



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

July 23, 2021

EA-19-092

Mr. Jim Barstow
Vice President Nuclear Regulatory Affairs
& Support Services
Tennessee Valley Authority
1101 Market Street, LP 4A-C
Chattanooga, TN 37402-2801

SUBJECT: REVISED NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY – \$303,471; NRC OFFICE OF INVESTIGATIONS REPORT NUMBER 2-2016-042, TENNESSEE VALLEY AUTHORITY

Dear Mr. Barstow:

This refers to a letter provided by Pillsbury, Winthrop, Shaw, Pittman, LLP, on behalf of the Tennessee Valley Authority (TVA), dated December 7, 2020 (Agencywide Documents Access and Management System (ADAMS), Accession No. ML21027A394). The letter provided TVA's Reply and Answer to Notice of Violation (EA-19-092) in response to the U.S. Nuclear Regulatory Commission's (NRC's) Notice of Violation and Proposed Imposition of Civil Penalty (Notice) issued to TVA by letter dated November 6, 2020 (ADAMS Accession No. ML20310A341).

The Notice describes five violations of regulatory requirements, identified as a result of the NRC staff's review of an investigation completed on May 17, 2019, by the NRC's Office of Investigations (OI) relating to activities at TVA's Watts Bar Nuclear Plant Unit 1 (WBN-1). The Notice also proposed a total civil penalty of \$903,471. The five violations were as follows:

- Violation A – Failure to follow TVA Procedure OPDP-1, "Conduct of Operations," Section 3.3.3, "Conservative Decision Making," which was characterized as a Severity Level (SL) III violation. A civil penalty was not proposed for this violation.
- Violation B – Failure to follow TVA Procedure 1-SOI-74.01, "Residual Heat Removal System," and Violation C – Failure to follow TVA Procedure OPDP-1, "Conduct of Operations," Section 3.5, "Log Keeping," which were collectively characterized as an SL III problem. A civil penalty of \$300,000 was proposed for this problem.
- Violation D – Failure to provide or maintain information that was complete and accurate in all material respects as required by Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9(a), which was characterized as an SL II violation. A civil penalty of \$303,471 was proposed for this violation.
- Violation E – Failure to follow TVA Procedure NPG-SPP-01.2.1, "Interim Administration of Site Technical Programs and Procedures for Watts Bar 1 and 2," when revising General

Operating Instruction 1-GO-1, "Unit Startup from Cold Shutdown to Hot Standby" which was characterized as an SL III violation. A civil penalty of \$300,000 was proposed for this violation.

In TVA's December 7, 2020, response, TVA denied Violation A; denied the willful aspects of Violations B, C, and E; requested a reduced severity level for Violations B, C, and E; and requested reconsideration of corrective action credit for the underlying procedural issues. Additionally, TVA requested an adjustment or withdrawal of the civil penalties for Violations B, C, and E. Regarding Violation D, TVA did not contest that a willful violation of 10 CFR 50.9 occurred and did not request adjustment or withdrawal of the associated civil penalty.

As highlighted in the November 6, 2020, cover letter of the Notice, the NRC continues to believe that a substantial safety culture issue and a pervasive weakness in the station's conduct of operations and conservative decision making existed at WBN-1 during the fall of 2015 and early 2016. WBN-1 management's failure to ensure the primacy of safe operations led to several occasions during that period in which TVA staff failed to follow procedures, made inappropriate procedural changes, and operated the plant outside of established procedures. Additionally, the failure of some TVA staff to maintain complete and accurate operations logs and to communicate with candor, clarity, and integrity during interactions with the NRC substantially complicated the NRC's review of the events of November 11, 2015, and resulted in unnecessary delays in our ability to understand and assess your corrective actions.

After careful consideration of TVA's response, the NRC concludes that the five violations occurred as stated in the November 6, 2020, Notice. However, the NRC has reevaluated the violations, severity levels, and the associated civil penalties. To enhance clarity and understanding of the NRC's safety significance evaluation and civil penalty assessment process, the NRC has decided to reevaluate and document Violations B and C separately. In summary, the NRC concludes the following:

- Violation A occurred as stated in the Notice and is appropriately characterized as an SL III violation. The Notice did not propose a civil penalty for this violation.
- Violation B occurred as stated in the Notice. However, the NRC concludes that this violation did not involve willfulness and therefore the previously proposed civil penalty will be withdrawn. The significance was evaluated under the NRC's Significance Determination Process (SDP) and was determined to be of very low safety significance (Green). A non-cited violation is associated with Violation B and will be documented in an upcoming inspection report.
- Violation C occurred as stated in the Notice. However, the NRC concludes that this violation did not involve willfulness. Violation C is appropriately characterized as an SL III, with no civil penalty.
- Violation D occurred as stated in the Notice and the willfulness determination remains unchanged. The violation is appropriately characterized as an SL II and the previously proposed civil penalty of \$303,471 for this violation remains unchanged.
- Violation E occurred as stated in the Notice. However, the NRC concludes that this violation did not involve willfulness; therefore, the previously proposed civil penalty will be withdrawn. The significance was evaluated under the SDP and was determined to be of

very low safety significance (Green). A non-cited violation is associated with Violation E and will be documented in an upcoming inspection report.

Enclosure 1 to this letter provides a revised Notice of Violation and Proposed Imposition of Civil Penalty (Revised Notice) reflecting the NRC's reevaluation. Enclosure 2 to this letter discusses in more detail the NRC's disposition of all violations originally issued in the November 6, 2020, Notice.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and those planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, was adequately addressed in TVA's December 7, 2020, written response. Therefore, TVA is not required to respond to this letter or the Revised Notice.

TVA may pay the civil penalty as directed in the Revised Notice. Should TVA fail to pay the civil penalty within 30 days of the date of the Revised Notice, the NRC will issue an order imposing the civil penalty. You may contact myself or Nick Hilton of my staff at ndh@nrc.gov if you have any questions.

In accordance with 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

Mark Lombard, Director
Office of Enforcement

Docket No.: 50-390
License No.: NPF-90

Enclosures:

1. Revised Notice of Violation and Proposed Imposition of Civil Penalty
2. Evaluation of Violations After TVA Response
3. NUREG/BR-0254 Payment Methods

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