

PUBLIC



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 19, 1996

Mr. Oliver D. Kingsley, Jr.  
President, TVA Nuclear and  
Nuclear Officer  
6A Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

Dear Mr. Kingsley:

This is in reference to our telephone conversation on January 16, 1996 in which you inquired about the scheduling of a predecisional enforcement conference on EA 95-199 involving potential discrimination against a former TVA employee, Mr. William F. Jocher. That conference is currently scheduled for January 24, 1996.

In the call, you inquired about the basis for opening this conference under the Enforcement Policy. I indicated that, while predecisional enforcement conferences are not normally open to public observation, the Enforcement Policy specifically provides that "a conference may ... be open if the conference involves issues related to an ongoing adjudicatory proceeding ... or where the evidentiary basis for the conference is a matter of public record, such as an adjudicatory decision by the Department of Labor." NUREG-1600, Section V, 60 Fed. Reg. 34380, 34386 (June 30, 1995). Since the matter to be discussed at the scheduled conference is the subject of a public adjudication pending before a Department of Labor (DOL) Administrative Law Judge (ALJ), the quoted Enforcement Policy provision appears to apply in this case. On that basis, we intend to open this particular predecisional enforcement conference.

As to the scheduling of the conference, you noted that, while this case has been litigated before a DOL ALJ, the ALJ has not yet issued a Recommended Decision and Order (RD&O). The DOL ALJ RD&O would likely contain valuable information bearing directly on the appropriate enforcement action in this case. On further consideration, we have concluded that it would be appropriate to await the ALJ recommended decision before proceeding with a predecisional enforcement conference. Accordingly, we will cancel the enforcement conference currently scheduled for January 24, 1996 and would propose to reschedule the conference following the issuance of the DOL ALJ's RD&O. Consistent with the Enforcement Policy, the rescheduled conference will be open to public observation.

Sincerely,

James Lieberman, Director  
Office of Enforcement

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