

NOTICE OF VIOLATION

Neil Everson
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.790(a)]

199-031

During an NRC investigation concluded on March 18, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5(a)(1) provides that an employee of a contractor at an NRC-licensed facility may not engage in deliberate misconduct that causes or, but for detection, would have caused a licensee, to be in violation of any term, condition, or limitation of any license issued by the Commission.

10 CFR 50.5(c) provides that for the purposes of 10 CFR 50.5(a)(1), deliberate misconduct by a person means an intentional act or omission that the person knows constitutes a violation of a requirement, procedure, instruction, or policy of a licensee.

Section 2.C.6 of Amendments 42 and 65 for Zion Operating Licenses No. DPR-39 and DPR-48 respectively, provide in part, that the licensee shall maintain in effect and fully implement all provisions of the Commission approved physical security plan, the Zion Station Security Plan (ZSSP), including amendments and changes made pursuant to the authority of 10 CFR 50.54(p).

Section 9.1 of the NRC-approved Zion Station Security Plan (ZSSP) requires, in part, that personnel and packages entering the protected area of the Zion Station be searched for firearms, explosives and incendiary devices to prevent unauthorized entry of these objects in the Zion Station Protected Area. ZSSP Section 9.1 further requires that search equipment operators must alert alarm station operators when there is a strong indication or confirmation of the presence of a firearm. Section 9.2.1 of the ZSSP provides, in part, that persons coming into the protected area of the Zion Station allow their handheld items to be searched. Section 9.3 of the ZSSP states, in part, that x-ray equipment and/or a physical search are used to search hand-carried items.

Section 3.1 of the ZSSP provides for procedures which implement the Plan. Section 3.5 of the ZSSP provides, in part, that post orders are issued for the use of security personnel in the accomplishment of their assigned duties and responsibilities.

Zion Station Post Order (ZSPO) No. 01, "Personnel Screen/Search," Revision No. 21, dated November 24, 1997, defines the term "contraband" as unauthorized items such as firearms, and defines "prohibited items" as including ammunition and component parts of weapons (e.g., barrels, frames, and triggers).

Section E.2 of ZSPO No. 01, provides, in part, that once an individual starts the search process (i.e., enters the first piece of detection equipment) the person must complete the entire search process. Section E.7. of ZSPO No. 01 requires that an individual, who has entered the search equipment envelope and decides to leave, must be instructed not to leave and the search completed.

ZSPO No. 02, "Hand Carried Items/Package Search," Revision No. 15, dated April 30, 1997, Section D.1.6, requires that any package determined to contain prohibited items or items which are suspicious or unidentifiable and could conceal a prohibited item, shall be immediately secured to prevent access by the carrier. Furthermore, any package which, during visual examination by x-ray machine, is determined to contain prohibited items shall remain within the x-ray machine or shall be taken under physical control. Additionally, supervision must be notified by radio or telephone. Section D.1.11 of ZSPO No. 02 further requires that a supervisor be notified when prohibited items are discovered.

Contrary to the above, on February 24, 1998, you caused Commonwealth Edison Company to be in violation of Section 2.C.6 of Operating License Nos. DPF 39 and DPR-48. Specifically, you were employed as a security officer by Burns Security, a contractor of the Commonwealth Edison Company at the Zion Nuclear Station, and you attempted to enter the protected area of the Zion Station with a handgun. The firearm was detected during the x-ray search of your belongings. The search equipment operator failed to secure the handgun to prevent your access to the weapon, and you removed the firearm from the belt of the x-ray equipment before the search process could be completed. You then asked the x-ray equipment officer to erase the image of the firearm from the x-ray monitor and you assisted the x-ray equipment operator in doing so. You also requested that a report of the incident not be made. As a result, the x-ray equipment operator did not immediately notify the alarm station that a firearm had been found. Furthermore, the x-ray equipment operator failed to immediately notify a supervisor by radio or telephone of the presence of a firearm. (01013)

This is a Severity Level III violation (Supplement III).

Pursuant to the provisions of 10 CFR 2.201, Mr. Neil Everson is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so

that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 20th day of July 1999.

SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission, Office of Investigations (OI), Region III, on April 6, 1998, to determine whether security guards at Zion Generating Station (ZGS), Zion, Illinois, deliberately violated site security procedures.

Based upon evidence developed during this investigation, OI:RIII did not substantiate the allegation that a security guard at ZGS deliberately violated security procedures by bringing a weapon into ZGS. It was, however, determined that the same security guard deliberately attempted to cover up the fact that the weapon was brought into ZGS. Furthermore, based on the evidence developed during this investigation, OI:RIII did substantiate that two other guards deliberately failed to report the incident as required.

56 FR 40664

§ 50.5 Deliberate misconduct.

(a) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

56 FR 40664

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

July 20, 1999

EA 99-100

Mr. Oliver D. Kingsley
President, Nuclear Generation Group
Commonwealth Edison Company
ATTN: Regulatory Services
Executive Towers West III
1400 Opus Place, Suite 500
Downers Grove, IL 60515

SUBJECT: NOTICE OF VIOLATION
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-98-017)

Dear Mr. Kingsley:

This refers to the investigation by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) into information reported to the NRC by the Commonwealth Edison Company (ComEd) on February 24, 1998, that a contract security officer inadvertently brought a personal handgun into the personnel search area at the ComEd Zion Station. The information from ComEd indicated that at the request of the officer owning the handgun, another officer, who had operated the x-ray search equipment, failed to make the required notifications that a firearm had been identified through the x-ray search process. A copy of the synopsis of the OI report was provided to ComEd by letter dated April 27, 1999.

Based on the information developed during the OI investigation, ComEd's investigation, and the information provided in a letter from ComEd dated May 27, 1999, in response to an April 27, 1999, letter from the NRC, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in the investigation reports, the April 27, 1999, letter from the NRC, and the ComEd letter dated May 27, 1999.

In summary, a security officer entered the personnel search area of the Zion Station on February 24, 1998. He submitted a hand-carried bag for x-ray inspection and his personal handgun was identified among his belongings. He apparently forgot that the handgun was in his bag. The security officer immediately retrieved his belongings, including the handgun, from the belt of the x-ray equipment and asked the x-ray equipment operator to not report him because he feared his employment would be terminated for bringing a firearm to the Zion Station. He and the x-ray equipment operator then erased the image of the handgun from the x-ray equipment monitor. The procedures implementing the NRC-approved Zion security plan required the x-ray equipment operator to immediately notify the alarm station and a supervisor upon discovery of a firearm. The x-ray equipment operator did not make those immediate notifications. A short time later, the security officer returned to the personnel search area and offered cash to the x-ray equipment operator for not making a report about the handgun. The x-ray equipment operator did not accept the money. A few minutes later, a security force

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supervisor entered the personnel search area and the x-ray equipment operator did not tell the supervisor about the firearm. However, the x-ray equipment operator did tell a supervisor about the event approximately 1½ hours later. The actions of the security officers represent a deliberate violation of the procedures implementing the NRC-approved security plan for the Zion Station. Therefore, the violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty of \$55,000 is considered for a Severity Level III violation. Because the Zion Station was the subject of an escalated enforcement action within the two years preceding this Severity Level III violation,¹ the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit was given for *Identification* because ComEd identified the violation and notified the NRC. Credit was also given for *Corrective Action* because of the immediate and long term measures taken by ComEd. The corrective actions are described in your May 27, 1999 letter and include, but are not limited to: (1) terminating the employment of the individuals; (2) placing the appropriate information pertaining to the revocation of the individuals unescorted in the industry's Personnel Access Database System; (3) documenting the event in a Security Department Lesson Learned Report; and (4) disseminating that report to the guard force at each ComEd nuclear station, including Zion.

Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, NRC Office of Enforcement, not to propose a civil penalty for this Severity Level III violation. However, significant violations in the future could result in a civil penalty.

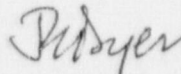
The NRC has concluded that information regarding the reason for the enclosed violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the dates when full compliance was achieved is adequately addressed on the docket in a May 27, 1999, letter from ComEd. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

¹ A Notice of Violation and Proposed Imposition of Civil Penalty - \$110,000 was issued on January 15, 1998, for a Severity Level III problem associated with a programmatic breakdown in the implementation of the fitness for duty program at the Zion Station during 1997 (EA 97-249).

A Notice of Violation was issued on April 9, 1999, for a Severity Level III violation for the failure to properly protect Safeguards Information during the period July 1997 to January 22, 1998 (EA 98-558).

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if you choose to provide one) will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Sincerely,



J. E. Dyer
Regional Administrator

Docket Nos. 50-295; 50-304
License Nos. DPR-39; DPR-48

Enclosure: Notice of Violation

cc w/encl: D. Helwig, Senior Vice President
H. Stanley, PWR Vice President
C. Crane, BWR Vice President
R. Krich, Vice President, Regulatory Services
DCD - Licensing
R. Starkey, Decommissioning Plant Manager
R. Godley, Regulatory Assurance Supervisor
M. Aguilar, Assistant Attorney General
K. Nollenberger, County Administrator
Mayor, City of Zion
State Liaison Officer, Illinois
State Liaison Officer, Wisconsin
Chairman, Illinois Commerce Commission

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MKnapp, DEDE

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SCollins, NRR

CPederson, RII

Enforcement Coordinators

RI, RII and RIV

JGilliland, OPA

HBell, OIG

GCaputo, OI

RPaul, OI:RIII

OE:ES

OE:EA (2)

RAO:RIII

SLO:RIII

PAO:RIII

OAC:RIII

DNMS:RIII

OCFO/LFARB w/o encl.

NOTICE OF VIOLATION

Commonwealth Edison Company
Zion Station
Units 1 and 2

Docket Nos. 50-295; 50-304
License Nos. DPR-39; DPR-48
EA 99-100

During an NRC investigation concluded on March 18, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

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Section E.2 of ZSPO No. 1, provides, in part, that once an individual starts the search process (i.e., enters the first piece of detection equipment) the person must complete the entire search process. Section E.7. of ZSPO No. 01 requires that an individual, who has entered the search equipment envelope and decides to leave, must be instructed not to leave and the search completed.

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Contrary to the above, on February 24, 1998, an individual attempted to enter the protected area of the Zion Station with a handheld item. The x-ray search of that item indicated the presence of a firearm. The search equipment operator failed to secure the item and prevent access to the item by the individual carrying it. The individual removed the item from the belt of the x-ray equipment before the search process could be completed. The search equipment operator also failed to instruct the individual not to leave the area. The individual entering the plant then asked the search equipment officer to erase the image of the firearm from the x-ray monitor and requested that a report of the incident not be made. As a result, the x-ray equipment operator erased the x-ray image of the handgun from the monitor of the x-ray equipment and failed to notify the alarm station that a firearm had been found. Furthermore, the x-ray equipment operator failed to notify a supervisor by radio or telephone of the presence of a firearm. (01013)

This is a Severity Level III violation (Supplement III).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the dates when full compliance was achieved is adequately addressed on the docket in a May 27, 1999, letter from ComEd. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201, if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA 99-100," and send it to the NRC Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator and the Enforcement Officer, U.S. Nuclear Regulatory Commission, 801 Warrenton Road, Lisle, IL 60532-4351 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 20th day of July 1999.