

U.S. NUCLEAR REGULATORY COMMISSION

Docket Nos. 50-335, 50-389, 50-250, 50-251

RECEIPT OF PETITION FOR DIRECTOR'S DECISION  
UNDER 10 C.F.R. § 2.206

---

Notice is hereby given that by Petition dated March 7, 1994, Thomas J. Saporito, Jr., (Petitioner) has requested that the NRC take action with regard to the Florida Power and Light Company. Specifically, the Petitioner requests that the NRC: (1) submit an amicus curiae brief to the Department of Labor (DOL) regarding his complaints numbered 89-ERA-007 and 89-ERA-017 concerning the Petitioner's claim that the licensee retaliated against him for engaging in protected activity during his employment at Turkey Point Nuclear Station in violation of 10 C.F.R. 50.7; (2) institute a show cause proceeding pursuant to 10 C.F.R. 2.202 to modify, suspend or revoke the licensee's licenses authorizing the operation of Turkey Point; and (3) institute a show cause proceeding pursuant to 10 C.F.R. 2.202 and order the licensee to provide the Petitioner with a "make whole" remedy, including but not limited to, immediate reinstatement to his previous position, back wages and front pay with interest, compensatory damages for pain and suffering, and a posting requirement to offset any "chilling effect" Petitioner's discharge may have had upon other employees at the Turkey Point and St. Lucie Nuclear Stations.

The Petitioner's stated bases for his requests can be summarized as follows: (1) Although the NRC generally defers to the DOL process before taking action against a licensee, in this

9404110364-XA

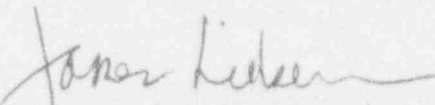
case the Administrative Law Judge (ALJ) rendered a decision, enabling the NRC to take the action Petitioner requests, particularly to offset any "chilling effect" which may have resulted from the licensee's action; (2) under the Memorandum of Understanding (MOU) with DOL, there are times NRC actions are warranted notwithstanding the ongoing DOL process because of the significance of the issues to public health and safety; (3) the record in this case contains evidence which was ignored by the ALJ, and the NRC should weigh the entire record in determining whether the licensee violated the Energy Reorganization Act (ERA) and 10 C.F.R. 50.7; (4) the ALJ erred in several respects as a matter of law in reaching his decision that the Petitioner was not discriminated against; (5) the adverse action by the licensee occurred immediately after the Petitioner was in contact with the NRC and filed complaints under the ERA with DOL; (6) the licensee's actions against the Petitioner constitute a "hostile work environment" and the NRC is mandated by Congress to ensure that a non-hostile work environment exists at NRC-licensed facilities; (7) the NRC has a duty to ensure that licensee employers maintain a work environment which encourages employees to raise safety issues, which is not the situation at Turkey Point because of the licensee's continuing retaliation against employees who do so; (8) the licensee illegally interrogated Petitioner about his protected activity; (9) if the NRC fails to act, it will contradict its own regulations that recognize the right of employees to bypass management and report their concerns

directly to the NRC; (10) the NRC has expressly defined "protected activities"; (11) the licensee's request that Petitioner be examined by a company doctor was unjustified; (12) the licensee's disparate treatment of Petitioner was illegal and must be challenged by the NRC; and (13) the NRC is required to act by virtue of its regulations at 10 C.F.R. 50.9 which provide that the DOL process is an extension of NRC authority.

The request is being treated pursuant to 10 C.F.R. 2.206 of the Commission's regulations. The request has been referred to the Director, Office of Enforcement.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, N.W., Washington, D.C. 20555.

FOR THE NUCLEAR REGULATORY COMMISSION

  
James Lieberman, Director  
Office of Enforcement

Date at Rockville, Maryland  
this 7th day of April 1994

Thomas J. Saporito, Jr.

- 2 -

bcc w/encls:

NRC Resident Inspector  
U.S. Nuclear Regulatory Commission  
P.O. Box 1448  
Homestead, Florida 33090

DISTRIBUTION:

JMTaylor, EDO  
JLMilhoan, DEDR  
WTRussell, NRR  
SDEbneter, R:II  
JBlaha, EDO  
LReyes, NRR  
JLieberman, OE  
JRGray, OE  
JGoldberg, OGC  
SChidakel, OGC  
BUryc, R:II  
DRosano, OE  
Day File  
2.206 File  
EDO 9838

JLieberman, OE  
JGoldberg, OGC  
JGray, OE  
RPRosano, OE  
Day File  
2.206 File

PDR ☒ Yes ☐ No  
DCS ☒ Yes ☐ No

Document: G:\SAP22062.DR

OE  
RPRosano  
4/6 /94

DD:OE  
JRGray  
4/ /94

D:OE  
JLieberman  
4/ /94