

October 28, 2011

IA-11-061

Mr. Edward G. Johnson  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(A)]

SUBJECT: RESULTS OF NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2011-003

Dear Mr. Johnson:

This is in reference to an investigation conducted by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI). The purpose of the investigation was to determine whether you, as an at-the-controls reactor operator at the Palisades Nuclear Plant, willfully violated procedure requirements by removing yourself from your watch-standing responsibilities without proper turnover or approval from the Control Room Supervisor on October 23, 2010. Based on the results of its investigation, the OI found that you deliberately violated the requirements. A summary of the conclusions from the OI report is included in the enclosed letter to Entergy Nuclear Operations, Inc.

Based on our review of the investigation report, an apparent violation of the NRC's regulation prohibiting deliberate misconduct, Title 10 of the Code of Federal Regulations (10 CFR) 50.5, has been identified. This regulation prohibits an employee of a licensee from deliberately engaging in misconduct that causes a licensee to be in violation of any rule, regulation, or Order; or any term, condition, or limitation of any license issued by the Commission. Specifically, Palisades Nuclear Plant Technical Specification 5.4.1.a states that written procedures shall be established, implemented and maintained covering activities recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Regulatory Guide 1.33, Revision 2, Appendix A, dated February 1978, (1)(g) states that a typical safety-related activity that should be covered by written procedures is shift and relief turnover. Entergy Nuclear Management Manual EN-OP-115, Revision 9, "Conduct of Operations," Section 4.13.b requires that the reactor operator at-the-controls is to remain in the at-the-controls area of the Control Room except as necessary to transition from one at-the-controls area to another. Section 5.11 requires that in the case where a Control Room operator needs to be relieved during their shift, permission must be granted by the Shift Manager or Control Room Supervisor as applicable, and a verbal turnover is conducted to a qualified individual.

The apparent violation is being considered for escalated enforcement in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

Before the NRC makes its enforcement decision, we are providing you the opportunity to: (1) meet with the NRC in a Predecisional Enforcement Conference (PEC) or (2) meet with the NRC and a neutral mediator in a process called Alternate Dispute Resolution (ADR). Each of these venues would provide you an opportunity to explain why the NRC should be confident that you will follow its regulations in the future, if you are engaged in NRC-licensed activities.

If you request to attend a PEC, it would be separate from any conference held for Entergy Nuclear Operations, Inc., closed to public observation, and would be transcribed. The PEC would be held in the NRC's Lisle, Illinois, office, normally within 30 days of this letter. This conference would be held to obtain information to assist the NRC in making an enforcement decision. This may include information: (1) to determine whether the violation occurred; (2) to determine the significance of the violation; (3) related to the identification of the violation; and (4) related to any corrective actions taken or planned. The conference would provide you an opportunity to present your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In addition, you may have an attorney or personal representative attend the conference, but it should be understood that the NRC will address its questions to you. You should be aware that the NRC will consider the thoroughness of your corrective actions in determining whether further action by the NRC is necessary.

In lieu of a PEC, you may also request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Please be advised that the number and characterization of the apparent violations described above may change as a result of further NRC review. If the NRC concludes that you engaged in deliberate misconduct, the possible sanctions available to the NRC include issuing to you a Notice of Violation, a civil monetary penalty, or an Order. If the NRC issues an Order to you, the Order may prohibit your future involvement in NRC-licensed activities. You will be advised by separate correspondence of the results of our deliberations in this matter. If you decide not to attend a PEC or to request ADR, the NRC will proceed with its enforcement decision based on the information it currently has, unless the NRC has granted you an extension of time.

Please contact Mr. Steven Orth at (630) 810-4373 within 10 days of the date of this letter to notify the NRC of your decision to participate in a PEC or in ADR.

A copy of this letter and its enclosure will not be made publicly available at this time. However, if the NRC subsequently issues an enforcement action to you, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of the letter, with your home address removed, and its enclosures, would be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management

System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC would also include a summary of the enforcement action on its Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>. In addition, this letter will be maintained by the Office of Enforcement (OE) in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html> by selecting the first entry and then selecting the system of record.

You should be aware that all final NRC documents, including the final investigation report by the Office of Investigations, are official agency records and may be made available to the public under the Freedom of Information Act, subject to redaction of certain information in accordance with the Freedom of Information Act.

If you have any questions concerning this matter, please contact Mr. Steven Orth at (630) 810-4373.

Sincerely,

/RA/

Steven A. Reynolds, Director  
Division of Reactor Safety

Docket No. 55-33166  
License No. OP-31438

Enclosure:  
Letter to Entergy Nuclear Operations, Inc. dated October 28, 2011

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DATE	10/26/11	10/26/11	10/26/11	10/27/11	10/27/11

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Letter to E. Johnson from S. Reynolds dated October 28, 2011

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