



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 13, 1998

EA 97-138

Mr. J. V. Parrish (Mail Drop 1023)
Chief Executive Officer
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

SUBJECT: REQUEST FOR RECONSIDERATION OF ENFORCEMENT ACTION
(EA 97-138)

Dear Mr. Parrish:

I am responding to your letter of September 11, 1998 in which you requested reconsideration of a Severity Level III Notice of Violation received by Washington Public Power Supply Systems' (Supply System) WNP-2 facility on February 20, 1998 for violations of Technical Specifications and 10CFR50.59. The violations involved changes made to the facility's instrument response time testing program.

In your letter you expressed concern that the Supply System received disparate treatment in that these same violations occurred at three other NRC licensed facilities and it was your understanding that these facilities received Severity Level IV or noncited violations. Your understanding is essentially correct in that, for violations A, B, C, and D of EA 97-138, the NRC dispositioned these same violations as noncited violations at Carolina Power and Light's Brunswick, Pennsylvania Power and Light's Susquehanna¹, and Detroit Edison's Enrico Fermi facilities.

As indicated in Section XIII of NUREG-1500, Rev. 1, "General Statement of Policy and Procedures for NRC Enforcement Actions," (Enforcement Policy) the NRC has a high threshold for reopening closed enforcement actions. However, given the circumstances of this case, we agree that reconsideration is appropriate.

As you acknowledged in your September 11, 1998, letter, the NRC does work diligently to achieve consistency in enforcement matters. In this case, at the time the decision was made to issue a Severity Level III problem, the NRC consistently treated any 10 CFR 50.59 violations involving unreviewed safety questions or a conflict with a technical specification, such that a license amendment is required and one was not sought, as Severity Level III violations. Such treatment is consistent with the Enforcement Policy, Supplement I, example C.10. However, by the time this case was issued the NRC had recognized that there are 10 CFR 50.59 violations involving unreviewed safety questions and conflicts with technical specifications that are not

¹ The noncited violations concerning Pennsylvania Power and Light's (PP&L) errors related to changing Susquehanna's RTT program did not include an infraction of 10CFR50.59.

DCS
PDR

11

JE14

deserving of disposition at Severity Level III because of their lack of significance. In hindsight, the NRC should have reconsidered the enforcement action prior to its issuance.

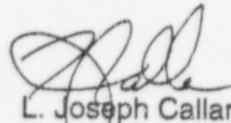
Accordingly, the NRC is withdrawing the four violations grouped into a Severity Level III problem in EA 97-138 dated February 20, 1998, and is issuing a single Severity Level IV violation which is enclosed. Because the NRC is satisfied with your acknowledgment and corrective actions taken for the violations as documented in your letters of January 20, 1998 and March 19, 1998, no additional response to this correspondence is required.

Disposition as noncited violations, similar to the three other facilities, is not warranted because the criteria of Section VII.B.1 of the Enforcement Policy were not met in that the NRC identified the violations at your facility.

Should you have further questions regarding this matter please direct them to Mr. J. Lieberman, Director, Office of Enforcement.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and any response you choose to submit (although none is required) will be placed in the NRC Public Document Room (PDR)

Sincerely,



L. Joseph Callan
Executive Director for Operations

Docket No.: 50-397
License No.: NPF-21

Enclosure: Notice of Violation

cc (w/encl):
Chairman
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, Washington 98504-3172

Mr. Rodney L. Webring (Mail Drop PE08)
Vice President, Operations Support/PIO
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

Mr. Greg O. Smith (Mail Drop 927M)
WNP-2 Plant General Manager
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

Mr. David A. Swank (Mail Drop PE20)
Manager, Regulatory Affairs
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

Mr. Albert E. Mouncer (Mail Drop 396)
Chief Counsel
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

Mr. Paul Inserra (Mail Drop PE20)
Manager, Licensing
Washington Public Power Supply System
P.O. Box 968
Richland, Washington 99352-0968

Perry D. Robinson, Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005-3502