

January 13, 1997

EA 95-171 and EA 95-277

Georgia Power Company
ATTN: Mr. W. George Hairston, III
Executive Vice President
Nuclear Operations
Post Office Box 1295
Birmingham, Alabama 35201

SUBJECT: REVIEW OF REPLY TO NOTICE OF VIOLATION
(Department of Labor Case Nos. 90-ERA-030, 91-ERA-001, and
91-ERA-011)

Dear Mr. Hairston:

This is in response to your letter of June 27, 1996, which was in reply to our Notice of Violation (Notice) issued on May 29, 1996, regarding Department of Labor (DOL) cases involving Mr. Marvin B. Hobby (EA 95-171) and Mr. Allen L. Mosbaugh (EA 95-277), former employees of the Georgia Power Company (GPC). In both of these cases, the Secretary of Labor found that GPC discriminated against these former employees for engaging in protected activities. As a result of these findings, NRC issued a Severity Level I violation for each of the violations of 10 CFR 50.7.

In its reply, GPC denied the violations and provided explanations and documentation to support its position. In addition, GPC stated that (1) NRC action in these cases is premature in that the Secretary of Labor decisions are not yet final; (2) reinstatement of Messrs. Hobby and Mosbaugh would be disruptive during the interim period while the final decisions are unknown; and (3) the Notice of Violation should explicitly acknowledge GPC's right to appeal the Secretary of Labor's decisions and should provide for withdrawal of the violations in the event the decisions are overturned.

We note that in the case of Mr. Mosbaugh, the DOL Administrative Review Board (ARB) issued a "Final Order Approving Settlement and Dismissing Complaint" dated August 23, 1996. In that order (ARB Case No. 96-067), the ARB approved the settlement agreement and dismissed the Mosbaugh complaints with prejudice. By Order dated August 29, 1996, the DOL Administrative Law Judge effectuated the ARB Order and dismissed both DOL cases (91-ERA-1 and 91-ERA-11) related to Mr. Mosbaugh. Based on the settlement agreement and subsequent order of dismissal with prejudice, the Mosbaugh case is now moot as it relates to further appellate review or other adjudicatory action.

As to your denial of the violations, NRC evaluated your reply and the supplemental information that was provided and/or referenced. In general, the additional information had been considered by NRC in its deliberations in these cases as it was presented to the NRC during the October 4, 1995, predecisional enforcement conference and in other docketed correspondence related to these cases. As communicated to you previously, NRC enforcement

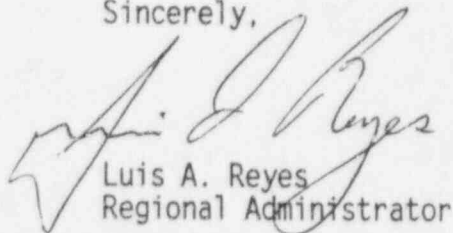
actions in discrimination cases such as these are based on the DOL decision. Absent compelling, new information to refute the Secretary of Labor's conclusions in these cases, the NRC finds no basis at this time to challenge the decision. Therefore, the violations stand as cited in the original Notice.

Further, we recognize your right to appeal the Secretary of Labor's decision and note your intent to do so with regard to the case related to Mr. Hobby. In the event that case is successfully appealed at a later date and the Secretary of Labor's Decision reversed, the NRC will reconsider the enforcement action at that time.

At this time, no additional response to the Notice of Violation is required. As addressed above, if a future appeal of the Hobby case is successful, NRC will re-evaluate the enforcement action. However, if unsuccessful, GPC shall provide to NRC a supplemental response to the Notice of Violation addressing any additional corrective actions within 30 days of completion of the judicial review and issuance of a decision in the case. In the interim, please keep the NRC informed of the status of any appeals and provide copies of the briefs or other filings in the case to the Director, Office of Enforcement.

If you have any questions, please contact Mr. Bruno Uryc, Director, Enforcement and Investigations Staff or Ms. Carolyn Evans, Regional Counsel at 404-331-5501.

Sincerely,



Luis A. Reyes
Regional Administrator

Docket Nos. 50-424 and 50-425
License Nos. NPF-68 and NPF-81

cc:

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