Attachment 1

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CIVIL DIVISION

NANCY K. RUTIGLIANO

Plaintiff

v.

PUBLIC SERVICE ENTERPRISE GROUP (PSEG); PSEG POWER, LLC; PSEG NUCLEAR, LLC; HAROLD W. KEISER, individually and in his capacity as President and Chief Nuclear Officer of PSEG Nuclear, LLC; E. JAMES FERLAND, individually and in his capacity as Chairman, President, and Chief Executive Officer, PSEG; FRANK CASSIDY, individually and in his capacity as President and Chief Operating Officer, PSEG Power, LLC;

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:MORRIS COUNTY
DOCKET NO: MRS-L-2630-03

CIVIL ACTION

COMPLAINT, JURY DEMAND, DESIGNATION OF COUNSEL, CERTIFICATION

Plaintiff, Nancy K. Rutigliano, residing at 165 Edgemont Road, Watchung, NJ 07069 by way of Complaint against defendants hereby says:

FACTS

1. At all times relevant herein plaintiff was employed by defendant PSEG Power LLC and worked full-time at its subsidiary PSEG Nuclear. As Principal Organization Development Consultant with the title of Manager of Culture Transformation, plaintiff reported directly to PSEG Nuclear President and Chief Nuclear Officer Harold W. Keiser (hereinafter "Keiser"). Her duties and responsibilities included inter alia: supporting organization effectiveness and high performance through teamwork and effective leadership within work groups and between organizations; acting as Leadership Coach to Vice-Presidents, Directors, Managers, individuals and select Union leaders, Outage Leadership Teams, and Operations Leadership Teams; supporting working relationships and partnership

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between Management and Union employees; and bringing to management's attention issues and barriers to excellence in performance, including nuclear, industrial and radiological safety issues, leadership weaknesses, and other concerns.

2. At all times relevant herein defendant PSEG Nuclear (hereinafter "Nuclear") was in the business of operating the Salem and Hope Creek Nuclear Generating Stations located in Lower Alloways Creek, New Jersey.

3. PSEG's principal place of business is located in Newark, New Jersey.

4. At all times relevant herein defendant PSEG Power LLC was a corporate entity of which PSEG Nuclear LLC was a subsidiary.

5. At all times relevant herein defendant Harold W. Keiser was President and Chief Nuclear Officer of PSEG Nuclear.

6. At all times relevant herein defendant E. James Ferland, was Chairman, President and Chief Executive Officer of PSEG.

7. At all times relevant herein defendant Frank Cassidy was President and Chief Operating Officer of PSEG Power LLC.

8. In February 1998, plaintiff was hired by PSE&G Corporate in Newark, New Jersey. Within three months, she accepted a "special assignment" at PSEG Nuclear located in Salem County, New Jersey. She continued as a corporate employee on loan full time to Nuclear for several years. In December, 2001, plaintiff accepted a permanent transfer to PSEG Power and continued her work at PSEG Nuclear as a direct report to defendant Keiser.

9. On September 24, 2002, plaintiff attended a meeting with various members of the Operations Leadership Team at the Salem Nuclear Generating Station. At that meeting plaintiff received information from a certain Salem Nuclear Operations Shift Manager who is a Nuclear Regulatory Commission ("NRC") licensed Senior Nuclear Reactor Operator. This information caused plaintiff great concern with respect to plant, personnel and nuclear safety.

10. Accordingly, on that evening of September 24, 2002, at the request of the Salem Nuclear Operations Shift Manager, plaintiff did speak with various Salem Nuclear Operators assigned to this Salem Nuclear Operations Shift Manager. These Salem Nuclear Operators reported that in the very recent past a high-ranking member of the Salem Nuclear Operations Leadership Team had performed an unsafe act in order to keep the Salem Generating Station on-line and generating electricity to meet production numbers. These Salem Nuclear Operators were concerned that pressure for "meeting the numbers" was being exerted by PSEG and PSEG Nuclear Corporate Officers and led to the unsafe act which they believed was deemed a violation of NRC regulations, acceptable nuclear operating principles, company policies, and management-voiced expectations. Furthermore, these Salem Nuclear Operators viewed this as an example of a leader jeopardizing his health and safety and the health and safety of the public in order to "please senior management" by maintaining the level of plant production, thereby increasing revenues. They were concerned that senior management at the highest levels was stressing production over safety, thereby pressuring management and union employees to compromise nuclear safety. These Salem Nuclear Operators expressed grave concern that these management practices were putting the nuclear facility at risk of being shut down by the Nuclear Regulatory Commission. They feared an extended shutdown, which had occurred in 1994. In addition, these Salem Nuclear Operators expressed frustration at senior management ignoring or only paying "lip service" to their safety concerns, including nuclear safety concerns. These Salem Nuclear Operators cited extensive lists of safety concerns and "broken promises" by PSEG Nuclear Vice President David Garchow and PSEG Nuclear Vice President John Carlin to address them. Furthermore, several Salem Nuclear Operators cited reprimands and reprisals for "trying to do the right thing."

11. Following this meeting, plaintiff met with the aforementioned Salem Nuclear Operations Shift Manager. He was so upset about the unsafe act performed by his boss and the loss of command and control essential to safe operations of the nuclear facility that he was contemplating resigning his position. Plaintiff asked him to reconsider and to discuss the matter with Salem Operations Leadership.

12. Within 24 hours plaintiff received various contacts from Salem Nuclear Operators detailing additional unresolved safety concerns and inappropriate management actions. It was made clear that the Salem Nuclear Operators viewed plaintiff as "Harry's Ear" (defendant Keiser) and they expected her to convey these concerns allowing them to be free from further reprisals.

13. On the evening of September 24, 2003 and the following day, Plaintiff advised senior members of the Salem Nuclear Operations Leadership Team of the concerns noted by the Salem Nuclear Operators and the Salem Nuclear Operations Shift Manager. Plaintiff was chastised for "siding with the Union" and believing the Salem Nuclear Operators were genuinely concerned about the manager's safety and plant safety. Plaintiff stressed that she considered the matter "serious" and needing line management's attention immediately. Employee Concerns (a department within "Nuclear") was called in to investigate the matter. A confidential report was generated which substantiates plaintiff's claims.

14. On or about October 2, 2002, plaintiff advised defendant Keiser of the aforenoted nuclear safety, industrial safety, and loss of command and control concerns expressed by the Salem Nuclear Operators and Salem Operations Shift Manager. Plaintiff advised Keiser that he should act to insure Salem Nuclear Operations leadership was working to resolve these serious safety concerns. Plaintiff also advised that the Operations Shift Manager almost quit over this issue. Defendant Keiser stated that the problem lies with "the Union" and that Salem Nuclear Operations management "has it tough."

15. Thereafter the union instituted a grievance relative to the incident described above and other safety issues. At a Third Step grievance proceeding on January 21, 2003, the IBEW (International Brotherhood of Electrical Workers) Business Agent Charlie Hassler said that management rewards unsafe behavior in the name of production and rewards people who work and follow management's direction even when it is unsafe to do so. Hassler cited several examples. Following the Third Step proceeding, plaintiff did speak with the various members of management in attendance and clearly advised that it was their job as leaders to promote a working relationship with the union employees and not "stone wall" on issues as significant as nuclear facility safety, industrial safety, and other matters.

16. In early February 2003, plaintiff met again with defendant Keiser. She laid out a plan, co-sponsored by the Site Vice President and a Director, to address the lack of management engagement at the site and build a stronger focus on site issues, including nuclear, radiological, and industrial safety, human performance, and supervisory presence. Keiser angrily informed plaintiff this was "not her job" and that she was to focus solely on the Salem Operations organization. Plaintiff pointed out that progress with Salem Operations was thwarted because Keiser had not taken the action to insure PSEG Nuclear Operations Vice President O'Connor had the support he needed, that Salem Operations leadership was engaging with the Salem Nuclear Operators, that Keiser was inattentive to the safety and other issues plaintiff had brought to his attention previously, and continued to view the union workers as the problem. Plaintiff voiced she did not share this viewpoint and that safety issues, as evidenced by recent data, were on the rise because of senior management inconsistency and lack of engagement. Plaintiff specifically cited Keiser tolerating the lack of engagement by Director of Production Maintenance Mark Schimmel, whose organization's safety and work performance was in significant decline. Plaintiff quoted statements from the Third Step grievance proceeding, including "Management rewards unsafe behavior."

Plaintiff pointed out that the gains in management-union partnership that had won industry acclaim in 2002 were being lost and Nuclear Operators felt a growing distrust towards senior leadership, especially in the arenas of plant, nuclear, and industrial safety. Plaintiff once again urged Keiser to take action, including insisting PSEG Nuclear Operations and Maintenance Directors become re-engaged in working with the Salem Nuclear Operators and stewards to resolve the long list of plant, personnel and work environment safety issues. She further stated that some NRC-licensed Senior Nuclear Reactor Operators in charge of the nuclear control rooms felt PSEG Nuclear Officers were inconsistent in their approach to plant and nuclear safety. Plaintiff cited the upcoming Hope Creek outage as an opportunity to stress safety of all types over production and she praised plans by the Hope Creek Outage Manager to insure a "Safety-first" focus in the outage.

17. On February 24, 2003 plaintiff was called by defendant Keiser's secretary to meet with defendant Keiser to "go over your bonus." Plaintiff met with defendant Keiser on February 26, 2003. Defendant Keiser asked for an update and plaintiff described, once again, concerns about lack of high level management engagement, especially in Maintenance where performance was declining, concerns about the growing rift between senior leadership and those with nuclear reactor operators licenses and concerns about the Salem Nuclear Equipment Operators still not feeling their safety and work environment issues were being addressed. At the end of this oral report, defendant Keiser said "Anything else?" Plaintiff replied, "Not right now," expecting to move into the discussion of her "bonus." Defendant Keiser then told plaintiff her employment was being terminated as a result of position elimination effective April 16, 2003. Keiser explained this was strictly due to numbers and not plaintiff's performance. The meeting ended abruptly.

18. Plaintiff returned to her office and met shortly thereafter with PSEG Nuclear Vice President of Operations Timothy J. O'Connor. O'Connor expressed surprise at her

termination, said he had expected plaintiff to soon report to him, and apologized for "misreading Harry [Keiser]." O'Connor promised to speak with Keiser on plaintiff's behalf. O'Connor urged plaintiff to keep doing her job up until the last day, look at vacant positions she might qualify for, and "don't give up." Plaintiff took his advice and continued performing her duties and responsibilities.

19. On March 8, 2003 Defendant Keiser's retirement was formally announced. Following this, O'Connor reported to plaintiff that even though he was a Corporate Officer and Vice President ultimately in charge of nuclear safety he had been stripped of all authority, could not fill the numerous vacant positions requiring him to cover all of them himself, and that PSEG Power President Frank Cassidy was "calling the shots." O'Connor expressed concern for PSEG Nuclear's future.

20. On March 19 and 20, 2003, when the Hope Creek Nuclear Generating Station was not producing electricity due to equipment problems, high-level management employees at PSEG Nuclear spoke with plaintiff about their concerns about nuclear safety and inappropriate pressure from Corporate Officers to force non-conservative nuclear safety decision making. Plaintiff urged these leaders to voice their concerns to appropriate parties but they expressed fear and reluctance to do so. O'Connor reported that he was under considerable pressure from PSEG Power President Frank Cassidy and PSEG Chairman of the Board James Ferland to return the Hope Creek Nuclear Generating Unit to service prematurely from its forced outage since the company was losing three million dollars a day in lost revenues. In addition to O'Connor, others in senior management positions and in the Hope Creek Operations organization, including those licensed by the NRC to run the facility safely, expressed concern about this production-at-the-expense-of-safety pressure being exerted by the highest-ranking officers of PSEG Power and PSEG. One executive called the situation "dangerous" and said, "The fact that we were even there...means...We don't come

from safety....They don't trust any of us. . . Yep, it's ludicrous...The people who want to be part of the solution get marginalized." He further expressed the viewpoint that this could be grounds for the NRC "taking the keys away." These comments caused plaintiff grave concern.

21. Plaintiff wanted to insure management knew of these concerns and the gravity of the situation therefore on Thursday, March 20, 2003 she again met with defendant Keiser. Plaintiff expressed that Licensed Nuclear Operators and Senior Licensed Nuclear Operators felt they were being pressured to start the Hope Creek unit back up when it wasn't safe to do so. Plaintiff added that various management employees in key positions had these concerns but were afraid to come to Keiser directly. Plaintiff told Keiser one executive had called the situation "dangerous." Plaintiff asked, "What do we do?" Keiser responded, "We don't do anything, because you know, it's everything you'd expect to see. It's a bunch of bullshit." Defendant Keiser went on the make disparaging comments about the site's unionized nuclear operators and their lack of sincerity about safety matters.

22. Defendant Keiser told plaintiff that the Company's "issues are toe to toe, knock down, drag out with the union." Defendant Keiser indicated that plaintiff could "not help in that area" and that she was "actually a detriment in that arena," justifying her position elimination. Defendant Keiser was referring to her support of union employee-voiced nuclear and industrial safety issues with which defendant Keiser clearly took exception. It was clear Keiser was not interested in hearing more about the leadership and nuclear safety concerns plaintiff was continuing to voice on behalf of union and management employees. He asked no clarifying questions as managers are trained to do whenever safety concerns are expressed.

23. The next day, Friday, March 21, 2003, plaintiff was contacted by Human Resources for a meeting with defendant Human Resources manager David Braun about her termination. On March 24, 2003 at which time defendant Braun informed the plaintiff that

defendant Keiser had determined that her final day at work should be "accelerated" to March 28th from April 16th. Braun acknowledged having been contacted by defendant Keiser after Keiser had met with plaintiff on March 20, 2003. Plaintiff expressed her commitment to completing important projects and working as planned until April 16 but defendant Braun informed her she no longer had that choice. Defendant Braun said she would however retain access to company facilities until April 16, 2003 as previously promised.

24. Plaintiff recognized defendants Keiser and Braun's actions as reprisals for her efforts and a violation of Nuclear Regulatory Commission regulations. Following company policy she reported to defendant Keiser's supervisor, E. James Ferland, Chairman, President and Chief Executive Officer of PSEG via a three-page letter her attempts at raising nuclear safety concerns and the reprisals directed at her. Plaintiff also followed company policy and met with Employee Concerns Manager Thomas Lake to voice her safety concerns and the reprisals directed at her.

25. The next day, March 26, 2003, plaintiff was informed by Braun that her access to all company facilities, materials, and resources would be severed prematurely as well on March 28, 2003. Plaintiff voiced her objections, stating he had told her otherwise just two days before. Plaintiff saw this as further illegal retaliation for voicing nuclear safety and Corporate Officer mismanagement concerns to defendant Chairman Ferland and defendant Employee Concerns Manager Thomas Lake and requested the decision be reversed. Her request was denied.

26. On Thursday, March 27, 2003 plaintiff was told by Vice President O'Connor that defendant Keiser had, in fact, ordered plaintiff's last day be moved up to March 28, 2003. O'Connor also acknowledged that "they are after you and they are after others." Plaintiff clearly understood this to refer to her escalating the reporting of nuclear safety concerns up to and including defendant Chairman of the Board E. James Ferland as well as her providing

support for Union concerns. Plaintiff was being terminated for failing to be silent or silenced about safety issues, PSEG Nuclear senior management failings, and inappropriate pressure towards production over nuclear plant safety by the highest level officers of the PSEG Enterprise and PSEG Power. O'Connor stated, "It's coming and you should not stay. You don't need to find yourself caught up into it and being crucified....You did exactly what you should have and you hold your head up high."

27. On March 28, 2003, plaintiff worked her final day for PSEG Nuclear.

FIRST COUNT

1. Plaintiff repeats the allegations of the Facts as set forth above.

2. Plaintiff, as set forth above, disclosed to a supervisor an activity, policy or practice of defendant that she reasonably believed was in violation of a law, rule or regulation. Further, plaintiff objected to an activity, policy or practice of defendant which she reasonably believed was in violation of a law, rule or regulation and which was incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

3. Plaintiff's aforementioned conduct is protected by the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 to 8 (CEPA).

4. Defendants, as set forth above, retaliated against plaintiff because of her protected conduct in violation of CEPA.

5. As a result of defendants' wrongful conduct, plaintiff has suffered economic loss, emotional distress and has been otherwise injured.

SECOND COUNT

1. Plaintiff repeats each and every allegation of the First Count as if set forth at length herein.

2. Plaintiff's discharge was contrary to a clear mandate of public policy, in violation of *Pierce vs. Ortho Pharmaceutical Corp.*, 84 N. J. 58 (1980).

3. As a result of defendants' wrongful conduct plaintiff has been injured.

WHEREFORE, plaintiff demands judgment against defendants for front pay, back pay, compensatory damages, punitive damages, attorneys' fees and litigation costs, interest and any other relief the Court deems fair and equitable.

DEMAND FOR JURY

Plaintiff hereby demands a trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is hereby advised that Robert B. Woodruff, of the firm Algeier Woodruff, P.C. is hereby designated as trial counsel in the above captioned matter.

CERTIFICATION

I certify that to the best of my knowledge, information and belief, as follows: there are no parties who should be joined in this action. Additionally, there are no other pending or contemplated proceedings that pertain to this matter.

ALGEIER WOODRUFF, P.C.

ROBERT B. WOODRUFF, ESQUIRE

DATED: