

William R. Kanda
Vice President - Nuclear440-280-5579
Fax: 440-280-8029June 2, 2003
PY-CEI/NRR-2711LSecretary, Office of the Secretary of the Commission
U.S. Nuclear Regulatory Commission
Attn.: Rulemaking and Adjudication Staff
Washington, DC 20555-0001Docket Number 50-440
License Number NPF-48**SUBJECT: Answer, Response and Request for Clarification in Response to April 29, 2003,
Order for Compensatory Measures Related to Training Enhancements on
Tactical and Firearms Proficiency and Physical Fitness Applicable to Armed
Nuclear Power Plant Security Force Personnel (EA-03-039)**

Ladies and Gentlemen:

By letter dated April 29, 2003, the Nuclear Regulatory Commission (NRC) issued an Order for Compensatory Measures Related to Training Enhancements on Tactical and Firearms Proficiency and Physical Fitness Applicable to Armed Nuclear Power Plant Security Force Personnel (henceforth, the Order). The Order applied to all addressees listed in the Attachment to the Order. The Perry Nuclear Power Plant (PNPP) was included in the list of addressees.

Section IV of the Order states that, in accordance with 10 CFR §2.202, a licensee must submit an answer to the Order and may request a hearing on the Order within 35 days of the date of the Order. This letter constitutes the FirstEnergy Nuclear Operating Company (FENOC) answer (pursuant to 10 CFR 2.202 and Section IV of the Order) and response (pursuant to 10 CFR 50.4 and Sections III B.1, B.2 and C.1 of the Order) for PNPP.

PNPP consents to the Order, and does not request a hearing. PNPP will complete implementation, fully training and qualifying all armed security force personnel on the new requirements, no later than October 29, 2004, as required by the Order.

However, because the NRC has used force-on-force testing as a standard by which compliance with the Design Basis Threat (DBT) was evaluated and because the tactics and capabilities associated with the DBT influence the training prescribed in the Order, PNPP requests that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to safeguards contingency plans, security plans and security officer training and qualification plans.

Specifically, PNPP needs a clear explanation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate

licensee compliance with the Design Basis Threat?). Similarly, the success criteria for the force-on-force exercise need to be established (e.g., is the criterion prevention of a large offsite release, which would be consistent with the basis for risk-informing NRC regulations, or some other criteria?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee's ability to protect against the Design Basis Threat, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target which is counter to the Commission's Principles of Good Regulation.


To enable PNPP to meet the compliance dates specified in the Order, the requested clarifications are needed as soon as possible. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for full implementation of the Order on a day-for-day basis until such clarifications are provided.

PNPP also 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.

Consent to this Order is an obligation under the license; therefore, there are no new regulatory commitments contained in this letter. If there are any questions concerning this matter, please contact Mr. Vernon K. Higaki, Manager-Regulatory Affairs, at 440-280-5294.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 2, 2003.

Very truly yours,



John Messina
for William R. Kanda, Jr.

cc: Document Control Desk
S. J. Collins, Director, Office of Nuclear Reactor Regulation
R. J. Powell, NRC Sr. Resident Inspector-PNPP
S. P. Sands, NRR Project Manager-PNPP
NRC Assistant General Counsel for Materials Litigation and Enforcement