



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

October 12, 2011

Mr. James Spina, Interim Site Vice President
Constellation Energy Nuclear Group, LLC
Calvert Cliffs Nuclear Power Plant, LLC
1650 Calvert Cliffs Parkway
Lusby, Maryland 20657 - 4702

**SUBJECT: DENIAL OF A REQUEST FOR NOTICE OF ENFORCEMENT DISCRETION
FOR CONSTELLATION ENERGY NUCLEAR GROUP REGARDING CALVERT
CLIFFS NUCLEAR POWER PLANT (NOED NO. 11-1-001)**

Dear Mr. Spina:

On October 3, 2011, your staff verbally requested that the Nuclear Regulatory Commission (NRC) exercise discretion not to enforce compliance with certain actions required in the Calvert Cliffs Unit 1 and 2 Technical Specifications (TSs). Your staff stated that on October 3, 2011, at 10:35 a.m. (EDT), Calvert Cliffs Units 1 and 2 entered TS 3.0.3, "LCO Action Not Met," requiring that action be initiated within one hour to place the affected units in hot standby (Mode 3) within seven hours and hot shutdown (Mode 4) within 13 hours. The cause of the dual Unit TS 3.0.3 entry was due to planned maintenance on the Unit 2 salt water (SW) header which impacted the operability of the 2A emergency diesel generator (EDG) and an emergent failure of the 1A EDG battery charger, which impacted the operability of the 1A EDG. The inoperability of the 'A' EDG on both units at the same time caused the 'A' train station battery chargers to become inoperable on both units. With two channels of DC electrical sources being inoperable on each unit and no specific TS required action for two inoperable DC channels, your staff entered TS 3.0.3 for both units. You and your staff requested that a Notice of Enforcement Discretion (NOED) be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility as set forth in Section VII.C, of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. You requested that this discretion permit continued facility operation for both units and be effective for approximately eight hours, from 5:35 p.m. (EDT) on October 3, 2011, to 2:00 a.m. (EDT) on October 4, 2011, to allow the Unit 2 SW header to be returned to service.

This letter documents the results of our telephone conference call on October 3, 2011, at approximately 1:15 p.m. (EDT) with you and other members of your staff, and the principal NRC participants (listed in the enclosure to this letter), when the NRC verbally denied your request for an NOED. At the time of the call, Calvert Cliffs Units 1 and 2 were operating, but in the process of shutting down in accordance with TS 3.0.3. Your request and justification for a proposed NOED was submitted in your letter dated October 5, 2011. During the conference call, your staff described the actions planned to retest and restore the Unit 2 SW header by 2:00 a.m. on October 4, 2011. After the discussions, the NRC denied your NOED request.

After the verbal NOED denial, your staff completed troubleshooting activities on the 1A EDG battery charger, returned the battery charger to operable status and exited TS 3.0.3 at 4:05 p.m. on October 3, 2011, prior to its expiration. Calvert Cliffs Units 1 and 2 were restored to full power on October 4, 2011.

During the telephone call between your staff and NRC representatives on October 3, 2011, we described our NOED process outlined in NRC Inspection Manual, Part 9900, "Technical Guidance, Operations - Notices of Enforcement Discretion," dated February 7, 2005. The NOED process is designed to address unanticipated temporary non-compliances with license conditions and TSs. When an NOED is issued, it is recognized that the operating license will be violated, but the NRC is exercising discretion to not enforce compliance with the operating license for a specified time period. The NRC staff expects to issue NOEDs infrequently. Although requirements may dictate that a plant be shutdown, refueling activities be suspended, or a plant startup be delayed, the NRC staff is under no obligation to issue an NOED. NOEDs are issued on a case-by-case basis, considering the individual plant circumstances. An NOED will be issued only if the NRC staff is clearly satisfied that such action is warranted from a public health and safety standpoint.

In order for the NRC to approve an NOED request, a number of factors must be adequately demonstrated for the NRC staff to have the necessary confidence that the approval will not involve any net increase in radiological risk and, therefore, not impose any undue risk to the health and safety of the public. In the case of your specific NOED request, we concluded that your request for an NOED could not be granted because, based upon the information that you provided, we could not clearly satisfy ourselves that the requested action involved no safety impact in accordance with the enforcement policy and staff guidance. The NRC noted your staff was not fully prepared for the in-depth discussion concerning the NOED request and had difficulty addressing the criteria to support the NOED. Specifically, your NOED request had not been reviewed by your plant on-site review committee (PORC) and your risk assessment failed to satisfy the requirements for granting an NOED. These factors are discussed in detail below:

- Inadequate PORC Review and Approval:

During the conference call, your staff discussed that the NOED request had not received PORC approval prior to your staff's request for an NOED. The NRC considers PORC approval to be a requirement before granting an NOED. You informed us that your staff entered this inadequate review and preparation into your corrective action process (CR-2011-009912).

- Insufficient Risk Evaluation Assessment:

During the conference call, your staff also discussed their evaluation of the safety significance and the potential consequences of allowing operation of the facility at power beyond the allowed outage time, including the results of risk calculations. Your staff stated that the risk, as measured by incremental conditional core damage probability (ICCDP) associated with the NOED was greater than $1E-6$. This ICCDP exceeded the NOED guidance value of $5E-7$. This risk estimate also did not consider external events which would increase your calculated risk. Additionally, your risk assessment did not provide an assessment of the incremental conditional large early release probability (ICLERP). Furthermore, the NRC staff was not convinced that all compensatory measures had been considered in order to ensure that there would be no net increase in risk. As a result of the incomplete risk assessment you could not demonstrate that

adequate compensatory actions were identified and could be effectively implemented to mitigate the increased risk associated with the requested enforcement discretion period. The NRC determined that your NOED request did not demonstrate adequate risk insights and informed judgments, as specifically required by our NOED process. If the NOED was to have been approved, a more in-depth discussion would have been necessary in order to assure ourselves that continued operation with the EDGs unavailable would be risk-neutral to plant safety.

In summary, on the basis of the staff's evaluation of your request, we have concluded that the issuance of an NOED was not warranted because, with the information provided at the time of your request, we could not clearly satisfy ourselves that the requested action involved no safety impact in accordance with the enforcement policy and staff guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. McGinty", with a large, stylized flourish at the end.

Timothy J. McGinty
Acting Deputy Regional Administrator

Docket Nos. 50-317; 50-318
License Nos. DPR-53; DPR-69

Enclosure: As Stated

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adequate compensatory actions were identified and could be effectively implemented to mitigate the increased risk associated with the requested enforcement discretion period. The NRC determined that your NOED request did not demonstrate adequate risk insights and informed judgments, as specifically required by our NOED process. It is our position that your risk calculations were not sufficient to assure that all plant specific risks were accounted for and appropriately compensated. If the NOED was to have been approved, a more in-depth discussion would have been necessary in order to assure ourselves that continued operation with the EDGs unavailable would be risk-neutral to plant safety.

In summary, on the basis of the staff's evaluation of your request, we have concluded that the issuance of an NOED was not warranted because, with the information provided at the time of your request, we could not clearly satisfy ourselves that the requested action involved no safety impact in accordance with the enforcement policy and staff guidance.

Sincerely,

/RA/

Timothy J. McGinty
Acting Deputy Regional Administrator

Docket Nos. 50-317; 50-318
License Nos. DPR-53; DPR-69

Distribution: (see attached)

SUNSI Review Complete: **JRH** (Reviewer's Initials)

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Principal Staff Members on the October 3, 2011, Telephone Call

Constellation Representatives:

Jim Spina, Interim Site Vice President, Calvert Cliffs Nuclear Power Plant (CCNPP)
Christopher Costanzo, Plant General Manager, CCNPP
Dave Frye, Manager, Operations, CCNPP
Jim Stanley, Manager, Engineering Services, CCNPP
Doug Lauver, Director of Licensing, CCNPP
Pat Furio, Licensing, CCNPP

NRC Region I:

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NRC Headquarters:

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Douglas Pickett, Senior Project Manager, DORL
Sheldon Stuchell, Senior Project Manager, NOED Process
Jeff Circle, Senior Reliability and Risk Analyst