

August 20, 2007

Mr. David Lochbaum
Director, Nuclear Safety Project
Union of Concerned Citizens
1707 H Street NW, Suite 600
Washington, D.C. 20006-3919

Dear Mr. Lochbaum:

I am responding to your July 31, 2007, letter to Luis Reyes, the Nuclear Regulatory Commission's (NRC) Executive Director for Operations, regarding the consideration of potential enforcement action against Entergy Nuclear Operations, Inc. (Entergy) if it fails to comply with the July 30, 2007, immediately effective order (Order) the NRC issued to Entergy relating to the Indian Point Energy Center siren system modification.

I agree that the enforcement action to which you refer in your letter regarding the 1998 confirmatory order issued to the South Texas Project was an effective approach to addressing the underlying issues in that case. That enforcement action was in the context of an enforcement conference involving retaliation for raising safety concerns. Although that case was atypical in nature, we currently explore similar approaches to enforcement actions for certain types of cases as part of the Office of Enforcement's alternative dispute resolution program. I also share your interest, and that of the local communities, in Entergy's compliance with the Order that the NRC issued to Entergy regarding the back-up power for the emergency siren system at Entergy's Indian Point Nuclear Power Plant (Plant).

By way of background, on April 23, 2007, the NRC issued a Notice of Violation (NOV) and imposed a \$130,000 civil penalty against Entergy for Entergy's failure to comply with the NRC Confirmatory Order issued on January 31, 2006. The Confirmatory Order implemented the requirements of Section 651(b) of the Energy Policy Act of 2005, PL 109-58, 119 Stat 594, through NRC requiring that backup power be available for the emergency notification system (ENS) at the Plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the Plant is lost. Entergy was required to comply with the Confirmatory Order, as modified by an Entergy request for an extension, by April 15, 2007.

On May 23, 2007, Entergy responded to the NOV and committed to August 24, 2007, as the latest date to declare the new ENS system and its associated backup power supply as operable. The NRC evaluated Entergy's response to the NOV and the additional information it gathered at the July 9, 2007, public meeting and issued the Order to formalize the commitments in Entergy's NOV response by making them regulatory requirements.

We, at the NRC, strive to take enforcement actions that are effective under the particular circumstances consistent with our enforcement policy. The primary purpose of our enforcement policy is to support the NRC's overall safety mission in protecting the public health and safety and the environment. Consistent with that purpose, the policy is

intended to deter non-compliance and, when non-compliance does occur, encourage the prompt identification and correction of the non-compliance. When determining the appropriate enforcement action for a particular non-compliance with NRC requirements, among the various factors the NRC considers are the safety significance and the level of risk posed to the public health and safety based on those particular circumstances.

I believe that the effectiveness and appropriateness of each enforcement action must be judged based on the underlying circumstances giving rise to such enforcement action. Accordingly, we will take your suggestion under advisement and explore the possible enforcement actions available to us after we evaluate Entergy's compliance with the July 30, 2007, Order.

Sincerely,

/RA/

Cynthia A. Carpenter, Director
Office of Enforcement

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Cynthia A. Carpenter, Director
Office of Enforcement

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