

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of

Mr. Richard Balcom, Manager,  
Nuclear Security Department  
Houston Lighting & Power Company  
South Texas Project

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Docket Nos. 50-498 and 50-499  
License Nos. NPF-76 and NPF-80  
EA 93-222

DEMAND FOR INFORMATION

I

Houston Lighting & Power Company (HL&P or Licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. The licenses authorize the operation of South Texas Project Electric Generating Station, Units 1 and 2, respectively, in accordance with the conditions specified therein. The facility is located on the Licensee's site near Bay City, Texas.

Mr. Richard Balcom is the Manager, Nuclear Security Department, Houston Lighting & Power Company, South Texas Project.

10 CFR 50.5 prohibits any employee of a 10 CFR Part 50 licensee from engaging in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission. Any person found to be in violation of this prohibition may be subject to enforcement action in accordance with the procedures in 10 CFR Part 2, Subpart B.

In May 1992, an investigation was initiated by the NRC's Office of the Inspector General (OIG) based on allegations received from former HL&P security personnel alleging that their employment at HL&P's South Texas Project facility had been terminated in retaliation for bringing security related concerns to the attention of the NRC. These individuals are David Lamb, James Dean, and William Worth. Two of the individuals, Lamb and Dean, filed complaints with the U.S. Department of Labor in May 1992 alleging violations of Section 210 (now Section 211) of the Energy Reorganization Act. Their complaints were consolidated into a single proceeding and are currently pending before a Department of Labor Administrative Law Judge (93-ERA-007 & 93-ERA-008).

Based on the OIG investigation, which was completed in February 1993, it appears that discrimination may have occurred against Lamb, Dean, and Worth, as established by the following considerations:

1. That Lamb, Dean and Worth made allegations to HL&P management, to the South Texas Project employee concern program (Speakout), and to the NRC;
2. That these allegations related to personal misconduct and facility security, and pertained to matters under the regulatory jurisdiction of the NRC;

3. That certain HL&P supervisors and managers had knowledge of some or all of the allegations made to Speakout or to the NRC, and that Mr. Richard Balcom, the manager of the Nuclear Security Department, had specific knowledge that Lamb had engaged in a protected activity when Lamb provided Balcom with information about possible false information provided to NRC inspectors;
4. That Lamb, Dean and Worth were the only individuals whose employment was terminated following a reorganization of the Nuclear Security Department;
5. That Balcom was directly responsible for the process used to justify the termination of employment of these individuals; and
6. That the process used to justify the termination of employment of these individuals (specifically, the preparation of the Special Performance Profile forms used to rate all employees in the Nuclear Security Department) was conducted in a manner which was prejudicial to these individuals.

With regard to the preparation of the Special Performance Profile forms, the OIG investigation found several anomalies. These included:

1. That the points awarded to Worth under "Evaluation of other job related factors" appear to have been changed from zero to minus 2 to ensure that

Worth received fewer total points than another member of the security force;

2. That the points awarded to Lamb under "Evaluation of special skills" did not reflect his having been a firearms instructor and a Certified Protection Professional, while another individual received credit for similar skills;
3. That negative comments were made on Dean's form regarding the mishandling of Safeguards Information under "Evaluation of other job-related factors," while no comments were made on the form of another individual who had mishandled Safeguards Information;
4. That Lamb's and Worth's scores were inconsistent with their latest performance appraisals, particularly with regard to a comment made on Lamb's form that he was "Not supportive of management decisions with which he does not agree"; and
5. That, of the 17 individuals rated, only Lamb, Dean and Worth received negative point values under specific factors.

Taken together, these findings indicate apparent violations of 10 CFR 50.7, which prohibits discriminating against individuals who engage in certain protected activities, including providing concerns about safety or compliance with NRC requirements to their employer or to the NRC. In addition, these findings indicate apparent violations of 10 CFR 50.5 by Mr. Balcom, in that

Mr. Balcom appears to have intentionally taken actions that would cause the Licensee to be in violation of 10 CFR 50.7, constituting deliberate misconduct on the part of Mr. Balcom. The NRC is concerned not only that violations of these important requirements may have occurred, but that these actions had or may have a chilling effect on the willingness of other plant employees to bring safety or compliance concerns to HL&P management, Speakout or the NRC.

Therefore, the NRC requires further information to determine whether the NRC should take enforcement action against Mr. Balcom for violations of 10 CFR 50.5, and to determine whether the Commission can have reasonable assurance that Mr. Balcom's continued participation in licensed activities will support a work environment that encourages individuals to voice safety and compliance concerns without fear of reprisal, and will support the Licensee in otherwise conducting its activities in accordance with the Commission's requirements.

### III

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.5, in order for the Commission to determine whether enforcement action should be taken to ensure compliance with NRC regulatory requirements, Mr. Balcom is required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within 30 days of the date of this Demand for Information the following information, in writing and under oath or affirmation:

A. A response to the OIG findings given above, including:

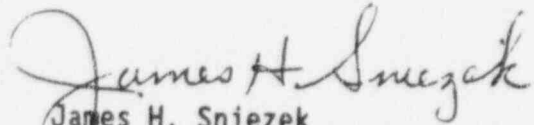
1. The basis for Mr. Balcom's actions affecting the employment of Lamb, Dean, and Worth; and
2. An explanation of why the NRC should not take direct enforcement action against Mr. Balcom under the Deliberate Misconduct Rule, 10 CFR 50.5, for his engaging in discrimination as prohibited by 10 CFR 50.7; and

B. Any other information that Mr. Balcom believes is relevant to the NRC's enforcement determinations in this matter.

The NRC requests that Mr. Balcom provide this information in a form that can be placed in the NRC Public Document Room (i.e., Mr. Balcom should highlight for redaction names and other identifying information from submitted documentation that he believes would clearly constitute an unwarranted invasion of personal privacy). The NRC will make the final decision on whether any such information should be withheld from public disclosure. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

After reviewing Mr. Balcom's response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

FOR THE NUCLEAR REGULATORY COMMISSION



James H. Sniezek  
Deputy Executive Director  
for Nuclear Reactor Regulation,  
Regional Operations, and Research

Dated at Rockville, Maryland  
this 29<sup>th</sup> day of September 1993

SEP 29 1993

Mr. Richard Balcom

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OE: LCoblentz <i>L</i> <i>9/5/93</i>	OIG: LNorton <i>L</i> <i>via phone call from L. Williams 9/7/93</i>	OGC: JGoldberg <i>L</i> <i>via E-mail to Joe Long 9/17/93</i>	NRR: LKokajko <i>L</i> <i>via phone discussion 9/7/93</i>
RA, IV: JMilhoan <i>L</i> <i>via G. Sanborn Long Telephone 9/16/93</i>	OE: JLieberman <i>L</i> <i>by discussion with L. L. Dorman, J. Long 9/17/93</i>	DEDR: <i>J. Long</i> JHShiezek <i>09/21/93</i>	

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