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USNRC

UNITED STATES

NUCLEAR REGULATORY COMMISSION

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In the Matter of
DUKE POWER COMPANY
(McGuire Units 1 and 2)

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Docket Nos. 50-369
50-370
License Nos. NPF-9
NPF-17
EA 84-37

OFFICE OF SECRETARY
OF SERVICE
BRANCH

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Duke Power Company (the "licensee") is the holder of Operating License Nos. NPF-9 and NPF-17 issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the McGuire facility Units 1 and 2, in accordance with the conditions specified therein. The licenses were issued on July 8, 1981 and May 27, 1983, respectively.

II

A special inspection of the licensee's activities was conducted during the period September 29, 1983 through October 9, 1983. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 8, 1984. The Notice stated the nature of the violations, requirements of the Commission that the licensee had violated, and the amount of the civil penalty proposed for Violation I in the Notice. A response dated July 6, 1984 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of Duke Power Company's response and the statements of fact, explanation, and argument contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that Violation I occurred as stated, and the penalty proposed for Violation I set out 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 the civil penalty in the amount of Forty Thousand Dollars (\$40,000) within the thirty 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, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

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

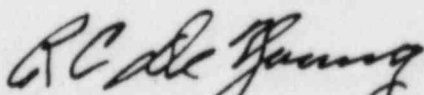
Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, 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 was in violation of the Commission's requirements as set forth in Violation I of the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, 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

Date at Bethesda, Maryland
this 26th day of September 1984

APPENDIX

EVALUATIONS AND CONCLUSIONS

The violation and associated civil penalty are identified in the Notice of Violation and Proposed Imposition of Civil Penalty dated June 8, 1984. The Office of Inspection and Enforcement's evaluations and conclusions regarding the licensee's response dated July 6, 1984, are presented below.

Restatement of the Violation

I. VIOLATION ASSESSED A CIVIL PENALTY

Technical Specification 6.8.1 states in part:

Written procedures shall be established, implemented, and maintained covering the activities referenced below:

- a. The applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2, February 1978;
- b. The applicable procedures required to implement the requirements of NUREG-0737;....

Plant test procedure PT/2/A4208/01B requires that the containment spray recirculation valve 2NS-8 be locked closed at the conclusion of the test, and a second independent verification by a second qualified individual of the valve position is required at the conclusion of the test.

Contrary to the above, on September 14, 1983, at the conclusion of test PT/2/A4208/01B, the Unit 2 containment spray recirculation valve, 2NS-8, was locked open instead of closed as required by plant test procedure PT/2/A4208/01B. The second independent verification by a second qualified operator of the position of valve 2NS-8 failed to detect that the valve was incorrectly positioned.

This is a Severity Level III violation (Supplement I).
(Civil Penalty - \$40,000)

Licensee Comments and NRC Evaluations

- I. Licensee Comment: An effective independent verification program at McGuire was in effect.

NRC Evaluation: McGuire had in place some aspects of an independent verification program developed in response to TMI Action Plan item I.C.6. The full implementation of all lessons learned from Oconee was not scheduled to be completed until January 1984, due to the implementation time required for such a commitment. McGuire also had in place control measures for independent verification that covered the test performed on September 14, 1983, regarding valve 2NS-8 being locked open instead of closed (Step 12.2.3 of PT/1/A4208/01B). Had the independent verification control measures been

properly implemented at the valve location by the responsible individual, the independent verification program might have been effective. Instead, the independent verification required by the approved procedure was conducted from, and signed off as completed by the individuals in the control room. Therefore, we cannot agree that an effective independent verification program at McGuire was in effect at the time of the violation. It is also apparent from the nature of the violation that key individuals who routinely performed safety-related activities were not properly trained by Duke Power Company (DPC) in the procedures for the implementation of NUREG 0737, item I.C.6.

- II. Licensee Comment: No specific feature of the independent verification program is identified as being the cause of the incident.

NRC Evaluation: We agree that the NRC did not identify a specific feature of the independent verification program as being the cause of the incident. DPC must determine the cause and take appropriate action to correct it. The NRC will not determine for DPC the specific cause of a problem nor how to correct it. Pursuant to 10 CFR 2.201, licensees are required in response to a Notice of Violation to identify the cause of the specific violation. Therefore, DPC has the responsibility to identify problems, correct them, and continue to operate the plant in a responsible and safe manner.

Nevertheless, Station Directive 3.1.28, Revision 9, requires that independent verification be performed by two different persons, at different times, to determine the position of valves as required. The manner in which Step 12.2.3 of PT/1/A4208/01B was "independently verified" on September 14, 1983 was a violation of the station Directive 3.1.28, Revision 9.

This indicates that, if an aspect of DPC's program needs to be emphasized, it might be the lack of understanding of the acceptable methods of applying independent verification.

- III. Licensee Comment: It appears that the sole basis for the proposed civil penalty is that the incident occurred as a result of personnel error.

NRC Evaluation: The incident (locking the valve in the open position) may have occurred as a result of personnel error. However, had an independent verification program been properly implemented at the valve location, a violation would not have occurred. The intent of an independent verification program, when properly implemented, should be to preclude a personnel error from going undetected.

- IV. Licensee Comment: Committed actions as a result of the Oconee incidents in early 1983 were in the process of being fully implemented at McGuire. As such, it is incorrect for the NRC to conclude that such actions were ineffective.

NRC Evaluation: The violation was based upon what occurred at the time of the incidents and on those procedures which were in place at that time. The violation demonstrates a failure to effectively implement the independent verification program at McGuire.

- V. Licensee Comment: The NRC asserts that the proposed civil penalty is to emphasize the concern for an effective independent verification program and the need for Duke to provide additional attention to the administrative controls for operation. In light of the actions that have been taken by Duke in this matter well before the Notice was issued, and in view of the overall above average performance of McGuire personnel, the proposed civil penalty is punitive in nature rather than encouraging good licensee performance.

NRC Evaluation: The events constituting Violation I reveal that DPC did not have an effective independent verification program at the time of the incident. Moreover, the process of implementing actions to correct detected deficiencies does not in and of itself constitute an effective program. The civil penalty is proposed for violations which occurred on the date specified. Corrective actions you have since taken are relevant with respect to a civil penalty only when prompt and extensive, which was not the case here. The proposer's penalty is to emphasize the NRC's concern for an effective independent verification program and the need for DPC to provide additional attention to the administrative controls for operation. In that regard, the penalty is not considered to be punitive but a measure to encourage good licensee performance.

- VI. Licensee Comment: Corrective action taken by DPC was not accurately assessed and reflected in the severity level assigned to the violation.

NRC Evaluation: As described in the NRC Enforcement Policy, 10 CFR Part 2, Appendix C, the severity level of a violation is determined by the safety significance. Consideration of corrective actions affects only the amount of the penalty.

- VII. Licensee Comment: DPC believes that it is unrealistic to expect any independent verification program to provide 100% assurance of the correctness of a condition.

NRC Evaluation: Although an absolute "zero error" in implementing independent verification is unrealistic, every possible effort must be made to achieve this ideal limit. The civil penalty imposed reflects the seriousness with which the NRC regards inadequate independent verification.

NRC Conclusions

Based on our evaluation as indicated above, plant personnel failed to follow an approved procedure and to implement the requirements of NUREG-0737 by performing a proper independent verification of a recirculation valve position for a containment spray pump. In addition, this condition went unnoticed because the second independent valve position verification check was improperly performed and failed to identify that the valve was mispositioned. Further, the staff's evaluation discloses that this violation of NRC requirements has been properly categorized as a Severity Level III and that no justification has been presented for withdrawal or mitigation of the civil penalty.