



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

October 24, 1997

IA 97-080

Mr. Nathen Hougas
[Home Address Deleted]
Pursuant to 10 CFR 2.790]

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE
(NRC OFFICE OF INVESTIGATIONS REPORT No. 3-97-020)

Dear Mr. Hougas:

This letter is in reference to information provided to the NRC by the Commonwealth Edison Company (ComEd) that you allegedly falsified a security record, which is material to the NRC. Specifically, it appears that on January 25, 1997, while on security patrol at ComEd's Dresden Nuclear Station, you intentionally unlocked a security padlock and reported, both verbally and in writing, that you had found the open padlock during your patrol. The NRC's Office of Investigations (OI) reviewed the information provided by ComEd. (A copy of the Synopsis for the OI report is enclosed.) Based on OI's findings, the NRC staff concluded that you committed an apparent violation of the NRC's rules prohibiting deliberate misconduct.

The NRC believes that sufficient information is available for an enforcement decision to be made. However, before the NRC makes its enforcement decision, we are providing you an opportunity to either (1) respond to the apparent violation discussed above, under oath and affirmation, within 30 days of the date of this letter, or (2) request a predecisional enforcement conference within 7 days of the date of this letter.

If you choose to respond by letter or attend a predecisional enforcement conference, you are specifically invited to address the factors that the NRC normally considers in determining whether enforcement action should be taken against individuals. These factors are described in Section VIII, "Enforcement Actions Involving Individuals," of the enclosed copy of the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600 (copy enclosed). In addition to responding to these factors, should you admit the violation, the NRC requests that you address in your written response, or present in a predecisional enforcement conference, how the NRC can be confident (1) of your future trustworthiness while engaged in licensed nuclear activities, and (2) you will abide by regulations and procedures pertinent to your work. You may additionally provide any information you deem relevant to the NRC in making an enforcement decision. If the NRC concludes that you deliberately caused or committed

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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violations of NRC requirements, the possible sanctions include a Notice of Violation, a civil penalty,¹ or an order. An order may prohibit involvement in NRC-licensed activities or require notice to a prospective employer that the person has been the subject of an NRC order.

You are not required to attend a conference and you are not required to provide a response to this letter. You should understand that if you do not respond to this letter or request an enforcement conference, the NRC will make an enforcement decision based on the NRC review of the information provided by ComEd.

Please be advised that if you choose an enforcement conference, it will be held at the Region III office and your cost of transportation to Region III must be borne by you. Also, you are welcome to have counsel or a personal representative accompany you to an enforcement conference or assist you in preparing your response if you should choose that option. However, the cost of any such counsel or personal representative and their transportation costs must likewise be borne by you.

You will be advised by separate correspondence of the results of our deliberations on this matter. Should you have any questions about this letter, please contact Mr. Brent Clayton of my staff at toll free telephone number 1-800-522-3025.

The NRC will delay placing a copy of this letter and Enclosure 1 into the NRC Public Document Room (PDR) until an enforcement decision has been made. At that time, in accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, and Enclosure 1 will be placed in the PDR.

Sincerely,

for James F. Caldwell
A. Bill Beach
Regional Administrator

Dockets No. 50-237; 50-249
Licenses No. DPR-19; DPR-25

Enclosures: As stated

cc with Enclosure 1 only:
J. S. Perry, ComEd Site Vice President - Dresden

¹ A civil penalty is not normally imposed on unlicensed individuals. See Footnote 10 of the NRC Enforcement Policy.

DISTRIBUTION with Enclosure 1 only:

PUBLIC IE-01

SECY

CA

LCallan, EDO

AThadani, DEDE

LChandler, OGC

JGoldberg, OGC

SCollins, NRR

RZimmerman, NRR

TMartin, AEOD

Enforcement Coordinators

RI, RII and RIV

Resident Inspector, Dresden

Licensing Project Manager, NRR

JGilliland, OPA

HBell, OIG

GCaputo, OI

RPaul, OI:RIII (OI No. 3-97-020)

JHopkins, RIII (AMS No. RIII-1997-A-0029)

JCreed, RIII

OE:ES

OE:EA (2)

RAO:RIII

SLO:RIII

PAO:RIII

OC/LFDCB

DRP

Docket File

SYNOPSIS

On May 19, 1997, an investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), to determine if a Burns Security Officer assigned to the Dresden Nuclear Power Station, Morris, IL, had deliberately falsified an incident report documenting that a padlock that provided access to a vital area had been tampered with. Upon subsequent questioning by corporate security agents, the security officer admitted that he had actually opened the padlock to test it and falsely reported that it had been tampered with.

Based on evidence developed during the course of this investigation, and after a review of evidence contained in the licensee's investigative report, it was determined that the security officer had deliberately provided the licensee incomplete and inaccurate information and falsely reported the circumstances of the event.

§ 50.5 Deliberate misconduct.

(a) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

§ 50.9 Completeness and accuracy of information.

(a) Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

(b) Each applicant or licensee shall notify the Commission of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety or common defense and security. An applicant or licensee violates this paragraph only if the applicant or licensee fails to notify the Commission of information that the applicant or licensee has identified as having a significant implication for public health and safety or common defense and security. Notification shall be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.