DCD/DCB (RIDS)

November 28, 1990

Docket Nos. 50-237 and 50-249
License Nos. DPR-19 and DPR-25
EA 90-168

Commonwealth Edison Company
ATTN: Mr. Cordell Reed
Senior Vice President
Opus West III 1400 Opus Place
Downers Grove, Illinois 60515

Gentlemen:

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY - $37,500 (NRC INSPECTION REPORT NOs. 50-237/90017(DRP); 50-249/90017(DRP); 50-237/90022(DRP); 50-249/90022(DRP))

This refers to the special safety inspections conducted during the period of June 13 through July 31, 1990 and during the period of June 28 through September 20, 1990 at the Dresden Nuclear Power Station. During these inspections a violation of NRC requirements was identified by your staff, and on October 12, 1990, an enforcement conference was held in the Region III office between Mr. D. Galle, and other members of your staff, and Dr. C. J. Paperiello, and other members of the NRC staff. Copies of the inspection reports were mailed to you on August 24, 1990 and October 4, 1990, and a copy of the enforcement conference report was sent on October 24, 1990.

On June 28, 1990, with Units 2 and 3 operating at 99% and 48% power respectively, during the review of a proposed revision to DRP 1350-3 "Sampling the Drywell Manifold System Using the RaDeco Air Sampler", one of your employees, an Assistant Technical Staff Supervisor, discovered that obtaining the required daily air sample using this procedure both challenged the integrity of primary containment and potentially violated Technical Specification (TS) 3.7.A.a.(3) primary containment leakage requirements. Specifically, this procedure addressed obtaining the required air sample by breaking the closed loop on the drywell manifold air sample system and using a temporary sample pump in lieu of the normal air sample pump. In this configuration and under this procedure, the temporary sample pump would run unattended for approximately one hour daily and exhaust into the secondary containment with no automatic isolation capability. In addition, this represented a condition that could, by your own calculations, increase primary containment leakage beyond the allowed leakage of 1.6% per day (TS 3.7.A.a.(3)) by an additional 4.73% per day for a total leakage of 6.33% per day. It is my understanding that this method of air sampling using the temporary sampling pump has been used as a secondary backup method to obtain the required air sample since approximately 1978. We also understand that the required air samples were originally obtained through the use of a continuous air monitor (CAM) with the drywell manifold air sample system as the primary backup.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

1/1 IE14 FAX

The root cause of this event was your failure to recognize that use of the temporary air pump constituted a design change that required the performance of a proper engineering review and the establishment of proper procedural controls prior to its implementation.

Consequently, this resulted in a significant failure to meet the requirements of 10 CFR 50.59. Specifically, each time that the temporary sample pump was used, you failed to perform the evaluation necessary to determine whether the activity constituted a change in the TSs and/or an unreviewed safety question. In this case, the use of the temporary sample pump effectively constituted a change in the TSs' allowable leakage rate and represented an unreviewed safety question in that the additional leakage rate (4.73%) nullified the margin of safety as defined in the basis to the TSs. This violation is significant in that (based on your calculations using design basis methodologies) both limits for the thyroid dose for control room habitability and for the 30 day thyroid dose at the low population zone would have been exceeded. Although you performed additional analyses that indicated that acceptable offsite and control room doses would have been obtained, those analyses, that were based on assumptions that were less conservative than those used in the plant licensing basis, still would have required changes to the Final Safety Analysis Report (FSAR), TSs, and TS bases. However, the determination of the acceptability of such analyses is an NRC function, and requires NRC approval prior to implementation of the change. Therefore, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) 10 CFR Part 2, Appendix C (1990), this violation has been categorized as a Severity Level III violation.

The NRC recognizes that immediate corrective action was taken when the violation was identified. In addition, the NRC was informed of your subsequent corrective actions during the October 12, 1990 enforcement conference. During this discussion, you informed us that as part of your corrective action for this event, that you had identified that a 10 CFR 50.59 review had not been completed prior to disconnecting the CAM in the early 1980's, despite the fact that it was an FSAR requirement. I understand that you have reinstalled the CAM on Unit 3 and will reinstall it on Unit 2 prior to its startup from its current refueling outage.

To emphasize the need for recognizing design changes and for performing the necessary evaluations in accordance with the provisions of 10 CFR 50.59, I have been authorized, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of $37,500 for the Severity Level III violation. The base value of a civil penalty for a Severity Level III violation is $50,000. The escalation and mitigation factors in the Enforcement Policy were considered.

I recognize that your employee went beyond his normal duties in identifying the violation and wish to encourage you to continue such aggressive reviews. The fact that this employee took the time to look into and question the process instead of routinely approving a procedure revision is to be commended.

However, this violation might have been identified earlier if an aggressive review had taken place on several prior occasions. First, in 1986, the unreviewed safety question might have been identified if your revisions to the temporary alteration program had extended to cover use of the temporary sample pump, either at that time or when use of the pump was reinstated in 1987. Second, in August 1988, when your temporary alteration program was extended to cover use of mechanical equipment, the unreviewed safety question might have been identified if you had recognized the use of the temporary pump as a temporary alteration. Finally, in May 1989, when the procedure governing use of the temporary sample pump was created (in response to a third party reviewer's recommendation made in 1988), the unreviewed safety question might have been identified if you had properly performed a safety evaluation as required by your own procedure. Therefore, only partial mitigation (25%) was deemed warranted for the identification factor. Fifty percent mitigation was applied due to the extensiveness of your corrective actions, once you recognized that an unreviewed safety question existed. With respect to your past performance, the NRC notes that you received two previous Severity Level IV violations involving changes to the facility without prior evaluation and authorization in the past two years. I recognize that the corrective action for those violations would not necessarily have prevented the subject violation. In addition, the NRC has noted a significant improvement in the performance of your technical staff organization as evidenced by your latest SALP rating in the area of E&TS, as well as the more aggressive scrutiny that your employees are giving to routine reviews. Therefore, 50% mitigation was applied for past performance. However, I am especially concerned in this case due to the number of years that the temporary sample pump was regularly used on a daily basis and the potential for a significant offsite release should a design basis LOCA have occurred during those times. In addition, the NRC is concerned that, for a substantial number of years, it appears that you failed to properly understand and evaluate the intent and requirements of the containment air sample system such that the proper corrective actions for the system requirements could have been implemented. Therefore, the base civil penalty was escalated by 100% based on the duration factor. The other factors of the Policy were considered and no further adjustment to the base civil penalty was considered appropriate. Therefore, based on the above, a civil penalty in the final amount of $37,500 is proposed.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Sincerely,

Carl J. Paperiello for

A. Bert Davis
Regional Administrator

Enclosures:
1. Notice of Violation and Proposed Imposition of Civil Penalty
2. Inspection Report Nos. 50-237/90022(DRP); 50-249/90022(DRP)

cc w/enclosures:
D. Galle, Vice President - BWR Operations
T. Kovach, Nuclear Licensing Manager
E. D. Eenigenburg, Station Manager
DCD/DCB (RIDS)
OC/LFDCB
Resident Inspectors LaSalle, Dresden, Quad Cities
Richard Hubbard
J. W. McCaffrey, Chief, Public Utilities Division
Robert Newmann, Office of Public Counsel, State of Illinois Center

OE	D:OE	DEDR		
	(Rece'd via FAX)			
RPedersen	JLieberman	JSniezek		
11/21/90	11/21/90	11/23/90		
		yes EA file		
RIII	RIII	RIII	RIII	RIII
Lougheed/db	Miller	Pederson	Papiello	Davis for
11/26/90	11/27/90	11/27/90	11/27/90	11/27/90

DISTRIBUTION:

PDR
LPDR
SECY
CA
J.Sniezek, DEDR
J.Lieberman, OE
J.Goldberg, OGC
T.Murley, NRR
J.Partlow, NRR
Enforcement Coordinators
RI, RII, RIV, RV
F.Ingram, GPA/PA
B.Hayes, OI
D.Williams, OIG
E.Jordan, AEOD
R.Pedersen, OE
Day File
EA File
RAO:RIII
PAO:RIII
SLO:RIII
IMS:RIII