

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)

Duke Power Company)
Oconee Nuclear Station)
(Unit 1))

Docket No. 50-269
License No. DPR-38
EA 82-07

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Duke Power Company, 422 South Church Street, Charlotte, North Carolina, 28242 (the "licensee") is the holder of License No. DPR-38 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the Oconee Nuclear Station Unit 1 facility in Oconee County, South Carolina under certain specified conditions and is due to expire on November 6, 2007.

II

An inspection of the licensee's activities under the license was conducted on March 23 - April 1, 1982 at the OCONEE NUCLEAR STATION UNIT 1 facility in Oconee County, South Carolina. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 23, 1982. The Notice stated the nature of the violation, the provision of the license condition which the licensee had violated, and the amount of civil penalty imposed for the violation. Answers dated July 23, 1982 and September 15, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalty were received from the licensee.

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III

Upon consideration of the answers received and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalty contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed. The Director agrees with the licensee's denial of the condition described as Item 2 in the violation in the Notice of Violation and Proposed Imposition of Civil Penalty and withdraws that portion of the violation dealing with the inoperability of one of these channels of the reactor building spray initiation system.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, PL 96-295), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Forty-Four Thousand Dollars within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, U.S.NRC, Washington, DC 20555.

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee violated NRC license conditions as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty as amended by Section III of this Order; and,
- (b) whether, on the basis of such violation, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION

James H. Snodgrass/acting

Richard C. DeYoung, Director
Office of Inspection and Enforcement

APPENDIX

EVALUATIONS AND CONCLUSIONS

For the violation and associated civil penalty identified in the Notice of Violation and Proposed Imposition of Civil Penalty for Duke Power Company's Oconee station (Unit 1) dated June 23, 1982 the original violation is restated and the NRC's evaluation and conclusion regarding the licensee's responses (dated July 23, 1982 and September 15, 1982) is presented.

ORIGINAL STATEMENT OF NONCOMPLIANCE

Technical Specification 3.6.1 requires that containment integrity be maintained whenever reactor coolant system (RCS) pressure is greater than 300 psig and temperature is greater than 200°F.

Technical Specification 3.5.1 requires that all three channels of both trains of reactor building spray initiation be operable when the reactor is critical.

Technical Specification 6.4.1 requires that the plant be maintained in accordance with approved procedures. Procedure IP/O/A/310/5D was established and approved to implement 6.4.1. Step 10.2.3 of the procedure requires replacement of the cap on the 1/4-inch calibration line connected to the 1/2-inch sensing line for reactor building pressure switch 1PS-22.

Contrary to the above, on July 9, 1981, the licensee failed to follow step 10.2.3 of procedure IP/O/A/310/5D. As a result of the failure the following conditions existed between July 9, 1981 and March 23, 1982:

1. Containment integrity of the Unit 1 reactor building was not maintained for fifty-one days while RCS pressure was greater than 300 psig and temperature was greater than 200°F.
2. For thirty-two days, one of three channels of Train A of reactor building spray initiation for Unit 1 was inoperable while the reactor was critical.

EVALUATION AND CONCLUSIONS

A. Violation

The licensee admitted its employees failed to follow required procedures when calibrating reactor building pressure switch 1PS-22 which is the underlying violation for which the civil penalty was proposed. The licensee further admitted that containment integrity was not maintained. However, the licensee denied that the reactor building spray initiation channel was rendered inoperable by the missing cap.

Following receipt of the Notice of Violation and Proposed Imposition of Civil Penalty, the licensee conducted a special test and determined that pressure switch 1PS-22 would actuate at approximately 22 psig which, while greater than the nominal 10 psig setting, is within the Technical Specification required value of 30 psig. Since the channel would operate within the requirements of the Technical Specification, the NRC agrees that Item 2 in the violation should be withdrawn.

B. Assessment of Severity Level

The licensee argued that the violation should have been categorized at a Severity Level IV because the potential increase in the offsite dose in the event of an accident would have been negligible. While offsite dose consequences are a factor in determining the safety significance of a violation, they are not the only factor. In this case, the safety significance lies primarily in the failure of the licensee's administrative and management controls to ensure that procedures affecting safe operation were meticulously followed for equipment important to safety which the staff believes is cause for significant regulatory concern. In the present case the failure to follow procedures resulted in a degradation of containment integrity, a violation of a limiting condition for operation (LCO) and had the potential to preclude operation of a pressure switch in the reactor building spray initiation system which would have violated yet another LCO.

The licensee argued that while Technical Specification 3.6.1 requiring containment integrity was violated, the breach in containment would not have resulted in a significant increase in the potential radiological impact on the health and safety of the public at the site boundary in the event of a design basis accident. The NRC agrees.¹ Nevertheless, in the event of an accident, the breach in containment integrity could have resulted in some additional release and this is of concern to the NRC because it could have been avoided. Furthermore, the licensee did not address the potential for increased exposure of plant personnel had entry into the penetration room been required following an accident. The NRC believes that such exposures could be significant. In addition, it was fortuitous that both the pressure switch remained functional and the size of the containment breach restricted the potential radiological impact in the event of an accident. Had failure to follow a procedure involved a larger containment penetration, the potential radiological consequences could have been large and could have resulted in the violation being characterized as a Severity Level II, in that the containment would not only have been degraded, but would have been unable to perform its intended safety function.

Therefore, the staff has concluded that the violation was properly categorized as a Severity Level III.

¹ While the staff agrees with the licensee's conclusion based on the calculations performed, the licensee should have used the maximum hypothetical accident as the basis for its analysis instead of the design basis loss of coolant accident. See Technical Information Document 14844, "Calculation of Distance Factors for Power and Test Reactor Sites."

C. Assessment of the Civil Penalty

Notwithstanding the withdrawal of the spray initiation channel operability portion of the violation, the underlying procedural violation of Technical Specification 6.4.1 remains significant. Therefore, unless mitigation were appropriate, the staff would conclude that a civil penalty should be imposed.

D. Mitigation Factors

1. Self-Identification

The licensee asserts that it identified the problem with its procedures in January, 1982, that corrective action was taken at that time, and that mitigation on that basis is required. However, the need for independent verification had been previously identified by the NRC in NUREG-0585 and NUREG-0737, which were issued in November, 1979 and November, 1980, respectively, as a result of lessons learned from the Three Mile Island accident. Both recommended, among other things, that licensee's procedures "be reviewed and revised, as necessary, to assure an effective system of verifying the correct performance of operating activities is provided as a means of reducing human errors." Both documents specifically referred to "human verification of operations and maintenance independent of the people performing the activity" (Emphasis added).

These provisions have been the subject of extensive correspondence over the past two years and of a Confirmatory Order issued on July 10, 1981. Thus, we do not believe any credit should be given to the licensee for identifying the need for independent verification in January, 1982.

2. Corrective Action

The licensee claims that following its identification of the potential problem with failure of procedures to require independent verification, it took prompt and appropriate corrective actions to preclude repetition by changing its procedures. Two points indicate otherwise. First, the licensee provided, as a part of the response, a copy of a memorandum from a site supervisor to his staff which required independent verification by persons other than those doing the work. This memorandum was limited in application to those supervised by the author and thus did not precipitate or ensure generic corrective actions in other groups at the Oconee site. Further, the instructions were not provided in a controlled document within the meaning of 10 CFR 50, Appendix B, Criterion VI which would assure that future employees would be informed of and understand the meaning of "independent verification."

Second, it is noted that while Oconee procedures imply an independent verification by the inclusion of two sign-off spaces on data sheets, neither the body of the procedure nor any administrative control explicitly establishes the meaning or significance of this entry.

Therefore, we do not believe that action taken was unusually prompt or extensive and no mitigation based on corrective action is warranted.

3. Enforcement History, Prior Notice and Multiple Examples

These factors were not used to increase the civil penalty above the base amount and the Policy does not provide for mitigation on the basis of the absence of these factors.

Based on the above, the staff concludes that the civil penalty should not be mitigated.