

November 8, 2007

The Honorable Nita M. Lowey  
United States House of Representatives  
Washington, D.C. 20515

Dear Congresswoman Lowey:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated August 24, 2007, regarding the failure of Entergy Nuclear Operations, Inc. (Entergy) to comply fully with the requirements of NRC's July 30, 2007 Order concerning operability of a new Alert and Notification System (ANS) for the Indian Point nuclear power plant. I want to assure you that the NRC is planning additional enforcement action in this matter; however, the Commission does not consider that the situation at Indian Point is an immediate public health and safety concern since the existing ANS system remains operable.

The NRC's July 30<sup>th</sup> Order required that prior to declaring the new ANS operable to serve as the primary system, Entergy needs to receive approval from the Federal Emergency Management Agency (FEMA). FEMA has stated that the new system must meet the design criteria of the FEMA approved ANS Design Report and be in compliance with all applicable FEMA regulations and guidance. In a letter to the NRC dated August 23, 2007, Entergy wrote that it had completed all pre-operability activities required by NRC's Order for the new ANS and had submitted information to FEMA but had not received FEMA's approval.

As you noted in your letter, this is the second violation of an NRC Order related to the ANS. The NRC has determined that Entergy's failure to comply with an NRC Order warrants additional enforcement action and is considering imposing daily civil penalties. Accordingly, on August 30, 2007, the NRC issued a Notice of Violation to Entergy notifying them that the NRC will consider Entergy's due diligence in resolving this matter with FEMA and determine the severity level, any civil penalty, and any required responses from Entergy after Entergy has come into compliance. I have enclosed a copy of the Notice of Violation.

On September 12, 2007, FEMA informed Entergy by letter that the new ANS system was not acceptable. The FEMA letter also implied FEMA had some concerns over the operability of the existing system. NRC staff immediately contacted FEMA to confirm or verify that FEMA considered the existing siren system operable and capable of protecting public health and safety. In a September 24, 2007 letter, FEMA confirmed that the operability of the existing system was not in question and affirmed that the existing system must remain in place until the new system is placed in service.

On October 25, a meeting was held between FEMA and Entergy to discuss the new siren system. The meeting was observed by representatives from the State of New York, local counties, and the NRC. Entergy presented the results of recent siren testing conducted to address FEMA's technical concerns described in its September 12, 2007 letter. At the meeting,

FEMA recommended that a panel be formed, consisting of FEMA, Entergy, NRC, and State and County representatives to resolve the remaining technical issues. The panel is scheduled to meet on November 9, 2007. Entergy will incorporate the panel's resolution into the final design report that is scheduled to be submitted to FEMA in early January 2008.

Entergy has continued to maintain and test the existing ANS, and it remains available and fully capable of alerting the nearby population in the unlikely event of an emergency at the plant. The NRC will continue to monitor Entergy's efforts to gain FEMA approval of the new ANS and will ensure that the existing system remains operable until the new system is placed into service.

If you need additional information, please contact me.

Sincerely,

*/RA/*

Dale E. Klein

Enclosure: Notice of Violation