



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 20, 2011

Mr. Michael Mulligan
P.O. Box 161
Hinsdale, NH 03451

Dear Mr. Mulligan:

Your e-mail dated February 22, 2011, addressed to Mr. William Borchardt, Executive Director for Operations, was referred to the Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206. In your petition, you stated that NRC's Reactor Oversight Program is ineffective and Entergy has a documented history of a culture of falsification and thumbing their noses at reoccurring violations.

On February 24, 2011, you requested an opportunity to address the Petition Review Board (PRB). On March 2, 2011, you made an additional request to speak to a NRC official regarding the general state of conditions at Palisades prior to addressing the PRB. On March 3, 2011, the PRB met internally to discuss the request for immediate action only. The PRB denied the request for immediate action because there was no immediate safety concern to the Palisades Nuclear Plant, or to the health and safety of the public. On March 4, 2011, the PRB decision was conveyed to you and you were also informed that the request to speak to a NRC official was outside the 2.206 process and that you would have an opportunity during the teleconference with the PRB to express your concerns and provide additional information.

On March 7, 2011, you addressed the PRB by teleconference to provide additional information in support of your petition. The transcript of this teleconference is publicly available (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110760687). On March 21, 2011, the PRB held its internal meeting to make the initial recommendation, in accordance with the criteria provided in Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions." In this meeting, the PRB made an initial recommendation that your requested actions (as summarized below) were either not within the scope of the 2.206 process or did not meet the criteria for review because you failed to provide sufficient facts to warrant further inquiry, beyond what was already inspected and documented in NRC inspection reports (IRs) and Licensee Event Reports (LERs).

For example you cited an unusual event declared due to catastrophic failure of non-safety related bus breaker on January 8, 2011. This was event no.45625, which was described in the event report dated January 10, 2011. You also referenced the automatic reactor trip due to loss of generator load on January 22, 2011. This was event no.46564, which was described in the event report dated January 24, 2011. For both events, the inspectors responded to the site and evaluated licensee actions. The first quarter report in 2011 will include a brief discussion of both and the residents will review the LERs in subsequent report.

On March 24, 2011, you were informed of the PRB's initial recommendation. You requested a second opportunity to address the PRB to provide additional information in support of the petition request.

On March 31, 2011, you provided additional information to the PRB by teleconference as further explanation and support for your petition. A transcript of that teleconference, which supplements your petition, has been provided to you and is publicly available in ADAMS under Accession No. ML110960237. After the teleconference, the PRB conducted a discussion on your petition. In addition to the petition, the PRB also considered information you provided via the transcribed teleconferences on March 7, 2011, and March 31, 2011.

The PRB made the final recommendation to not accept your petition because your petition did not meet the criteria for review. Some of your requested actions failed to provide sufficient facts to warrant further inquiry and other requested actions were not within the scope of the 2.206 process. More specifically, the PRB made the following findings regarding the requests made in your petition:

1. Immediate shutdown of Palisades and other Entergy Nuclear Power Plants

In your petition you referred to various inspection reports covering different plant events at Palisades. These events have been previously inspected and enforcement determinations have been made under the Reactor Oversight Process (ROP). However, you did not provide any additional information and therefore there was no evidence that would lead the PRB to conclude that there were any unanalyzed conditions or situations at Palisades or other Entergy Nuclear Power Plants. Based on the information you presented, the PRB met and concluded that there was no immediate safety concern to the plant or to the public health and safety justifying the immediate shutdown of Palisades and other Entergy nuclear power plants.

2. Replacement of top Palisades Management staff

In your petition, you accused Palisades Management of falsification and essentially ignoring recurring violations. However, you did not provide sufficient information to support your claims. The information you presented was from various IRs and LERs, which have been documented and processed under the current ROP. The inspection activities at Palisades and the follow up enforcement actions have not revealed any information which would necessitate replacement of top Palisades Management staff. In accordance with MD 8.11, this request does not meet the criteria for review because you failed to provide sufficient facts to warrant further inquiry.

3. Replacement of Entergy Corporate Nuclear staff

In your petition, you accused Entergy Corporate Nuclear staff of falsification. However, you did not provide sufficient information to support this claim. NRC inspection and enforcement activities have not resulted in actions which would necessitate replacement of Entergy Corporate Nuclear staff. In accordance with MD 8.11, this request does not meet the criteria for review because you failed to provide sufficient facts to warrant further inquiry.

4. Assignment of two additional NRC inspectors at Palisades

In accordance with the criteria established under ROP, NRC has occasionally increased inspection activities at facilities based on the plant performance and events. As stated in the annual assessment letter for Palisades Nuclear Plant, dated March 4, 2011 (ADAMS Accession No. ML110620625), the plant performance was within the Regulatory Response column of the NRC's Action Matrix for the first, second and third quarters of 2010. However, performance during the most recent quarter was within the Licensee Response Column. You presented information from the existing IRs and LERs which are in public domain, and you did not provide sufficient information to warrant further inquiry. Moreover, this request is not within the scope of the 2.206 process, because it is not an enforcement-related request. If the NRC determines that additional inspectors are needed in future in order to protect public health and safety and the environment, the need will be addressed in the budgeting process. In accordance with MD 8.11, you did not provide sufficient information to warrant further inquiry in this matter.

5. Formation of a local public oversight panel around every plant

This request is not an enforcement related action and is also not within the scope of 2.206. Each plant has to be assessed individually and this request pertains to the NRC's budgeting/resources process. In accordance with MD 8.11, you did not provide sufficient information regarding other plants to warrant further inquiry in this matter.

6. Formation of an emergency NRC senior official oversight panel

This request is not an enforcement related action and is not within the scope of 2.206. Each plant has to be assessed individually and this request pertains to the NRC's budgeting/resources process. In accordance with MD 8.11, you did not provide sufficient information regarding Palisades or other plants to warrant further inquiry of an emergency NRC senior official oversight panel.

7. Formation of a national NRC oversight public panel

This request is not an enforcement related action and is not within the scope of 2.206. NRC inspection activities are divided among four regions which perform the oversight activities for various plants. Each plant has to be assessed individually and this request pertains to the NRC's budgeting/resources process. In accordance with MD 8.11, you did not provide sufficient information regarding Palisades or other plants for us to warrant further inquiry of your request for a national NRC oversight public panel.

8. Analysis of Entergy's recurring problems

In accordance with MD 8.11, this request does not meet the criteria for review because you failed to provide sufficient facts to warrant further inquiry. You cited various plant events and issues which the PRB binned into the following categories: 1) Equipment Failures; 2) Documentation/Design basis concerns; 3) Radiation Protection; 4) Records Falsifications; and 5) Reactor Oversight Process. As a basis for the concerns, following are some of the examples of the Event Reports, IRs and LERs which you referenced.

M. Mulligan

-4-

- Event Report 46524, dated January 10, 2011
- Event Report 46564, dated January 24, 2011
- IR 05000255/2010004 (July 1, 2010 to September 30, 2010)
- LER 10-02-00
- LER 2010-001-00
- IR 05000255/2010005 (October 1, 2010 to December 31, 2010)

However, you failed to provide sufficient facts beyond what the NRC staff has already inspected and documented in those IRs, LERs and Event Reports. The NRCs has a rigorous ROP under which the regions conduct regular inspections throughout the year and also hold special inspections from time to time based on the individual performance or occurrence of events at the nuclear power plants.

The PRB's final determination is to not accept your petition requests for review under the 10 CFR 2.206 process because your petition did not meet the criteria for review as stated in NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions." Thank you for your interests in these matters.

Sincerely,



Thomas B. Blount, Deputy Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Docket No. 50-255

cc: Distribution via Listserv

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-4-

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Sincerely,

/RA/

Thomas B. Blount, Deputy Director
 Division of Policy and Rulemaking
 Office of Nuclear Reactor Regulation

Docket No. 50-255

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*Via email

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