

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 50-482
)	Construction Permit No.
KANSAS GAS AND ELECTRIC COMPANY)	CPPR-147
(Wolf Creek Generating Station))	EA 83-18

ORDER IMPOSING A CIVIL MONETARY PENALTY

I

Kansas Gas and Electric Company, P. O. Box 208, Wichita, Kansas, 67201 (the "Licensee") is the holder of Construction Permit CPPR-147 issued by the Nuclear Regulatory Commission ("NRC" or the "Commission"). The Construction Permit authorizes construction of the Wolf Creek Generating Station facility in Coffey County, Kansas. The Construction Permit was issued on May 17, 1977, and is due to expire on July 1, 1986.

II

An inspection of the licensee's activities under the Construction Permit was conducted at the Wolf Creek plant by an NRC Region IV inspector during the period January 1-31, 1983. As a result of the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC regulations. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated March 23, 1983. The Notice stated the nature of the violation, the provision of the NRC regulations violated, and the amount of the civil penalty imposed for the violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty in a letter dated April 21, 1983.

III

Upon consideration of the licensee's reply to the Notice of Violation and arguments for mitigation of the proposed civil penalty, the Director of the Office of Inspection and Enforcement, for reasons set forth in the Appendix to this Order, has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, PL 96-295), and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The licensee pay a civil penalty in the amount of Forty Thousand Dollars (\$40,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, DC, 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection

and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) whether the licensee violated Appendix B requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty; and
- (b) whether, on the basis of such violation, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION


Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 30th day of June 1983

APPENDIX

EVALUATION AND CONCLUSION

For the violation and associated civil penalty identified in the Notice of Violation and Proposed Imposition of Civil Penalty for Kansas Gas and Electric Company (KG&E), dated March 23, 1983, the original violation is restated, the licensee's response, dated April 21, 1983, is summarized and the NRC's evaluation and conclusions regarding this response are presented.

Statement of Violation Assessed a Civil Penalty

10 CFR 50, Appendix B, Criterion II, requires that, "The quality assurance program shall provide control over activities affecting the quality of the identified structures, systems, and components to an extent consistent with their importance to safety. Activities affecting quality shall be accomplished under suitably controlled conditions."

Contrary to the above, KG&E failed to adequately control activities affecting the quality of safety-related work. Specifically, the Borated Refueling Water Storage System and the Auxiliary Feedwater System were turned over from the construction contractor to the KG&E startup organization on October 28, 1982, and November 23, 1982, respectively, following final quality assurance checks with quality documentation and hardware discrepancies which were not listed on the turnover exception list.

This is a Severity Level III Violation (Supplement II) Civil Penalty - \$40,000

Summary of Licensee's Response

The licensee's response admitted the violation and acknowledged the existence of problems in the process of safety-related system turnover from the construction contractor to the KG&E startup organization and the existence of discrepancies in the system turnover exception list. KG&E emphasized that the problems were identified by the KG&E Quality Assurance (QA) organization; that a copy of the QA surveillance report was promptly given to the NRC resident inspector; and that KG&E has taken prompt and vigorous actions to correct the problems. Specific points made in the licensee's response are summarized below with an NRC evaluation for each point.

A. Prompt Notification and Reporting

Summary of Licensee's Response

The licensee's response noted that the primary basis for the Severity Level III violation was a surveillance report entitled "BN01 System

Walkdown," issued on January 13, 1983, by the KG&E QA organization, and that a copy of this report was given to the NRC resident inspector on the day of issuance. The licensee's evaluation of this report, completed on January 14, 1983, and subsequent evaluations concluded that the deficiencies identified in the report did not meet the reporting requirements of 10 CFR 50.55(e).

NRC Evaluation

The licensee is not entitled to mitigation for self-identification and reporting because the licensee only initiated the surveillance audits which gave rise to the report after being advised by the NRC during the October 14, 1982 Systematic Assessment of Licensee Performance meeting and prior discussions with NRC inspectors that other utilities had been having problems with system turnovers and that KG&E should be especially careful in these same areas. Furthermore, twenty-five systems had already been turned over from construction to start-up before KG&E initiated these audits.

KG&E was also cited for failure to submit a prompt 50.55(e) report. This violation was not assessed a civil penalty although it could have been. The licensee deserves no additional credit for promptly reporting the violation.

B. Corrective Action to Prevent Recurrence

Summary of Licensee's Response

The licensee's response discussed various actions taken or planned to prevent recurrence of the violation. These included the establishment, on January 13, 1983, of a Quality Document Review Task Force; the actions discussed at the enforcement conference on February 18, 1983; the stop work order for the turnover of safety-related systems effective on February 21, 1983; and the corrective action program described in the licensee's letter to NRC, Region IV, dated March 2, 1983.

NRC Evaluation

While the corrective action plan established by the licensee appears to be appropriate, the NRC staff does not consider the licensee's actions in this regard to be unusually prompt and extensive as would be required for a reduction of the civil penalty proposed for the violation. For example, the licensee's imposition of a stop work order for the turnover of safety-related systems on February 21, 1983, in response to problems identified on January 13, 1983, was not considered to be an unusually prompt corrective action.

C. Enforcement HistorySummary of Licensee's Response

The licensee's response discussed the favorable enforcement history at Wolf Creek and the favorable Systematic Assessment of Licensee Performance (SALP) ratings in the areas of Management Control and Quality Assurance Program.

NRC Evaluation

The NRC Enforcement Policy of 10 CFR 2, Appendix C, does not specifically provide for a reduction of proposed civil penalties based upon favorable enforcement history or SALP ratings.

D. Prior NoticeSummary of Licensee's Response

The licensee's response points out that at the October 14, 1982 SALP meeting, the NRC staff noted that other projects had problems in the area of system turnover. In response, KG&E looked for problems in this area and found the problems which formed the basis for the Severity Level III violation.

NRC Evaluation

The NRC Enforcement Policy provides for consideration of increasing a civil penalty based on prior notice of similar events, but not for reducing a civil penalty on such a basis. Furthermore, KG&E's actions in response to the notice were not particularly prompt.

E. Severity LevelSummary of Licensee's Response

The licensee's response questioned the assignment of Severity Level III to this violation since the violation did not involve:

- . failure to conduct adequate audits, or
- . failure to take prompt corrective action, or
- . multiple examples of deficient construction or construction of unknown quality.

NRC Evaluation

The staff recognizes that deficiencies in the BNO1 system were discovered through a KG&E QA surveillance audit. The staff believes that an adequate turnover review with timely audits, as described in the Wolf Creek FSAR, would have identified deficiencies in the BNO1 system during the turnover process. Thus, KG&E's audit program was not adequate. Furthermore, the audit of the BNO1 system occurred after 25 systems had been turned over and was not a routine part of the QA program. This resulted in the 25 systems being of indeterminate quality and thereby requiring further review. Therefore, this violation was appropriately classified as a Severity Level III violation.

Conclusion

The licensee's letter of April 21, 1983, contains no information regarding the violation that was not previously known by the NRC during the enforcement conference or prior to the issuance of the proposed civil penalty, and presented no arguments for mitigation of the civil penalty which had not been considered in the preparation of the Notice of Violation and Proposed Imposition of Civil Penalty dated March 23, 1983. Accordingly, the NRC staff concludes that mitigation of the civil penalty is not warranted.

Statement of Violation Not Assessed a Civil Penalty

10 CFR 50.55(e) requires that the holder of a construction permit shall notify the Commission of each deficiency found in design and construction, which, if uncorrected, could adversely affect the safety of plant operations. The regulation further requires that the holder of the construction permit shall notify the appropriate NRC regional office within 24 hours after the deficiency was found.

Contrary to this requirement, KG&E failed to provide notification within 24 hours of the deficiencies noted in the system turnover practices that were discovered during a Quality Assurance Audit completed on January 13, 1983. Preliminary notification to the regional office was not provided until January 21, 1983.

This is a Severity Level IV Violation (Supplement II).

NRC Evaluation

At the conclusion of the QA surveillance audit, KG&E was aware of numerous deficiencies involved with the BNO1 system. KG&E should have recognized that the deficiencies were the result of a significant QA breakdown although the licensee had not done an analysis of the safety effects of the deficiencies. The available information was sufficient to warrant the reporting to the NRC of a reportable event under the requirements of 50.55(e). Giving a copy of a report to the NRC resident inspector does not fulfill the licensee's responsibilities for reporting in accordance with 10 CFR 50.55(e).