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THE SOUTHERN ELECTRIC SYSTEM

R. P. McDonald
Executive Vice President
Nuclear Operations

February 3, 1992

FLV-03416
001127

Mr. Ivan Selin
Chairman
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Selin:

Recently, Georgia Power Company received a Notice of Violation and Proposed Imposition of Civil Penalty from the NRC concerning events that occurred at the Vogtle Electric Generating Plant in October 1988. Enclosed is a copy of Georgia Power Company's response to this enforcement action.

We are sending you a copy of our response to this violation because we believe the enforcement action is an example of inappropriate regulatory action. Some of the problems associated with this action are:

- 1) The failure of the NRC Staff to determine whether a violation occurred before referring the matter to the Office of Investigations for an extensive, long and costly investigation of an alleged "willful" violation that was never substantiated;
- 2) Inappropriate cascading of alleged violations in the enforcement action, whereby numerous violations are alleged, all built up from one underlying alleged technical specification violation, apparently intended to infer broad problems from an otherwise minor occurrence;
- 3) Factual errors and misperceptions in the enforcement action;
- 4) A failure to promulgate generic guidance on issues of ambiguous interpretation, before taking enforcement action;
- 5) A proposed large fine apparently based more on the level of NRC Staff resources devoted to the matter rather than on safety significance.

The NRC's Office of Investigations conducted an extensive inquiry into potential "willful wrongdoing" associated with this event. The investigation went on for about two years without the NRC having ever identified any alleged violation! Finally, no wrongdoing was found but the alleged violations addressed in the enclosure were identified.

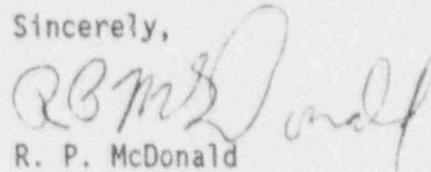
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Mr. Ivan Selin
ELV-03416
Page 2

Georgia Power has already expended far more in legal fees than the proposed \$100,000 fine. Much more costly have been time and distraction from running our business in an optimum manner.

From time-to-time the Commissioners have requested that we provide examples of what we consider to be inappropriate regulation. It is in this spirit that we are providing this letter for your internal use. We do not request or expect any response. We are simply dedicated to operating our plants in a safe and cost-effective manner.

Sincerely,



R. P. McDonald

Enclosure

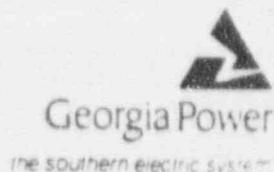
RPM/JAB/gmb

xc: S. D. Ebner (w/o)
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C. K. McCoy
Vice President, Nuclear
Vogtle Project

January 30, 1992



ELV-03377
001080

Docket No. 50-424

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D. C. 20555

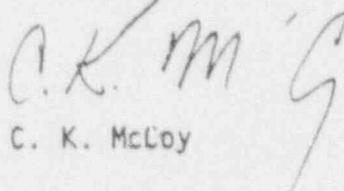
Gentlemen:

VOGTLE ELECTRIC GENERATING PLANT
REPLY TO A NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

On December 31, 1991, the NRC issued a Notice of Violation (Enforcement Action 91-141) and proposed a \$100,000 civil penalty against Georgia Power Company (GPC) for alleged violations at the Vogtle Electric Generating Plant (VEGP). The enforcement action relates to an incident at VEGP which occurred in October 1988. Enclosure 1 is GPC's reply to the Notice of Violation (NOV) in accordance with 10 CFR 2.201. Georgia Power Company denies the violations and protests the imposition of the civil penalty. Our response to the civil penalty, pursuant to 10 CFR 2.205, is provided as Enclosure 2.

Georgia Power Company respectfully requests reconsideration of the violations and the civil penalty. As discussed in detail in the enclosures, GPC denies that the violations occurred as alleged, and we consider the civil penalty to be unwarranted.

Sincerely,


C. K. McCoy

Enclosures

xc: Georgia Power Company
Mr. W. B. Shipman
Mr. M. Sheibani
NORMS

U. S. Nuclear Regulatory Commission
Mr. S. D. Ebnetter, Regional Administrator
Mr. D. S. Hood, Licensing Project Manager, NRR
Mr. B. R. Bonser, Senior Resident Inspector, Vogtle

~~920303/AS/A~~

ENCLOSURE 1

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

The following is a transcription of the four violations as cited in the Notice of Violation:

- A. *Technical Specification (TS) 3.4.1.4.2 (1988 edition) required that two residual heat removal (RHR) trains shall be OPERABLE and at least one RHR train shall be in operation. Reactor Makeup Water Storage Tank (RMWST) discharge valves (1208-U4-175, 1208-U4-176, 1208-U4-177, and 1208-U4-183) shall be closed and secured in position whenever the plant is in Mode 5 with reactor coolant loops not filled. ACTION c. of TS 3.4.1.4.2 required that with the RMWST valves not closed and secured in position, immediately close and secure in position.

Contrary to the above, on October 12 and 13, 1988, with Unit 1 in Mode 5, loops not filled, RMWST valves 1208-U4-176 and 1208-U4-177 were opened in order to add chemicals to the reactor coolant system.

- B. 50.73(a)(2)(ii)(B) requires licensees to submit a Licensee Event Report (LER) within 30 days after the discovery of any event or condition that resulted in the nuclear power plant being in a condition outside the design basis of the plant.

Contrary to the above, on or about November 17, 1989, the Plant Review Board (PRB) determined that the opening of the RMWST valves specified in TS 3.4.1.4.2 was not reportable and, therefore, an LER was not submitted within 30 days, even though opening the valves on October 12, and 13, 1988 had placed the plant in a condition outside the design basis. Opening the valves constituted a condition outside the plant design basis because at the time the valves were opened an analysis for a boron dilution accident through the valves did not exist.

- C. Technical Specification 6.7.1 requires written procedures shall be established, implemented, and maintained covering the activities recommended by Appendix A of Regulatory Guide (RG) 1.33, Revision 2, February 1978. Section 2 of Appendix A of RG 1.33, recommends procedures for general plant operation.

The following procedures, in part implement TS 6.7.1.

1. Vogtle Electric Generating Plant (VEGP) Operations Procedure Number 12006-C, Unit Cooldown to Cold Shutdown, in use on October 12 and 13, 1988, stated in Section D4.2.14 that valves 1-1208-U4-175, 1-1208-U4-176, 1-1208-U4-177, 1-1208-U4-183, and others be closed, locked and tagged in Mode 5, loops not filled.

ENCLOSURE 1 (CONT.)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

2. VEGP Procedure 10000-C, Conduct of Operations, Section 2.10.2 in use October 12 and 13, 1988, stated that the Unit Superintendent (US) is responsible to ensure plant operations are conducted in accordance with Technical Specifications and approved procedures.

Contrary to the above:

1. On October 12 and 13, 1988, licensee personnel failed to implement the requirements of procedure number 12006-C in that, valves 1-1208-U4-176 and -177 and 181, which were required to be closed, locked and tagged, were opened in Mode 5, loops not filled.
 2. On October 12 and 13, 1988, the US did not ensure that plant operations were conducted in accordance with Technical Specifications in that valves 1-1208-U4-176 and -177 were opened in Mode 5 loops not filled, with the express knowledge of the US.
- D. 10 CFR 50, Appendix B, Criterion V, requires, in part, that activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings. VEGP Procedure No. 13007-1, VCT Gas Control and RCS Chemical Addition, Section 4.7 provide the instructions on chemical additions to the Reactor Coolant System.

Contrary to the above, on October 12, and 13, 1988, VEGP Procedure Nos. 13007-1 and 35110-C were inadequate in that these procedures did not contain provisions for adding chemicals to the reactor coolant system in Mode 5, loops not filled. Specifically, the procedures specify such conditions as having a reactor coolant pump running which is not possible in Mode 5, loops not filled.

This is a Severity Level III problem (Supplement I).

Civil Penalty - \$100,000 (assessed equally among the four violations)."

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-90-001, EA 91-141

RESPONSE TO VIOLATION A

Admission or Denial of the Violation

As stated in our October 1, 1991, letter (Mr. C. K. McCoy to Mr. James H. Sniezek, ELV-03148) and during the September 19, 1991, enforcement conference, VEGP denies that any violation of the TS occurred on October 12 and 13, 1988, when RMWST valves -176 and -177 were opened. The decision to voluntarily enter the Limiting Condition for Operation (LCO) of TS 3.4.1.4.2 (1988 edition) was consistent with the language of the TS as well as established practice and NRC guidance available at the time. Because such an entry was not prohibited, no violation occurred.

Basis for Denial

In its transmittal of December 31, 1991, the NRC sets out the rationale behind the alleged violation of the TS: "the words of the T.S. prohibit uncontrolled boron dilution in Mode 5, loops not filled, by prohibiting all dilutions through the flow path at issue..... the words of the requirement clearly prohibit entering Action 6(sic)c of T.S. 3.4.1.4.2" (emphasis added). This interpretation, which is cast in the negative case, i.e., the word "prohibit" is not to be found anywhere in the pertinent TS, is at odds with the overall structure and function of the TS, as well as a specific controlling TS provision. It is also at odds with all guidance as it existed in 1988, and indeed prior to this enforcement action.

First, as established by an NRC position which predated the October 1988 event by several years:

"The NRC endorses Voluntary Entry into the Action Statement Conditions and has structured the TS to permit the licensee to exercise judgement within the latitude permitted by the Action Statement language in the TS."
(See Attachment 1 to this Enclosure.)

Consequently, entering Action Statement c of TS 3.4.1.4.2 was not prohibited for "all dilutions." Rather, only those dilutions which are not "within the latitude permitted" by the Action Statement language of the TS were proscribed.

Second, the Vogtle TS expressly contemplates licensee judgement within the latitude permitted by the Action Statement language by defining two conditions which must occur prior to a violation:

"Noncompliance with a specification shall exist when the requirements of the Limiting Condition for Operation and associated Action requirements are not met within the specified time intervals." (TS 3.0.2, emphasis added)

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

In 1988, the latitude conferred by TS 3.4.1.4.2 Action Statement c allowed voluntary entry into the LCO and associated Action requirements up to the specified "immediate" time interval contemplated by the TS.

Contrary to the NRC's assertion, TS 3.4.1.4.2 was not violated by all dilutions through the flowpath at issue. A violation would have occurred only if the time interval allowed by the TS was exceeded. It was not. This interval was, for this application, reasonably determined to be 15 minutes by consulting the Standard Review Plan criteria applicable to relevant dilution analyses. And, at least historically and prior to the event, entrance for this duration in the course of plant operations or for "whatever reason" was not prohibited. (See Attachment 2 to this Enclosure.)

Internal NRC correspondence confirms and reinforces VEGP's conclusion that the term "immediate" relative to required Action is subject to interpretation based on its context. In May 1977, Mr. J. H. Sniezek (then Assistant Director for Field Coordination) addressed the term "immediate" relative to the required Action of "immediate" testing of redundant systems upon the failure of one. His May 20th memorandum to Mr. G. Fiorelli concludes that a proposed duration of 4 hours for "immediate" Action may be too long in some cases (e.g., probability of redundant system failure) and too short in others (e.g., not likely that the second system will fail by the same mode and the 4-hour limitation "might create a rushed situation"). There Mr. Sniezek concluded that the NRC would have to "rely on the technical judgement of the NRC inspection staff on a case-by-case basis" to determine the appropriate duration of "immediate" Action. (See Attachment 3 to this Enclosure.) Later NRC internal correspondence also demonstrates that the time available for the required Action is far from clear. (See Attachment 4 to this Enclosure; e.g., May 26, 1990, memorandum to Mr. Gus C. Lainas from Mr. Luis A. Reyes requesting technical assistance for interpretation of the TS.)

VEGP is entirely comfortable that the technical judgement applied in 1988 by its licensed operators, in concluding that an administratively controlled chemical addition with a duration of 5 minutes as an acceptable time interval, was reasonable and did not violate TS 3.4.1.4.2. For the NRC to now impose a definition of "immediate" as having no duration in an enforcement action runs afoul of the spirit and intent of the Enforcement Policy as well as 10 CFR 50.109. While genuine differences of opinion may exist as to whether the actions taken in 1988 are optimum practice, those actions did not violate the TS nor are they appropriately the subject of enforcement sanctions. Further, VEGP is comfortable that the chemical addition evolution was not adverse to safety as demonstrated by our contemporaneous operational analysis, our subsequent review, and the NRC's approval of the amendment to TS 3.4.1.4.2 in February 1990. The safety significance of an event should not be a function of the regulatory scrutiny which that event receives.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

Furthermore, as late as March 1991, licensed personnel at another utility within NRC Region II used the same logic as did the VEGP operations staff when they chose to voluntarily enter an LCO which required immediate action. While this utility later chose to report this event as a condition prohibited by the TS (Exhibit 31 of Appendix I to our August 28, 1991, response to the June 3, 1991, Demand For Information by the NRC), it is noteworthy that the NRC chose not to cite the utility for a violation of the TS, much less propose a civil penalty. VEGP maintains that this is an example of inconsistent application of the regulatory process.

Finally in 1991, the NRC has now made clear to VEGP that their interpretation of this issue would preclude voluntary entry into an LCO which requires immediate action. Therefore, while VEGP does not necessarily agree that this interpretation was clear or consistently applied until 1991, we have adopted it as our practice.

Reasons for the Event

While VEGP denies that any violation occurred in October 1988, we offer the following reasons for this event:

1. The first manipulation of valves 1-1208-U4-176 and 1-1208-U4-177 was made without recognition of potential TS limitations due principally to the fact that the responsible Operations personnel did not fully understand the "loops not filled" condition, and therefore did not appreciate that the TS applied at the time. It should be noted that no dilution occurred because no water was added to the reactor coolant system (RCS) at this time (i.e., only chemicals and water were added to the chemical addition tank).
2. The later instances when these valves were opened were preceded by due consideration of TS applicability and the Final Safety Analysis Report (FSAR), as well as an operational analysis which clearly demonstrated that there was no safety significance. (See Footnote 1 to our response to Violation B.) The decision to voluntarily enter the Limiting Condition for Operation of TS 3.4.1.4.2 (1988 edition) was believed to be consistent with established practice, NRC guidance, and safety.

As stated above, guidance issued by the NRC prior to this event stated that "the NRC endorses Voluntary Entry into the Action Statement Conditions and has structured the Technical Specification to permit the licensee to exercise judgement within the latitude permitted by the Action Statement language in the Technical Specifications." As a result of this guidance and the associated established industry practice of voluntary entry into LCOs within the latitude contemplated by Action Statements in the exercise of reasoned judgement, the interpretive efforts of the involved personnel

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

focused on the duration associated with the term "immediate." Had clear NRC guidance existed prohibiting specific categories of LCO voluntary entries or defining the term "immediate" (thereby eliminating any need for context-related interpretation), this event would most probably not have occurred.

3. The FSAR, with regard to boron dilution scenarios (chapter 15), was ambiguous concerning the chemical addition evolution due to historic changes to the document and ultimately led the responsible personnel to conclude that opening valves -176 and -177 was a condition that was analyzed in the FSAR.
4. The outage planning process, with respect to review of planned evolutions, was weak in that it failed to identify the potential TS interpretation issue related to opening valves -176 and -177 during Mode 5 with the loops not filled.
5. The TS written interpretation process (at the time) was too narrow in that it did not provide for an interdepartmental review. We believe a broader review may have identified the fact that this condition was not analyzed in the FSAR.

Corrective Steps Taken and Results Achieved

1. At the time of the October 1988 chemical addition evolution, operator guidance concerning RCS water levels during drain-down and mid-loop activities was weak. Since that time, the Plant Technical Data Book has been revised to add further details concerning the information provided by the mid-loop level instrumentation and to add pictorials which provide a clear picture of the relationship between RCS water level and the various components of the RCS.

In addition, on February 22, 1989, a TS interpretation was issued (and later revised on March 30, 1990) which addressed the loops not filled condition for the purpose of compliance with TS 3.4.1.4.2. The Shift Briefing Book and the Operations Reading Book were revised in early 1989 to address the required positions for the RMWST discharge valves during Mode 5 with the loops not filled and during Mode 6. Furthermore, operator training has been revised to include information specific to the loops not filled condition and the use of the RMWST discharge valves.

Finally, a number of VEGP procedures have been revised to add a precaution and limitation concerning the TS requirements for the RMWST discharge

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

valves. (See our letter dated August 28, 1991, in response to the June 3, 1991, Demand for Information by the NRC. Specifically, pages 37 and 38 and Appendix II, Attachment 2 discuss training and additional guidance provided to operations personnel as a result of this event.)

2. VEGP recognizes the additional guidance provided, as a result of this event, by the NRC in 1991 regarding voluntary entry into TS LCOs which require immediate action. Specifically, VEGP now understands that the NRC's position is that such action constitutes a TS violation. This position has been adopted as VEGP policy with respect to TS compliance. On August 15, 1991, the VEGP General Manager issued a memorandum advising operators that LCOs which do not have specific allowed outage times should not be voluntarily entered except as expressly provided in associated Surveillance Requirements.
3. Section 15.4.6 of the FSAR was revised in March 1991 to clarify the use of the RMWST discharge valves in Mode 5 with the loops not filled and in Mode 6.
4. When the scope of an outage is known and the needed work activities have been identified, Outage Planning (O&P) personnel use the TS as limitations for planning the day-to-day activities of the outage. The operational experience and expertise of the VEGP (O&P) group has been strengthened, and the depth of review during the outage planning process for potential operational limitations has been increased.

Before a planned refueling outage begins, O&P personnel send a preliminary outage schedule to affected departments for input and review. Licensed senior reactor operators now review the schedule at a detailed level to ensure compliance with the TS. This is an iterative process with the end result being a detailed outage schedule whose activities have been intensely examined. (See the August 28, 1991, letter in response to the June 3, 1991, NRC Demand for Information, specifically pages 36 and 37.) Also, as a result of the event of March 20, 1990, VEGP made improvements in its outage management, and the NRC noted those improvements in its December 10, 1990, Systematic Assessment of Licensee Performance (SALP) Report on VEGP.

5. The need for a broader review of TS clarifications was identified as a weakness in Inspection Reports 50-424, 425/90-19 which concerned the inspection conducted by an NRC Special Inspection Team during August 1990. In response, VEGP has broadened the review of written TS clarifications by charging the Manager of Technical Support with responsibility for obtaining the appropriate departmental reviews, including licensing personnel, as well as consulting with the NRC staff as appropriate. (See our letter dated February 8, 1991, ELV-02446.)

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

6. The requirements of TS 3.4.1.4.2 were amended in February 1990 by the NRC in response to our application dated November 21, 1989, to allow the use of RMWST discharge valves -176 and -177 under administrative control provided certain specific conditions are met.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

RESPONSE TO VIOLATION B

Admission or Denial of the Violation

VEGP denies this violation. This is a new issue that was not addressed during the September 19, 1991, enforcement conference or in any of the correspondence preceding the enforcement conference. VEGP maintains that opening the RMWST discharge valves specified in TS 3.4.1.4.2 on October 12 and 13, 1988, did not place the plant in a condition outside the design basis. Thus, no violation of the reporting requirement of 10 CFR50.73 (a)(2)(ii)(B) occurred.

Basis for Denial

Section 50.2 of Title 10 of the Code of Federal Regulations defines design basis as "information which identifies the specific functions to be performed by a structure, system, or component of a facility, and the specific values or ranges of values chosen for controlling parameters as reference bounds for design." The physical design of the chemical addition portion of the chemical and volume control system is such that the chemical addition evolution of October 1988 did not exceed the acceptance criteria specified in the Standard Review Plan (SRP).

Section 15.4.6 of the SRP specifies that if operator action is required to terminate the transient, the following minimum time intervals must be available between the time when an alarm announces an unplanned moderator dilution and the time of loss of shutdown margin:

- a. During refueling: 30 minutes.
- b. During startup, cold shutdown, hot standby, and power operation: 15 minutes.

In meeting this design basis, the physical design of the flowpath in question is such that the above SRP criteria are met with considerable margin. This was demonstrated by the analysis performed in November 1989 (Exhibit 21 of Appendix I to our August 28, 1991, response to the June 3, 1991, NRC Demand for Information) in support of the TS amendment approved by the NRC in February 1990.

The TS bases for TS 3.4.1.4.2 state that the subject valves are closed to prevent an uncontrolled boron dilution event. The purpose of the TS is to ensure the design basis is maintained. The administratively controlled manner in which the chemical addition evolution was performed in October 1988 precluded an uncontrolled dilution event. This was demonstrated by a calculation performed by Westinghouse in August 1991 (Exhibit 23 of Appendix I to the August 28, 1991, letter).

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

VEGP recognizes, as the PRB did in 1989, that use of the flowpath in question was not currently analyzed in the FSAR. However, this condition did not significantly compromise plant safety and does not equate to a condition outside the design basis of the plant, and therefore was not reportable.

The FSAR accident analyses have been a source of confusion--explaining in part how the operating personnel involved in 1988 failed to identify that opening the valves created a condition that was not analyzed in the FSAR. In July 1985, an analysis existed which, in part, concluded that the chemical addition flowpath met the relevant SRP criteria concerning uncontrolled dilution (Appendix II, Attachment 1B to the August 28, 1991, letter). That analysis was subsequently revised, and the portion related to the chemical addition flowpath was not maintained current. Therefore, technically, as concluded by the PRB, a condition existed in 1988 which was not analyzed in the FSAR when the chemical addition valves were opened.

In November 1989, the analysis for the chemical addition flowpath was reperformed and it was again demonstrated that the SRP criteria were met with significant margin (i.e., the time available for operator action exceeded the minimum acceptance criteria of 15 minutes by approximately 85 minutes. For the specific event in October 1988, the time available for operator action was determined to be 538 minutes in one case and greater than 1,000 minutes in another. (See Exhibit 23 of Appendix I to the August 28, 1991, letter.) In 1990, the NRC also concluded that actions such as those taken during the October 1988 chemical addition evolution are not safety significant and meet design basis requirements. Specifically, the language of the NRC safety evaluation report (SER) for the TS amendment allowing use of the subject valves states that "the SRP acceptance criteria have been met or exceeded, and the proposed TS changes would not have any adverse affect on safety." (See Exhibit 22 of Appendix I to the August 28, 1991, letter.) Furthermore, responsible personnel in October 1988 reviewed the impact of the controlled chemical addition evolution on core reactivity prior to the evolution and demonstrated that the effects were negligible.¹ Therefore, while the use of the subject flowpath was not analyzed in the FSAR from the standpoint of a hypothetical uncontrolled dilution event, the specific event in question was reviewed for its impact on core reactivity and found to be of no safety significance prior to the evolution. Hence, the event did not constitute an unanalyzed condition that

¹Note that, while it is not intended as a substitute for the FSAR section 15.4.6 analysis, responsible Operations personnel did perform an operational analysis prior to the specific evolution of October 1988 and determined that, based on an RCS concentration of 780 ppm and the RMWSI discharge valve's flowrate of 3.5 gpm (specified in the FSAR), there would be an insignificant amount of boron dilution (less than 1 ppm) for the planned chemical addition. Therefore, it was known that the planned evolution was not adverse to safety.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

significantly compromised plant safety or a condition outside the design basis of the plant.

Furthermore, the Notice of Violation states that the event of October 1988 was outside the design basis of the plant because in October 1988 an analysis for an uncontrolled dilution event via this flowpath did not exist. This implies that any unanalyzed condition is necessarily outside the design basis of the plant. However, 10 CFR 50.73 (a)(2)(ii) treats conditions outside the design basis of the plant and unanalyzed conditions that significantly compromise plant safety as two separate and distinct criteria for reportability. If any unanalyzed condition necessarily places the plant outside its design basis, then there is no need for two different criteria. This would be contrary to existing NRC guidance, specifically NUREG-1022, "Licensee Event Reporting System." The NUREG, in its guidance concerning paragraph 50.73 (a)(2)(ii), focuses on the effects of a given condition on the principal safety barriers (e.g., the fuel cladding, the reactor coolant system pressure boundary, and the containment) and the safety significance of the condition. The NRC has concluded that the October 1988 event was of no safety significance, and VEGP has demonstrated a wide margin to criticality for the chemical addition evolution. Therefore, the principal safety barriers were never challenged, and as was concluded by the PRB in 1989, this event was not reportable as alleged in the violation.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

RESPONSE TO VIOLATION C

Admission or Denial of the Violation

VEGP denies the violation. We maintain that a violation of TS 3.4.1.4.2 did not occur in October 1988 (as stated in our response to Violation A). Furthermore, we do not agree that a procedural violation occurred through failure to properly implement a procedure required by Regulatory Guide 1.33 as stated in Violation C.

VEGP also observes that the NRC has mis-cited the applicable section of Procedure 10000-C from the revision in use in October 1988 and has also misnamed the relevant operation staff position. The appropriate procedure revision for October 1988 was included as Exhibit 32 to our August 28, 1991, response. The appropriate position title was On-Shift Operations Supervisor, and the applicable procedure Section was 2.4.

Basis for Denial

Item 1 of the violation deals with the fact that valves 1-1208-U4-176, -177, and -181 were opened in Mode 5 with the loops not filled. Procedure 12006-C places administrative control on these valves by requiring them to be locked closed and tagged prior to draining the RCS below a specified level. The purpose of this control is to prevent an uncontrolled boron dilution. Compliance with 12006-C occurred on October 11, 1988, when the valves were locked closed and tagged in accordance with 12006-C. This violation deals with the opening of the valves following completion of the applicable section of 12006-C. The actual opening of the valves occurred under close administrative control and in accordance with plant procedures. (See our response to Violation D.) Unit Operating Procedure 12006-C, step D4.2.14, was not intended to be a continuous action step limiting subsequent plant operations; rather, it was intended to be used as an administrative control to prevent uncontrolled dilution. In this function it was successful. Therefore, VEGP believes that no violation of TS 6.7.1 occurred.

Item 2 of the violation states that because a violation of the TS occurred and Procedure 10000-C, "Conduct of Operations," section 2.4, required that the On-Shift Operations Supervisor (OSOS) (present title is Shift Superintendent) be responsible for ensuring that plant operations are conducted in accordance with the TS and approved procedures, that a violation of Procedure 10000-C occurred. VEGP, however, disagrees that a violation of Procedure 10000-C did or could occur in the manner suggested by the NOV. Procedure 10000-C is an organizational procedure establishing broad areas of responsibility for Operations personnel, by position, similar to an organization chart. These

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
REPLY TO A NOTICE OF VIOLATION
NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

responsibilities include the responsibilities of the OSOS to ensure TS compliance. However, Procedure 10000-C is not violated by every TS violation. Apart from the fact that VEGP does not agree that a TS violation occurred in this case (as discussed above), a TS violation does not mean the members of the organization necessarily failed to meet their responsibility. Any other conclusion would mean that every TS violation is a violation of Procedure 10000-C, and thus, also a violation of TS 6.7.1.

Also, once a TS issue is identified, it is clearly the responsibility of Operations personnel to ensure compliance. A violation of Procedure 10000-C would occur only if in these circumstances the Operations personnel had abdicated their responsibility to ensure TS compliance or willfully ignored the TS. This is not what occurred in this case. Section 3.11 of Procedure 10000-C provided instructions for making TS interpretations when needed (Exhibit 32 of Appendix 1 to our August 28, 1991, letter). When the day shift OSOS on both October 12 and 13, 1988, discovered the potential conflict, the applicable instructions of Section 3.11 were followed. He stopped the evolution and consulted with other SROs, including the Operations Manager. He then proceeded with the evolution after concluding that the evolution could be conducted in accordance with TS requirements. As discussed in our response to Violation A, his actions were made in good faith, were consistent with available NRC guidance, and fulfilled his responsibilities as set forth in Procedure 10000-C. Therefore, VEGP believes that in this case also, no violation of TS 6.7.1 occurred.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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RESPONSE TO VIOLATION

Admission or Denial of the Violation

VEGP denies that the procedures controlling the chemical addition evolution were inadequate.

Basis for Denial

Part 50, Appendix B, Criterion V, of Title 10 to the Code of Federal Regulations requires, in part, that activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings. VEGP believes that adequate procedures appropriate to the circumstances had been established for the chemical addition evolution in October 1988. These procedures were followed. Thus, no violation of Criterion V occurred.

The NOV references only one factor, a limited aspect of Procedure 13007-1, as the basis for the violation. The NOV states that the procedures call for a reactor coolant pump to be running to assure thorough mixing, but this is not possible in Mode 5 with the loops not filled.

The relevant portion of Procedure 13007-1, apparently alluded to by the NOV, is as follows:

4.7 REACTOR COOLANT SYSTEM CHEMICAL ADDITION

NOTE

To ensure thorough mixing,
at least one Reactor Coolant Pump
should be in operation while
chemicals are being added to
the system.

4.7.1 ISOLATE the chemical mixing tank by verifying the following valves are CLOSED:

(For additional information on the text of this procedure see Exhibit 12 of Appendix I to our August 28, 1991, response to the June 3, 1991, NRC Demand for Information.)

However, it appears that the NRC is erroneous in limiting their view to only this portion of the procedure. There was a hierarchy of procedures applicable

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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to the evolution in October 1988. In total effect, these procedures addressed the addition of chemicals in Mode 5 and ensured proper mixing.

Procedures 13007-1 and 35110-C addressed the specific task of adding chemicals to the RCS. These were not the procedures that established the necessary system configuration and unit status required for performing chemical injection. The procedure that accomplished this was 49006-C, "Health Physics And Chemistry Department Outage Activities Implementing Procedure."

The purpose of 49006-C is to identify the Chemistry outage activities for chemically treating and laying up systems, to identify the Health Physics outage activities for reducing radioactivity levels in plant systems and reducing exposure to personnel during an outage, to describe the support necessary to complete these activities, and to define the responsibilities for providing support for accomplishing these activities. (See Exhibit 40 of Appendix I to our August 28, 1991, response to the June 3, 1991, NRC Demand for Information.) Section 6.4.4 of Procedure 49006-C specifically addresses the conditions for chemical addition to the RCS and, in October 1988, was written for adding chemicals in Mode 5 with the loops not filled. Section 6.4.4.c stated:

c. Cooldown/Draindown

NOTE

Draining of the RCS shall be through the purification (CVCS) Mixed Bed demineralizer at approximately 75 gallons per minute. Flow depends on system pressure.

1. The plant should have been placed on RHR, cooled down to 110 OF, and drained down to midloop via the purification (CVCS) mixed bed demineralizers prior to H₂O₂ addition.

As can be seen, this procedure clearly established the necessary support system alignment and conditions to ensure adequate mixing for chemical addition through the use of the RHR system. While VEGP has acknowledged a weakness in the development of Procedure 49006-C for failure to identify a potential TS conflict, the procedure was adequate for the chemical addition evolution. It was adequate to ensure proper mixing in Mode 5 and, therefore, was adequate to meet Appendix B, Criterion V.

ENCLOSURE 1 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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Guidance given to plant personnel in 1988 concerning the use of notes in procedures was provided in Plant Administrative Procedure 00050-C, "Procedure Development." This guidance was and continues to be as follows:

"Notes are used, if needed, to supply additional information which would help the user to understand a step or process." (emphasis added)

Notes such as the note on Procedure 13007-1 referenced in the NOV have never been intended to be used as procedural steps.

In summary, procedures were specifically written for the addition of chemicals in Mode 5 with the loops not filled in October 1988 and followed accordingly, with the intent of the note in Procedure 13007-1 being satisfied by Procedure 49006-C. Moreover, the fact that the RCPs could not run in Mode 5 with the loops not filled did not invalidate Procedure 13007-1. Georgia Power Company therefore believes that adequate procedures had been established for the chemical addition evolution in October 1988 and that the violation stated above did not occur.

ENCLOSURE 1
ATTACHMENT 1

STS, Section 3.0
Voluntary Entry into
Action Statements
Issue Date: 1/1/82

Interpretation:

Voluntary Entry into Action Statement Conditions of the Technical Specifications (TS).

Purpose:

To provide the NRC position concerning Voluntary Entry into TS Action Statement Conditions.

Discussion:

10 CFR 50.36(c)(2) describes the limiting conditions for operation as the lowest functional capability or performance level of equipment that is required for the safe operation of the facility. Paragraph 50.36(c)(2) also states that the licensee shall shutdown the reactor or follow any remedial action permitted by the TS whenever a limiting condition for operation cannot be met.

The NRC endorses Voluntary Entry into the Action Statement Conditions and has structured the TS to permit the licensee to exercise judgment within the latitude permitted by the Action Statement language in the TS. The TS also restricts facility operation in the specified degraded mode of operation to the limited period of time designated in the related TS. In addition, Item 3.0.4 of the STS prohibits entry into an operational mode unless the conditions for the limiting condition for operation are satisfied without reliance on provisions contained in the action requirements. The latter item provides assurance that all operability requirements are satisfied prior to the most recent startup.

Reference:

Memorandum, B. K. Grises to S. E. Bryan; dated June 13, 1979

ENCLOSURE 1
ATTACHMENT 2

August 16, 1977

MEMORANDUM FOR: J. H. Sniezok, Assistant Director, Division of Reactor Operations Inspection

FROM: Karl R. Goller, Assistant Director for Operating Reactors

SUBJECT: TECHNICAL SPECIFICATION ACTION STATEMENTS

Your memo of May 6, 1977 requested guidance regarding the acceptability of licensee placing components or systems in an inoperable status as allowed by technical specification action statements for three purposes: ease of plant operations; plant modifications; and preventive maintenance (including surveillance). As you correctly note, some activities performed within the context of these categories may not be subject to a 30-day reporting requirement pursuant to Regulatory Guide 1.16.

Action statements were developed to accommodate those instances when equipment, components or other specific conditions of the specifications could not be met because of whatever reason. We recognized then, as well as now, that the potential existed for licensees to take advantage of these provisions in order to perform activities within the three categories you describe. At that time, we considered the following in order to restrict such activities:

- a. Limiting the length of time that specified components or systems may remain inoperable before further action would be required, and
- b. Limiting the number of times and/or the total cumulative length of time during a specified period of time that specified components or systems may be inoperable.

However, in view of the complex and extensive record keeping problems and the lack of an adequate data base from which to infer acceptable limiting outage periods, we did not consider the benefits to be gained justifiable when balanced against the increased effort required by licensees and I&E inspection personnel. Additionally, we believed that we would be able to remain cognizant of possible abuse of outage times through review of LER's, supplemented where necessary, by notification action of the I&E inspector assigned to each facility.

B/S

05-07-87

12:18

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NO. 008

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J. H. Sniezek

ENCLOSURE 1
ATTACHMENT 2 - 2 -

August 10, 1977

Based upon our experience to date, we see no reason to modify our position on action statements or allowable outage times. We do, however, recognize the need for additional guidance regarding interpretation of that portion of the Technical Specifications relating to submission of 30 day reports for operation in degraded modes. We have prepared the enclosed interpretation to clarify the intent of items to be reported.

If you have further questions on this subject, you may contact J. Carter of my staff.

Karl R. Goller

Karl R. Goller, Assistant Director
for Operating Reactors
Division of Operating Reactors

Enclosure:
Interpretation

cc w/enclosure:
V. Stello
D. Eisenhut
H. Thornburg
K. Seyfrit
STS Group Members
OR Branch Chiefs

ENCLOSURE 1
ATTACHMENT 2

INTERPRETATION OF TECHNICAL SPECIFICATIONS

ADMINISTRATIVE CONTROLS

Technical Specification Administrative Controls require, consistent with Regulatory Guide 1.16, Rev. 4, a thirty-day written report for "Conditions leading to operation in a degraded mode permitted by a limiting condition for operation, or plant shutdown required by a limiting condition for operation." Following is guidance on when such reports are required.

The purpose of this thirty-day written report is to provide data on equipment failure, including inoperability. Therefore, a report is required:

1. When the failure is detected while performing a test required by the Technical Specifications to demonstrate operability of the equipment. This is true even if the failure is detected in a mode for which the Technical Specifications do not require operability of the equipment.
2. When the failure is detected while the facility is operating in a mode for which the Technical Specifications do not specifically state that operability of the failed equipment is not required for that mode (so that operability in that mode is required, either directly or by implication).

A thirty-day-written report need not be submitted when equipment is removed from service, for reasons other than failure, to enter alternate or degraded modes of operation consistent with the provisions of a technical specification.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

ENCLOSURE 1
ATTACHMENT 3

May 20, 1977

MEMORANDUM FOR: G. Fiorelli, Chief, Reactor Operations and
Nuclear Support Branch, RIII

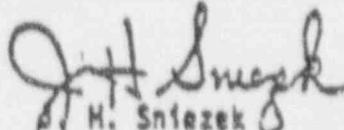
FROM: J. H. Sniezek, Assistant Director for Field
Coordination, ROI/IE

SUBJECT: OPERABILITY DEMONSTRATION OF REDUNDANT SYSTEMS (F30290H1)

We have discussed with DOR the issue raised in your memorandum of April 27, 1977. The NRC philosophy of testing redundant systems when one system fails is undergoing a change. The current feeling is that to take its redundant system out of service for testing, if the first system fails, creates the risk of the second system also failing. It has been observed that failures of the second system are often related to the test itself and is not an indication that the system would have failed should it have been needed.

All current STS reflect this thinking and some TS changes are occurring to improve older TS. Some older facilities, however, are reluctant to accept this improvement because in order to justify not immediately testing the redundant system, that system must be routinely tested at an increased interval. DOR will not accept a deletion of immediate redundant testing without improved routine surveillance frequencies.

To specifically answer your request that "immediate" be interpreted as within four hours, it was felt that this could not be generally applied. In some cases it might be too long while in other cases the four-hour period might create a rushed situation that would result in an increased probability of human failure resulting in a loss of the backup system. How soon the test should be conducted will depend on the cause of the system failure. As a guideline, if the failure was generic such that the redundant system might not function for the same reason, then the test should be completed as soon as possible. On the other hand, if it is not likely that the second system will fail by the same mode, then there is less urgency to conduct the test. Thus, for the present, the NRC will rely on the technical judgment of the NRC inspection staff on a case-by-case basis.


J. H. Sniezek
AD for Field Coordination

cc w/incoming:

J. H. McGough, NRR	G. L. Madsen, RIV
E. J. Brunner, RI	J. L. Crews, RV
F. J. Long, RII	K. V. Seyfrit, IE

CONTACT: G. L. Constable
49-27451



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30333
March 26, 1990

ENCLOSURE 1
ATTACHMENT 4

MEMORANDUM FOR: Gus C. Laines, Assistant Director for Region II Reactors
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

FROM: Luis A. Reyes, Director, Division of Reactor Projects

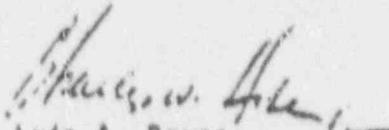
SUBJECT: TECHNICAL ASSISTANCE REQUEST: INTERPRETATION
OF TECHNICAL SPECIFICATION 3.4.1.4.2 AND THE
VOLUNTARY ENTRY INTO ACTION STATEMENTS CONTAINING
NO ALLOWABLE OUTAGE TIMES OR THE WORD IMMEDIATELY

Region II has become aware of a condition where a licensee has been voluntarily entering action statements that contain no Allowable Outage Times (AOT). An example of the typical specification used in this approach is enclosed. The licensee would define the word immediately in the action statement to mean within 15 minutes. Having defined immediately as to having some time duration, the licensee would then interpret the action statement to mean that the valves could be opened for periods of time up to fifteen minutes and thereby not violate the LCO and the action statement.

Region II believes that the existence of the action statement does not allow the opening of the valves for any period of time and does not allow for voluntary entry into the action statement due to the nonexistence of an AOT or an exception to the LCO or action statement.

Region II requests that NRR review the policy of entering action statements that do not contain AOTs and the meaning of the word 'immediately' as contained in Technical Specifications. Specifically, we request you to provide an interpretation of the enclosed specification as to whether the valves could be opened for short durations of time, and has there been guidance given in TS 3.4.1.4.2 and information that would define the word immediate.

If additional information is required, contact P. Kellogg at FTS 841-5542.


Luis A. Reyes

Enclosure:
Technical Specification 3.4.1.4.2

ENCLOSURE 2

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1 ANSWER TO A NOTICE OF VIOLATION NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-91-001, EA 91-141

I. Introduction

In accordance with NRC regulations as described in the NRC's cover letter transmitting the subject Notice of Violation, Georgia Power Company (GPC) herein answers the Notice of Violation and Proposed Imposition of Civil Penalty. See 10 CFR 2.205. In summary, Georgia Power Company denies the cited violations, disagrees with the Severity Level assigned to the violation, and requests reconsideration of the escalation applied to the base civil penalty. Therefore, Georgia Power Company contends that the Notice of Violation and Proposed Imposition of Civil Penalty should either be dismissed or significantly mitigated.

II. Denial of Alleged Violations

Georgia Power Company's first basis for opposing the proposed civil penalty is that we deny the alleged violations as discussed in our Reply to the Notice of Violation (NOV) (Enclosure 1). Enclosure 1 is incorporated into this answer by reference.

As discussed in Enclosure 1, GPC denies that a Technical Specification (TS) violation occurred in 1988 as alleged in Violation A. At the time, the involved GPC Operations personnel specifically considered the applicable TS and concluded that the chemical addition evolution involved in this enforcement action was not a violation of the TS. Their interpretation was made in good faith and was consistent with the terms of the TS as well as NRC-endorsed practice. A similar conclusion was reached by the Plant Review Board (PRB) in 1989. While in the future GPC will conform to the NRC's new interpretation of this TS, GPC does not agree that the interpretation was clear or consistently applied in 1988 and finds the violation to be an unwarranted retroactive application of a new position.

Furthermore, the NOV's citation of four separate violations associated with a single event reflects a cascading of one principal alleged violation into multiple violations. For example, the alleged violation of TS 3.4.1.4.2, which states that the reactor makeup water storage tank (RMWST) valves will be kept closed, is cited separately from the alleged violation of TS 6.7.1, which addresses the implementation of written procedures for general plant operation. The bases for this second alleged TS violation are that 1) the subject valves were not kept closed in Mode 5 with the loops not filled and 2) the On-shift Operations Supervisor (OSOS) did not ensure that the subject valves were kept closed in Mode 5 with the loops not filled. As a result, the same act of opening the valves for the controlled addition of hydrogen peroxide is used three times as the rationale for citing two TS violations. Similarly, the NOV cites a failure to report the underlying event (i.e., opening of the valves on October 12 and 13, 1988) after review of the event by the PRB. The PRB reviewed this event in 1989 and determined that it did not involve a condition that

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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significantly compromised plant safety or that was outside the design basis of the plant. This is a second example of cascading violations.

The grouping of these violations is the prime basis for escalating the proposed civil penalty and viewing the entire matter as indicative of management fault. The cascading of the one, cardinal and controlling act into several violations--which are all dependent on the same underlying act--appears to be an attempt to bolster the underlying weakness of the TS citation. The NRC, in a somewhat circular and self-fulfilling fashion, then escalates the civil penalty based on perceived broad implications. This is not the type of straightforward, clear citation designed to address the actual safety significance of a particular violation envisioned by the NRC's enforcement policy.

This enforcement action involves legitimate differences of professional opinion in interpreting regulations. The NRC's regulatory goals would be better addressed by an industry-wide advisory. The need for such an alternative is made more compelling given the likely broad application of the logic supportive of voluntary entry into "immediate" Action Statements. Litigation of this issue will accomplish little, if any, overall benefit to nuclear safety in the United States which would not otherwise be achieved by such an advisory. At the same time, litigation would require a significant, perhaps imprudent, expenditure of licensee and agency attention and resources.

Georgia Power Company also denies Violation B, the remaining aspect of Violation C, and Violation D as discussed in Enclosure 1. Additional bases for reconsideration of the civil penalty are discussed below.

III. Request for Reconsideration - Severity Level

Georgia Power Company disagrees with the NRC's assignment of a Severity Level III to this enforcement action. The chemical addition at issue was not adverse to safety, and there is no dispute regarding this point. (In fact, the evolution was conducted to reduce occupational exposure.) Thus, any violations that may have occurred did not have safety significance. Furthermore, in 1990 the NRC specifically approved a TS change to expressly allow chemical addition evolutions of this type.

The NRC, in its letter of December 31, 1991, transmitting the NOV, appears to base the assignment of a Severity Level III on a conclusion that the alleged violations collectively indicate a significant breakdown in managerial and administrative controls. Georgia Power Company takes issue with this conclusion. As explained below, the facts and circumstances surrounding the October 1988 event do not indicate a wide-ranging breakdown in managerial and administrative controls; the PRB reportability review apparently is

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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misunderstood by the NRC; and "command and control" of operational activities was maintained by the shift crew and plant management. Georgia Power Company respectfully requests that, in addition to its review of the enclosed responses to the four cited violations, the NRC reconsider its factual underpinnings for reaching any conclusion regarding broad-based regulatory deficiencies.

Moreover, the fashioning of a "Severity Level III problem" on these facts clearly is inconsistent with the safety significance of this matter and the Enforcement Policy's guidance to "justify the relative safety importance of each violation as the "first step in the enforcement process."

Managerial and Administrative Controls

In our prior correspondence on this matter dated August 28 and October 1, 1991, we concluded that inadequate planning and procedures and inadequate training and guidance contributed to the failure of licensed operators to recognize a TS compliance issue on the night shift of October 11-12, 1988. Further, we acknowledged that the procedure for outage chemistry activities for the first Unit 1 refueling outage was developed without recognition of the Technical Specification implications attendant to the chemical addition during "midloop" conditions. Relative to the interpretation of the Technical Specification by licensed operators on October 12, 1988, we acknowledged weaknesses in the Final Safety Analysis Report (FSAR) language which contributed to the failure of the involved Operations personnel to recognize a condition that was not analyzed in the FSAR. However, while we have identified (and addressed) the factors that were necessary to lead to this event, we do not share the NRC's apparent concern for far-ranging management problems. The NRC citation of multiple cascaded violations for reportability, procedural compliance, and procedural adequacy is inappropriate or not pertinent to the events of October 1988 as discussed above. We do not believe these factors suggest or support the broad-based "problem" the NRC apparently relies on for a Severity Level III enforcement action. What occurred in October 1988 was in fact an event of very limited scope.

PRB Reportability Review

With respect to the Plant Review Board, VEGP views its 1989 review of reportability as reasonable, balanced, and sufficiently thorough--even if the NRC disagrees with the Board's ultimate conclusion. First, the Board appropriately solicited information from the senior operations management involved in the TS review and considered the compliance analysis developed by corporate licensing personnel.

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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Second, the Board's deliberative approach, which concluded in a unanimous decision of all voting representatives that a TS violation had not occurred, was premised in large part on the lack of prohibitive language in the TS and established industry and NRC policy regarding voluntary entry into Limiting Conditions for Operation (LCO). The NRC policy was provided to the Board with the compliance analysis as follows:

"The NRC endorses Voluntary Entry into the Action Statement Conditions and has structured the TS to permit the licensee to exercise judgement within the latitude permitted by the Action Statement language in the TS."

Third, the Plant Review Board members recognized that a condition not analyzed in the FSAR was associated with the chemical additions in October 1988; this condition, however, did not "significantly compromise plant safety" (footnote 1 on Page E1-10 of Enclosure 1) so as to require a Licensee Event Report (LER) under 10 CFR 50.73 (a)(2)(ii)(A). The NRC, therefore, is factually incorrect in concluding that the Board "failed to recognize that an unanalyzed condition existed" (page 2 of the transmittal letter of December 31, 1991). Consequently, although the Board confirmed the reasonableness of the 1988 TS interpretation reached by Operations Department representatives, its reportability decision was not premised on the absence of an unanalyzed condition.

Finally, the citation in the NOV for failure to submit an LER for a "condition outside the plant design basis" is denied for the reasons set forth in Enclosure 1. By no means does this suggest a broad-based problem in the PRB review process or GPC's understanding of its reporting obligations. At most, this is a unique, isolated instance of disagreement between the NRC and GPC over whether a "condition outside the design basis" of the plant existed.

Command and Control of Operations

The NRC's December 31st letter also indicates concern that Operations Department management failed to maintain control of plant activities. We consider this observation ill-founded, and our October 1, 1991, letter specifically addressed aspects of this apparent NRC concern. Furthermore, substantial difference exists, in our view, between maintaining control of plant activities and the isolated failures by involved personnel to recognize subtle implications of their activities. We have acknowledged that on October 11-12, 1988, the night shift crew did not recognize the Unit's entrance into a "loops not filled" condition as a result of several contributors, including lack of guidance and experience. This lack of awareness does not reflect the degree of control exerted over plant evolutions. Simply stated the shift crew addressed preplanned and contingent activities working as a team, diligently and continuously monitored the various changes in operation parameters (such as reactor coolant system (RCS) water level), and appropriately delegated

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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specific tasks to qualified individuals. It bears repeating that the chemical addition at reduced RCS inventory was preplanned and was implemented by the shift crew through appropriate delegation to a specific, competent, senior licensed operator. These circumstances surrounding the evolution, thus, were not indicative of a loss of command and control.

Georgia Power Company recognizes the extreme importance of ensuring compliance with the TS. We recognize that this obligation exists regardless of the availability of NRC guidance. And, even when interpretations are entirely understandable and associated with inherent ambiguities, the need for management focus and attention to assure conservative results is obvious. However, even if the NRC disagrees with our position that a TS violation did not occur in this case, such a violation would not rise, on its merits, to a Severity Level III situation. Such a violation, at most, would constitute a less significant violation of a TS Limiting Condition for Operation where the appropriate Action Statement was not satisfied within the time allotted by the Action Statement (10 CFR Part 2, Appendix C, Supplement I, D.1 (1988)).

As you are aware, the October 1988 chemical addition activities and associated facts and circumstances have been the subject of intense and extensive regulatory review. That review has necessitated substantial management attention and resources on behalf of the NRC and GPC. It seems to us that the genesis of this matter, and the magnitude and level of regulatory review, is reflected in the NOV, the severity level determination, and associated transmittal letter far more than any safety or regulatory significance of the underlying events. This should not be the case. Clearly the safety significance of events should not be a function of the degree of regulatory scrutiny which events may attract. Fundamental fairness, good and responsible regulatory practice, and the preservation of the integrity of the NRC require that an enforcement action be addressed on its own merits, independent of external influences or considerations. There is an appearance that the rationale for this enforcement action was designed to support a particular result. Upon your review of this matter, GPC earnestly requests that the events be viewed in their own light, relative to their real safety and regulatory significance.

Finally, we note that as late as March 1991, licensed personnel at another utility within Region II used the same logic as did the VEGP Operations staff when they chose to voluntarily enter an LCO which required immediate action. (See our response to Violation A in Enclosure 1.) While this utility

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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later chose to report this event as a condition prohibited by the TS, it is noteworthy that the NRC chose not to cite the utility for a violation of the TS, much less propose a civil penalty. Georgia Power Company maintains that this is an example of inconsistent application of the regulatory process. It also indicates that this issue deserves to be addressed by an NRC advisory to all licensees regarding the NRC's intended interpretation of this type of TS Action Statement.

IV. Request for Reconsideration - Escalation

Georgia Power Company also requests reconsideration of the escalation factor applied by the NRC to the base civil penalty for untimely long-term corrective action and NRC identification of the violations.

Corrective Action Factor

With respect to the corrective actions factor, the NRC states that no long-term corrective action was taken and that the PRB in 1989 had not yet made an adequate root cause evaluation or appropriate reportability determination. However, the factual bases for these conclusions appear to us to be in error.

Since at the time it was determined that no TS violation occurred, no corrective action was appropriate. Very shortly after this event, recognizing that operators during future outages would very likely encounter the same interpretive issue regarding TS 3.4.1.4.2, GPC initiated a Licensing Document Change Request (LDCR). The LDCR is preparatory to a TS change. Our August 28, 1991, response, at pages 9-10, notes this initiative requested by the Nuclear Safety and Compliance Manager. The need date for the TS amendment, however, was the next refueling outage involving a chemical addition to the reactor coolant system. As a result, the change was assigned a lower relative priority.

Then, the question of chemical addition to the reactor coolant system was further addressed beginning in April 1989 as a result of proposed procedure revisions. As a result of processing the LDCR in anticipation of an upcoming refueling outage, the issue of the October 1988 event was subsequently revived by VEGP Technical Support personnel and reviewed by the PRB in the Fall of 1989. Apart from the TS interpretive issue, the PRB also recognized that chemical additions via this flowpath were not currently analyzed in the FSAR. Appropriate guidance to avoid such actions in the future had been issued at that time. Furthermore, with the approval of the amendment to TS 3.4.1.4.2 in February 1990, the FSAR was subsequently updated to reflect the current analysis. In light of these actions, GPC concludes that timely action was taken to address the issue. No further action by the PRB was necessary.

ENCLOSURE 2 (CONTINUED)

VOGTLE ELECTRIC GENERATING PLANT - UNIT 1
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The NRC, in transmitting the NOV, also vaguely suggests that the PRB, "as late as one year after initial occurrence" had not made an adequate "root cause evaluation." However, no root cause evaluation would have been made on this issue prior to the 1989 PRB review--because no concern had yet been identified. As noted above, the 1989 PRB review of the incident was undertaken under GPC's own initiative. At that time, the only root cause evaluation undertaken expressly identified "confusing/incomplete" guidance regarding TS 3.4.1.4.2. Because no violation was identified, this root cause evaluation more than adequately addressed the known and understood concern. As also noted above, corrective actions to resolve this issue had already been undertaken.

Contrary to the escalation applied, GPC had in fact initiated timely corrective actions prior to the 1989 PRB reportability review. These actions were in process to lead to timely amendment of TS 3.4.1.4.2 prior to the subsequent refueling outage (when the change would be needed). Therefore, long term corrective actions were in place.

Identification Factor

Also contrary to the escalation applied, GPC had identified this issue and documented its disposition long before it ever came to the attention of the NRC as a potential violation. To maintain that GPC had not identified the issue because we did not conclude that a TS violation had occurred is another example of the NRC's cascading violations in this enforcement action. This logic implies that licensees are penalized for professional opinions differing from those of the NRC.

V. Conclusion

In summary, GPC maintains that the violations did not occur as alleged and that the civil penalty is inappropriate in this case. We have, however, acknowledged historic weaknesses with respect to maintaining section 15.4.6 of the FSAR current and with respect to training related to the definition of the "loops not filled" condition. As discussed in Enclosure 1, appropriate corrective actions have been taken to correct these weaknesses.