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Alabama Power
the southern electric system

June 17, 1988

Docket Nos. 50-348
50-364

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

Gentlemen:

Joseph M. Farley Nuclear Plant
Order Imposing Civil Penalty
May 18, 1988
(Enforcement Action 87-142)

Alabama Power Company hereby responds to the Order, issued May 18, 1988, imposing a \$50,000 civil penalty on our Joseph M. Farley Nuclear Plant. The deficiencies for which the penalty was imposed were set forth in a November 3, 1987 Notice of Violation (NOV). Alabama Power Company's response to the NOV deficiencies, including corrective actions, was documented in a December 17, 1987 letter. The issues associated with the subject order have already resulted in the expenditure of resources on both the NRC's and Alabama Power Company's behalf which far exceed in costs that of the civil penalty. Accordingly, continued pursuance of these enforcement issues would not be in the best interest of either Alabama Power Company or the NRC. Therefore, in the interest of resolving these enforcement issues, Alabama Power Company encloses with this letter a \$50,000 check as payment in full of the assessed civil penalty. Although Alabama Power Company does not intend to request a hearing in response to the May 18, 1988 Order, certain comments and observations regarding the cited deficiencies are submitted as follows:

I.A. Inadequate Control and Installation of Purchased Equipment

Violation I.A involved installation of circuit breakers with alleged unconfirmed seismic qualification and voltage ratings installed in safety related motor control centers. Alabama Power Company believes its procurement process provided reasonable assurance of the adequacy of these components prior to their installation. Alabama Power Company wishes to resolve the breaker issue with the NRC; however, these breakers will not be installed in safety related applications until NRC concurrence is obtained.

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I.B. Inadequate Design Control

Violation I.B contended that Alabama Power Company installed a number of commercial grade parts at Farley Nuclear Plant, Units 1 and 2, without adequately evaluating their suitability for use in safety related applications. Alabama Power Company concluded that, while documentation deficiencies existed in the evaluation of certain commercial grade items used in safety related applications, no significant safety issue resulted. As regulatory guidance has not been provided relative to this emerging issue, Alabama Power Company does not believe it is appropriate for the NRC to require the industry, through enforcement proceedings such as the NOV and Order, to implement requirements for dedication of commercial grade items. Alabama Power Company believes that emerging issues such as dedication of commercial grade items should be handled through NRC Generic Letters, Bulletins or rulemaking.

II.A Inadequate Corrective Actions

Violation II.A cited five instances where, at the time of the inspections, Alabama Power Company had failed to take adequate corrective action. The NRC withdrew one of the five instances on the basis that the purported corrective action was, in fact, an enhancement action. While Alabama Power Company admits that the problem for three of the other four instances was not completely resolved, Alabama Power Company believes that the corrective actions taken in the case of the Anchor Darling check valve hinge pin bushings was adequate. Additionally, none of these four instances resulted in a significant safety issue. Corrective actions addressed in Alabama Power Company's December 17, 1987 response to the NOV have been implemented.

II.B Inadequate Inspections

Violation II.B involved both Train B, 125V Service Water battery racks found, by the NRC on June 2, 1987, to be improperly installed and mounted, creating an unanalyzed condition concerning seismic qualification. The condition of improper installation existed for approximately one year prior to the NRC inspection. Alabama Power Company admitted in the December 17, 1987 response to the NOV that the anchor bolt installation was not properly performed in accordance with procedures; however, subsequent physical testing demonstrated that the installed configuration resulted in no significant safety issue. The physical testing that revealed the as-found anchorage fully capable of performing the intended function during a design basis earthquake would seem

to reduce this issue to a failure to properly follow installation guidelines, which had no adverse affect on safety.

In addition, Alabama Power Company would like to take this opportunity to share with the NRC Staff certain perceptions which may be drawn from this enforcement action that could be viewed as inconsistent with what we believe to be underlying Commission policy. These thoughts are provided in the spirit of open communication with the Staff. In Alabama Power Company's view, such open communication is an important aspect of any licensee's relationship with the NRC and should be fostered even in circumstances where disagreements may exist. While the perceptions discussed below need not reflect actual circumstances, they involve matters of importance to licensees' relationship with the Commission and its Staff and therefore warrant bringing to your attention.

The first perception resulting from this enforcement action that could be viewed as inconsistent with underlying Commission policy involves proactive utility activities. Alabama Power Company believes this enforcement action resulted from an audit that was a byproduct of ongoing discussions between Alabama Power Company and the Staff regarding the requirements of Generic Letter 83-28, Section 2.2.2. Alabama Power Company had previously adopted the Nuclear Utility Task Action Committee (NUTAC) position on compliance with Section 2.2.2 of Generic Letter 83-28, and had represented that position in meetings with the NRC Staff. By letter dated December 15, 1986, the NRC issued a Safety Evaluation Report (SER) which found Alabama Power Company's program acceptable subject to the condition that the program be expanded to include periodic contact with vendors of "key" components to facilitate the exchange of current technical information. Alabama Power Company's response to this mandate was that a contact program with numerous vendors of safety-related equipment was not feasible, was impractical, and not justifiable. Furthermore, "key" components were not sufficiently defined to provide a realistic technical approach to the resolution of the problem. By letter dated March 17, 1987, a revision to the SER was requested by Alabama Power Company to resolve this ambiguity.

In a follow-up meeting between Mr. R. P. McDonald of Alabama Power Company and Mr. R. W. Starostecki, Associate Director for Inspection of Technical Assessment for NRR, Mr. Starostecki stated that he did not know how to resolve this matter but, that he thought an audit might clarify the issue. Mr. McDonald acknowledged the NRC's option to audit at its discretion, but protested that this management issue should not be turned over to field inspectors. By letter dated April 14, 1987, the NRC stated that they consider the December 15, 1986 SER to complete the Generic Letter 83-28, Section 2.2.2 issue for Farley Nuclear Plant, Units 1 and 2. This letter also noted that a site evaluation of the procurement and vendor interface program was scheduled to start the week of May 11, 1987. On May 1, 1987, Mr. McDonald called Mr. Starostecki

and expressed a concern that the Vendor Program Branch inspectors could be biased against Alabama Power Company due to this contested issue. It is Alabama Power Company's position that the SER issue still remains unresolved.

This action by the NRC of conducting an audit in the midst of discussions of a significant issue is inconsistent with the previously stated NRC position and policy on licensee-vendor relationships. As an aggressive licensee with pride in its nuclear activities, Alabama Power Company was proceeding expeditiously to improve its vendor interface program. Alabama Power Company was consulting with the Staff and industry to resolve issues regarding Generic Letter 83-28, Section 2.2.2. For the Commission to audit Alabama Power Company during this consultation period is counter to the Commission's expressed desire that licensees institute self-improvement measures and programs.¹ The nuclear industry could possibly conclude that the audit and the imposed fine, during the time when candid discussions about the obligations of Generic Letter 83-28, Section 2.2.2 were being held, is reflective of a desire to stifle a frank exchange of opinions between licensees and the Staff. This policy, of course, would be counterproductive to the regulatory environment and would not promote frank and open discussions between the regulator and the regulated.

As a second perception, Alabama Power Company is also concerned that changes in Staff positions on an emerging issue such as commercial grade procurement policy should not be first promulgated in an enforcement proceeding, as it was in this case. Rather, the Staff's revised position should be clearly articulated in NRC Generic Letters, Bulletins or rulemakings, with an appropriate transitory period, before enforcement proceedings are pursued. This is particularly true in this case since the regulatory provisions on which the enforcement action was based, 10 CFR Part 50, Appendix B, Criterion VII, "Control of Purchased Material, Equipment, and Services," and Criterion III, "Design Control," provide general requirements but do not establish specific criteria regarding an acceptable commercial parts procurement/safety related dedication program. Clarification of such general requirements should first be issued to the industry using established methods available to the Staff prior to the inspection process. To do otherwise unduly creates the risk of inconsistent standards from region to region and inspector to inspector, and confusion on the part of licensees in the application of these standards.

¹ See, e.g., "Remarks by Chairman Lando W. Zech, Jr. Before the Building and Trades Governing Board of Presidents Annual Meeting", Palm Springs, California, January 14, 1988. The NRC's Enforcement Policy also emphasizes that licensees find, correct and report problems expeditiously and effectively." See, 10 CFR Part 2, Appendix C, Section V.B.

Finally, Alabama Power Company is concerned with the aggregation of Severity Level IV violations to an issue of safety significance worthy of a Severity Level III violation. Candidly, it appears that the Staff gave little or no credit to reasoned engineering analyses and technical judgments by Alabama Power Company and its architect/engineer. This is particularly significant where the original procurement analyses and technical judgments, while not fully documented at the time, have not been shown to be inappropriate and, where additional analyses or testing have been performed, these original judgments have been confirmed. Based on these confirmations, each of these individual violations were not significant safety issues. However, the NRC elevated these issues to a more severe level because they purportedly indicated a programmatic problem. Alabama Power Company does not believe that these issues, considered individually or collectively, are representative of a significant safety issue and is concerned that the NRC would use this as the basis for enforcement proceedings.

The above comments notwithstanding, Alabama Power Company would like to express the importance it places on maintaining open and frank discussions with the NRC. Alabama Power Company considers such communications to constitute an essential part of a licensee's relationship with the Staff, and without such dialogue, the entire regulatory process is jeopardized. Alabama Power Company seriously considers all concerns raised by the NRC Staff and our own staff regarding safety issues. Corporate and plant management are always directly involved in this process, as well as the resolution of violations or deficiencies.

In this vein, Alabama Power Company personnel are urged to be independent in thought, to be comprehensive in their analyses, and to stay fully knowledgeable of actual or potential technical issues. As a result, Alabama Power Company personnel may question the Staff's engineering position or regulation interpretation. Such a constructive inquiry should not be perceived as recalcitrance, but rather one aspect of a healthy effort to encourage open and frank communications so that the best decision can be made.

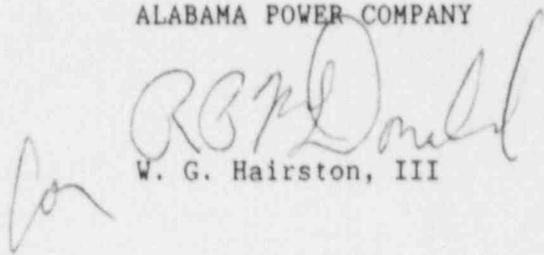
Alabama Power Company fully recognizes and respects the Nuclear Regulatory Commission as the federal regulator of nuclear activities at Farley Nuclear Plant. The Staff should not in any way construe the desire for open discussions and independence of thought as an intent to minimize the paramount importance of maintaining the health and safety of the public. Alabama Power Company will continue to be an active licensee, aggressively investigating potential plant deficiencies and responsive to NRC requirements.

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U. S. Nuclear Regulatory Commission

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Respectfully submitted,

ALABAMA POWER COMPANY


W. G. Hairston, III

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Enclosure (\$50,000 check)

cc: Mr. L. B. Long
Dr. J. N. Grace
Mr. E. A. Reeves
Mr. W. H. Bradford