

RAS 2355

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 11/07/00

SERVED 11/07/00

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Richard F. Cole
Ann Marshall Young

In the Matter of

FIRST ENERGY OPERATING COMPANY
(FENOC)

(Perry Nuclear Power Plant, Unit 1;
Operating License No. NPF-58)

Docket No. 50-440-CivP

ASLBP No. 01-784-01-CivP

EA 99-012

November 7, 2000

NOTICE OF HEARING

This proceeding involves a proposed civil penalty of \$110,000. sought to be imposed by the NRC Staff on First Energy Operating Company (FENOC or Licensee) for an alleged violation of NRC's employee protection regulations, based upon the asserted discrimination by a FENOC management official against an employee for engaging in protected activities (i.e., testifying in a whistleblowing case before the Department of Labor). In response to an Order Imposing Civil Monetary Penalty, published at 65 Fed. Reg. 49,610 (August 14, 2000), FENOC on October 18, 2000 filed a timely request for an enforcement hearing. On October 27, 2000, an Atomic Safety and Licensing Board, consisting of Dr. Richard F. Cole, Ann Marshall Young, and Charles Bechhoefer, who serves as Chairman, was established to preside over this proceeding. 65 Fed. Reg. 65,336 (November 1, 2000).

Notice is hereby given that, by Memorandum and Order dated November 7, 2000, the Atomic Safety and Licensing Board has granted the request for a hearing submitted by FENOC. This proceeding will be conducted under the Commission's hearing procedures set forth in 10 C.F.R. Part 2, Subparts B and G. Parties to this proceeding are FENOC and the NRC Staff. The issues to be considered, as set forth in the Order Imposing Civil Monetary Penalty, are (a) whether the Licensee was in violation of the Commission's requirements as set forth in the

Notice of Violation and Proposed Imposition of Civil Penalty, dated May 20, 1999; and (b) whether, on the basis of such violation, the Order Imposing Civil Monetary Penalty should be sustained.

Documents related to this proceeding, issued prior to December 1, 1999, are available in microfiche form (with print form available on one-day recall) for public inspection at the Commission's Public Document Room (PDR), Room O-1 F21, NRC One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738. Documents issued subsequent to November 1, 1999 are available electronically through the Agencywide Documents Access and Management System (ADAMS), with access to the public through NRC's Internet Web site (Public Electronic Reading Room Link, <<http://www.nrc.gov/NRC/ADAMS/index.html>>). The PDR and many public libraries have terminals for public access to the Internet.

At the joint request of FENOC and the NRC Staff, further proceedings in this case have been suspended until December 18, 2000, to afford the parties an opportunity to pursue settlement negotiations. Except to the extent an early settlement or other circumstance renders them unnecessary, the Licensing Board may, during the course of this proceeding, conduct one or more prehearing conferences and evidentiary hearing sessions. The time and place of these sessions will be announced in Licensing Board Orders. Except as limited by the parameters of telephone conferences (which are in any event to be transcribed), members of the public are invited to attend any such sessions.

For the Atomic Safety and
Licensing Board

/RA/

Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 7, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
FIRSTENERGY NUCLEAR OPERATING) Docket No. 50-440-CIVP
COMPANY)
)
(Perry Nuclear Power Plant, Unit 1))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE OF HEARING have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of November 2000