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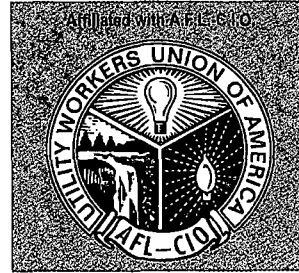
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February 10, 2017

By Email daniel.doyle@nrc.gov
Daniel Doyle, Project Manager
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: **Public Meeting Regarding NRC Rulemaking Activity on the Role of Third Parties in Licensee Access Authorization and Fitness-For-Duty Determinations**

Dear Mr. Doyle:

I am the President of the Utility Workers Union of America, AFL-CIO. I am writing to urge that the Nuclear Regulatory Commission not engage in rulemaking related to denial of access authorizations and/or fitness-for-duty determinations. Any rule by the NRC which interferes with a union's ability to represent its members in an arbitration would undercut collectively bargained grievance and arbitration procedures and grant licensees/employers virtually unfettered discretion to discharge workers by denying them unescorted access to nuclear facilities.

The UWUA and its Local Affiliates represent over 1700 employees at nuclear facilities throughout the country, including at Indian Point 2 and 3, Palisades, Fermi II, San Onofre, Perry, Pilgrim and Seabrook. Each of these facilities is covered by a labor contract with a grievance and arbitration procedure for the resolution of disputes. The design of the respective grievance and arbitration procedures varies depending on factors unique to the particular facility and its workforce, but in every case, where the Union believes a discipline is not justified, the grievance/arbitration procedure authorizes and arbitrator to determine whether or not the employer's denial of access (i.e., discharge) is justified based on the facts presented at an arbitration. A rule which precluded arbitrators from restoring unescorted access would effectively eliminate the agreed-upon provisions for arbitration of discipline contained in the UWUA labor contracts with nuclear employers. Such an NRC rule would eliminate contractual due process rights for thousands of employees working at nuclear facilities throughout the country. It would also undermine the UWUA and other unions that represent employees at nuclear facilities. Moreover, it could lead to abuse by employers who seek to deny access to employees for reasons unrelated to work performance, including retaliation for ensuring a safe nuclear workplace.

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Any NRC Rule which provides for limitations on or the elimination of a union's ability to reinstate employees through a grievance and arbitration procedure is misguided.

First, due process in the workplace actually improves (not injures) the safety and security of nuclear facilities. Employees with due process rights are more likely to report safety concerns even if disclosure is not in the best interests of licensees/employers.

Second, arbitrators have been deciding discipline/access cases at nuclear facilities for decades. The UWUA knows of no instance where compliance with the collective bargaining agreement resulted in reinstatement of a worker which jeopardized the safety or security of a nuclear facility.

Third, the authority of impartial arbitrators to decide discipline/access issues exists only because the Union and the Employer have voluntarily agreed to arbitration as a method for resolving disciplinary/access issues.

Fourth, the UWUA and its Local Affiliates carefully review the merits of grievances related to discharged employees at nuclear facilities. If the Union believes a discharge is without merit or that the reinstatement of an employee could result in safety concerns to other employees or the plant itself, a UWUA Local Affiliate can exercise its discretion not to arbitrate a grievance of a discharged employee. In fact, it is rare that an employee who is discharged from a nuclear facility has their discharge arbitrated.

Fifth, the UWUA works closely with the licensees/employers in the nuclear industry to ensure that safety standards are met. A rule that provides that licensees/employers have unbridled authority to discharge workers, without recourse to a collectively bargained grievance/arbitration procedure, could undermine that cooperation.

The basic premise of any claim that a licensee/employer should have sole discretion to deny access rights is that the licensee/employer has greater moral authority to speak for the security and safety of the public than the unions and the workers in the nuclear industry. That is a false premise. No one is more committed than the UWUA, its Local Affiliates and its members to the safety and security of the public.

Denying nuclear plant employees due process is not in the interest of safety or security or of the public. Such a rule would serve only the self-interest of some licensees/employers who seek to undermine the collectively bargained agreements which provide for due process in the workplace.

The UWUA, its Local Affiliates and its members speak for the interest of the public we serve when we oppose a request for rulemaking. The UWUA respectfully requests that the NRC not

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engage in rulemaking that relates to licensee access authorization and/or fitness-for-duty determinations.

Sincerely



D. Michael Langford
National President