

No. 92-180
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FOR IMMEDIATE RELEASE
(Wednesday, December 9, 1992)

NRC STAFF PROPOSES \$25,000 FINE AFTER THE FIRING OF A CONTRACTOR
ARMED GUARD AT THE LIMERICK GENERATING STATION

The Nuclear Regulatory Commission staff has proposed a \$25,000 fine of the Philadelphia Electric Company (PECO) for the firing of an armed guard by the guard's employer, a security contractor firm. A U.S. Department of Labor (DOL) Administrative Law Judge (ALJ) recently upheld the former guard's claim that his firing was in response to the guard's voicing concerns about the Limerick site's security program. The contractor has appealed that decision to the Secretary of Labor.

NRC regulations forbid discrimination, harassment or reprisal against an employee for raising safety concerns regarding nuclear power plant operations, regardless of whether the concerns ultimately are proven to be valid.

The NRC staff alleges, based on the ALJ decision, that because the guard raised some concerns, his access to the Limerick site was denied, resulting in his discharge by his employer, Protection Technology, Inc. (PTI). That company has appealed the Department of Labor's finding in favor of the guard in his dispute with PTI.

In a letter to PECO informing the utility of this enforcement action, Thomas T. Martin, NRC Region I Regional Administrator referred to the finding of the Department of Labor's Administrative Law Judge and said, " shortly after (the guard) engaged in protected activities, his supervisor retaliated against him because of that activity. The evidence showed that the primary motivating factor in PTI's decision to refer the employee for a psychological evaluation, and, ultimately, to discharge him, was his protected conduct in making his statement of January 1, 1992, concerning Limerick security procedures. The ALJ based his decision in part on the fact that the employee was suspended the day after raising these safeguard concerns without explanation and without displaying any aberrant behavior. In addition, there was no documented evidence of prior behavioral/disciplinary problems with the employee. The NRC recognizes and fully supports your need to aggressively pursue physical protection of your facility under 10 CFR Part 73, and to assure fitness for duty for persons granted unescorted access to

protected areas under 10 CFR Part 26. Nonetheless, you must also aggressively assure that individuals are not discriminated against for engaging in protected activities, as the ALJ found in this case."

Mr. Martin also said the NRC staff was citing PECO, "primarily because of the actions of the person who was at that time the PTI site captain.

"Those actions are of particular concern because as the site captain, this person should have been responsible for protecting those persons who raised safety concerns from harassment and intimidation. Such an environment cannot be tolerated if licensees are to fulfill their responsibility to protect the public health and safety. Thus, licensee management and licensee contractors must avoid actions that discriminate against individuals for raising safety concerns, and must promptly and effectively remedy actions that constitute discrimination," Mr. Martin said.

PECO has been given until 30 days after the rendering of the Secretary of Labor's decision on the appeal to either then pay the proposed fine or to request in writing that part or all of it be withdrawn, giving its reasons for any such request. The company also has been given until that time to admit or deny the alleged violation, to give reasons for it if admitted, to describe the actions it has taken or plans to take to prevent it from happening in the future, and to give the date by which it expects to be in full compliance with NRC requirements.

In the meantime, and in addition to actions taken by PECO in response to an NRC staff letter of April 9, 1992, generally cautioning the company that any case of discrimination may have a "chilling effect" on other workers who might wish to speak about their safety concerns, the utility has been asked to respond in writing, within 30 days, reporting any "additional actions you have taken to minimize any potential chilling effect arising from the circumstances related to this employee that might inhibit or prevent your employees or contractors from raising safety concerns to either your own organization or the NRC."

The Commonwealth of Pennsylvania has been informed of this enforcement action.