



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

September 30, 1999

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EA 98-464

Mr. John P. McElwain
Chief Nuclear Officer
Clinton Power Station
Illinois Power Company
Mail Code V-275
P. O. Box 678
Clinton, IL 61727

SUBJECT: NOTICE OF VIOLATION
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-1997-040)

Dear Mr. McElwain:

This letter refers to the investigation conducted from October 28, 1997, to September 21, 1998, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) at the Illinois Power Company's (IPC) Clinton Power Station. The investigation was conducted after IPC notified the NRC on May 6, 1997, that a violation of 10 CFR 50.7, "Employee Protection," may have occurred. IPC conducted a separate investigation into this matter. The synopsis of the OI report was sent to IPC by letter dated November 13, 1998. Representatives of IPC subsequently declined the opportunity for a predecisional enforcement conference for this matter and provided a written response to the NRC on December 10, 1998.

After a review of the information developed during the OI investigation, as well as the information obtained during the IPC investigation, and in IPC's December 10, 1998 response, the NRC has determined that a violation of NRC requirements occurred. The investigations determined that during January 1997, a supervisor in the Clinton Power Station's Quality Verification (QV) Department discriminated against a QV inspector in retaliation for the inspector's previous contacts with the NRC about safety-related issues involving the QV department. Specifically, the QV supervisor did not recommend the inspector for a promotion due, in part, to the inspector's earlier discussions with the NRC.

This violation is a significant concern to the NRC because it represents retaliation by a first line QV supervisor against an employee for discussing nuclear safety issues with the NRC. 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. As allowed by Section V of the Enforcement Policy, the QV inspector, who was subject to discrimination, was permitted to comment on IPC's December 10, 1998, letter. The inspector's comments were considered during the NRC's assessment of this matter.

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In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation. Because the Clinton Power Station has been the subject of escalated enforcement actions within the two years preceding the 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 both *Identification and Corrective Action* because IPC identified the violation and the violation was promptly corrected by IPC. Corrective action included: promoting the QV inspector retroactively, taking disciplinary action against involved individuals, retraining site supervisors about their responsibilities under 10 CFR 50.7, discussing the violation with all quality assurance personnel, and sending a memorandum to all site personnel about the incident.

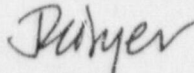
Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that in your December 10, 1998 letter, you adequately addressed the reasons for the violation and described the corrective actions taken or planned to correct the violation and prevent recurrence. 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 On June 9, 1997, a cumulative civil penalty of \$450,000 was issued for a Severity Level II problem and three Severity Level III problems for inspection findings during the period July 30, 1996 through January 23, 1997, concerning procedure adherence, design control, inadequate safety evaluations, and inadequate corrective actions (EA 96-412, EA 97-001, EA 97-002, and EA 97-060).

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 No. 50-461
License No. NPF-62

Enclosure: Notice of Violation

cc w/encl: M. Coyle, Assistant Vice President
P. Hinnenkamp, Plant Manager
R. Phares, Manager, Nuclear Safety
and Performance Improvement
M. Aguilar, Assistant Attorney General
G. Stramback, Regulatory Licensing
Services Project Manager
General Electric Company
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