



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

July 17, 2007

EA-07-130

Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
ATTN: Mr. G. R. Peterson  
Vice President  
McGuire Nuclear Station  
12700 Hagers Ferry Road  
Huntersville, NC 28078-8985

SUBJECT: NOTICE OF VIOLATION (OFFICE OF INVESTIGATIONS REPORT NUMBER 2-2006-019)

Dear Mr. Peterson:

This letter is in reference to an investigation completed by the NRC's Office of Investigations (OI) on January 30, 2007. The purpose of the OI investigation was to determine whether a Duke Energy, Operations Test Supervisor, employed at the McGuire Nuclear Station, willfully allowed a prohibited activity to be performed. The activity in this case involved the 1B ND Pump Performance Surveillance Test, PT/1/A/4204/001B on October 02, 2005.

Based on our review of the OI investigation, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in NRC inspection report 05000369/2006007 and 05000370/2006007. In summary, the NRC concluded that the Operations Test Supervisor failed to follow applicable plant procedures associated with the 1B ND Pump Performance Test, when he failed to complete appropriate attachments and obtain approval to annotate certain testing steps as not applicable. He also signed off steps that were required by the procedure to be signed by a licensed reactor operator when he did not meet that requirement. The NRC concluded that the actions of the supervisor were willful. The synopsis to the OI Investigation is an enclosure to this letter.

The Agency has concluded that this violation should be characterized at Severity Level IV. This determination is based on the fact that the lack of procedural adherence did not adversely affect the test results or the acceptance criteria for the pump test, and the fact that the violation was attributed, at least in part, to the willful actions of a first line supervisor.

The NRC has also concluded that this violation does not satisfy the non-cited violation criteria specified in Section VI.A of the NRC Enforcement Policy, because the violation was willful, was not identified by Duke Energy, and the violation involved the acts of a first line supervisor.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Should you have any questions concerning this letter, please contact Mr. Mike Cain, Acting Chief, Engineering Branch 1, Division of Reactor Safety at (404) 562-4876.

Sincerely,

/RA/

Joseph W. Shea, Director  
Division of Reactor Safety

Docket No.: 50-369  
License No.: NPF-9

Enclosures: 1. Notice of Violation  
2. Synopsis to OI Report 2-2006-019

cc w/encls:  
C. J. Thomas  
Regulatory Compliance Manager (MNS)  
Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
Electronic Mail Distribution

R. L. Gill, Jr., Manager  
Nuclear Regulatory Issues  
and Industry Affairs  
Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
526 S. Church Street  
Charlotte, NC 28201-0006

Lisa F. Vaughn  
Associate General Counsel  
and Managing Attorney  
Duke Energy Corporation  
526 South Church Street-EC07H  
Charlotte, NC 28202

(cc w/encls cont'd - See page 3)

DPC

3

(cc w/encls cont'd)

Kathryn B. Nolan

Senior Counsel

Duke Energy Corporation

526 South Church Street-EC 07H

Charlotte, NC 28202

David A. Repka

Winston & Strawn LLP

Electronic Mail Distribution

Beverly Hall, Chief, Radiation

Protection Section

N. C. Department of Environmental

Health & Natural Resources

Electronic Mail Distribution

County Manager of Mecklenburg County

720 East Fourth Street

Charlotte, NC 28202

Distribution w/encls:

J. Stang, NRR

C. Evans, RII EICS

L. Slack, RII EICS

D. Solorio, OE

OEMAIL

RIDSNRRDIRS

PUBLIC

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Should you have any questions concerning this letter, please contact Mr. Mike Cain, Acting Chief, Engineering Branch 1, Division of Reactor Safety at (404) 562-4876.

Sincerely,

/RA/

Joseph W. Shea, Director  
Division of Reactor Safety

Docket No.: 50-369  
License No.: NPF-9

Enclosures: 1. Notice of Violation  
2. Synopsis to OI Report 2-2006-019

cc w/encls:  
C. J. Thomas  
Regulatory Compliance Manager (MNS)  
Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
Electronic Mail Distribution

R. L. Gill, Jr., Manager  
Nuclear Regulatory Issues  
and Industry Affairs  
Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
526 S. Church Street  
Charlotte, NC 28201-0006

Lisa F. Vaughn  
Associate General Counsel  
and Managing Attorney  
Duke Energy Corporation  
526 South Church Street-EC07H  
Charlotte, NC 28202

(cc w/encls cont'd - See page 3)

**(\*) - SEE PREVIOUS PAGE FOR CONCURRENCES**

☐ PUBLICLY AVAILABLE

☐ NON-PUBLICLY AVAILABLE

☐ SENSITIVE

☐ NON-SENSITIVE

ADAMS: ☐ Yes    ACCESSION NUMBER: \_\_\_\_\_

OFFICE	RII:DRS	RII:ORA	RII:DRP	RII:DRS			
SIGNATURE	*	*	*				
NAME	M. CAIN	J. RUND	J. MOORMAN	J. SHEA			
DATE	6/8/2007	6/11/2007	6/8/2007	8/ /2007	8/ /2007	8/ /2007	8/ /2007
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: C:\FileNet\ML072330307.wpd

## NOTICE OF VIOLATION

McGuire Nuclear Station  
Unit 1

Docket No. 50-369  
License No. NPF-9  
EA-07-130

During an NRC Office of Investigations investigation completed on January 30, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Technical Specification 5.1.4a requires written procedures to be established, implemented, and maintained covering the activities of Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Appendix A of Regulatory Guide 1.33 states in part that procedures for surveillance tests, inspections and calibrations should be covered by written procedures.

Station Procedure OMP 4-1 (Use of Operating and Periodic Test Procedures), step 5.2 states that procedure users shall be qualified to perform the task. Additionally, OMP 4-1, step 8.5.5.1, requires procedure users to complete an Attachment 9, Procedure Use Worksheet, when marking a non-conditional step N/A.

Contrary to the above, during the performance of PT/1/A/4204/001B, 1B ND Pump Performance Test, Revision 72, on October 2, 2005, steps 8.2 - 8.6, which are designated as "RO" in the signature block, were signed off by a Test Supervisor who was not a licensed operator. In addition, steps 12.35.1 - 12.35.4 were annotated with "N/A", and the procedure user did not complete the Attachment 9, Procedure Use Worksheet, form from OMP 4-1 when he marked Step 12.35 as "NA".

This is a Severity Level IV violation (Supplement I).

Pursuant to the provisions of 10 CFR 2.201, Duke Energy is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region II, and a copy to the NRC Senior Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation, EA-07-130" and should include for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Enclosure 1

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

Because your response will be made publicly available, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made publically available without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld, and provide in detail the basis for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 17<sup>th</sup> day of July, 2007

## SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NC), Office of Investigations (OI), Region II (RII), on May 16, 2006, to determine whether an Operations Test Supervisor, employed at Duke Energy's McGuire Nuclear Station, willfully failed to complete steps of the 1B ND Pump Performance Test (Pump Test), dated October 2, 2005, in accordance with applicable procedures.

Based on the evidence developed during this investigation, OI:RII substantiated that an Operations Test Supervisor, employed by Duke Energy, willfully failed to follow applicable procedures while completing multiple steps of the Pump Test performed on October 2, 2005, in accordance with applicable procedures.

Approved for release on 6/11/07 - SES

~~NOT FOR PUBLIC DISCLOSURE WITHOUT APPROVAL OF  
FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATION, REGION II~~

**Official Use Only - OI Investigation Information**

Case No. 2-2006-019

Enclosure 2