



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

November 20, 2019

EA-18-130
EA-18-171

Mr. Michael Meier
Vice President of Regulatory Affairs
Southern Nuclear Operating Company
The Energy Center
3535 Colonnade Pkwy
Birmingham, AL 35243

SUBJECT: CONFIRMATORY ORDER AND NRC INVESTIGATION REPORTS 2-2017-004
AND 2-2017-032 – SOUTHERN NUCLEAR OPERATING COMPANY

Dear Mr. Meier:

The enclosed Confirmatory Order is being issued to you as a result of a successful alternative dispute resolution (ADR) mediation session. The enclosed commitments were made as part of a settlement agreement between Southern Nuclear Operating Company (SNC) and the U.S. Nuclear Regulatory Commission (NRC). The settlement agreement concerns apparent violations of NRC requirements, as discussed in our letters dated May 15, 2019 and June 12, 2019.

Our May 15, 2019 letter provided you with the result of an investigation (2-2017-004) conducted by the NRC's Office of Investigations to determine whether willful violations of NRC requirements occurred at the Vogtle Electric Generating Plant, Units 3 and 4. Based on the results of this investigation, the NRC determined that SNC directed a contract employee at the Vogtle Units 3 and 4 construction site be removed in December 2015, in part, for engaging in protected activity. The contract employee was subsequently terminated by his employer on February 3, 2016. Based on the evidence developed during its investigation, the NRC identified an apparent violation of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52.5, "Employee Protection," and determined that the apparent violation of 10 CFR 52.5 was willful.

Our June 12, 2019 letter provided you with the result of an investigation (2-2017-032) conducted by the NRC's Office of Investigations to determine whether willful violations of NRC requirements occurred at the Vogtle Electric Generating Plant, Units 3 and 4. Based on the results of this investigation, the NRC determined that a contract employee was removed from the site by an SNC official on July 13, 2017, in part, for engaging in protected activity when he was employed by a different contractor on the site from 2014-2015. The contract employee was subsequently terminated by his employer on July 14, 2017. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR Part 52.5, "Employee Protection," and determined that the apparent violation of 10 CFR 52.5 was willful.

Due to its ability to inspect only a sample of licensee activities, the NRC has placed a high value on nuclear industry employees being free to raise regulatory and safety concerns to the licensee or the NRC without fear of retaliation. Senior executives directly influence a wide group of individuals, making their retaliation against individuals for engaging in protected activity particularly significant. Therefore, the NRC was concerned that both cases involved senior executives directing the adverse action.

In these letters, the NRC offered SNC the opportunity to: (1) attend a predecisional enforcement conference or (2) to participate in an ADR mediation session in an effort to resolve these concerns. In response to the NRC's offers, SNC requested the use of the NRC's ADR process to resolve differences it had with the NRC. In recognition of the substantially similar broad corrective actions expected from the two cases, the NRC and SNC agreed to include both cases in this mediation.

On August 5, 2019, an ADR session was held and a preliminary settlement agreement reached. The elements of that agreement, formulated and agreed to at the mediation session, are incorporated in the enclosed Confirmatory Order (Enclosure 1). The Confirmatory Order confirms the commitments made as part of the preliminary settlement agreement.

At the mediation session, you agreed that a Confirmatory Order would be issued in settlement of a disputed claim in order to avoid further action by the NRC. In light of the corrective actions you have taken and subject to the satisfactory completion of the additional actions you committed to take, as described in the Confirmatory Order, the NRC will not issue a Notice of Violation for the apparent violations discussed in the NRC's letters dated May 15, 2019, and June 12, 2019, and will not issue an associated civil penalty. The NRC is satisfied that its concerns will be addressed by making your commitments legally binding through a Confirmatory Order. As evidenced by the signed "Consent and Hearing Waiver Form" (Enclosure 2), dated August 5, 2019, you agreed to the issuance of this Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalty.

Apart from the actions required by the enclosed Confirmatory Order, you are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at the following address: MS O14A50, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Should you have questions concerning the enclosed Confirmatory Order, please contact Catherine Thompson, at 301-287-9515 or John Harrison at 301-287-9452.

In accordance with 10 CFR Section 2.390, of the NRC's "Rules of Practice," a copy of this letter and its enclosure(s) will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Document 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. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

George A. Wilson, Director
Office of Enforcement

Docket Nos. 5200025, 5200026
License Nos. NPF-91, NPF-92

Enclosures:
As stated

cc: (See page five)

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AND 2-2017-032 – SOUTHERN NUCLEAR OPERATING COMPANY
DATED: November 20, 2019

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ADAMS Package Accession No.: ML19249B552

Confirmatory Letter: ML19249B553

Confirmatory Order: ML19249B612

FRN: ML19316B432

Waiver Form: ML19323E998

via e-mail*

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OFFICIAL RECORD COPY

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