SYSTEM COUNCIL U-4 IBEW

REPRESENTING LOCAL UNIONS: 359, 622, 627, 641, 759, 820, 1042, 1066, 1191, 1263, 1908

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AFL-CIO

April 28, 2016

Honorable Stephen G. Burns, Commissioner
U.S. Nuclear Regulatory Commission
Mail Stop 0-16G4
Washington, D. C. 20555-0001

Dear Chairman Burns:

On behalf of the more than three thousand men and women that IBEW System Council U-4 represents in the nuclear power industry, I urge you to reject staff request SECY-15-0149 to send the Role of Third Party Arbitrators in Licensee Access Authorization and Fitness-For-Duty Determinations at Nuclear Power Plants, that would place severe limits on arbitration for nuclear power plant workers, to Expedited Rule Making.

The Council serves as the bargaining agent for eleven IBEW locals that represent Florida Power & Light employees throughout Florida. Two of those locals, IBEW Local 359 and 627, represent FPL employees at the Turkey Point and St. Lucie nuclear power plants. We have collectively bargained the benefits and wages enjoyed by those workers from the very inception of both plants. In order to ensure that FPL abides by its collective bargaining agreement with the Council, we have negotiated a grievance and arbitration provision to address any breaches of that agreement. In order to ensure that those benefits and wages are secure and that our members' rights are protected, we have also negotiated a provision that none may be disciplined or discharged without just cause. In the event FPL does terminate or discipline a member without just cause, that member and the Council have the right to challenge that determination to and through binding arbitration.

The rule that the staff proposes to address on an expedited basis negates that right to just cause for any employee working in a nuclear power plant. Whether acting in good faith or not, an employer like FPL would functionally have the right to discharge a worker without any meaningful review simply by declaring that worker "unfit for duty" and depriving him of unescorted access. Even where an arbitrator was able to rule that the employer lacked just cause to discharge the employee, the proposed rule would leave that employee without any meaningful remedy. Effectively it would provide the employer the very unilateral and unfettered control over employees' working conditions – indeed, the very right to work – that collective bargaining is designed to check and balance.

This Council has had firsthand experience with abuse of the process. In 2008 during an arbitration to challenge the discharge of one of our members, in which his trustworthiness had been called into question, the Medical Review Officer admittedly changed his analysis of the member, clearly due to pressure from FPL. Thankfully the arbitrator understood what had happened and reinstated the member, who, to this day, continues to work for FPL at its Turkey Point plant and who even acts in a supervisory capacity at times. Under the proposed rule, there would have been no meaningful review, no challenge to the flip-flop in the doctor's testimony, and no return to duty for an employee who has since proven his value to the organization.

We are aware of no case, no ruling, where an arbitrator has returned to duty an unfit employee. We do have firsthand evidence where an employee fit for duty was discharged unjustly. The proposed rule lacks any evidentiary foundation, amounting to a solution for a non-existent problem and gutting the collective bargaining rights for employees in the nuclear power industry. We respectfully ask that the staff request be denied.

Sincerely,

Gary J. Aleknavich
Business Manager

GJA/ct
File:

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