

RAS 3025

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 05/04/2001

SERVED 05/04/2001

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

May 4, 2001

MEMORANDUM AND ORDER
(Extension of Suspension)

This proceeding concerns an Order Imposing Civil Monetary Penalty of \$110,000.00, dated August 3, 2000, involving the alleged violation by FENOC of NRC's employee-protection regulations, based upon the asserted discrimination by a management official against an employee for engaging in protected activities (i.e., testifying in a whistleblowing case before the Department of Labor). At the request of the parties, however, the proceeding has been suspended to accommodate ongoing settlement negotiations. As part of the suspension, the Licensing Board has required status reports concerning the status of settlement negotiations.

The current suspension extends to May 4, 2001. In a Joint Status Report filed on May 1, 2001, the parties reported that they had reached an oral agreement in principle regarding settlement and that good progress had been made in the negotiation of a formal written settlement agreement, following the appointment (at their request) of a separate settlement judge to assist in their negotiations. See Memorandum and Order (Appointment of Settlement Judge), dated March 18, 2001. They advise, however, that discussions conducted by the

settlement judge are scheduled to continue beyond the May 4, 2001 date on which the suspension ends. They accordingly request the continuation of the suspension period for another 45 days, until June 19, 2001, in order to allow sufficient time for the continuation of the settlement discussions.

Good cause having been demonstrated, we hereby extend the suspension of this proceeding until June 19, 2001, as requested by the parties. Absent prior agreement among the parties, a further status report shall be filed by June 1, 2001.

IT IS SO ORDERED.

For the Atomic Safety and Licensing Board

/RA/

Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 4, 2001

[Copies of this Memorandum and Order have been transmitted this date by e-mail to counsel for each of the parties.]

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 MEMORANDUM AND ORDER (EXTENSION OF SUSPENSION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Ann Marshall Young
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Alan S. Rosenthal
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dennis C. Dambly, Esq.
Susan S. Chidakel, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Roy P. Lessy, Jr., Esq.
Donald R. Livingston, Esq.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1333 New Hampshire Ave., NW, Suite 400
Washington, DC 20036

John K. Wood
Vice President
Perry Nuclear Power Plant
10 Center Road
Perry, OH 44081

Docket No. 50-440-CIVP
LB MEMORANDUM AND ORDER
(EXTENSION OF SUSPENSION)

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 4th day of May 2001