**From:** Michael Stein <michael.stein@ferc.fed.us>
**To:** <nrcrep@nrc.gov>, <bcw@nrc.gov>, <oeweb@nrc.gov>
**Date:** Tue, May 22, 2001 11:11 AM
**Subject:** Draft Discrimination Task Group Report

Below is the result of your feedback form. It was submitted by
Michael Stein (michael.stein@ferc.fed.us) on Tuesday, May 22, 2001 at 11:11:31
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Affiliation: Former NRC Discrimination Enforcement Specialist

Comments: I didn't think it was possible to make the program worse and to offer even less due process but I was mistaken.

OGC attorneys will be reviewing all substantiated OI reports prior to issuance. My initial comment was to ensure that these actions were staff actions and not being imposed by OGC. My comment was rejected in this report.

My Petition for Rulemaking was to grant NOV recipients the opportunity for a hearing to clear their name when the NRC takes a baseless action. I've withdrawn my petition because the NRC has no interest in granting such safeguards.

Now it appears that there will not even be the protection of a PEC prior to issuance of an NOV or order alleging discrimination. The injured manager can have his meeting after the NRC has issued a paper calling that individual a discriminator. No changes to date of PEC, a limit on whom the CI can bring. It appears the NRC has no interest in making the PEC a fact finding meeting but rather window dressing after it has already determined the guilt of the alleged discriminator and issued its decision. When it is only an NOV issuance that decision is final.

Finally, the report states that the preponderance of the evidence standard is used and will continue to be used. I challenge that statement. I believe the facts show over the past two years that the standard has been since the Millstone Actions, and continues to be, a Substantive Evidence standard and much lower than preponderance. As long as their is some tiny bit of evidence of discrimination the NRC will take enforcement action and now offer a PEC for the licensee or individuals, after the issuance of the enforcement action, to show a legitimate business reason for the adverse action. This is not due process-this is a sham process.

I wish you (OE) luck in future cases. I doubt very much the staff will be able to reach appropriate decisions in light of this OGC takeover of the discrimination enforcement program and the continued attack on peoples' character based on little to no evidence.

Mike Stein

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