

NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTY

New York Power Authority  
Indian Point 3 Nuclear Plant

Docket No. 50-286  
License No. DPR-64  
EA 90-178

During an NRC inspection conducted on September 14-20, 1990, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C (1990), the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.54(k) requires that 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.

Technical Specifications (T.S.) 6.2.2 requires a minimum crew composition which includes, in part, two licensed Senior Reactor Operators and two licensed Operators (T.S. 6.2.2.a). Further, it requires that a licensed Senior Reactor Operator be on duty in the control room at all times (T.S. 6.2.2.h) and that a licensed Operator be in the control room when fuel is in the reactor (T.S. 6.2.2.b).

Contrary to the above, at approximately 5:07 a.m. on September 14, 1990, at a time when the reactor was in an operational condition with fuel in the reactor vessel, the NRC Senior Resident Inspector observed that the licensed Operator and licensed Senior Reactor Operator in the control room assigned to monitor the operation of Unit 3, were not fully attentive to their duties; thus, neither a reactor operator nor senior reactor operator were present at the controls as required. The licensed Reactor Operator (RO) was not fully attentive to his duties in that the inspector observed the licensed Reactor Operator with his eyes closed, head tilted back, and feet up on a desk. The licensed Senior Reactor Operator was not fully attentive to his duties in that the inspector observed him with his eyes closed, and head tilted back.

This is a Severity Level III violation. (Supplement I)  
Civil Penalty - \$50,000

Pursuant to the provisions of 10 CFR 2.201, New York Power Authority is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). The reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the alleged violation: (i) admission or denial of the alleged

OFFICIAL RECORD COPY

CP PKG IP3 12/4 - 0006.0.0  
12/06/90

9012140013 901207  
PDR ADOCK 05000286  
Q PDC

violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order may be issued to show cause why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, electronic transfer or money order payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section V.B. of 10 CFR Part 2, Appendix C (1990), should be addressed. 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 parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this 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 Act, 42 U.S.C 2282(c).

The responses to the Director, Office of Enforcement, noted above (Reply to a Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington,

Notice of Violation

3

D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406 and a copy to the Senior Resident Inspector, Indian Point 3.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed By:  
Thomas T. Martin  
Thomas T. Martin  
Regional Administrator

Dated at King of Prussia, Pennsylvania  
this 7 day of December 1990