

DED/DCB
(R.D.S.)

September 9, 1991

Docket No. 50-237
Docket No. 50-249

AMS No. RIII-90-A-0104

Commonwealth Edison Company
ATTN: Mr. Cordell Reed
Senior Vice President
Opus West III
1400 Opus Place
Downers Grove, IL 60515

Dear Mr. Reed:

On March 11, 1991, the U. S. Department of Labor's Wage and Hour Division in Chicago, Illinois received a complaint from a former employee of Fluor Constructors International, Inc., a Commonwealth Edison Company contractor at the Dresden Nuclear Power Station. The former employee alleged that his employment was terminated and placed on a "denied access" list improperly for voicing concerns over safety issues at an ALARA meeting held at Dresden on October 12, 1990. In response to that complaint, the Wage and Hour Division conducted an investigation, and in the enclosed letters dated August 15, 1991, the Area Director of the Wage and Hour Division found that the evidence obtained during the Division's investigation indicated that the employee was engaged in a protected activity within the ambit of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprised his complaint.

Based on a review of the complaint filed with DOL, a violation of 10 CFR 50.7 may have occurred which could have a chilling effect on other licensee or contractor personnel.

Therefore, you are requested to provide this office, within 30 days of the date of this letter, a response which:

1. Provides the basis for the employment action regarding the former contractor employee and includes a copy of any investigation reports you have regarding the circumstances of the action; and
2. Describes the actions, if any, taken or planned to assure that this employment action does not have a chilling effect in discouraging other licensee or contractor employees from raising perceived safety concerns.

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

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In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter will be placed in the NRC Public Document Room.

The response requested by this letter is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

Original signed by
A. Bert Davis

A. Bert Davis
Regional Administrator

Enclosure: As stated

cc w/enclosure:

- D. Galle, Vice President - BWR Operations
- T. Kovach, Nuclear Licensing Manager
- E. D. Eenigenburg, Station Manager DCD/DCB (RIDS) OC/LFDCB
- Resident Inspectors LaSalle, Dresden, Quad Cities
- Richard Hubbard
- J. W. McCaffrey, Chief, Public Utilities Division
- Robert Newmann, Office of Public Counsel, State of Illinois Center Licensing Project Manager, NRR

bcc w/enclosure:

- H. Thompson, DEES
- J. Lieberman, OE
- J. Goldberg, OGC
- J. Partlow, NRR
- E. Pawlik, OI:RIII
- Jules G. Van Rengen, District Director, U. S. Department of Labor

YES
PP for
Punk/da

RIII
C.M. WEL
Pederson
9/3/91

RIII
BB
Berson
9/3/91

RIII
Green
9/9/91

RIII
CJP
Paperiello
9/9/91

RIII
Davis
9/9/91



230 South Dearborn Street, Room 412
Chicago, Illinois 60604-1595
Telephone: (312) 353-8145

Reply to the Attention of

JVR:dw

August 15, 1991

Mr. Daniel Shamblin
Construction Manager
Commonwealth Edison Company
1400 Opus Place, Suite 650
Downers Grove, Illinois 60515

Dear Mr. Shamblin:

This letter is to notify you of the results of our compliance actions in the above case. As you know, Michael Roos filed a complaint with the Secretary of Labor under the Energy Reorganization Act on March 11, 1991. A copy of the complaint; a copy of Regulations, 29 CFR Part 24; and a copy of the pertinent section of the statute were furnished to you in a previous letter from this office.

Our initial efforts to conciliate the matter did not result in a mutually agreeable settlement. A fact-finding investigation was then conducted. Based upon our investigation, the weight of evidence to date indicates that Michael Roos was a protected employee engaging in a protected activity within the scope of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprise his complaint. The following information supported this determination:

Michael Roos has been placed on a "denied access" list which has resulted in his being denied employment at Commonwealth Edison and other nuclear power plants. This action has limited his employability in his trade. The incident being "denied access" was his voicing concerns over safety issues at an ALARA meeting held at Dresden on October 12, 1990. Commonwealth Edison's position that Mr. Roos's behavior at the meeting was indicative of an extreme fear of radioactivity is not supported by any facts.

AUG 28 1991

This letter is notification to you that the following actions are required to remedy the violation:

Mr. Roos is to be removed from the "denied access" list which precludes him from employment at Commonwealth Edison and other nuclear facilities. He is to be compensated for lost wages during his employment at the Dresden site plus other lost wages and expenses incurred, including attorney's fees, as a result of being placed on a denied access list.

This letter is also notification to you that, if you wish to appeal the above findings and remedy, you have a right to a formal hearing on the record. To exercise this right you must, within five (5) calendar days of receipt of this letter, file your request for a hearing by telegram to:

The Chief Administrative Law Judge
U. S. Department of Labor
Suite 700, Vanguard Building
1111 - 20th Street, N.W.
Washington, D. C. 20036

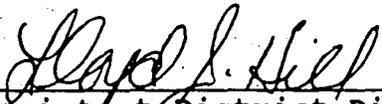
Unless a telegram is received by the Chief Administrative Law Judge within the five-day period, this notification of findings and remedial action will become the Final Order of the Secretary of Labor which must be implemented within 30 days. By copy of this letter, Michael Roos is being advised of the determination and the right to a hearing. A copy of this letter and complaint have also been sent to the Chief Administrative Law Judge. If you decide to request a hearing, it will be necessary for you to send copies of the telegram to Michael Roos and to me at 230 South Dearborn Street, Room 412, Chicago, Illinois 60604. After I received the copy of your request, appropriate preparations for the hearing can be made. If you have any questions, do not hesitate to call me.

It should be made clear to all parties that the U. S. Department of Labor does not represent any of the parties in a hearing. The hearing is an adversarial proceeding in which the parties will be allowed an opportunity to present their evidence for the record. The Administrative Law Judge who conducts the hearing will issue a recommended decision to the Secretary based on the evidence, testimony, and arguments presented by the parties at the hearing.

The Final Order of the Secretary will then be issued after consideration of the Administrative Law Judge's recommended decision and the record developed at the hearing and will either provide for appropriate relief or dismiss the complaint.

Sincerely,

Jules G. Van Rengen
District Director

BY 
Assistant District Director

cc: Jack Dakes
Michael Roos
John Dzedziak, Attorney
Nuclear Regulatory Commission
Chief Administrative Law Judge
D/ARA Richard A. McMahon
RS John Secaras
Daniel Shamblin

U.S. Department of Labor

Energy Research Administration
Department of Labor



230 South Dearborn Street, Room 412
Chicago, Illinois 60604-1595
Telephone: (312) 353-8145

Reply to the Attention of

JVR:dw

August 15, 1991

CERTIFIED MAIL P 962 684 739
RETURNED RECEIPT REQUESTED

Mr. Jack Dakes
Labor Relation
Floor Constructions International, Inc.
200 W. Monroe Street
Chicago, Illinois 60606

Dear Mr. Dakes:

This letter is to notify you of the results of our compliance actions in the above case. As you know, Michael Roos filed a complaint with the Secretary of Labor under the Energy Reorganization Act on March 11, 1991. A copy of the complaint; a copy of Regulations, 29 CFR Part 24; and a copy of the pertinent section of the statute were furnished to you in a previous letter from this office.

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Washington, D. C. 20036

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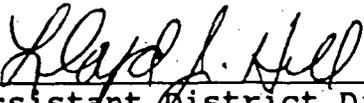
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Jules G. Van Rengen
District Director

BY


Assistant District Director

cc: Jack Dakes
Michael Roos
John Dzedziak, Attorney
Nuclear Regulatory Commission
Chief Administrative Law Judge
D/ARA Richard A. McMahon
RS John Secaras
Daniel Shamblin