



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

MAR 14 1990

Docket No. 50-331  
License No. DPR-49  
EA 89-214

Iowa Electric Light and Power  
Company

ATTN: Mr. Lee Liu  
President and Chief  
Executive Officer

IE Towers  
Post Office Box 351  
Cedar Rapids, Iowa 52406

Gentlemen:

SUBJECT: IOWA ELECTRIC LIGHT AND POWER COMPANY (DUANE ARNOLD ENERGY CENTER)  
WITHDRAWAL OF PROPOSED CIVIL PENALTY

This refers to your letter dated February 9, 1990, in response to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent to you by our letter dated January 10, 1990. The Notice describes a violation associated with an inadequate secondary containment surveillance procedure in that the procedure was unable to ensure that the Standby Gas Treatment System could maintain the Reactor Building at the required negative pressure. This matter was reviewed by the NRC during an inspection conducted at your facility during the period September 20 through October 16, 1989.

In your response, you admitted the violation occurred as stated, but noted that the NRC may refrain from proposing a civil penalty for a Severity Level III violation that does not involve an overexposure or release of radioactive material provided a licensee meets the criteria specified in 10 CFR Part 2, Appendix C, Section V.G.3. After careful consideration of your response, we have concluded, for the reasons set forth in the enclosed Appendix, that you did meet these criteria and that a sufficient basis was provided for allowing an additional 50 percent mitigation of the base civil penalty for this Severity Level III violation. Accordingly, the base civil penalty has been mitigated by a full 100 percent and the proposed \$25,000 civil penalty has been withdrawn. Our records will be changed to reflect that the proposed civil penalty has been modified as described above.

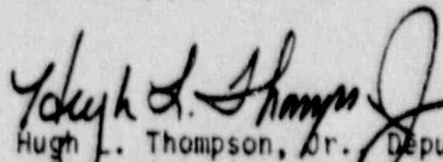
No response to this letter is required since Iowa Electric Light and Power Company responded to the Notice in its February 9, 1990 letter and described corrective actions that had been taken and will be taken. We will review the effectiveness of these corrective actions during future inspections.

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Iowa Electric Light and Power Company - 2 -

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

Sincerely,

A handwritten signature in dark ink, appearing to read "Hugh L. Thompson, Jr.", with a stylized flourish at the end.

Hugh L. Thompson, Jr., Deputy  
Executive Director for Nuclear  
Materials Safety, Safeguards, and  
Operations Support

Enclosure: Appendix

## APPENDIX

### EVALUATION AND CONCLUSION

In its February 9, 1990, response to the January 10, 1990, Notice Of Violation and Proposed Imposition of Civil Penalty for the Duane Arnold Energy Center, Iowa Electric Light and Power Company (IELP) admits that the secondary containment surveillance test procedure in place on September 20, 1989, was not adequate to ensure that the Standby Gas Treatment System could maintain the Reactor Building at the required 1/4 inch of water vacuum. However, the licensee believes that the circumstances surrounding the violation meet the criteria as outlined in 10 CFR Part 2, Appendix C, Section V.G.3., and requests that the NRC refrain from imposing a Civil Penalty. The violation is restated below, followed by a summary of the licensee's response, the NRC's evaluation, and the conclusion.

#### 1. Restatement of Violation

10 CFR Part 50, Appendix B, Criterion XI, Test Control, requires, in part, that a test program be established to assure that all testing required to demonstrate that structures, systems, and components will perform satisfactorily in service is identified and performed in accordance with written test procedures which incorporate the requirements and acceptance limits contained in applicable design documents.

Technical Specification Limiting Condition for Operation (LCO) 3.7.C.1 requires secondary containment integrity to be maintained during all modes of plant operation unless specific exception criteria are met. In addition, Technical Specification Surveillance Requirement 4.7.C.1.c requires that the Standby Gas Treatment System capability to maintain 1/4 inch of water vacuum under calm wind (< 5 MPH) conditions with a filter train flow rate of not more than 4,000 SCFM, shall be demonstrated at each refueling outage prior to refueling.

Contrary to the above, from 1974 until September 20, 1989, the licensee failed to establish an adequate surveillance test to demonstrate that the Standby Gas Treatment System could maintain 1/4 inch of water vacuum under calm wind conditions with a filter train flow rate of not more than 4000 SCFM. The surveillance test was inadequate in that interaction with other ventilation systems was not properly considered.

#### 2. Summary Of Licensee's Response

In Attachment 1, to the licensee's February 9, 1990, response, IELP admits that a violation of the requirements of 10 CFR Part 50, Appendix B, Criterion XI, Test Control; Technical Specification Limiting Condition For Operation (LCO) 3.7.C.1; and Technical Specification Surveillance



Requirement 4.7.C.1.C, occurred as stated. In addition, the licensee provides: reasons for the violation; the corrective steps that have been taken and the results achieved; corrective steps that will be taken to avoid further violations; and date when full compliance will be achieved.

In Attachment 2, the licensee provides an answer to the proposed Imposition of Civil Penalty and presents its position that the NRC should reconsider the imposition of a civil penalty based on the criteria of 10 CFR Part 2, Appendix C, Section V.G.3. which states:

The NRC may refrain from proposing a civil penalty for a Severity Level III violation not involving an overexposure or release of radioactive material that meets all of the following criteria.

- a. It was identified by the licensee and reported;
- b. Comprehensive corrective action has been taken or is well underway within a reasonable time following identification;
- c. It was not a violation that either (i) was reasonably preventable by the licensee's action in response to a previous regulatory concern identified within the past two years of the inspection or since the last two inspections whichever is longer or (ii) reasonably should have been corrected prior to the violation because the licensee had prior notice of the problem involved; and
- d. It was not a willful violation or indicative of a breakdown in management controls.

The licensee continues with an explanation of how each of the above criteria were met. Further, the licensee suggests that the NRC may have a misperception regarding Iowa Electric's investigation of the basic problem and its timeliness in developing a comprehensive corrective action and provides clarification of several points. To this end, the licensee presents a chronology of events from the discovery of the hole in the ventilation duct on September 20, 1989, to plant restart on October 22, 1989. The licensee relates two occurrences during this period in which the NRC may have perceived a less than responsive attitude on the part of the licensee by its failure to make verbal commitments on procedural or design changes to the system. IELP asserts that although investigations and testing were proceeding in a timely manner, at the time of these NRC interfaces it did not have sufficient information assimilated to perform the required safety evaluation. Subsequently, appropriate procedural and design changes were made prior to plant restart and the licensee committed to further long term corrective actions to preclude recurrence.

Finally, IELP enumerates the steps of its evaluation process including: system interactions evaluated, other test procedures reviewed, evaluation of system testing, concerns resolved, and the formality and attention to detail of its procedural change process.

3. NRC Evaluation Of Licensee's Response

The NRC staff has carefully reviewed the licensee's response and verified the extensiveness of the licensee's corrective actions. The licensee has provided information that was not previously considered in determining the amount of the Proposed Civil Penalty.

Whether determining the amount of a Civil Penalty by utilization of the escalation/mitigation factors outlined in Paragraphs 1 through 6 of 10 CFR Part 2, Appendix C, Section V.B. or determining the merits of refraining from Proposing a Civil Penalty as requested by the licensee, one of the bases for determination is the extent and comprehensiveness of the licensee's corrective actions.

As stated above, the NRC did not have all of the information presented in the licensee's response at the time this escalated enforcement action was being considered. In its January 10, 1990, Notice Of Violation and Proposed Imposition of Civil Penalty, the NRC stated that:

"With regard to your corrective actions, we note that you promptly repaired the defective SBT duct as well as the degraded seals and were then able to meet technical specification requirements. However, your corrective actions were narrowly focused on the identified SBT surveillance test problem and did not include a comprehensive re-evaluation of the design or test procedure of other HVAC systems that had the potential to interact with secondary containment, therefore, on balance, neither mitigation nor escalation is warranted for your corrective action."

It appears from our further review of your corrective actions, that you did re-evaluate the design and test procedures of other HVAC systems, that you considered system interactions as a result of procedural changes, and that you have included boot and airlock door seals in your Preventive Maintenance Program. Based on this additional information and considering the fact that the plant was not operating during this time period, it appears that our statement that your corrective actions were narrowly focused may have been in error.

4. NRC Conclusion

The licensee has provided an adequate basis for an additional 50% mitigation of the base civil penalty for comprehensive corrective actions. Therefore, the NRC has concluded that no Civil Penalty is warranted.

Iowa Electric Light and Power Company

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DCS

OE *WMT*  
WTroskoski  
3/7/90

*WMT/for*  
OGC  
JGoldberg  
3/7/90  
*per discussion  
w/ Silvers  
3/6. OGC has  
no legal objection.*

*WMT/for*  
RIII  
ABDavis  
3/7/90  
*per Silvers  
w/ J. Burke.*

*X*  
OE:D  
JLieberman  
3/8/90

DED *HT*  
HThompson  
3/13/90