



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

October 17, 1995

IA 95-042

Richard L. Balcom  
[HOME ADDRESS DELETED  
PURSUANT TO 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION  
(PREDECISIONAL ENFORCEMENT CONFERENCE)  
(NRC OFFICE OF INSPECTOR GENERAL INVESTIGATION 92-49I)

Dear Mr. Balcom:

This refers to a predecisional enforcement conference conducted between Houston Lighting & Power Company (HL&P) and the NRC on June 16, 1995 at the NRC Region IV Office in Arlington, Texas. You participated in this conference. The conference was held to review details concerning the alleged discrimination, in violation of the requirements of 10 CFR 50.7, by HL&P against two former members of the licensee's Nuclear Security Department (NSD), Messrs. David Lamb and James Dean. On September 29, 1993, following the issuance of an NRC Office of Inspector General investigation report, the NRC issued a Demand for Information (DFI), requesting that you provide additional information concerning your involvement in May 1992 in terminating the employment of these two South Texas Project (STP) Nuclear Security Department employees. The DFI was issued because it appeared that you had engaged in deliberate misconduct as defined in 10 CFR 50.5 by causing HL&P to discriminate against these individuals after they had provided safety concerns about STP to the NRC, an activity that is protected by statute. Specifically, Messrs. Lamb and Dean were terminated by HL&P as a result of your reorganization of the NSD following your appointment to the position of Manager of the Department in January 1992. In addition to the DFI issued to you, the NRC also issued a DFI to HL&P, requesting similar information.

In your November 15, 1993 response to the DFI, you denied any wrongdoing and stated that you had not discriminated against either individual. In view of the fact that the issues involved in this matter were being actively considered in an ongoing Department of Labor (DOL) hearing before an Administrative Law Judge (ALJ), the NRC considered it appropriate to await the DOL ALJ's decision before resolving the NRC enforcement issue.

On April 6, 1995, the ALJ issued his RDO. The ALJ found that the former NSD employees had been discriminated against by HL&P in that their employment was terminated on May 4, 1992 in retaliation for having earlier identified and reported safety concerns to the NRC. The ALJ also determined that the remedial actions you took to deal with what you perceived as the unsatisfactory conditions within the NSD support the inference that they were causally related to Messrs. Lamb's and Dean's concerns and their persistence in seeking vindication of those concerns. Following the issuance of the ALJ's RDO, the predecisional enforcement conference was conducted on June 16, 1995.

This conference was transcribed and open to public observation. The purpose of the conference was to give you and HL&P the opportunity to present your positions regarding your actions connected with the alleged discrimination of the two former NSD employees and to discuss any corrective action that you and HL&P have taken as a result of the ALJ's findings.

Based upon its evaluation of the findings of the DOL ALJ, the information developed during the OIG investigation, the DFI responses, and the information developed during the predecisional enforcement conference, the NRC has determined that your actions with regard to Messrs. Lamb and Dean violated 10 CFR 50.5 and caused HL&P to be in violation of 10 CFR 50.7.

As the then manager of the NSD, you were in a position that conferred upon you trust and confidence in your ability to effectively manage and promote the safe operation of that facility. In that position, you were responsible for the professional treatment of all individuals who bring forward safety concerns. Your actions did not adhere to these standards, and did not provide an appropriate example for those individuals under your supervision, or individuals of HL&P's organization with which you interfaced. Rather, your actions in this matter created a potential chilling effect towards other station personnel identifying safety concerns.

Given the significance of your actions, I have decided, after consultation with the Commission, to issue to you the enclosed Notice of Violation for your violation of 10 CFR 50.5. The violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Action" (Enforcement Policy) (60 FR 34381, June 30, 1995) at Severity Level II. You are required to respond to this letter and the enclosed Notice within 30 days of the date of the final decision by the Secretary of the Department of Labor in 93-ERA-007 and 93-ERA-008, as described in the enclosed Notice of Violation, and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. Should you contest this violation, the NRC does not intend to resolve any issue in dispute until after the Secretary issues a final decision. In addition, after reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

We further note that your employer removed you from licensed activities after issues about possible discrimination arose. The staff has not required that you be removed from NRC regulated activities, and does not currently intend to place any restrictions on your future involvement in licensed activities.

Also enclosed with this letter for your information is a copy of a letter and Notice of Violation and Proposed Imposition of Civil Penalties to HL&P.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," enforcement actions are placed in the NRC Public Document Room (PDR). A copy of this letter and the enclosed Notice of Violation with your address removed will be placed in the PDR.

Sincerely,



L. J. Callan  
Regional Administrator

Enclosures: Notice of Violation  
Letter and Notice of  
Violation/Proposed CPs  
to HL&P

cc w/enclosure:  
Houston Lighting & Power Company  
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Vice President, Nuclear  
P.O. Box 289  
Wadsworth, Texas 77483

Houston Lighting & Power Company  
ATTN: Lawrence E. Martin, General Manager  
Nuclear Assurance & Licensing  
P.O. Box 289  
Wadsworth, Texas 77483

City of Austin  
Electric Utility Department  
ATTN: J. C. Lanier/M. B. Lee  
721 Barton Springs Road  
Austin, Texas 78704

City Public Service Board  
ATTN: K. J. Fiedler/M. T. Hardt  
P.O. Box 1771  
San Antonio, Texas 78296

cc w/encl: See Next Page

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Central Power and Light Company  
ATTN: Mr. C. A. Johnson  
P.O. Box 289  
Mail Code: N5012  
Wadsworth, Texas 77483

INPO  
Records Center  
700 Galleria Parkway  
Atlanta, Georgia 30339-5957

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50 Bellport Lane  
Bellport, New York 11713

Bureau of Radiation Control  
State of Texas  
1100 West 49th Street  
Austin, Texas 78766

Office of the Governor  
ATTN: Andy Barrett, Director  
Environmental Policy  
P.O. Box 12428  
Austin, Texas 78711

Judge, Matagorda County  
Matagorda County Courthouse  
1700 Seventh Street  
Bay City, Texas 77414

Licensing Representative  
Houston Lighting & Power Company  
Suite 610  
Three Metro Center  
Bethesda, Maryland 20814

Houston Lighting & Power Company  
ATTN: Rufus S. Scott, Associate  
General Counsel  
P.O. Box 61867  
Houston, Texas 77208

cc w/encl: See Next Page

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