

NOTICE OF VIOLATION

Mr. Frank A. Warriner

IA 96-015

Based on an NRC investigation (5-93-023) completed in May 1994, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violation is set forth below:

10 CFR 50.5 provides, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission.

10 CFR 50.7, Employee Protection, prohibits discrimination by a Commission licensee against any employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. Protected activities are described in Section 210 (now 211) of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or Energy Reorganization Act.

Contrary to the above, in December 1991, Frank A. Warriner, who was at the time employed by Arizona Public Service Company (APS), a licensee of the NRC, as a maintenance supervisor, deliberately discriminated against a contract employee based on the employee's engaging in protected activities. Specifically, in August 1993, Mr. Warriner admitted that he declined to hire a contract instrumentation and control technician for a Palo Verde Nuclear Generating Station, Unit 1 outage in December 1991 because he had learned that the technician had raised concerns while employed at Palo Verde and at another nuclear facility. Mr. Warriner's actions caused APS to be in violation of 10 CFR 50.7. (01013)

This is a Severity Level III Violation (Supplement VII). (01013)

Pursuant to the provisions of 10 CFR 2.201, Mr. Warriner is required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission within 30 days of the date of this Notice of Violation. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Mr. Warriner's response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued to show cause why such other enforcement action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Under the authority of Section 182 of the Act 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Because the response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information that is not already in the public record is necessary to provide an acceptable response, then please provide a bracketed copy of the response that identifies the information that should be protected and a redacted copy of the response that deletes such information. If Mr. Warriner requests withholding of such material, the request must specifically identify the portions of the response that is requested to be withheld and provide in detail the bases for the claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information).

Dated at Arlington, Texas
this 7th day of March 1996