

October 21, 1998

Southern Nuclear Operating Company, Inc.
ATTN: Mr. J. B. Beasley
Vice President
Vogtle Electric Generating Plant
P.O. Box 1295
Birmingham, AL 35201

Dear Mr. Beasley:

SUBJECT: NRC INSPECTION REPORT NO. 50-424, and 50-425/98-05

Thank you for your response of August 18, 1998, to our Notice of Violation issued on July 23, 1998, concerning activities conducted at your facility. We have examined your response and found that it meets the requirements of 10 CFR 2.201.

In your response, you admitted that Example 1 of violation 50-425/98-05-01 occurred as stated but denied that a violation of Technical Specifications occurred as stated in Example 2 of the violation.

After careful consideration of the basis for your denial of Example 2, we have concluded, for the reasons presented in the enclosure to this letter, that the violation occurred as stated in the Notice of Violation. Therefore, in accordance with 10 CFR 2.201(a), you are required to submit to this office within 30 days of the date of this letter a written statement describing steps which have been taken to correct Example 2 of Violation 50-425/98-05-01 and the results achieved, corrective steps which will be taken to avoid further violations, and the date when full compliance will be achieved.

We will examine the implementation of your actions to correct Violation 50-425/98-05-01 during future inspections.

We appreciate your cooperation in this matter.

Sincerely,
(Original signed by
Loren R. Plisco)

Loren R. Plisco, Director,
Division of Reactor Projects

Docket Nos. 50-424, 50-425
License Nos. NPF-68, NPF-81

Enclosure: Evaluations and Conclusions

cc w/encl: (See Page 2)

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* SEE PREVIOUS CONCURRENCE

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SIGNATURE							
NAME	BHolbrook:dka*	JZeller*	PHSkinner	ATBoland	CFEvans*	DJaffe*	
DATE	10/ /98	10/ /98	10/ /98	10/ /98	10/ /98	10/ /98	10/ /98
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

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*No OE
interest
per OE
(understanding)
Form
10/16/98*

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OFFICE	RII:DRP	RII:DRP	RII:DRP	RII:ECG	RII:ORA	NRR:HQ	
SIGNATURE							
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DATE	10/ /98	10/ /98	10/3 /98	10/ /98	10/ /98	10/ /98	10/ /98
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

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DATE	10/	/98	10/	/98	10/	/98	10/	/98	10/	/98	10/ 7	/98	10/	/98
COPY?	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	<input checked="" type="checkbox"/>	NO	YES	NO

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COPY?	(YES) NO	(YES) NO	YES NO	YES NO	YES NO	YES (NO)	YES NO

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DATE	10/ 6 /98	10/ /98	10/ /98	10/ /98	10/ /98	10/ /98	10/ /98
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EVALUATIONS AND CONCLUSION

On July 23, 1998, a Notice of Violation (Notice) was issued for a violation identified during a routine NRC inspection. Southern Nuclear Operating Company responded to the Notice on August 18, 1998. Example 1 was admitted and Example 2 was denied for Violation 50-425/98-05-01. The NRC's evaluation and conclusions regarding the licensee's arguments are as follows:

Restatement of Violation 50-425/98-05-01

Unit 2 Technical Specification (TS) Limiting Condition Of Operation (LCO) 3.0.4 states that when a limiting condition of operation is not met, entry into a mode or other specified condition in the Applicability shall not be made except when the associated actions to be entered permit continued operation in that mode or other specified condition in the applicability for an unlimited period of time. Exceptions to LCO 3.0.4 are stated in the individual Specifications.

Contrary to the above:

1. On April 19, 1998, Unit 2 entered Mode 2 (from Mode 3) without meeting the LCO of TS 3.3.2, "Engineering Safety Feature Actuation System (ESFAS) Instrumentation." Table 3.3.2-1, Item 5, which requires two trains of the Turbine Trip function to be operable prior to entering Mode 2. Action Condition H was applicable and has a limited completion time of six hours. TS 3.3.2 does not contain an LCO 3.0.4 exception statement.
2. On June 10, 1998, Unit 2 entered Mode 4 (from Mode 3) without meeting the LCO for TS 3.4.12, "Cold Overpressure Protection Systems," which required two reactor coolant system relief valves to be operable. The licensee entered Mode 4 while in Action Condition D of TS 3.4.12 for one pressurizer power operated relief valve (PORV) being inoperable. This Specification has a limited time of 7 days and does not contain an LCO 3.0.4 exception statement.

Summary of Licensee's Response to Example 2

1. The licensee contends that the previous Technical Specification version contained an LCO 3.0.4 exception.
2. The licensee also contends that the TS Bases addresses the situation with the following statement. "In addition, the provisions of LCO 3.0.4 shall not prevent changes in MODES or other specified conditions in the Applicability that result from a normal shutdown."
3. The licensee's denial referenced a January 1988, letter from Thomas E. Murley, former Director, Office of Nuclear Reactor Regulation, to Joe F. Colvin, Executive Vice President and Chief Operating Officer NUMARC, entitled "NRC Staff Response to NUMARC Technical Specification Working Group Key Implementation Issues for Restructured Technical Specifications," in which the NRC staff wrote the following about the improved Technical Specifications Bases:

Enclosure

"TS Bases will provide information to facilitate proper interpretation and application of TS requirements. Bases are also used for determining the purpose of existing requirements when changes to the TS are considered. In short, Bases provide the technical underpinning for TS requirements. Any change to this technical underpinning that would influence the way the requirement might be interpreted or applied should be subject to prior staff approval because it would, in effect, be a TS change. However, changes that do not erode this technical underpinning should not require staff approval."

The licensee referenced that letter and stated that "SNC views the Bases statement that LCO 3.0.4 shall not prevent a normal shutdown as a clarification that facilitated proper interpretation and application of TS requirements."

NRC Evaluation of Licensee's Response

1. The licensee is committed to the current version of Technical Specifications which does not include an exemption to LCO 3.0.4 not the former version.
2. NUREG-1431, Rev. 1, dated April 7, 1995, revised LCO 3.0.4 to read "When an LCO is not met, entry into a MODE or other specified condition in the Applicability shall not be made except when the associated ACTIONS to be entered permit continued operation in the MODE or other specified condition in the Applicability for an unlimited period of time. This Specification shall not prevent changes in MODES or other specified conditions in the Applicability that are required to comply with ACTIONS or that are part of a shutdown of the unit." (Emphasis added)

This revision was made so that changes in MODES or other specified conditions in the Applicability that are a part of a shutdown of the unit shall not be prevented. The revision also identified that before the revised version of the LCO could be implemented on a plant specific basis, the licensee must review the existing technical specifications to determine where specific restrictions on MODE changes or Required Actions should be included in individual LCOs to justify this change.

TS 3.4.12 does not contain a statement of exception to TS 3.0.4. In addition, the statement in the TS Bases would allow the Bases to override the TS requirement which is not acceptable. The revision to NUREG-1431 discussed above had not yet been incorporated into the Vogtle TS.

3. The statement quoted from the January 1988 NRC letter was taken out of context. The paragraph addresses the influence of Bases on TS application. The paragraph includes a caution that Bases changes should not result in an erosion of the TS intent. Therefore, the licensee's denial incorrectly implies that the paragraph supported carte blanc use of the bases for interpretations of the TS rather than caution associated with revising the Bases.

The licensee's interpretation of the statement that LCO 3.0.4 shall not prevent a normal shutdown, to support that they could enter a lower mode does not address the issue that it is in the lower modes where Cold Overpressure Protection Systems (COPS) are significant to safety. TS Bases 3.4.12 states, in part, that the COPS controls Reactor Coolant System pressure at low temperatures so the integrity of the reactor coolant pressure boundary is not compromised by violating the pressure and temperature limits of 10 CFR 50, Appendix G. In this case, the unit entered a mode of operation that allowed lower temperature operation.

The NRC position is that the licensee applied the bases statement of "normal shutdown" in the wrong circumstances.

The NRC staff has carefully reviewed the licensee's response and does not concur with the conclusions.

NRC Conclusion

For the reasons stated above, the NRC staff concludes that the violation occurred as stated.