

October 12, 2001

EA-01-234

Mr. R. P. Powers
Senior Vice President
Nuclear Generation Group
American Electric Power Company
500 Circle Drive
Buchanan, MI 49107-1395

SUBJECT: ALLEGED DISCRIMINATION
(U.S. Department of Labor Docket No. 2001-ERA-236)

Dear Mr. Powers:

This letter is in reference to recent events related to alleged employment discrimination against the owner of several former contract firms, including American Nuclear Resources (ANR) and Scope Services, Inc. (Scope), at the American Electric Power Company's (AEP) D.C. Cook Nuclear Power Plant. In a complaint filed with the U.S. Department of Labor (DOL) on March 13, 2000, the owner of ANR/Scope alleged that the contracts for ANR/Scope were terminated as a result of her engaging in protected activities, i.e., raising nuclear safety issues. On June 29, 2001, the DOL's Occupational Safety & Health Administration (OSHA) informed AEP of the results of its investigation into this complaint. The Area Director of OSHA's office in Lansing, Michigan, informed AEP that the owner of ANR/Scope was a protected employee engaging in protected activities within the scope of the Energy Reorganization Act of 1974 and that discrimination, as defined and prohibited by the statute, was a factor in the actions which comprised her complaint. That decision was appealed by AEP and is pending before a DOL Administrative Law Judge.

By letter dated January 29, 2001, the U.S. Nuclear Regulatory Commission (NRC) notified AEP that the NRC Office of Investigations (OI) had conducted an investigation into the matter (OI Report No. 3-2000-008). Based on the information obtained during the OI investigation, the NRC staff determined that insufficient evidence existed to conclude that a violation of 10 CFR 50.7, "Employee Protection," had occurred. We have reviewed the OSHA Area Director's determination, and as is our normal practice, we will monitor the DOL proceedings to determine if any new information is developed that would change our earlier decision.

While the NRC recognizes that AEP does not agree with OSHA's determination, the NRC is concerned about the potential for a "chilling effect" on the safety conscious work environment at D.C. Cook Plant. Therefore, the NRC is requesting that within 90 days of the date of this letter, AEP inform the NRC of any actions it has taken, is taking, or plans to take to prevent this event from having a negative effect on the willingness of all plant employees, whether AEP or contractor, to raise safety concerns. After reviewing your response, the NRC will determine whether any further action is warranted.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be made available to the Public. Therefore, your response should not, to the extent possible, include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public. If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the personal privacy-related information and a redacted copy of your response that deletes the personal privacy-related information. Identify the particular portions of the response in question which, if disclosed, would create an unwarranted invasion of personal privacy, identify the individual whose privacy would be invaded in each instance, describe the nature of the privacy invasion, and indicate why, considering the public interest in the matter, the invasion of privacy is unwarranted. If you request withholding on any other grounds, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Sincerely,

/RA/

James Dyer
Regional Administrator

Docket Nos. 50-315; 50-316
License Nos. DPR-58; DPR-74

cc: A. C. Bakken III, Site Vice President
J. Pollock, Plant Manager
M. Rencheck, Vice President, Nuclear Engineering
R. Whale, Michigan Public Service Commission
Michigan Department of Environmental Quality
Emergency Management Division
MI Department of State Police
D. Lochbaum, Union of Concerned Scientists
Owner of ANR/Scope

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¹ OE concurrence received on 10/9/01 from Nick Hilton, OE.

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