

included in such reports that are not self identified by JLS&A, shall also be reported to NRC, in writing, by the 20th day of the month following completion of the audit.

3. JLS&A shall keep monthly statistics regarding QA Program implementation and procedure adherence. Such statistics shall include the number of nonconformances, the nature of the nonconformances, and those nonconformances referred to the corrective action processes. Such information shall be provided to the Independent Auditor who will report any areas of concern to NRC through scheduled reports.

4. JLS&A shall immediately stop work or cause to be stopped any work which would result in a potential hazard to public health and safety.

5. Conditions 1 through 4 shall remain in effect for one year from date of rescission of the July 3 Order, or until the Independent Auditor shall issue four successive quarterly reports that show no violation of NRC regulations and effective implementation of the JLS&A Quality Assurance Program, whichever is later.

The Director, Office of Enforcement, may in writing, relax or rescind any of the above conditions upon demonstration by JLS&A of good cause.

## V

Any person adversely affected by this Confirmatory Order, other than the Certificate Holder, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011 and to JLS&A. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101

or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 30th day of June, 2005.

For the Nuclear Regulatory Commission.

**Michael R. Johnson,**

*Director, Office of Enforcement.*

[FR Doc. 05-14358 Filed 7-20-05; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 55-61290; License No. SOP-11768; IA-05-15]

### In the Matter of Richard M. Probasco; Confirmatory Order (Effective Immediately)

#### I

Richard M. Probasco (Mr. Probasco) is employed as a Shift Manager at the Pilgrim Nuclear Power Station (Pilgrim). Mr. Probasco is the holder of Senior Reactor Operator (SRO) License Number SOP-11768 issued by the Nuclear Regulatory Commission (NRC) pursuant to 10 CFR Part 55. The license authorizes Mr. Probasco to direct the licensed activities of licensed operators at, and to manipulate all controls of, the Pilgrim Nuclear Power Station, facility license number DPR-35. The facility is located on an Entergy Nuclear Operations, Inc. site in Plymouth, MA.

#### II

An investigation was initiated by the NRC Office of Investigations (OI) on August 27, 2004, at Pilgrim. This investigation was initiated, in part, to determine if Mr. Probasco did not take appropriate corrective actions when he became aware of the inattentiveness of a Control Room Supervisor (CRS) on June 29, 2004. Based on the evidence developed during its investigation, OI substantiated that, in careless disregard for requirements, Mr. Probasco did not immediately relieve the CRS from duty, have him for-cause fitness-for-duty tested, inform appropriate site personnel, and initiate a Condition Report (CR).

#### III

In response to a March 23, 2005 letter, Mr. Probasco requested the use of Alternative Dispute Resolution (ADR) to resolve this matter with the NRC. ADR is a process in which a neutral mediator with no decision-making authority assists the NRC and Mr. Probasco in reaching an agreement on resolving any differences regarding the enforcement action. An ADR session was held between Mr. Probasco and the NRC in Philadelphia, Pennsylvania on May 17, 2005, and was mediated by a professional mediator, arranged through Cornell University's Institute of Conflict Management. During that ADR session, a settlement agreement was reached. The elements of the settlement agreement consisted of the following:

1. Mr. Probasco agreed that he violated an NRC requirement by not properly documenting and informing management of his observation that a CRS was inattentive to duty in the control room on June 29, 2004.
2. The NRC maintained that Mr. Probasco's actions in violating the requirement was in careless disregard of an NRC requirement. Mr. Probasco contended that while he erred in violating the requirement, his actions were not willful, in careless disregard of an NRC requirement. The NRC and Mr. Probasco agreed to disagree on this point.

3. Mr. Probasco, subsequent to the identification of this violation, took actions to assure that he learned from this violation and provided the NRC with assurance that it would not recur. These actions included: (a) Sharing the March 23, 2005 letter from the NRC with his SRO peers at Pilgrim to emphasize the significance of the violation; (b) participating actively to share his experience with all Entergy plants via a corporate notification; and (c) contributing to the preparation of an

operating experience report with the Institute of Nuclear Power Operations.

4. As a result of Mr. Probasco's actions, he recognized an opportunity for licensed operators at Pilgrim, as well as licensed operators at other nuclear facilities, to learn from his violation. Mr. Probasco agreed to participate in future training sessions at Pilgrim, including crew training, teamwork training, lifestyle training, and requalification module development, to convey his personal lessons-learned from this matter. Mr. Probasco also agreed to convey his personal lessons-learned to other licensed operators at other nuclear power plants by issuance of a letter, within 90 days of issuance of the Letter of Reprimand referenced in Section III.5 below, to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein, and making a presentation at a future symposium at a meeting of the Professional Reactor Operator Society, if invited.

5. In light of the actions Mr. Probasco has taken as described in Item 3 above, those actions he has committed to do as described in Item 4 above, and his agreement to a Letter of Reprimand, the NRC agrees not to issue an Order or a Notice of Violation to Mr. Probasco. However, Mr. Probasco agreed to placement of this Letter of Reprimand into ADAMS as a publically available document, and its placement on the NRC "Significant Enforcement Actions—Individuals" Web site for a period of 1 year (the period of time the NRC routinely places Notices of Violation at Severity Level III and above to individuals).

Since Mr. Probasco has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the commitments as outlined in this Confirmatory Order.

I find that Mr. Probasco's commitments as set forth in Section III above are acceptable. However, in view of the foregoing, I have determined that these commitments be confirmed by this Confirmatory Order. Based on the above and Mr. Probasco's consent, this Confirmatory Order is immediately effective upon issuance.

## V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 55, *it is hereby ordered, effective immediately that:*

1. Mr. Probasco participate in future training sessions at Pilgrim, including crew training, teamwork training, lifestyle training, and requalification module development, to convey his personal lessons-learned from this matter. Mr. Probasco will also convey his personal lessons-learned to other licensed operators at other nuclear power plants by issuance of a letter, within 90 days, to the Communicator (the publication of the Professional Reactor Operator Society) requesting publication therein, and making a presentation at a future symposium at a meeting of the Professional Reactor Operator Society, if invited.

2. Mr. Probasco provide the NRC with one letter detailing his completion of all actions specified in Item 1 above, within 30 days of completion of these actions.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Probasco of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than Mr. Probasco, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Director of the Division of Regulatory Improvement Programs at the same address, and to Baxter. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel by means of facsimile transmission to 301-415-3725 or e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and

shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained.

An answer or a request for a hearing shall not stay the effectiveness date of this Order.

Dated this 14th day of July, 2005.

For the Nuclear Regulatory Commission.

**Michael R. Johnson,**

*Director, Office of Enforcement.*

[FR Doc. 05-14359 Filed 7-20-05; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-483]

### Union Electric Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Union Electric Company (the licensee) to withdraw its June 27, 2003, revised by letter dated December 19, 2003, application for proposed amendment to Facility Operating License No. NPF-30 for the Callaway Plant, Unit 1, located in Callaway County, Missouri.

The proposed amendment would have revised Technical Specification (TS) 3.8.1, "AC Sources—Operating." The proposed change would revise Required Actions A.3 and B.4 for TS 3.8.1 to allow a longer required Action Completion Time (allowed outage time) for an inoperable diesel generator, when removing the diesel generator from service to perform voluntary, planned maintenance.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 22, 2003 (68 FR 43396). However, by letter dated June 28, 2005, the licensee withdrew the proposed change.

For further details with respect to this action, see the licensee's application for amendment dated June 27, 2003, as revised by letter dated December 19, 2003, and the licensee's letter dated June 28, 2005, which withdrew the application for a license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One