

Appendix A

NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY

Commonwealth Edison Company

Docket No. 50-237  
Docket No. 50-249

As a result of the investigation conducted on September 8-10, 1980, into the conduct of licensed operators in the Dresden Control Room, and in accordance with the Interim Enforcement Policy, 45 FR 66754 (October 7, 1980), this office proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 USC 2282, P.L. 96-295), and 10 CFR 2.205, in the amount set forth below for the following violation:

10 CFR 50.54(k) states, "An operator or senior operator licensed pursuant to Part 55 of this chapter shall be present at the controls at all times during the operation of the facility." The Dresden Station Technical Specifications, Chapter 6.1 and Table 6.1.1 require, for the operational status of Units 2 and 3 on August 8, 1980, three licensed operators to fulfill the minimum shift staffing requirements.

Contrary to the above, at approximately 6:00 a.m. on August 8, 1980, the NRC Senior Resident Inspector observed that two of the three licensed operators in the control room assigned to monitor the operation of Units 2 and 3, specifically the Unit 3 and Control Room Center Desk operators, appeared to be asleep, such that they were not fully attentive nor were they able to monitor reactor conditions; thus, licensed operators were not at the controls as required.

This a Severity Level III violation (Supplement I.C.2). Civil Penalty - \$40,000)

Pursuant to the provisions of 10 CFR 2.201, Commonwealth Edison Company is hereby required to submit to this office within twenty-five days of the date of this Notice, a written statement or explanation in reply, including: (1) admission or denial of the alleged item of noncompliance; (2) the reasons for the item of noncompliance if admitted; (3) the corrective steps which have been taken and the results achieved; (4) corrective steps which will be taken to avoid further items of noncompliance; and (5) the date when full compliance will be achieved. Under the authority of Section 182 of the Atomic Energy Act of 1954, as amended, this response shall be submitted under oath or affirmation.

Commonwealth Edison Company may, within twenty-five days of the date of this Notice pay the civil penalty in the cumulative amount of Forty Thousand Dollars (\$40,000) or may protest the imposition of the civil penalty in whole or in part by a written answer. Should Commonwealth Edison fail to answer within the time specified, this office will issue an order imposing the civil penalty in the amount proposed above. Should Commonwealth Edison Company

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elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, such answer may (a) deny the item of noncompliance listed in the Notice of Violation in whole or in part; (b) demonstrate extenuating circumstances; (c) show error in the Notice of Violation; or (d) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate by specific reference (e.g., giving page and paragraph numbers) to avoid repetition.

Commonwealth Edison Company's attention is directed to the other provisions of 10 CFR 2.205 regarding, in particular, failure to answer and ensuing orders; answer, consideration by this office, and ensuing orders; requests for hearings, hearings and ensuing orders; compromise; and collection.

Upon failure to pay any civil penalty due which has been subsequently determined in accordance with the applicable provisions of 10 CFR 2.205, the matter may be referred to the Attorney General and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Atomic Energy Act of 1954, as amended (42 USC 2282).

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Victor Stello, Jr.  
Director, Office of Inspection  
and Enforcement

Dated at Bethesda, Maryland  
this \_\_\_\_\_ day of October 1980