



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

July 29, 2015

Ms. Billie P. Garde  
Clifford & Garde, LLP  
1130 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20036

Dear Ms. Garde:

By letter dated August 11, 2014 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14265A188) addressed to Mr. Mark Satorius, Executive Director for Operations of the U.S. Nuclear Regulatory Commission (NRC), you submitted a petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Requests for action under this subpart," asking that the NRC take enforcement action against Palisades Nuclear Plant (PNP). Your petition was referred to a Petition Review Board (PRB) within the Office of Nuclear Reactor Regulation for action.

In your petition, you stated that based on recent events at PNP involving a derogatory comment made by a senior Entergy Nuclear Operations, Inc. (the licensee, ENO) official, the licensee was not capable of solving its safety conscious work environment (SCWE) issues without regulatory intervention. Your petition requested that the NRC immediately require the licensee to:

- Outsource its security department to a competent and proven contractor capable of managing security organizations at nuclear power plants;

Alternatively,

- Retain an independent third-party to develop, implement and/or monitor actions to improve the work environment and safety culture within the security department and,
- Institute immediate and significant management changes at the site and/or corporate ENO security management level.

The PRB met internally on August 19, 2014, to discuss your request for immediate action. The PRB determined that there were no immediate safety significant concerns that would adversely impact the public health and safety; therefore, the PRB denied your request for immediate action.

In an email dated August 21, 2014 (ADAMS Accession No. ML14266A008), the petition manager informed you of this decision, described the 10 CFR 2.206 process, and offered you an opportunity to address the PRB during a public meeting or teleconference prior to making its initial recommendation. You chose to provide a written supplement, which you submitted to the NRC by letter dated November 21, 2014 (ADAMS Accession No. ML15086A171).

From August 19, 2014, to May 5, 2015, your petition, as supplemented, was reviewed by the PRB members and advisors. The PRB membership included individuals from the NRC's: Office of Nuclear Reactor Regulation (NRR), Office of the General Counsel, Office of Enforcement, Office of Investigation (OI), Office of Nuclear Security and Incident Response, NRC Region III office, and NRC resident inspectors stationed at PNP.

On May 5, 2015, the PRB held an internal meeting to discuss your petition, as supplemented on November 21, 2014. During this meeting, the PRB made its initial recommendation in accordance with the criteria for review and rejection, which are provided in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML041770328).

The PRB's initial recommendation was that the issues raised in your petition, as supplemented, met the criteria for rejection on the basis that the issues were previously reviewed, evaluated, and resolved. On May 18, 2015, the petition manager informed you of this decision by email, provided you additional information on the basis for the initial recommendation, and offered you a second opportunity to address the PRB or to provide a written supplement (ADAMS Accession No. ML15139A481).

By letter dated June 12, 2015 (ADAMS Accession No. ML15181A377), you provided a supplement that included additional information regarding the SCWE at PNP. On June 16, 2015, the PRB held an internal meeting to consider your petition along with the supplemental information.

MD 8.11 provides the criteria for reviewing petitions under 10 CFR 2.206 and the criteria for rejecting petitions under 10 CFR 2.206. In accordance with MD 8.11, the PRB's final recommendation is described in detail below.

The following issues raised in your petition, as supplemented, do not meet the MD 8.11 criteria for review.

1. *The petition supplement dated June 12, 2015, describes an event where an ENO senior manager stated to an industry group that ENO rewarded officers for reporting the Christmas Eve 2012 incident where a security manager assigned a security supervisor to assume a security post without verifying the supervisor's qualifications. The petition contends this is not factual as security officers involved were eventually terminated and the statement that the officers were rewarded reveals a lack of character among top licensee leadership.*

During the week of December 8, 2014, the Region III staff, in conjunction with NRR performed a SCWE inspection at PNP. The results of the inspection documented in an inspection report dated January 20, 2015 (ADAMS Accession No. ML15020A067), concluded that presently, there was not a chilled work environment at PNP. In fact, as

stated in the inspection report, security officers have indicated that they have noticed, "increased management visibility, better overall communication within the department, and improved response to low level concerns; all of which have contributed to a slight but noticeable improvement in the overall work environment in the Security Department."

As stated in the NRC's annual assessment letter dated March 4, 2015 (ADAMS Accession No. ML15062A593), the NRC will determine whether the actions to address Security Department SCWE have been sustained as part of baseline Problem Identification and Resolution (PI&R) inspection activities planned for late 2015. Following these inspection activities, the NRC will determine if additional NRC oversight in this area is warranted at PNP.

Therefore, the NRC has concluded, based on the aforementioned 2014 inspection, that there has been more involvement from ENO management in correcting SCWE weaknesses and this involvement has contributed to a slight but noticeable improvement in the Security Department work environment. In addition, NRC staff who attended the February 2015 industry meeting referred to in the petition supplement did not recall statements or indications that the licensee rewarded officers who reported the 2012 incident. As such, the PRB concludes that the event described above does not meet the MD 8.11 criteria for review because it failed to provide adequate basis and sufficient facts to warrant further NRC inquiry.

2. *The petition supplement dated June 12, 2015, cites an anonymous condition report (CR) that the petition described as "citing specifically the behaviors of management toward 'C' team which included 'belittling, bullying, and questioning of integrity' of the Security officers." The petitioner contends that this is an example of continued management behavior that would support the NRC evaluating additional enforcement action under 10 CFR 2.206.*

The NRC staff was aware of this CR prior to the incoming supplement, and had appropriately identified this CR for additional followup, as necessary. As part of the NRC resident inspector responsibilities as outlined in Inspection Procedure 71152, "Problem Identification and Resolution," all licensee's CRs are to be screened by the resident inspector staff (<http://www.nrc.gov/reading-rm/doc-collections/insp-manual/inspection-procedure/>). The NRC has reviewed this CR and the associated corrective actions. To date, the NRC staff notes that the CR initiator was anonymous but willingly came forward in response to the licensee's request for assistance and provided the Security Management additional clarifying information. The licensee took reasonable and positive measures to address the CR. The CR described concerns with management within the 'C' team rather than higher level Security Department management. While the issues raised in the CR deserved attention, the fact that the CR was generated to bring the issues to the attention of senior managers at PNP, and the subsequent licensee corrective actions to address the CR, are consistent with the Security Department no longer having a chilled work environment.

The NRC staff has determined that the condition described above is consistent with an improved work environment. Therefore, the PRB has concluded that the concern fails to meet the criteria for review because it does not provide an adequate basis and sufficient facts to warrant further NRC inquiry.

3. *The petition states in the June 12, 2015, supplement, "as recently as this past week the Licensee is trying to get officers to sign, and in effect back date, documents that were supposed to be completed months ago. ..." The petition contends that this is an example of continued management behavior that would support the NRC evaluating additional enforcement action under 10 CFR 2.206.*

The NRC staff clarified the intent of the above statement with you by a telephone conference on June 17, 2015. You clarified that you were referring to a Commitment to Compliance form dated November 24, 2014, from a senior ENO Security official no longer employed with ENO, which the security staff was required to read and sign. The form does not have a space for a date to be entered when the security officers sign the form; therefore, you contend that it could appear like the form was completed prior to the actual completion date.

The NRC staff has reviewed the Commitment to Compliance form and an associated CR initiated by a Security Officer. The Security Officer questioned why the security staff was being asked to sign the form and the consequences if they did not sign. The form described the licensee's expectations in protection of Safeguards Information, procedural adherence, and industrial safety. By signing the form, the security staff is agreeing as a team that they will strive for excellence in the above three areas.

This "read and sign" form was generated in response to Confirmatory Order, EA-14-009, "Confirmatory Order, Notice of Violation, and Civil Penalty – NRC Special Inspection Report 05000458/2014407 and NRC Investigation Report 4-20120922 – River Bend Station," dated December 3, 2014 (ADAMS Accession No. ML14339A167). The Confirmatory Order states:

Entergy will develop a "commitment to compliance" statement or a similar document highlighting the special responsibilities of nuclear security personnel. This document will explain that nuclear security personnel need to comply with regulations and procedures, and it will describe the potential consequences if compliance does not occur. Within 12 months from the date of this Confirmatory Order, Entergy will require at each of its nuclear plants that nuclear security personnel read and sign the statement (subject to any collective bargaining obligations it may have).

The PRB notes that the concept of this type of "read and sign" form is a common practice among utilities. The form describes standards that the NRC would expect the licensee to maintain. In addition, as stated in the Confirmatory Order, the licensee is required to have their nuclear security personnel read and sign the commitment to compliance form by December 3, 2015. The PRB does not agree with the petitioner's statement that this form should have been "completed months ago," nor does the PRB agree that signing the form would be indicative of back dating. The PRB acknowledges that inclusion of a signature date and updating the form to reflect current security department leadership would enhance the form. Therefore, the PRB concludes that this issue failed to meet the criteria for review because it failed to provide adequate basis and sufficient facts to warrant further NRC inquiry.

4. *The petition supplement dated June 12, 2015, cites that the licensee has retained Synergy to perform a new work environment assessment. The petition contends that the current Synergy work environment assessment will show there to be only marginal improvement in the Security department and, "a continued lack of confidence in the credibility of senior Department management and Entergy executives." The petitioner asks the NRC to delay a decision on the petition until the Synergy survey has been completed and reviewed by the NRC.*

This type of work environment assessment is a normal industry practice and performed at utilities on a biennial basis in accordance with an Institute of Nuclear Power Operations agreement. The NRC may review the results of the Synergy work environment assessment as part of the SCWE inspection scheduled for late 2015; however, the NRC will perform an independent assessment of SCWE in the Security department, which will determine if any additional enforcement actions need to be taken and this will be documented in an inspection report. As a result, the PRB does not agree that delaying a decision on this 2.206 petition is warranted. Therefore, the PRB concludes that this issue failed to meet the criteria for review because it failed to provide adequate basis and sufficient facts to warrant further NRC inquiry.

5. *The petition dated August 11, 2014, mentions the December 2012 incident where a security manager assigned a security supervisor to assume a security post without verifying the supervisor's qualifications. OI confirmed that the security manager and security supervisor willfully violated 10 CFR Part 73. Entergy chose alternate dispute resolution and a confirmatory order was issued setting forth the terms on how Entergy would address and correct the violation. The petitioner contends that the security officer and the two supervisors were the subject of discrimination (employment terminated) for raising safety concerns regarding the December 2012 incident.*

The NRC evaluated your reference that a security officer and two security supervisors were terminated for raising safety issues associated with the December 2012 incident. Consistent with MD 8.11, the discrimination concerns are currently being assessed via a separate agency process and will not be considered for review under 10 CFR 2.206. The NRC enforcement policy would prompt the NRC to evaluate a substantiated discrimination concern to determine what, if any, effect the substantiated discrimination concern has on the work environment within the affected department.

The following issues described in your petition, as supplemented, met the criteria for rejection in accordance with the criteria of MD 8.11 on the basis that the issues have been reviewed, evaluated, and resolved by the NRC.

1. *The petition dated August 11, 2014 contends that Entergy management has no respect or understanding of the significance of the safety culture weaknesses identified within the Department, no respect for its own Security workforce, no intention to make the necessary changes to improve the work environment, and no competence to do so.*

In an inspection report dated March 6, 2014 (ADAMS Accession No. ML14064A569), the NRC identified a chilled work environment in the Security Department. As part of the corrective actions to the issues identified in the inspection report and in conjunction with the Confirmatory Order dated July 21, 2014, the licensee developed a security SCWE

action plan as well as other actions to address work environment issues in the Security Department. As stated above, a SCWE inspection was conducted at PNP during the week of December 8, 2014, and concluded that during the time of the inspection, there was not a chilled work environment at PNP and there was a slight but noticeable improvement in the Security Department work environment. During the focus group interviews, there were concerns about the sustainability of the improving trend in the security work environment; however, there was broad consensus that the security personnel would raise safety concerns without the fear of retaliation. As stated in the NRC's annual assessment letter dated March 4, 2015, the NRC will determine whether the actions to address Security Department SCWE have been sustained as part of baseline PI&R inspection activities planned for late 2015. Following these inspection activities, the NRC will determine if additional NRC oversight at PNP is warranted.

Therefore, due to the noted improvement in Entergy's management of SCWE as indicated in the SCWE inspection report and conclusion by the NRC that a chilled work environment does not currently exist at PNP, the concerns regarding the inability of Entergy's management of SCWE were reviewed, evaluated, and resolved by the NRC.

2. *The petition dated August 11, 2014, cites a derogatory comment made by the senior ENO official as an example of Entergy management's lack of understanding for SCWE.*

The derogatory comment made by the senior ENO official was evaluated by the NRC staff via another agency process. During the December 2014, work environment inspection, focus group discussions were conducted with security personnel. The NRC determined from these interviews that the derogatory statement and the response by security supervision did not affect the willingness of security personnel to raise safety or security concerns. In fact, the inspection results indicate that the new security manager is communicating with the security officers by visiting them during their shift and the officers acknowledge that the licensee is addressing issues.

The NRC has evaluated the derogatory comment for accuracy and for implications in the SCWE at PNP and has determined that no additional actions (beyond the baseline PI&R inspection activities planned for late 2015 documented in the annual assessment letter) by the NRC are required. Therefore, this issue has been reviewed, evaluated, and resolved by the NRC.

As explained above, the PRB has concluded that the individual issues described above did not meet the criteria for review or met the criteria for rejection as described in MD 8.11. The PRB also considered the aggregate impact of the individual issues in the final determination and has concluded that the information provided does not form a factual basis that would warrant further inquiry. Therefore, the PRB's final determination is that the issues described above either meet the criteria for rejection or do not meet the criteria for review under the 10 CFR 2.206 process. This letter closes all NRC actions associated with your 2.206 petition.

B. Garde

- 7 -

Thank you for bringing this matter to the attention of the NRC.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ago' followed by a long horizontal stroke that curves upwards at the end.

Aby S. Mohseni, Deputy Director  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

Docket No. 50-255

cc w/Incoming Request:  
Vice President, Operations  
Entergy Nuclear Operations, Inc.  
Palisades Nuclear Plant  
27780 Blue Star Memorial Highway  
Covert, MI 49043-9530

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B. Garde

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Thank you for bringing this matter to the attention of the NRC.

Sincerely,

/RA/

Aby S. Mohseni, Deputy Director  
Division of Policy and Rulemaking  
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**ADAMS Accession No.: ML15181A418**

**\*via email**

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