

November 1, 1996

EA 96-233

Mr. Jan Freeman
Operations Director
Lucent Technologies, Inc.
777 N. Blue Parkway
Lee's Summit, MO 64086

SUBJECT: NOTICE OF VIOLATION
(NRC INSPECTION REPORT NO. 030-05097/96001(DNMS))

Dear Mr. Freeman:

This refers to the inspection conducted on May 21, 1996, with continuing NRC review through June 5, 1996, at the Lucent Technologies, Inc., facility in Lee's Summit, Missouri (formerly AT&T Microelectronics). The purpose of the inspection was to determine whether "Tracerflo" devices remaining at the Lee's Summit facility following termination of NRC License No. 24-06015-02 were contaminated with licensable radioactive material. The inspection also included a review of the actions taken to terminate the license. The subject inspection report was sent to Lucent Technologies, Inc. by letter dated July 30, 1996.

Based on the information developed during the inspection and the information that you provided in your response to the subject inspection report dated September 6, 1996, the NRC has determined that violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report. In summary the violations are: (a) AT&T Microelectronic's (AT&TM) provided the NRC with incomplete and inaccurate information on a Form 314 and (b) AT&TM/Lucent Technologies, Inc. retained NRC licensed material on its premises for more than two years after the NRC license had been terminated.

These violations are of regulatory significance because when an NRC Form 314, "Certificate of Disposition of Materials," is submitted, the submitting party attests that all licensed materials have been properly disposed of and that all licensed activities have ceased. In AT&TM's case, all licensed material had not been disposed of at the time of request for license termination. Specifically, two 55 gallon drums containing components contaminated with krypton-85 were stored at the Lee's Summit facility at the time of the 1993 termination request. The drums containing contaminated equipment remained on the premises until they were shipped for disposal to the Barnwell waste facility in December 1995. During the May 1996 onsite inspection, krypton-85 was found in a spare gas storage tank in quantities significant enough to require an NRC license. This occurred because the former licensee's technical consultant failed to accurately characterize the degree of residual

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contamination remaining on or in the equipment. If the Form 314 information had been complete and accurate when reviewed by the NRC staff, it would have been likely that substantial further inquiry such as a formal request for information or additional inspection effort would have occurred. Therefore, these violations are considered to be a significant regulatory concern and are classified in the aggregate in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$2500 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last 2 inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit was warranted because as of August 29, 1996, Lucent Technologies, Inc. shipped all remaining licensed materials for disposal.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,

A. Bill Beach
Regional Administrator

Docket No. 030-05097
License No. 24-06015-02 (Terminated)

Enclosure: Notice of Violation

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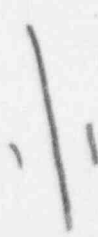
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NOTICE OF VIOLATION

Lucent Technologies, Inc.
Lee's Summit, Missouri

Docket No. 030-05097
License No. 24-06015-02
EA 96-233

During an NRC inspection conducted on May 21, 1996, with continuing NRC review through June 5, 1996, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. 10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee, or information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects.

Contrary to the above, the licensee did not provide to the Commission information that was complete and accurate in all material respects. Specifically, the NRC Form 314 (Certificate of Disposition) signed by the licensee on December 20, 1993, requesting termination of License No. 24-06015-02, failed to identify the krypton-85 contaminated equipment which remained in AT&T Microelectronic's possession until 1996. The incomplete and inaccurate information was material to the NRC because the NRC granted license termination based on the information provided. (01013)

- B. 10 CFR 30.3 requires, in part, that except for persons exempted, no person shall possess or use byproduct material except as authorized by a specific or general license issued pursuant to Title 10, Chapter 1, Code of Federal Regulations.

Contrary to the above, between February 4, 1994, and August 1996, AT&T Microelectronics/Lucent Technologies, Inc. possessed krypton-85 in quantities requiring a specific or general license without a valid license and was not exempted from possessing a license. (01023)

These violations represent a Severity Level III problem (Supplements VI & VII).

Pursuant to the provisions of 10 CFR 2.201, Lucent Technologies, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the 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 may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued

as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated at Lisle, Illinois
this 1st day of November 1996