Tennessee Valley Authority
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R. M. Krich
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Nuclear Licensing

March 11, 2011

10 CFR 2.201

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555-0001

Browns Ferry Nuclear Plant, Unit 3
Facility Operating License No. DPR-68
NRC Docket No. 50-296

Subject: **Reply to a Notice of Violation; EA-11-012**

Reference: Letter from NRC to TVA, "Browns Ferry Nuclear Plant - NRC Integrated Inspection Report 05000259/2010005, 05000260/2010005, 05000296/2010005, and Notice of Violation," dated February 9, 2011

In accordance with the reference letter, the Tennessee Valley Authority (TVA) is required to submit a reply to the Notice of Violation EA-11-012 within 30 days of the date of the letter which transmitted the notice of violation, i.e., by March 11, 2011. The TVA reply to this notice of violation is provided in the enclosure.

There are no new regulatory commitments as a result of the reply to this notice of violation. Should you have any questions concerning this submittal, please contact Tom Matthews at (423) 751-2687.

Respectfully,

P. E. Cribbe

for R. M. Krich

Enclosure: Reply to a Notice of Violation; EA-11-012

cc (Enclosure):
NRC Regional Administrator - Region II
NRC Director, Office of Enforcement
NRC Senior Resident Inspector - Browns Ferry Nuclear Plant

IE01
REGN II

ENCLOSURE

TENNESSEE VALLEY AUTHORITY
BROWNS FERRY NUCLEAR PLANT, UNIT 3

REPLY TO A NOTICE OF VIOLATION; EA-11-012

Restatement of Violation

During an NRC inspection conducted on December 6, 2010, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

> 10 CFR 50.9, Completeness and Accuracy of Information, stated in part, that "Information provided to the Commission by a licensee shall be complete and accurate in all material respects."
>
> Contrary to the above, on August 31, 2010, the licensee submitted a revised LER, as a corrective action for a previous 10 CFR 50.9 violation involving inoperability of the Unit 3 RCIC system, that was not complete and accurate in all material respects. The revised LER did not report the correct event date, nor did it describe prior corrective actions (e.g., maintenance and testing) taken for a previous related event and why these corrective actions did not prevent recurrence (as specifically detailed in NCV 05000296/2010003-03).

This is a Severity Level IV violation.

Reply to Violation

The reason for the violation, or, if contested, the basis for disputing the violation or severity level

The Tennessee Valley Authority (TVA) contests the violation and provides the following basis for disputing the violation.

The violation states that Revision 2 of Licensee Event Report (LER) 50-296/2009-003 was submitted on August 31, 2010, as a corrective action for a previous 10 CFR 50.9 violation that was not complete and accurate in all material respects. In fact, the August 31, 2010, TVA cover letter for Revision 2 of LER 50-296/2009-003 states that the revision was submitted to provide an expanded timeline and additional data from high speed data sources. The expanded timeline was provided in Revision 2 to address the time when the High Pressure Coolant Injection system was inoperable at the same time as the Reactor Core Isolation Cooling (RCIC) system was inoperable as committed to in the TVA July 15, 2010, cover letter submitting Revision 1 of the LER. The additional data from the high speed data sources was provided in Revision 2 as committed to during a conference call with the NRC on March 25, 2010, to discuss the RCIC inoperability. Accordingly, Revision 2 was submitted to satisfy the commitment made in Revision 1 of the LER to supplement the LER, and to address the pertinent elements identified in the Non-Cited Violation (NCV).

The violation also states that the Revision 2 of the LER did not report the correct event date, referring to Block or Item 5 of the LER form, "EVENT DATE." The event date specified in Block 5 of LER 50-296/2009-003, Revision 2, was "08262009," i.e., August 26, 2009, when plant engineering determined that the RCIC system flow and turbine response were unstable during the Browns Ferry Nuclear Plant (BFN), Unit 3, reactor trip on August 24, 2009. This determination ultimately led to the conclusion that the RCIC system had been inoperable as defined by the plant Technical Specifications from the time that the defective Electric Governor-Remote (EG-R) had been installed on the RCIC system. The precise date of the introduction of the defect into the EG-R of the RCIC system is unknown, but it is known that the defective EG-R had been installed on March 14, 2006, during a BFN, Unit 3, refueling outage. The event date

of August 26, 2009, was specified in the LER following the guidance in NUREG-1022, "Event Reporting Guidelines," Revision 2, Section 5.2.7, "Other Fields on the LER form," item (5), "Event Date (NRC Form 366, Item 5)." Item 5 of Section 5.2.7 of NUREG-1022 states in part, "If the date on which the event occurred cannot be clearly defined, use the discovery date . . . ." While not specifically applicable to LER form item 5, NUREG-1022 provides additional guidance regarding the event date and the discovery date in Section 5.2.2, "Narrative Description or Text (NRC Form 366A, Item 17)," subsection "(1) General," in the paragraph discussing 10 CFR 50.73(b)(2)(ii)(C). This paragraph, which provides an example that is similar if not identical to the BFN, Unit 3, RCIC system event reported in LER 50-296/2009-003, Revision 2, states in part that ". . . If the event is a discovered condition for which the occurrence date is not known, the event date should be specified as the discovery date. However, a discussion of the best estimate of the event date and its basis should be provided in the narrative. For example, if a design deficiency was identified on March 27, 1997 that involved a component installed during refueling in the spring of 1986, and only the discovery date is known with certainty, the event date should be specified as the discovery date. A discussion should be provided that describes, based on the best information available, the most likely time that the design flaw was introduced into the component (e.g., by manufacturer or by plant engineering prior to procurement) . . . ."

The narrative in LER 50-296/2009-003 does in fact provide a discussion of the length of time the defective EG-R was in service, i.e., the period while it was installed. The time when the defect was introduced into the EG-R is not known, and therefore not discussed in the LER.

The date that was specified in Item 5 of LER 50-296/2009-003, Revision 2, when it was prepared and reviewed, was based on guidance provided by the NRC in NUREG-1022. Accordingly, TVA concluded that the date was correct. If, as TVA determined, the date specified in Item 5 of LER 50-296/2009-003, Revision 2, is correct, then there is no violation of 10 CFR 50.9. If we assume however, that the Event Date specified in Item 5 of the LER form should have been March 14, 2006, when the defective EG-R was installed, instead of August 26, 2009, this error could not have influenced the NRC's understanding of the event nor its decision regarding this event since: 1) the March 14, 2006 defective EG-R installation date was specified clearly in the narrative portion of LER 50-296/2009-003 and, 2) the NRC decided to issue an NCV in a timely manner for the RCIC system being inoperable for longer than allowed by the plant's Technical Specifications, i.e., NCV 05000296/2010003-02, "Unit 3 RCIC System Inoperable Beyond Technical Specifications Allowed Outage Time," in its inspection report transmitted by NRC letter dated July 30, 2010. Accordingly, this assumed error in the specified Event Date does not rise to the level of a violation of 10 CFR 50.9.

Finally, the violation also states that the LER did not describe prior corrective actions (e.g., maintenance and testing) taken for a previous related event, referring to the previous identification of RCIC system instability on February 13, 2007, nor did the LER discuss why these corrective actions did not prevent the recurrence of this instability experienced during a BFN, Unit 3, reactor trip on August 24, 2009.

Until the BFN, Unit 3, RCIC system EG-R was replaced in September 2009, and the old EG-R was sent for forensic analysis, there was no way of knowing that the EG-R installed in March 2006 was defective. Consequently, maintenance and testing performed after the RCIC system instability identified on February 13, 2007, were not focused on the potential for the EG-R to have been defective. In preparing Revision 2 of LER 50-296/2009-003, TVA decided that the maintenance and testing that were performed, and subsequent determination of the

effectiveness of these corrective actions after the RCIC system instability was identified on February 13, 2007, were not material to the description of the event given the later discovery of the defective EG-R as the cause of the instability. This was based on TVA's conclusion during the preparation and review of the LER revision that this previous information would not have any influence on the NRC's consideration or conclusions regarding this event. The actions taken in February 2007 were not based on nor had any adverse impact on the actual cause of the instability, and therefore had no bearing on the event or its cause and ultimate corrective actions. TVA's determination that this previous information was not material is consistent with the explanation in the Statement of Consideration for the 10 CFR 50.9 rulemaking, 52 Federal Register (FR) 49372, dated December 31, 1987, Section I, "Background," which states in part that ". . . The Commission decided materiality is to be judged by whether information has a natural tendency or capability to influence an agency decisionmaker . . . ." Accordingly, TVA considers that Revision 2 of LER 50-296/2009-003 was complete and accurate in all material respects. Therefore, a violation of 10 CFR 50.9 did not occur.

The corrective steps that have been taken and the results achieved

Although no violation of 10 CFR 50.9 occurred and therefore no corrective steps are required, TVA recognizes the importance of accuracy and completeness in LERs in both material and informational aspects. As an enhancement, TVA has implemented a check list that is to be used during the preparation and review of LERs.

The corrective steps that will be taken

No corrective steps will be taken.

The date when full compliance will be achieved

TVA remains in compliance with 10 CFR 50.9.