

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) EA-11-096
Entergy Operations, Inc. and)
Entergy Nuclear Operations, Inc.)
)
) Docket Nos. 050-00313; 050-00368; 050
) 00333; 050-00416; 050-00247; 050-00286;
) 050-00255; 050-00293; 050-00458; 050-
) 00271; 050-00382
)
) License Nos. DPR-51; NPF-6; DPR-59;
) NFP-29; DPR-26; DPR-64; DPR-20;
) DPR-35; NFP-47; DPR-28; NFP-38
)

CONFIRMATORY ORDER MODIFYING LICENSES
(EFFECTIVE IMMEDIATELY)

I

Entergy Operations, Inc. and Entergy Nuclear Operations, Inc., (collectively Entergy) are the holders of Operating License Nos. DPR-51; NPF-6; DPR-59; NFP-29; DPR-26; DPR-64; DPR-20 DPR-35; NFP-47; DPR-28 and NFP-38 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR 50. The licenses authorize the operation of Arkansas Nuclear One, Units 1 & 2, James Fitzpatrick Nuclear Power Plant, Grand Gulf Nuclear Station, Unit 1, Indian Point Nuclear Generating, Units 2 & 3, Palisades Nuclear Plant, Pilgrim Nuclear Power Station, River Bend Station, Vermont Yankee Nuclear Power Station and Waterford Steam Electric Station, Unit 3 (collectively, the Facilities), in accordance with conditions specified therein. The Facilities are located in the vicinity of the following cities: Russellville, Arkansas; Oswego, New York; Vicksburg, Mississippi; New York City, New York; South Haven, Michigan; Boston, Massachusetts; Baton Rouge, Louisiana; Brattleboro, Vermont and New Orleans, Louisiana, respectively.

This confirmatory order (referenced as CO, Confirmatory Order or Order) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on July 18, 2011 in Washington D.C.

II

On March 17, 2011, the NRC Office of Investigations (OI) issued its report of investigation (OI Case No. 4-2010-053). Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR 50.7 involving an employee at the River Bend Station who was rated lower in his/her 2008 annual performance appraisal because the employee questioned the qualifications necessary to perform certain work activities in compliance with the applicable plant procedure(s).

By letter May 20, 2011, the NRC identified to Entergy the apparent violation of 10 C.F.R. 50.7 and offered Entergy the opportunity to provide a written response, attend a pre-decisional enforcement conference, or request ADR. Entergy chose ADR.

On July 18, 2011, the NRC and Entergy met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR through mediation is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

The NRC acknowledges that Entergy on its own initiative undertook a number of actions prior to the issuance of the NRC's May 20, 2011 letter. Those actions are summarized below:

1. Conducting remedial 10 CFR 50.7 training to key managers at River Bend, Palisades and Grand Gulf nuclear power plants;
2. Debriefing the employee in question on the results of the company's investigation and corrective actions, including revision of his/her 2008 appraisal and other corrective actions;
3. Conducting fleet-wide training for Employee Concerns Program (ECP) personnel;
4. Completing an apparent cause evaluation relating to the company's ECP investigation;
5. Holding a management meeting with the employee in question again to review corrective actions;
6. Reviewing all closed ECP retaliation type concerns fleet-wide from 2008 and 2009;
7. Conducting 4-hour 10 CFR 50.7 training to select River Bend Station management personnel;
8. Completing fleet-wide review of all 2009 appraisals for employees with overall "Improvement Required" rating;
9. Completing benchmarking evaluation of ECP practices and procedures;
10. Revising procedure EN-MA-102, Inspection Program;
11. Issuing guidance on preparation and conduct of performance improvement plans;

12. Providing 3-hour 10 CFR 50.7 training for all supervisors and above fleet-wide (ongoing as of the date of this CO); and
13. Developing procedure EN-EC-100-01 "Employee Concern Coordinator Training Program" to provide instructions for ECP coordinator qualifications.

During the ADR mediation session, an agreement in principle was reached where Entergy agreed to take the following additional actions:

1. Entergy will reorganize the Quality Control (QC) reporting relationship so that those persons whose primary function is to assign or perform QC inspections will report directly to a manager in the Quality Assurance (QA) organization. These same persons may have a dotted line reporting relationship to the site Maintenance department and may be tasked to perform maintenance activities other than QC inspections. Entergy will provide to the Director, Office of Enforcement, a plan to accomplish this reorganization within 90 days after the issuance of this CO and will complete the transition described above within 270 days after the issuance of this CO. If Entergy is unable to provide a plan or complete the transition as described above, this CO shall be null and void and the NRC reserves the right to reenter the enforcement process in the underlying matter.
2. Entergy will review its existing general employee training (GET) to ensure adequate coverage of 10 CFR 50.7, including insights from the underlying matter. To that end, Entergy will create a document identifying the relevant "lessons-learned" from the facts of this matter, and in reviewing its GET, Entergy will ensure that these lessons-learned are addressed in the training materials. Entergy will also document the results of its review of the GET within 60 days after the issuance of the CO. If this review reveals a

need to revise the GET, Entergy will make the appropriate revisions within 180 days of the issuance of this CO.

3. Entergy will review its existing training provided to new supervisors to ensure adequate coverage of 10 CFR 50.7 including insights from the underlying matter. To that end, Entergy will create a document identifying the relevant "lessons-learned" from the facts of this matter, and in reviewing the training provided to new supervisors, Entergy will ensure that these lessons-learned are addressed in the training materials. Entergy will also document the results of its review of the training within 60 days after the issuance of the CO. If this review reveals a need to revise the supervisory training, Entergy will make the appropriate revisions within 180 days of the issuance of this CO.

4. Within 30 days after the issuance of this CO, a senior Entergy nuclear executive will issue a fleet-wide written communication reinforcing Entergy's commitment to maintaining a safety conscious work environment and reaffirming Entergy's insistence upon the protection of employees' right and obligation to raise safety issues without fear of retaliation.

5. Within 365 days after the issuance of this CO, subcommittees of Entergy's Safety Review Committees (both for Boiling Water Reactors and Pressurized Water Reactors) will conduct an effectiveness review of ECP procedural enhancements and the ECP training that arose from the corrective actions taken in relation to this matter. This review will include a sampling review of ECP investigations and reports. These subcommittees will document their analyses and findings and make the results available for NRC review.

6. By no later than December 31, 2012, Entergy will conduct a safety culture survey at the River Bend Station comparable to the independent survey conducted in 2009 at RBS and make the results available for NRC review.

On August 15, 2011, Entergy consented to issuing this CO with the commitments, as described in Section V below. Entergy further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order and thereby has agreed not to pursue further action in connection with the NRC's May 20, 2011 letter to Entergy relating to OI investigation 4-2010-053.

I find that Entergy's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Entergy's commitments be confirmed by this Confirmatory Order. Based on the above and Entergy's consent, this Confirmatory Order is immediately effective upon issuance. By no later than 30 days after the completion of the last requirement of Section V, Entergy is required to notify the NRC in writing and summarize its actions.

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Entergy will reorganize the Quality Control (QC) reporting relationship so that those persons whose primary function is to assign or perform QC inspections will report directly to a manager in the Quality Assurance (QA) organization. These same persons may have a dotted line reporting relationship to the site Maintenance department and may be tasked to perform maintenance activities other than QC inspections. Entergy will provide the Director, Office of Enforcement, a plan to accomplish this reorganization within 90 days after the issuance of this CO and will complete the transition described above within 270 days after the issuance of this CO. If Entergy is unable to provide a plan or complete the transition as described above, this CO shall be null and void and the NRC reserves the right to reenter the enforcement process in the underlying matter.
2. Entergy will review its existing general employee training (GET) to ensure adequate coverage of 10 CFR 50.7, including insights from the underlying matter. To that end, Entergy will create a document identifying the relevant "lessons-learned" from the facts of this matter, and in reviewing its GET, Entergy will ensure that these lessons-learned are addressed in the training materials. Entergy will also document the results of its review of the GET within 60 days after the issuance of the CO. If this review reveals a need to revise the GET, Entergy will make the appropriate revisions within 180 days of the issuance of this CO.

3. Entergy will review its existing training provided to new supervisors to ensure adequate coverage of 10 CFR 50.7 including insights from the underlying matter. To that end, Entergy will create a document identifying the relevant "lessons-learned" from the facts of this matter, and in reviewing the training provided to new supervisors, Entergy will ensure that these lessons-learned are addressed in the training materials. Entergy will also document the results of its review of the training within 60 days after the issuance of the CO. If this review reveals a need to revise the supervisory training, Entergy will make the appropriate revisions within 180 days of the issuance of this CO.

4. Within 30 days after the issuance of this CO, a senior Entergy nuclear executive will issue a fleet-wide written communication reinforcing Entergy's commitment to maintaining a safety conscious work environment and reaffirming Entergy's insistence upon the protection of employees' right and obligation to raise safety issues without fear of retaliation.

5. Within 365 days after the issuance of this CO, subcommittees of Entergy's Safety Review Committees (both for Boiling Water Reactors and Pressurized Water Reactors) will conduct an effectiveness review of ECP procedural enhancements and the ECP training that arose from the corrective actions taken in relation to this matter. This review will include a sampling review of ECP investigations and reports. These subcommittees will document their analyses and findings and make the results available for NRC review.

6. By no later than December 31, 2012, Entergy will conduct a safety culture survey at the River Bend Station comparable to the independent survey conducted in 2009 at RBS and make the results available for NRC review.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Entergy of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Entergy, may request a hearing within 20 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing

deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents

electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than Energy) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 C.F.R. 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the *Federal Register* without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

For the Nuclear Regulatory Commission.

Dated at Rockville, MD, this 24 day of August 2011

/RA/

Roy P. Zimmerman,

Director, Office of Enforcement