



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005**

March 5, 2003

EA-03-040

Garry L. Randolph, Senior Vice  
President and Chief Nuclear Officer  
Union Electric Company  
P.O. Box 620  
Fulton, Missouri 65251

**SUBJECT: ALLEGED DISCRIMINATION (2003-ERA-008)**

Dear Mr. Randolph:

On October 11, 2002, the U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) in Kansas City, Missouri, received a complaint from an employee of The Wackenhut Corporation (TWC), Union Electric Company's security contractor at the Callaway Plant. The employee alleged that he had been denied two promotions because he had participated in an investigation that resulted in NRC enforcement action and because he had raised a safety concern to TWC management. In response to that complaint, OSHA conducted an investigation, and in a letter dated January 22, 2003, to Mr. Richard Michau, the president of TWC's Nuclear Services Division, the Regional Administrator of OSHA found that the evidence obtained during its investigation indicated a violation of the employee protection provisions of the Energy Reorganization Act (Section 211 of the ERA). A copy of OSHA's letter is enclosed.

As you know, the NRC holds its licensees responsible for violations of NRC's employee protection requirements committed by licensee contractors. The NRC's Office of Investigations (OI) has an ongoing investigation into this matter to determine whether a violation of 10 CFR 50.7 occurred, and no conclusions have been reached. Nonetheless, the NRC is concerned that OSHA's finding could have a chilling effect on other licensee or contractor personnel in that it might deter them from identifying any nuclear safety related concerns they may have.

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.54(f), in order for the Commission to determine whether action should be taken to ensure compliance with NRC regulatory requirements, you are required to provide this office, within 30 days of the date of this letter, a response in writing and under oath or affirmation that describes:

Actions you have taken or plan to take to assure that this matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within your organization and to the NRC.

We recognize that you may not believe that unlawful discrimination has occurred. Regardless, we request that you consider the need to address the possible chilling effect that an ongoing issue of this type may have on other employees.

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 electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. 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.

After reviewing your response, the NRC will determine whether action is necessary at this time to ensure compliance with regulatory requirements.

Sincerely,

*/RA/*

Ellis W. Merschoff  
Regional Administrator

Docket: 50-483  
License: NPF-30

Enclosure: January 22, 2003 letter to TWC

cc w/Enclosure:  
Charles E. Adkins  
Regional Administrator, OSHA  
City Center Square  
1100 Main Street, Suite 800  
Kansas City, Missouri 64105

Union Electric Company

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Richard A. Michau  
President, Wackenhut Nuclear Services Division  
The Wackenhut Corporation  
4200 Wackenhut Drive #100  
Palm Beach Gardens, Florida 33410  
Professional Nuclear Consulting, Inc.  
19041 Raines Drive  
Derwood, Maryland 20855

John O'Neill, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N. Street, N.W.  
Washington, D.C. 20037

Mark A. Reidmeyer, Regional  
Regulatory Affairs Supervisor  
Regulatory Affairs  
AmerenUE  
P.O. Box 620  
Fulton, Missouri 65251

Manager - Electric Department  
Missouri Public Service Commission  
301 W. High  
P.O. Box 360  
Jefferson City, Missouri 65102

Ronald A. Kucera, Deputy Director  
for Public Policy  
Department of Natural Resources  
205 Jefferson Street  
Jefferson City, Missouri 65101

Rick A. Muench, President and  
Chief Executive Officer  
Wolf Creek Nuclear Operating Corporation  
P.O. Box 411  
Burlington, Kansas 66839

Dan I. Bolef, President  
Kay Drey, Representative  
Board of Directors Coalition  
for the Environment  
6267 Delmar Boulevard  
University City, Missouri 63130

Union Electric Company

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Lee Fritz, Presiding Commissioner  
Callaway County Courthouse  
10 East Fifth Street  
Fulton, Missouri 65251

J. V. Laux, Manager  
Quality Assurance  
AmerenUE  
P.O. Box 620  
Fulton, Missouri 65251

Jerry Uhlmann, Director  
State Emergency Management Agency  
P.O. Box 116  
Jefferson City, Missouri 65101

Scott Clardy, Director  
Section for Environmental Public Health  
P.O. Box 570  
Jefferson City, Missouri 65102-0570

John D. Blosser, Manager  
Regulatory Affairs  
AmerenUE  
P.O. Box 620  
Fulton, Missouri 65251

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