

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Commonwealth Edison Company) Docket Nos. 50-237
(Dresden Nuclear Power Facility,) 50-249
Units 2 & 3) EA 81-02

SETTLEMENT OF PROCEEDING ON
ORDER IMPOSING CIVIL MONETARY PENALTY

I

Commonwealth Edison Company (the "licensee") holds Operating License Nos. DPR-19 and DPR-25, which authorize the operation of Units 2 and 3 of the Dresden Nuclear Power Facility in Grundy County, Illinois. These licenses were issued respectively on December 22, 1969, and January 13, 1971. Units 2 and 3 are boiling water reactors, each of which is authorized to operate at power levels not in excess of 2527 megawatts thermal (rated power).

II

During an inspection of the licensee's activities at the Dresden facility on August 8, 1980, an apparent item of noncompliance was identified with the requirements of 10 CFR Part 50. A written Notice of Violation and Proposed Imposition of Civil Penalty was served on the licensee on October 20, 1980, in accordance with section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2282, Pub. L. No. 96-195), 10 CFR 2.201, and 10 CFR 2.205 of the Commission's regulations. The Notice proposed a civil penalty in the amount of \$40,000. The licensee answered the Notice on November 24, 1980. Upon consideration of the licensee's answer, the Director of the Office of Inspection and Enforcement determined to impose the penalty proposed in the Notice for the particular item of non-

compliance. Accordingly, the Director ordered the licensee on February 23, 1981, to pay a civil penalty in the amount of \$40,000. In a letter of March 19, 1981, the licensee requested a hearing in accordance with the terms of the Director's February 23rd Order and 10 CFR 2.205.

III

On the basis of their reconsideration of the applicable evidence, regulatory requirements, and policy, the Office of Inspection and Enforcement and Commonwealth Edison Company have reached agreement with respect to the following matters:

1. While the operators may not have been sleeping when the NRC inspector observed them at about 6:00 a.m. on August 8, 1980, the operators appeared to be asleep in that they were resting their heads on their arms on their desks. The operators later indicated that they were drowsy and were fighting sleep. As such, the operators lacked the degree of alertness required by the licensee and the NRC in performance of operational duties in the control room of a nuclear power reactor.
2. The operators were physically present in the control room as required by 10 CFR 50.54(k) and Dresden Station Technical Specifications, Chapter 6.1 & Table 6.1.1. However, under criterion V of 10 CFR Part 50, App. B, the licensee must have and implement procedures to ensure that activities affecting quality, including operation of the facility, are satisfactorily accomplished. The Dresden Station Technical Specifications, Chapter 6.2.A.1., require that the

licensee have and adhere to procedures covering normal operation of the facility. On August 8, 1980, the licensee had in effect Procedure DAP 7-2 (Rev. 6), which requires that operators "be in a position to monitor plant parameters" during normal plant operation. The licensee also had in effect Nuclear Stations Division Manager's Directive No. 013 (Rev. August 8, 1979), "Conduct of Shift Operations," which required that "control room operators shall be attentive to their panels and execute their duties in a professional manner." As described in paragraph 1, the operators on duty did not maintain the degree of alertness that is required under the licensee's procedure and directive to enable the operators to execute their duties.

3. The licensee took corrective action upon learning of the incident. The licensee gave the operators a formal oral warning concerning the seriousness of the incident. The licensee also sent a memorandum on August 22, 1980, to all operating shift supervisors and nuclear station operations on the subject of sleeping and operator alertness. The memorandum reemphasizes the requirement that operators be alert and capable of performing their duties. The memorandum also prescribes procedures to provide prompt relief of operators from their duty stations to combat drowsiness or inattentiveness. The licensee issued revised versions of Procedure DAP 7-2 (Rev. 7, Oct. 31, 1980) and Directive No. 013 (Rev. Nov. 1, 1980) which underscore the requirement for operator alertness and indicate specifically "sleeping" and "habitual or chronic lack of attentiveness" as examples of conduct which will be subject to severe disciplinary action, including possible discharge from the company.

4. The severity level of the violation was considered by NRC to be Severity Level III. On the basis of the available evidence, arguments can be made as to whether the operators' lack of attentiveness should be categorized as a Severity Level III or Severity Level IV violation.

In consideration of the foregoing matters and in the interest of concluding this proceeding, the Office of Inspection and Enforcement and Commonwealth Edison Company have agreed to settle this proceeding under the following terms:

- (1) The Director of the Office of Inspection and Enforcement will mitigate the civil penalty imposed by the Order of February 23, 1981, from \$40,000 to \$18,000; and
- (2) Commonwealth Edison Company will pay a civil penalty in the amount of \$18,000, and will withdraw its request for a hearing of March 19, 1981.

IV

In view of the foregoing agreement and settlement, and pursuant to section 234 of the Atomic Energy Act, as amended, and 10 CFR 2.205, IT IS HEREBY ORDERED that the Order of February 23, 1981, is modified to require the licensee to pay a civil penalty in the total amount of Eighteen Thousand Dollars (\$18,000) in the manner prescribed in the Order of February 23, 1981.

The proceedings on the Order of February 23, 1981, are hereby terminated.

FOR THE NUCLEAR REGULATORY COMMISSION

*Original Signed By
- C. DeYoung*

Victor Stello, Jr.
Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 10th day of June, 1981