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USNRC  
OFFICE OF ADMINISTRATION

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August 26, 1993

The Chief  
Rules Review and Directives Branch  
Mail Stop: P-223  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Sir:

### Whistleblower Protection

I am responding to the request for comment published in the Federal Register on August 2, 1993.

I am an employee of Public Service Electric and Gas Company, at the Salem generating station in New Jersey. I work in the Nuclear Safety Review (NSR) organization. My comments are based on recent experiences in the use of the Company's internal safety-concern program, and with a complaint filed with the DOL under 10CFR50.7. As requested, my comments are keyed to the numbering system of the request for comments.

#### A. Responsiveness and Receptiveness of Licensees to Employee Concerns so That Employees Will Feel Free To Raise Safety Issues Without Fear of Retaliation

PSE&G has a Quality/Safety Concern program that is administered by the GM - NQA/NSR. My experience has been that it serves more to identify troublemakers than the concerns they report. In response to a concern I filed recently, the GM prepared, but did not issue, a letter reprimanding me for my part in an incident on December 3, 1992, and directed my supervisor to discipline me. The Company has since acknowledged the validity of the concern, and management's inappropriate threatening reaction. The NRC is aware of the concern and the retaliatory threats and so far it has not acted to ensure the provisions of 10CFR50.7 are applied. The policy seems to be 'see no evil and hear no evil' until it is transmitted via the DOL complaint process. The opportunity was lost for resolution of the issue without further damage to my relationship with PSE&G, and open conflict is now inevitable.

My expectation is that after a genuine issue is brought to the attention of the employer, and the NRC, it will be resolved between the NRC and the licensee; that the whistleblower can withdraw without further damage to himself. The present approach does not do this.

My suggestion is that the NRC should review and monitor the Safety Concerns program, as it would any technical program, for effectiveness, appropriateness, and for identification of

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unresolved issues. This activity should be written into the NRC's inspection plans so that, at least once per annum, the records are reviewed in the course of routine inspection. If intimidation or retaliation continues, in the opinion of the whistleblower, redress should be available from the courts without the need for a complaint to the DOL.

#### D. NRC Investigation During DOL Process

My experience is that, because of the small number of whistleblower complaints brought to any branch of the DOL, it is unfamiliar with the nuclear industry and the application of 10CFR50.7. There is no body of experience available to the complainant. I am handicapped in my complaint by the fact that neither the investigator nor I have any previous experience with whistleblower protection in the nuclear industry. The investigator was also unfamiliar with the way things are done in the nuclear industry; e.g., Technical Specifications and their significance. The DOL therefore does the only thing it knows how to do; it conducts a normal wage-and-hour investigation using normal standards and criteria. The effect is that whistleblower protection is the same as in any other industry, and any special protection that may be intended by 10CFR50.7 does not exist.

If the present MOU is continued, my suggestion is that the NRC should take an active part in the DOL's investigations, and compensate for the local lack of experience by gathering and providing the body of industry experience. Without doing the investigation itself, the NRC could ensure the intent of 10CFR50.7 is satisfied, and whistleblower protection is uniformly applied throughout the industry and with time.

I am attaching a copy of a recent letter to the Regional Director of Region 1, to illustrate my comments. You may call me during working hours at 609/339-5486.

Thank you



Bert E. Williams, P.E.