



444 South 16th Street Mall
Omaha NE 68102-2247

June 3, 2003
LIC-03-0072

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

References: 1. Docket No. 50-285
2. Letter from NRC (Samuel J. Collins) to OPPD (John Sefick) dated April 29, 2003, Issuance of Order For Compensatory Measures Related to Fitness-for-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel (EA-03-038) (NRC-03-088)

SUBJECT: Fort Calhoun Station Unit No. 1 - Answer, Response, and Request for Clarification in Response to Commission Order for Compensatory Measures Related to Fitness-for-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel

By this letter, OPPD hereby answers the Order for Compensatory Measures Related to Fitness-For-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel (EA-03-038) (hereinafter "Order") issued by the United States Nuclear Regulatory Commission (NRC) on April 29, 2003. Pursuant to Section IV of the Order and 10 CFR §2.202, OPPD requests an extension of time in which to submit information in response to the Order and to request a hearing. In addition, OPPD requests the NRC provide certain information to ensure OPPD fully understands the underlying bases of the Order and, therefore, can most effectively implement its individual requirements.

Section II of the Order states that, "The Commission has determined that the security measures addressed by the enclosed compensatory measures are required to be implemented by licensees as prudent measures to address issues that may arise from work-hour related fatigue of nuclear facility security force personnel." The Order does not explain the bases for the specific limits and other requirements described in the Order in sufficient detail for OPPD to understand the rational for the requirements. OPPD therefore requests that the NRC provide: the bases for the specific limits prescribed in the Order; the bases upon which it relied to establish a linkage between the specific limits chosen and any causal relationship to fatigue that would otherwise occur if those individual or group work hour limits were to be exceeded; and information pertaining to any events or incidents where the NRC has determined that fatigue was the cause or a major contributing factor in those events or incidents.

As provided for in Section IV of the Order, good cause upon which for granting an extension of time to respond to the Order and to request a hearing is shown in that no basis or rationale for the Order has been demonstrated. Thus, OPPD requests that the Director, Nuclear Reactor Regulation extend the time periods for responding to the Order (including, specifically, Sections B.1 and 2) and for requesting a hearing from the time period specified in the Order until 35 days after the date that the NRC provides the bases for the work hour limits in the Order. Section III.C. of the Order requires that, "All licensees shall within thirty-five (35) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2 [of the Order]." Subject to the foregoing request for information concerning the bases for the Order and the request for an extension of time in accordance with Section IV, OPPD will achieve compliance with all applicable requirements not later than October 29, 2003.

OPPD also hereby confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues, and to integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plans, security plans and security officer training and qualification plans.


I declare under penalty of perjury that the foregoing is true and correct and copies of the response were sent to the addressee and listed individuals. (Executed on June 3, 2003).

This letter contains the following commitment:

- Subject to the foregoing request for information concerning the bases for the Order and the request for an extension of time in accordance with Section IV, OPPD will achieve compliance with all applicable requirements not later than October 29, 2003.

If you have additional questions, or require further information, please contact Dr. R. L. Jaworski at (402) 533-6833.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard P. Clemens", followed by a long horizontal line extending to the right.

Richard P. Clemens
Division Manager
Nuclear Assessments

RPC/TRB/trb

c: Annette L. Vietti-Cook, Secretary, NRC Office of the Secretary, Rulemakings and
 Adjudications Staff
 Samuel L. Collins, Director, NRC Office of Nuclear Reactor Regulation
 Dennis C. Dambly, NRC Assistant General Counsel for Materials Litigation and
 Enforcement
 Thomas P. Gwynn, Acting NRC Regional Administrator, Region IV (two copies)
 Alan B. Wang, NRC Project Manager
 John G. Kramer, NRC Senior Resident Inspector