

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 55-30662
Kenneth G. Pierce)	License No. OP-30277-02
Shorewood, Illinois)	IA 94-007

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. Kenneth G. Pierce (Licensee) held Reactor Operator's License No. OP-30277-02 issued by the U. S. Nuclear Regulatory Commission (NRC or Commission) on July 25, 1984. Mr. Pierce was employed by the Commonwealth Edison Company (CECo) from April 30, 1979 until CECo terminated his employment on December 2, 1992, which terminated his license. He most recently held the position of Nuclear Station Operator (NSO) with responsibilities involving compliance with NRC requirements for the operation of a nuclear power plant. CECo holds Facility Licenses DPR-19 and DPR-25 issued by the NRC pursuant to 10 CFR Part 50. The licenses authorize CECo to operate the Dresden Nuclear Station Units 2 and 3 located near Morris, Illinois. The licenses were issued by the NRC on December 22, 1969, and March 2, 1971, respectively.

II

On November 24, 1992, CECo notified the NRC that CECo senior managers had just become aware of an incident that had occurred on September 18, 1992, when Unit 2 was operating at 75% power. Mr. Pierce, who was the NSO on duty, incorrectly positioned control rod H-1 while repositioning control rods to change

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localized power levels within the reactor core, and the event was concealed from CECo management. Both CECo and NRC initiated an investigation of the incident.

On September 18, 1992, Mr. Pierce erroneously moved the rod H-1 from Position 48 (the fully withdrawn position) to Position 36. A Qualified Nuclear Engineer (QNE) and two individuals in training to become "qualified" nuclear engineers were in the control room when the QNE recognized the NSO's error. Mr. Pierce failed to insert the mispositioned rod to Position 00 and continued to move other control rods at the direction of the QNE. The QNE then informed the Station Control Room Engineer (SCRE) of the mispositioned rod. Later the SCRE spoke with Mr. Pierce and the three nuclear engineers and they all agreed that they would not discuss the incident with anyone else. As a result, neither the mispositioned rod nor the subsequent deviations from the planned control rod pattern were documented in the control room log, a Form 14-14C plant record was falsified, and CECo management was not informed of the incident.

The NRC licenses individuals pursuant to 10 CFR Part 55, "Operators' Licenses," to manipulate the controls of an utilization facility. The operator license requires the individual to observe all applicable rules, regulations and orders of the Commission, including the operating procedures and other conditions specified in the facility license.

Dresden Technical Specification 6.2.A.1 stated that applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2 dated February 1978, shall be established, implemented, and maintained. Regulatory Guide 1.33 Appendix A.1.c included administrative procedures, general plant operating procedures, and procedures for startup, operation, and shutdown of safety related systems.

Dresden Operating Abnormal Procedure (DOA) 300-12, "Mispositioned Control Rod," Revision 2, dated November 1991, section C, "Immediate Operator Actions," step 2, required, in part, that if a control rod is found or moved more than one even notch from its in-sequence position, then all control rod movement must be discontinued. Section D, "Subsequent Operator Actions," step 2.a.(1), required in part that if a single control rod is inserted more than one even notch from its in-sequence position and reactor power was greater than 20%, and if the mispositioning was within the last 10 minutes, then the mispositioned control rod must be continuously inserted to Position 00. Step 5 required the NSO to compare the current off gas radiation level to the off gas radiation level prior to the suspected time of the mispositioning, and to record data in the Unit log book including the location of the mispositioned rod(s), time of discovery of the mispositioning, actions taken, and any other observation determined to be relevant. Step 6 required that an upper management representative will conduct an evaluation into the

cause of the mispositioning and implement immediate corrective actions prior to the resumption of routine control rod movements.

These procedures were not followed. Specifically, Mr. Pierce failed to insert the mispositioned control rod H-1 to Position 00, failed to compare the off gas radiation level at the time of the event to the level prior to the time of the mispositioning, and continued to move control rods without the performance of an evaluation and corrective actions by an upper management representative. Mr. Pierce's failure to record any information concerning the rod mispositioning event in the Unit log book put CECo in violation of its procedures and 10 CFR 50.9(a).

Based on the NRC Office of Investigations (OI) investigation of this matter (OI Report No. 3-92-055R), I conclude that Mr. Pierce, along with certain other CECo employees, attempted to conceal the mispositioned control rod event by deliberately failing to document the event in the Unit log book as required by plant procedures.

Further, in a transcribed sworn statement on December 30, 1992, Mr. Pierce stated that he did not remember the SCRE making a statement to the effect that information about the mispositioned control rod should not leave the control room. Based on the transcribed testimony of three individuals who were present during the incident that the SCRE had made a statement to them to

the effect that information about the mispositioned control rod should not leave the control room, that Mr. Pierce was present when the SCRE made that statement, and that all five individuals had agreed not to discuss the event with anyone else, I conclude that Mr. Pierce's testimony to the contrary constituted the deliberate provision of inaccurate information which he knew to be material to the NRC, in violation of 10 CFR 55.9, "Completeness and Accuracy of Information."

III

Based on the above, Mr. Pierce, an employee of CECo at the time of the event, engaged in deliberate misconduct which caused CECo to be in violation of its license conditions and 10 CFR 50.9(a), and which constitutes a violation of 10 CFR 50.5. Further, Mr. Pierce, a licensed reactor operator at the time of the event, provided to NRC investigators information which he knew to be inaccurate in some respect material to the NRC, in violation of 10 CFR 55.9.

The NRC must be able to rely on its licensees and their employees, especially NRC-licensed operators, to comply with NRC requirements, including the requirement to maintain records and provide information to the NRC that is complete and accurate in all material respects. Mr. Pierce's action in causing CECo to violate its license conditions and 10 CFR 50.9, and his

misrepresentations to the NRC have raised serious doubt as to whether he can be relied upon to comply with NRC requirements applicable to licensed facilities and licensed individuals and to provide complete and accurate information to the NRC.

Mr. Pierce's deliberate misconduct that caused CECo to violate Commission requirements, and his false statements to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, if Mr. Pierce were permitted at this time to be engaged in the performance of NRC-licensed and regulated activities. Therefore, the public health, safety and interest require that Mr. Pierce be prohibited from being involved in any NRC-licensed activities for three years from the date of this Order. In addition, for the same period, Mr. Pierce is required to give notice of this Order to any prospective employer engaged in NRC-licensed activities, as described in Section IV, Paragraph C, below, from whom he seeks employment in non-licensed activities to ensure that such employer is aware of Mr. Pierce's previous history. For five years from the date of the Order, Mr. Pierce is also required to notify the NRC of his employment by any person engaged in NRC-licensed activities, as described in Section IV, Paragraph B, below, so that appropriate inspections can be performed. Furthermore, pursuant to 10 CFR

2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 107, 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, 10 CFR 50.5, and 10 CFR 55.61, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

- A. Mr. Pierce is prohibited for three years from the date of this Order from engaging in activities licensed by the NRC.
- B. Should Mr. Pierce seek employment in non-licensed activities with any person engaged in NRC-licensed activities for three years from the date of this Order, Mr. Pierce shall provide a copy of this Order to such person at the time Mr. Pierce is soliciting or negotiating employment so that the person is aware of the Order prior to making an employment decision. For the purposes of this Order, NRC-licensed activities include the activities of: (1) an NRC licensee; (2) an Agreement State licensee conducting licensed activities in NRC jurisdiction pursuant to 10 CFR 150.20; and (3)

an Agreement State licensee involved in the distribution of products that are subject to NRC jurisdiction.

- C. For three years from the date of this Order, Mr. Pierce shall provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer, within 72 hours of his acceptance of an employment offer involving non-licensed activities, for any employer engaged in NRC-licensed activities described in Paragraph IV.B, above.
- D. After the three year prohibition has expired as described in Paragraphs IV.A and B, above, Mr. Pierce shall provide notice to the Director, Office of Enforcement, for acceptance of any employment in an NRC-licensed activity for an additional two year period.

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

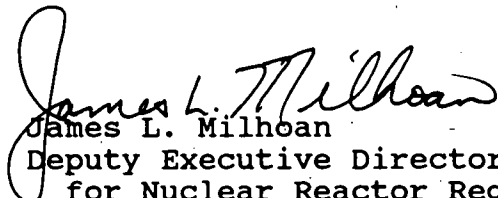
In accordance with 10 CFR 2.202, Mr. Pierce must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing within 30 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Pierce or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U. S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement at the same address; to the Regional Administrator, Region III, U. S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532-4351; and to Mr. Pierce, if the answer or hearing request is by a person other than Mr. Pierce. If a person other than Mr. Pierce requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Pierce or 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 Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Pierce, or any person adversely affected by this Order, may in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. AN ANSWER OR A REQUEST FOR A HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION


James L. Milhoan
Deputy Executive Director
for Nuclear Reactor Regulation,
Regional Operations and Research

Dated at Rockville, Maryland
this 21st day of April 1994

Mr. Kenneth G. Pierce

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