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OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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Easley was contacted at his office, advised of the identity of the interviewing agent, and interviewed concerning a Department of Labor (DOL) complaint filed by Gary L. Fiser. Fiser alleged that TVA recently posted the job they had previously offered him as settlement to a previous DOL complaint in 1994. Fiser further believes that the posting was done so with malice and was a smoke screen to hide the true intentions of a preselection of another candidate for this position. Easley furnished the following information.

Background

Easley said there were two chemistry positions posted in Fiser's area. In the RAD/Chem organization, there was a total of five positions. Of those five positions, they had two positions that were advertised: (1) program manager at the RAD Control at the pay grade 8 level (programmatic) and (2) program manager--RADCON (technical support).

On the chemistry side, there were two program managers posted: (1) program manager-chemistry (PWR) PG-8 and (2) program manager-chemistry (BWR) PG-8.

(Continued)

Investigation On: July 10, 1996

At: Chattanooga, Tennessee

By: SA David V. VanBockern: DG

File: 2D-169 -4

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OIG-02 (10/93)

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Template = SECY-028

SECY-02

CLEAR REGULATORY COMMISSION

Docket No. 50-390 Official Ex. No. Staff 22

In the matter of TVA

Staff ✓ IDENTIFIED ✓

Applicant _____ RECEIVED _____

Intervenor _____ REJECTED _____

Other _____ WITHDRAWN _____

DATE 5/1/02 Witness _____

Clerk BHM

Also posted was a program manager under the RADWASTE/Environmental Protection - PG-8. All positions were posted at the same time. They posted all of the program manager positions under the radiological and chemistry control.

Prior to the posting of these positions, the previous positions were a combination of the positions to include Chemistry and Environmental Control. The positions carried two specialties--chemistry and environmental.

Before advertising these positions, they had three PG-8 chemistry and environmental positions: one chemistry and environmental PG-7 position and one PG-11 manager position over all of environmental and chemistry.

Fiser currently occupies one of the three PG-8 chemistry and environmental positions.

A restructuring and reorganization plan was set up by Tom McGrath, Manager, Operations Support, and it was determined that the three PG-8 positions in chemistry/environmental would be reduced to two chemistry positions. The job descriptions for the managers of the chemistry/environmental positions were rewritten to form two chemistry positions with the elimination of one position. The position description was rewritten to include only chemistry and not the environmental portion.

Easley said they had to post both positions because they had changed the position description by eliminating the environmental portion of the job, and they wanted to be fair to the three employees currently in the positions so that each would have an equal opportunity to apply for the two new positions. The three individuals currently in the positions are Gary L. Fiser, Sam L. Harvey, and E. S. Chandrasekaran. Harvey was assigned to work with Sequoyah, Fiser was assigned to work with Watts Bar, and Chandrasekaran was assigned to work at Browns Ferry.

All three employees applied for vacancy position announcement (VPA) No. 10703, which is the PWR position covering Watts Bar and Sequoyah. Only Harvey and Chandrasekaran applied for VPA 10702, which is the BWR position at Browns Ferry. Fiser did not apply for the BWR position.

There are a total of six applicants for the VPA 10703, the PWR position. There is also a total of six applicants for VPA 10702, the BWR position.

A selection board will be selected in the near future to make a selection of one employee for each position. No selection board has been designated at the present time. The position posting closed on June 25, 1996.

Easley reiterated in stating that the positions were posted because the position descriptions were changed, eliminating one-half of the position description's duties by taking away the environmental portion. Because of the change of the position description

and the elimination of one of the positions, management felt that it would be fair to advertise the new position so that all applicants would have an equal chance for the two positions.

Easley said that no selection or preselection has been made for any position. All positions closed on June 25, 1996. A complete package of all applicants for all five positions were given to management of RAD/Chemistry on July 8, 1996. Management will fill out a spreadsheet for each applicant and determine who meets the minimum qualifications. Management will then make the determination who will be interviewed for the positions.

Management will then select independent managers in the area of RAD/Chemistry to serve on the selection board. The selection board will do the interviewing of the candidates and make recommendations for selection. Easley said he did not think a selection board has been determined; however, people in the RADCON/Chemistry organization at the three nuclear sites had been contacted and arrangements are presently being made to nominate the selection board. Easley said that he will also be present during the selection process and serve as a facilitator to assure that the selection is fair.

Fiser's Concern

On June 10, 1996, Gary Fiser came to Easley and was concerned about his position being advertised. Easley was concerned and asked Fiser if he would object to having someone witness what Fiser was going to say. Easley was concerned because Fiser told him that if we advertised his position, he was going to file DOL complaint. Easley wanted to take Fiser and conduct the interview in front of Ed Boyles, his supervisor.

Easley said they were not advertising Fiser's position. Fiser's position was chemistry and environmental protection, and they were eliminating all chemistry/environmental protection positions. The new positions were being rewritten to include only the chemistry portion of the position. There were other employees in the same positions that were being eliminated.

Easley took Fiser and they met with Ed Boyles. Fiser told Boyles he didn't think he should have to apply for the position being advertised because of a DOL settlement in 1994 in which he was placed in his current PG chemistry/environmental manager position.

Boyles made the decision to contact someone on Nuclear Labor Relations' staff to review Fiser's settlement agreement. Kathy Welch, Labor Relations, was contacted and asked to review the settlement. Welch got in contact with Brent Marquand, OGC attorney, to get an interpretation. Welch returned and told Boyles that there was nothing in the settlement agreement between TVA and Fiser stating how long Fiser was to be retained in his present position. As there was nothing in the settlement agreement, Boyles made the decision to advertise the position.

Easley said that based on his past experience with DOL and other type settlements, when you reorganize or restructure and change the position description, then the person in that position is treated like everyone else in TVA as set forth in the TVA Policies and Guidelines.

When Fiser initially returned in 1994, he was given the position of program manager technical support as part of his DOL settlement agreement. Several months later, Nuclear Chemistry reorganized and brought the chemistry and environmental positions back together in one organization. They advertised Fiser's position that he currently held at that time, and he applied for the new position. Fiser was eventually selected to fill his current position. When they reorganized and redefined his previous position back in 1994, it was exactly the same thing but in reverse order that they are presently doing now. Initially, they were separate positions in 1994, and they brought them back together. In 1996, they are presently splitting the positions apart and making them separate positions. During the reorganization in 1994 when Fiser's position was changed, Fiser made no complaint and reapplied for the new position. In this reorganization period, some positions were eliminated. At no time during this reorganization and rewriting of Fiser's former position did he ever mention that his position was part of a DOL settlement and that it could not be posted.

After Welch obtained the OGC opinion of the settlement agreement between TVA and Fiser, Welch contacted Boyles. Easley said that based on the results of the review, he contacted Fiser and left a message for Fiser to meet with him and Boyles over the issue of posting the position. Fiser had previously told us that if we posted the position, he was going to file a DOL complaint. Fiser never responded to messages, and he never met with Boyles. Fiser later went on leave for several days, and we went ahead and posted the position. Easley was not aware that Fiser had a death in the family and was away on leave.

During the previous organization, Wilson McArthur was the manager of Radiological Control. Ron Grover was the manager of Chemistry and Environmental Protection. Grover was over the chemistry and environmental group in which Fiser, Harvey, and Chandrasekaran worked as Chemistry Environmental Protection managers. During the recent reorganization McArthur was placed over the Radiological Control/Chemistry Group. Ron Grover's position was eliminated, and Grover was placed "at risk."

As it stands now, McArthur will be in charge of the selection process and will select an independent review board to interview the applicants and make selection for the vacant positions. McArthur will probably be at the interviews; however, the selection will be made by the interview board. The board will be probably be made up of the manager of the RAD Chemistry organization from Sequoyah, Watts Bar, and Browns Ferry. This is not definite and is subject to change.

Downsizing

The majority of the organizations in the corporate offices have been told by management to cut back on their personnel based on budget. Each manager is trying to reach a certain percent each year until the year 2000. Easley thought that maybe Fiser felt that McGrath's organization is trying to cut back more than the requirement for the first year. Fiser indicated to him that maybe McGrath was trying to cut too much this first year and not spread it out over the years. Easley was not certain on this information; however, he said that whatever McGrath is doing, he probably got the sanction from his management to do it.

In conclusion, Easley said that they followed all rules and regulations in the rewriting of the position description and of the posting of the positions. There has been no preselection of any applicant or any position as far as he knows. Fiser has only applied for the one position of program manager, the PWR position, where he could have applied for both positions. Easley saw no fault or misconduct on the part of management in the handling of this issue. Easley was not aware if Fiser brought up any safety concerns.

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