



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

December 15, 1995

EA 95-271

TU Electric
ATTN: C. L. Terry, Group Vice President
Nuclear Production
Energy Plaza
1601 Bryan Street, 12th Floor
Dallas, Texas 75201-3411

SUBJECT: APPARENT VIOLATION OF 10 CFR 50.7
(INVESTIGATION CASE NO. 4-95-011)

Dear Mr. Terry:

This is in reference to an investigation conducted by the NRC's Office of Investigations (OI) to determine whether a former employee at Comanche Peak Steam Electric Station (CPSES) was retaliated against for contacting the NRC. This investigation was prompted by TU Electric informing the NRC in February 1995 that an employee's access to the plant had been temporarily revoked shortly after he telephoned the NRC with concerns about reductions in staffing. The investigation findings were discussed with Roger Walker, Manager of Regulatory Affairs, on December 11, 1995, and with you and Mr. Walker on December 15, 1995.

As you were informed, the investigation substantiated the concern that an employee's access to the plant was revoked by TU Electric management because he reported a concern to the NRC. Based on its review of the investigation findings, including a review of TU Electric's own investigation of this matter, the NRC believes that the decision to revoke this employee's access to the facility may have been in violation of 10 CFR 50.7, which prohibits discriminating against employees who engage in protected activity. In addition, the NRC is concerned that the managers involved in the decision to revoke the employee's access may have violated 10 CFR 50.5, which prohibits individuals from deliberately causing violations of NRC requirements.

The NRC recognizes that you became aware of this matter within hours of its occurrence, immediately reversed the decision and counseled the involved managers, and issued a letter to CPSES employees reaffirming their right to contact the NRC. As a result of your actions, the potentially affected employee did not become aware of the fact that his access to the facility had been temporarily revoked. We also recognize that the revocation of the employee's access to the facility would not have prevented him from carrying out his normal responsibilities. Nonetheless, the action taken by these managers was directly connected to the employee's having telephoned the NRC and did, albeit temporarily and without the employee's knowledge, affect the terms and conditions of his employment. Furthermore, while the NRC commends the actions you took to reverse this decision and to counsel the involved

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managers, the NRC is concerned that managers at this level of your organization would lack sensitivity to this fundamental issue of protecting the rights of employees who contact the NRC directly with their concerns.

Therefore, these apparent violations are being considered for escalated enforcement action, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy, NUREG-1600). As discussed with you and Mr. Walker, the NRC plans to conduct a transcribed, predecisional enforcement conference to determine if enforcement action should be taken against TU Electric and the involved managers. The conference has been scheduled at 8:30 a.m. CST on Tuesday, January 16, 1996, in the NRC's Arlington, Texas office.

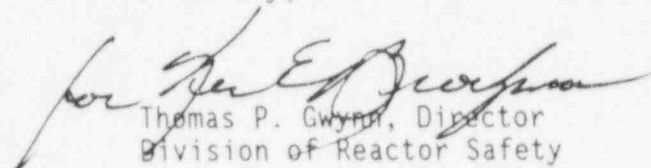
The decision to hold a predecisional enforcement conference does not mean that the NRC has made a final determination that violations occurred or that enforcement action will be taken. Please be aware that the number and characterization of apparent violations described in this letter may change as a result of further NRC review. Accordingly, NRC is not issuing a Notice of Violation at this time. This conference is being held to obtain information to enable the NRC to make an enforcement decision, such as a common understanding of the facts, root causes, corrective actions, significance of the issues and the need for lasting and effective corrective action. In addition, the conference is an opportunity for TU Electric and the involved managers to provide any information concerning your perspectives on: 1) the severity of the apparent violations; 2) the factors that the NRC considers in determining whether enforcement action should be taken against individuals (Section VIII of the Enforcement Policy); 3) the application of the factors that the NRC considers when it determines the amount of a civil penalty that may be assessed in accordance with Section VI.B.2 of the Enforcement Policy; and 4) any other application of the Enforcement Policy to this case, including the exercise of discretion in accordance with Section VII.

TU Electric will be advised by separate correspondence of the results of our deliberations on this matter. No response regarding these apparent violations is required at this time.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be placed in the NRC Public Document Room (PDR).

Should you have any further questions concerning this matter, we will be pleased to discuss them with you.

Sincerely,



Thomas P. Gwynn, Director
Division of Reactor Safety

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TU Electric

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cc w/Enclosure:

TU Electric

ATTN: Roger D. Walker, Manager of
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