



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931**

November 7, 2001

Duke Energy Corporation
ATTN: Mr. G. R. Peterson
Site Vice President
Catawba Nuclear Station
4800 Concord Road
York, SC 29745

**SUBJECT: DEPARTMENT OF LABOR (DOL) CASE NO. 2001-ERA-028
(PHILLIP HUSKY AND MARK PAFFORD VS. DUKE ENERGY CORPORATION)**

Dear Mr. Peterson:

On April 10, 2001, the NRC's Office of Investigation (OI) initiated investigations to determine if Phillip Husky and Mark Pafford were terminated in violation of 10 CFR 50.7, Employee Protection. The OI investigations, documented in OI Report Nos. 2-2001-004 and 2-2001-005, were completed on September 25 and 26, 2001, respectively. In both cases, OI concluded the evidence gathered during the investigations did not substantiate that Duke Energy Corporation illegally discriminate against either employee.

On January 15, 2001, the former Duke Energy Corporation employees filed a complaint with the U.S. Department of Labor's (DOL) OSHA Division in Washington, D. C. On May 16, 2001, the OSHA Deputy Regional Administrator issued a decision in this case which did not verify that discrimination was a factor in the actions comprising the complaints. Mr. Husky and Mr. Pafford subsequently appealed the decision and action is pending before a DOL Administrative Law Judge (ALJ). The staff will hold its judgement on whether or not enforcement action is warranted in this matter until after an adjudicatory decision by a DOL ALJ.

We are providing the parties involved in the DOL hearing the results of the OI investigations. A copy of the synopses to the OI reports are enclosed. You should note that final NRC documents, including the final OI report, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information pursuant to the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records.

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Should you have any questions regarding this letter, please feel free to contact me at 404-562-4421.

Sincerely,

/RA

Anne T. Boland, Enforcement Officer
Enforcement and Investigations
Coordination Staff

Enclosures:

1. Synopsis to OI Report No. 2-2001-004
2. Synopsis to OI Report No. 2-2001-005

cc w/encls:

John W. Gresham, Esq.
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OFFICE	RII:EICS	RII:DRP		
NAME	A. Boland	R. Haag		
	/RA	/RA		
DATE	11/05/2001	11/05/2001		

OFFICIAL RECORD COPY

SYNOPSIS

The Office of Investigations, U.S. Nuclear Regulatory Commission, Region II, initiated this investigation on April 10, 2001, following a complaint by a maintenance specialist at the Duke Energy Corporation, Catawba Nuclear Station, that he was terminated for raising issues regarding electronic testing.

The evidence gathered during this investigation did not substantiate the allegation that Duke Energy illegally discriminated against the employee as a result of having engaged in protected activity.

Approved for release on
November 2, 2001

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FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II

SYNOPSIS

The Office of Investigations, U.S. Nuclear Regulatory Commission, Region II, initiated this investigation on April 10, 2001, following a complaint by a maintenance specialist at the Duke Energy Corporation, Catawba Nuclear Station, that he was terminated to bolster the licensee's reason for terminating another maintenance specialist involved in protected activity.

The evidence gathered during this investigation did not substantiate the allegation that Duke Energy Corporation illegally discriminated against the employee.

Approved for release on
November 2, 2001

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