



ROCHESTER GAS AND ELECTRIC CORPORATION • 89 EAST AVENUE, ROCHESTER, N.Y. 14649-0001



AREA CODE 716 546-2700

ROBERT C. MECREDY  
Vice President  
Nuclear Operations

February 13, 1995

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Attn: Allen R. Johnson  
Project Directorate I-3  
Washington, D.C. 20555

Subject: Reply to a Notice of Violation  
(NRC Inspection Report No. 50-244/94-28)  
R.E. Ginna Nuclear Power Plant  
Docket No. 50-244

Dear Mr. Johnson:

This information is being provided in response to the Notice of Violation (VIO 50-244/94-28-01) submitted as an Enclosure to a letter from Thomas T. Martin, USNRC, to Robert C. Mecredy, RG&E, dated January 13, 1995.

Pursuant to the provisions of 10 CFR 2.201, the enclosure to this letter provides (1) the reason for the violation, (2) 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.

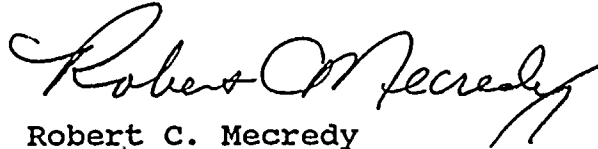
Although RG&E does not dispute the fact that a violation of 10 CFR Part 26 occurred, we wish to point out that our staff did identify the failure of our fitness-for-duty program to provide for statistically random and unpredictable random drug and alcohol testing on weekends, holidays and the night shift (except during refueling outages) prior to the reactive NRC inspection of November 21-22, 1994. In response to our initial notification to the NRC under the provisions of the fitness-for-duty program 10CFR26.73, RG&E began an immediate and comprehensive review of our fitness-for-duty testing program. The corrective actions, described in more detail in the enclosure, were initiated prior to the NRC inspection of November 21-22, 1994. As provided in our justification presented during the enforcement conference December 20, 1994, we continue to question the appropriateness of the Level III severity assigned, given the perspectives on significance.

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We believe that the improvements made by RG&E in response to this violation and as discussed during the enforcement conference on December 20, 1994 are sufficient to provide reasonable assurance that our fitness-for-duty program is in full compliance with 10 CFR Part 26.

Very truly yours,

  
Robert C. Mecredy

GJW/366

Attachments

Subscribed and sworn to before me  
on this 13th day of February 13, 1995

Marie C. Villeneuve

MARIE C. VILLENEUVE  
Notary Public, State of New York  
Monroe County  
Commission Expires October 31, 1996

xc: Mr. Allen R. Johnson (Mail Stop 14D1)  
Project Directorate I-3  
Washington, D.C. 20555

U.S. Nuclear Regulatory Commission  
Region I  
475 Allendale Road  
King of Prussia, PA 19406

Ginna US NRC Senior Resident Inspector

Enclosure

Reply to Notice of Violation 94-28-01

1. RESTATEMENT OF VIOLATION

"During an NRC inspection conducted on November 21-22, 1994, a violation of NRC requirements was identified. In accordance with the 'General Statement of Policy and Procedure for NRC Enforcement Actions,' 10 CFR Part 2, Appendix C, the violation is set forth below:

10 CFR 26.24(a)(2) states, in part, that to provide a means to deter and detect substance abuse, the licensee shall implement unannounced drug and alcohol tests imposed in a statistically random and unpredictable manner so that all persons in the population subject to testing have an equal probability of being selected and tested; and, as a minimum, tests must be administered on a nominal weekly frequency and at various times during the day.

10 CFR 26.20 requires that each licensee subject to Part 26 shall establish and implement written policies and procedures designed to meet the specific requirements of this part.

Fitness-for-Duty Procedure FFD 8, Revision 1, dated June 1, 1991, entitled "Random Test Selection and Notification Process", written to satisfy the requirements in 10 CFR 26.20, states, in part, in Section 3.1.4, that testing will be done on randomly selected backshifts, Saturdays, Sundays, and holidays.

Contrary to the above, from January 1, 1993 until November 16, 1994, the Rochester Gas and Electric Corporation did not implement unannounced drug and alcohol tests in a statistically random and unpredictable manner in that:

- a. Statistically random and unpredictable random drug and alcohol testing was not done on Saturdays, Sundays, holidays, or on the night shift between the hours of 10:00 p.m. and 6:00 a.m. During this period, the only holiday, weekend, or night shift testing under the random testing program was during annual outages, with such testing conducted on March 29, 1993 (night shift), April 9, 1993 (Good Friday), April 17, 1993 (weekend), April 18, 1993 (weekend), March 26, 1994 (weekend) and April 1, 1994 (Good Friday). The various times of day thereby eliminated from the random drug and alcohol testing program included at least all non-outage holiday, weekend, and night shift hours.



- b. All persons subject to testing did not have an equal probability of being tested because individuals selected for random testing were not tested if they were unavailable when selected, and also unavailable at the times of the subsequent three weekly tests, after which their names were removed from the list of those waiting to be tested."

2. REASON FOR THE VIOLATION

RG&E agrees that a violation of 10 CFR Part 26 occurred. This violation was the result of RG&E not being fully cognizant that the combination of refueling outage weekend, holiday, and night shift testing, and the use of a pick-up pool, did not result in a fitness-for-duty program that was not statistically random and unpredictable at all times for all personnel.

Additional details regarding the circumstances of and root causes for the violation were provided in our December 20 Enforcement Conference presentations and handouts.

3. CORRECTIVE STEPS THAT HAVE BEEN TAKEN, AND RESULTS ACHIEVED

As stated during our Enforcement Conference on December 20, 1994, RG&E has taken comprehensive action to provide assurance that the cause of the violation has been corrected.

As of January 10, 1995, all personnel with unescorted site access who had not been tested under the random drug and alcohol testing process since its inception on December 1, 1989, have now been tested.

The fitness-for-duty methodology has been augmented to end predictability of the random testing process. The fitness-for-duty procedure, FFD-8, entitled, "Random Test Selection and Notification Process" has been revised and was made effective December 31, 1994. The procedure outlines the process for testing all individuals who have been selected for a random drug and alcohol test. Individuals assigned to the midnight shift will be tested, when selected, prior to going on shift.

Effective as of December 7, 1994, a computer program was developed to track all individuals selected for a random test. That list can be compared to the list of individuals tested. This process will assure that all individuals selected for a random drug and alcohol test will be tested.

4. THE CORRECTIVE STEPS THAT WILL BE TAKEN TO AVOID FURTHER VIOLATIONS

All steps taken to provide reasonable assurance that the provisions of 10 CFR Part 26 are being met by RG&E's fitness-for-duty program have been implemented.

5. THE DATE WHEN FULL COMPLIANCE WILL BE ACHIEVED.

The changes to our fitness-for-duty program were fully implemented on January 1, 1995. Our program was in full compliance with 10 CFR Part 26 as of that date.





# PRIORITY 2

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 AUTH.NAME    AUTHOR AFFILIATION  
 MECREDY, R.C.    Rochester Gas & Electric Corp.  
 RECIP.NAME    RECIPIENT AFFILIATION  
                  Document Control Branch (Document Control Desk)

SUBJECT: Responds to NRC 950113 ltr re violations noted in insp rept  
 50-244/94-28 on 941121-22. Corrective actions: all personnel  
 w/unescorted site access tested under random drug & alcohol  
 testing process.

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NOTES: License Exp date in accordance with 10CFR2,2.109(9/19/72).    05000244

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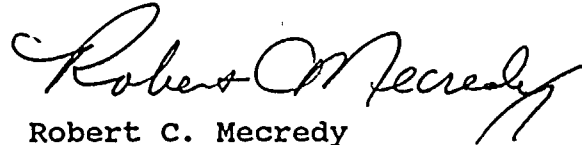
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Notary Public, State of New York  
Monroe County  
Commission Expires October 31, 1996

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