



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 31, 2013

EA-13-010

Mr. Preston Gillespie
Site Vice President
Oconee Nuclear Station
Duke Energy Carolinas, LLC
7800 Rochester Highway
Seneca, SC 29672

SUBJECT: OCONEE NUCLEAR STATION UNITS 1, 2, AND 3 – APPARENT VIOLATION
OF LICENSE CONDITION 3.D, "FIRE PROTECTION"

Dear Mr. Gillespie:

This letter is in reference to an apparent violation of Amendment Nos. 371, 373, and 372 to Renewed Facility Operating Licenses DPR-38, DPR-47, and DPR-55. This apparent violation is being considered for escalated enforcement action in accordance with the U.S. Nuclear Regulatory Commission 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>).

On December 29, 2010, the NRC issued Amendment Nos. 371, 373, and 372 to Renewed Facility Operating Licenses DPR-38, DPR-47, and DPR-55, for the Oconee Nuclear Station, Units 1, 2, and 3, respectively (Agencywide Document Access Management System (ADAMS) Accession No. ML103630612). Condition 3.D, Fire Protection, Transition License Condition 1, required completion of the items described in Section 2.9, Table 2.9-1, "Implementation Items," in the NRC Safety Evaluation (SE) dated December 29, 2010, prior to January 1, 2013. Table 2.9-1, Item 32 required incorporation of the Protected Service Water (PSW) modification into the fire protection program (FPP) site documents after the modification was implemented. Item 43 required confirmation that the risk decrease from the as-built PSW continued to bound the cumulative variances from deterministic requirements (VFDR) transition risk once the PSW modifications were installed.

On July 31, 2012, Duke Energy Carolinas, LLC (Duke or the licensee) submitted a license amendment request (LAR) to extend full PSW implementation by 2 years, but stated that the power supply from the PSW building to the Standby Shutdown Facility (SSF) would be completed by December 31, 2012 (ADAMS Accession No. ML12216A317). In a clarification call on November 27, 2012 (ADAMS Accession No. ML13010A439), Duke discussed draft milestones which would extend some items, such as installation of the PSW pumps, by at least 3 years. An additional meeting (see ADAMS Accession No. ML13014A556) was held between the NRC staff and Duke on December 17, 2012, where Duke discussed progress on implementing their National Fire Protection Association Standard 805 (NFPA 805) FPP. After considering the information provided by Duke, the NRC staff concluded that the July 31, 2012, LAR application for an extension of time could not be granted. The staff's basis for denial is detailed in a letter dated January 15, 2013 (ADAMS Accession No. ML12345A204).

As of January 1, 2013, and continuing through the date of this letter, the PSW modification has not been completed. Therefore, with the NRC's denial of the July 31, 2012 LAR, Duke appears to be in violation at all three units of License Condition 3.D, Fire Protection, Transition License Condition 1.

The NRC recognizes that there was no actual event that required the PSW function and the failure to complete the PSW modification does not result in an increase in plant risk from the current plant risk profile. However, the failure to complete the PSW modification, as licensed, is of significant regulatory concern to the NRC because the expected risk reduction benefit from the PSW system was not realized. Full implementation of the PSW modification, in accordance with the schedule in the December 29, 2010 NRC SE, was a key factor in the staff's decision to approve the NFPA 805 LAR for Oconee. Had the staff known that the PSW modification would not be completed per the schedule, the staff would not have approved the LAR as proposed. Instead, the staff would have considered other actions (i.e., required more timely modifications to the facility, performed a more detailed review of the fire probabilistic risk assessment (PRA) to develop additional confidence in the risk estimates, or required additional modifications to offset likely risk increases).

This issue was discussed with you and members of your staff during a conference call on January 31, 2013. Before the NRC makes its enforcement decision, we are providing you an opportunity to: (1) request a Predecisional Enforcement Conference (PEC) to discuss the apparent violation, or (2) provide a written response to this apparent violation within 30 days of the date of this letter. Please contact Mr. John Boska of my staff at (301) 415-2901 within 10 days of the date of this letter to notify the NRC of your decision to attend a PEC or to provide a written response.

If you choose to request a PEC, the conference will afford Duke the opportunity to provide its perspective on the apparent violation and any other information that Duke believes the NRC should take into consideration before the NRC makes its final enforcement decision. The conference would be open for public observation and the NRC will issue a press release to announce the date and time of the conference. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation(s). A PEC should be held within 30 days of the date of this letter.

If you choose to provide a written response, it should clearly be marked as a "Response to Apparent Violation EA-13-010" and should include: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (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 should be submitted under oath or affirmation and it may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

In addition, please be advised that the number and characterization of apparent violations described in this letter may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, will 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>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you have any questions concerning this matter, please contact John Boska of my staff at (301) 415-2901.

Sincerely,

A handwritten signature in black ink that reads "Michele G. Evans". The signature is written in a cursive, flowing style.

Michele G. Evans, Director
Division of Operator Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

License Nos. DPR-38, DPR-47, and DPR-55

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P. Gillespie

- 3 -

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Sincerely,

/RA/

Michele G. Evans, Director
Division of Operator Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-269, 50-270, and 50-287

License Nos. DPR-38, DPR-47, and DPR-55

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