold shutdown or refueling operations while precluding a draindown event from occurring during performance of these activities. Without any guidance, maintenance activities [such as a bolt or gasket replacement] could have been effectively treated as an OPDRV. It is EGC's position that the development of CPS procedure 3711.01 did not create a new TS definition.

EGC contends the implementation of procedure 3711.01 neither provided any additional, nor removed any, TS requirements regarding OPDRVs. Instead, the revision incorporated industry operating experience (Reference 2) and technically sound decision making where this guidance did not previously exist. Procedure 3711.01 defines activities that could potentially cause an OPDRV (or an event that could cause a draindown) using docketed

NRC decision making from Fermi 2 (Reference 3) to determine what would not constitute an OPDRV:

The plant is in an OPDRV condition if the following exists:

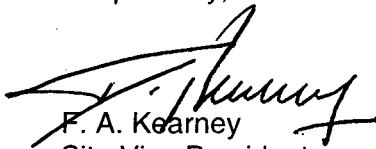
1. An open penetration > [1 inch] in diameter. (The size threshold is based upon that size which compensatory makeup measures are able to replace water inventory loss.)
2. The open penetration is below the normal water level.
3. The penetration is not protected by an automatic isolation valve, is not isolated by a closed valve, is unisolable, or is not isolable in a timely manner.
4. The open penetration has the potential to uncover irradiated fuel.

Conclusion

In summary, EGC incorporated industry and NRC guidance into a procedure (i.e., CPS 3711.01) in order to provide clear instructions for plant workers and ensure plant safety. The establishment of this type of guidance does not require prior NRC approval. EGC further contends that the decision to develop clear guidance regarding what constitutes an OPDRV supports EGC's core philosophy of making conservative decisions. EGC evaluated station activities described in CPS 3711.01 to ensure that they are safe in order to proceed as well as ensuring compliance with plant technical specifications.

There are no regulatory commitments contained in this letter. If you have any questions regarding the above, please contact Mr. Daniel J. Kemper, Regulatory Assurance Manager, at (217) 937-2800.

Respectfully,


F. A. Kearney
Site Vice President
Clinton Power Station

JLP/blf

cc: NRC Regional Administrator, Region III
NRC Director, Office of Enforcement
NRC Resident Inspector, Clinton Power Station