



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

March 10, 2014

EA-12-140

Mr. Thomas D. Gatlin
Vice President - Nuclear Operations
South Carolina Electric & Gas Company
Virgil C. Summer Nuclear Station
P.O. Box 88
Jenkinsville, SC 29065

**SUBJECT: CONFIRMATORY ORDER (NRC OFFICE OF INVESTIGATIONS REPORT
NO. 2-2011-032)**

Dear Mr. Gatlin:

The enclosed Confirmatory Order is being issued to South Carolina Electric and Gas Company's (SCE&G) Virgil C. Summer Nuclear Station (SNS), as a result of a successful alternative dispute resolution (ADR) session. The commitments described in the Order were made by SCE&G as part of the settlement agreement reached during the ADR session, held on October 8, 2013.

The issue discussed at the ADR session involved a security matter that occurred at SNS in 2010 and 2011, which was the subject of an investigation by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region II. The NRC investigation completed on January 16, 2013, reviewed: (1) the facts and circumstances surrounding the actions of a former Environmental Health and Safety Specialist, Stone & Webster, Inc. (Shaw) employee who, in approximately September of 2010, falsified an SNS Unit 1 Personnel History Questionnaire (PHQ) and provided a fictitious court record to deliberately conceal potentially disqualifying criminal history information in order to obtain employment at the site, and (2) whether SNS access officials properly adjudicated potentially disqualifying information in this individual's PHQ, and supporting materials, prior to granting him unescorted access authorization (UAA) during the September 2010 time frame.

Based on the investigation and NRC staff review, two apparent violations were identified, as documented in the NRC's letter to SCE&G dated June 4, 2013. The first apparent violation involved the willful actions of the licensee's access authorization staff, which caused the licensee's access authorization program to fail to provide high assurance that individuals granted unescorted access are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety, as required by Title 10 of the *Code of Federal Regulations* at 10 CFR 73.56(c). Specifically, on September 14, 2010, licensee access

authorization reviewing officials reviewed, adjudicated, and granted an individual unescorted access authorization by relying unreasonably on a falsified PHQ and fabricated court record to determine his trustworthiness and reliability.

The second apparent violation involved the willful failure to comply with the requirements of 10 CFR 50.9(a) which, in part, state that "information required by statute or Commission regulations to be maintained shall be complete and accurate in all material respects." In part, 10 CFR 73.56(o)(2) requires the licensee to retain records of information that must be collected under subparts (d) and (e) of 10 CFR 73.56 that result in the granting of unescorted access for at least five years after the licensee terminates, or denies, an individual's unescorted access or unescorted access authorization. On September 14, 2010, the licensee collected and maintained a criminal history record to support the granting of unescorted access that was inaccurate and incomplete in a material respect. Specifically, a fabricated court document was accepted by the licensee to reflect a favorable disposition of a criminal matter (i.e., dismissal of arson charges) that, in fact, was not favorably resolved. This information was material because it was relied upon to provide the requisite high assurance that the individual who submitted the document was trustworthy and reliable, and to support the granting of unescorted access.

The NRC's letter of June 4, 2013, offered SNS a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement regarding whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, SNS requested ADR to resolve any differences with the NRC concerning the apparent violations, and to discuss corrective actions. An ADR mediation session was held on October 8, 2013 and a preliminary settlement agreement was reached during this session. The elements of the preliminary agreement were formulated and agreed upon during the mediation session, and are contained within the enclosed Confirmatory Order.

As part of the ADR settlement agreement, and as discussed in the enclosed Confirmatory Order, SNS agreed that the issues described above resulted in an individual inappropriately being granted unescorted access to SNS, which was inconsistent with the requirements of 10 CFR 73.56(c) and 10 CFR 50.9. SCE&G did not agree that the two violations were committed willfully. However, the NRC determined these violations to be willful. In response to the incident, SCE&G completed a number corrective actions and enhancements, and agreed to complete additional corrective actions and enhancements, as fully discussed in the enclosed Confirmatory Order.

During the ADR, the NRC concluded that the corrective actions and enhancements discussed by SCE&G were prompt and comprehensive and addressed the causes that gave rise to the incident discussed in the NRC's letter of June 4, 2013.

In consideration of the commitments delineated in the attached Confirmatory Order, the NRC agrees to fully mitigate a civil penalty and issue a Notice of Violation (NOV) for all matters discussed in the NRC letter to SNS dated June 4, 2013 (EA 12-140). The NOV is incorporated into the enclosed Confirmatory Order. The Confirmatory Order will only be considered an escalated enforcement action by the NRC for future assessment of violations occurring at SNS within one year of the date of the Confirmatory Order.

We have enclosed a Confirmatory Order to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated February 28, 2014, you agree to issuance of this letter and Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate any provision of this Order shall be subject to criminal prosecution as set forth in that Section. Violation of this Order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at NRC Region II, ATTN: Regional Administrator, 245 Peachtree Center Avenue, NE, Suite 1200, Atlanta, Georgia 30303-1257.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its Enclosures will be made available electronically for public inspection in the NRC Public Document Room, or from the NRC's Agencywide Documents Access and Management System (ADAMS), which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the attached Confirmatory Order, on its Web site at www.nrc.gov; the letter can be found on this Web site by selecting the "Public Meetings and Involvement" link and then the "Enforcement" link. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room, or from the NRC's document system (ADAMS). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

If you have any questions or comments concerning this letter, please contact Mr. Terrence Reis, Director, Division of Reactor Safety, at 404-997-4600.

Sincerely,

/RA/

Leonard D. Wert
Deputy Regional Administrator for Operations

Docket No. 50-395
License No. NPF-12

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc: Distribution via Listserv

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ADAMS: Yes ACCESSION NUMBER: ML14070A175 SUNSI REVIEW COMPLETE FORM 665 ATTACHED

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DATE	3/ 5 /2014	3/ 5 /2014	3/ 5 /2014	2/ 24 /2014	2/ 24 /2014	2/ 24 /2014	3/ 10 /2014
E-MAIL COPY	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	RII:ORA						
SIGNATURE	LXW1 for VMM						
NAME	V. McCree						
DATE	3/ 10 /2014						
E-MAIL COPY	YES NO						

Letter to Thomas D. Gatlin from Leonard D. Wert dated March 10, 2014.

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NO. 2-2011-032)

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