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

April 11, 1988

Texas Utilities Electric Company
ATTN: Mr. William G. Council
Executive Vice President
400 North Olive Street, Lock Box 81
Dallas, TX 75201

Gentlemen:

On June 12, 1987, the U. S. Department of Labor's Wage and Hour Division in New York, New York, received a complaint from Mr. Lorenzo Mario Polizzi, who worked as a mechanical engineer at the Comanche Peak Steam Electric Station (CPSES) as an employee of Gibbs & Hill, Inc. until December 1986. Mr. Polizzi alleged that he was discriminated against, reassigned to a position away from the site, and eventually terminated from employment with Gibbs & Hill because he had raised safety concerns while performing his duties at CPSES. In response to that complaint, the Wage and Hour Division conducted an investigation and, in the enclosed letter dated July 21, 1987, the Area Director of the Wage and Hour Division found that the evidence obtained during the Division's investigation indicated that the employee was engaged in a protected activity within the ambit of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprised his complaint. The Area Director's decision has been appealed by Gibbs & Hill and the case is scheduled for hearing before Administrative Law Judge Michael H. Schoefeld during the weeks of May 22-27, 1988 and May 31-June 3, 1988 in New York.

The NRC is concerned that a violation of the employee protection provisions set forth in 10 CFR 50.7 may have occurred and that the actions taken against this former Gibbs & Hill employee may have had an adverse effect on other contractor or licensee personnel. Therefore, you are requested to provide this office, within 30 days of the date of this letter, a response which describes what actions you have taken to look into this matter, the results thereof, and actions, if any, taken or planned to assure that this employment action does not have an adverse effect in discouraging other contractor or licensee employees from raising perceived safety concerns.

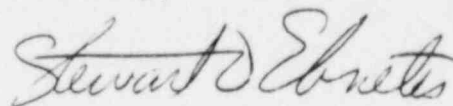
In accordance with Section 2.790 of NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter will be placed in the NRC Public Document Room.

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PDR ADOCK 05000445
H PDR

Texas Utilities Electric Company - 2 -
Mr. William G. Council

The response requested by this letter is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

A handwritten signature in cursive script that reads "Stewart D. Ebner". The signature is written in dark ink and is positioned above the typed name.

Stewart D. Ebner, Director
Office of Special Projects

Enclosure:
As stated

cc: See next page

W. G. Council
Texas Utilities Electric Company

cc:

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Assistant Attorney General
Environmental Protection Division
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Comanche Peak Steam Electric Station
Units 1 and 2

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Comanche Peak Project Division
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Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
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Senior Citizens Alliance Of
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W. G. Council
Texas Utilities Electric Company

- 2 - Comanche Peak Electric Station
Units 1 and 2

cc:

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Administrative Judge Peter Bloch
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Washington, D.C. 20555

Elizabeth B. Johnson
Administrative Judge
Oak Ridge National Laboratory
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Oak Ridge, Tennessee 37830

Dr. Kenneth A. McCollom
1107 West Knapp
Stillwater, Oklahoma 74075

Dr. Walter H. Jordan
881 West Outer Drive
Oak Ridge, TN 37830

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
26 Federal Plaza Rm. 2251
New York, NY 10278
Telephone: (212) 264-8185



Reply to the Attention of:

CERTIFIED MAIL - RETURN
RECEIPT REQUESTED--NO. P 228 839 592

July 21, 1987

Michael D. McDowell, Senior Counsel
Dravo Corporation
One Oliver Plaza
Pittsburgh, PA 15222

Re: Lorenzo Mario Polizzi vs.
Gibbs & Hill, Inc.

Dear Mr. McDowell:

This letter is to notify you of the results of our compliance actions in the above case. As you know, L. Mario Polizzi filed a complaint with the Secretary of Labor under the Energy Reorganization Act on June 12, 1987. A copy of the complaint, a copy of Regulation 29CFR Part 24, and a copy of the pertinent sections of the statute were furnished in a previous letter from this office.

Our initial efforts to conciliate the matter revealed that the parties would not at that time reach a mutually agreeable settlement. An investigation was then conducted. Based on our investigation, the weight of evidence to date indicates that L.M. Polizzi was a protected employee engaging in protected activity within the ambit of the Energy Reorganization Act, and that discrimination as defined and prohibited by the statute was a factor in the actions which comprise his complaint. The following disclosures were persuasive in this determination.

Mr. Polizzi's status as a protected employee is clear. In October of 1986, Mr. Polizzi was employed as a mechanical engineer at the Comanche Peak Steam Electric Station in Glen Rose, Texas. While employed in that capacity, on October 23, 1986, Mr. Polizzi wrote a memo to his supervisors, J. Irons and D.C. Purdy, which was forwarded to the Gibbs & Hill New York office, outlining specific concerns regarding a potentially reportable design deficiency in the pipe rupture analysis. Mr. Polizzi's concerns regarding the pipe rupture analysis, and willingness to take his complaint outside the firm were well known among Gibbs & Hill employees at Comanche Peak. In his subsequent work locations in New York and Tennessee, he was vocal about his concerns

with the pipe rupture analysis and his increasing dissatisfaction with Gibbs & Hill's response to his complaint.

Gibbs & Hill's immediate response to Mr. Polizzi's memo was to transfer him to the New York office while all other permanent Gibbs & Hill mechanical engineers were transferred to different jobs on the Comanche Peak location. No other response to Mr. Polizzi's memo on the part of Gibbs & Hill was provided until late January and early February of 1987 when Mr. Polizzi was visited on an almost daily basis by an engineer from the applied mechanics group, Mr. Ted Kosmopoulos. Mr. Kosmopoulos and Mr. Polizzi had heated arguments, many of which were overheard by nearby employees on the validity of Mr. Polizzi's October 23, 1986 complaint. Mr. Kosmopoulos apparently attempted to persuade Mr. Polizzi to accept Gibbs & Hill's position that his complaint was totally without merit and withdraw the complaint.

On 2/19/87 Mr. Polizzi received a memo from D. Purdy and C. Corban refuting his complaint. On 2/24/87 Mr. Polizzi responded to this memo accepting Gibbs & Hill's position on two areas and further stating his concerns on two others. In addition, his dissatisfaction with Gibbs & Hill's response and his intention to pursue the matter with the NRC were widely discussed among his colleagues.

On February 27, Mr. Polizzi received a layoff notice in a meeting with Richard Carr and Joseph Alberti. Mr. Polizzi received a package from Mr. Carr which included a Gibbs & Hill "proprietary information" form. Polizzi requested a private meeting with Mr. Carr. In that meeting he informed Carr that he could not sign the form as he was planning to go to the NRC and therefore could not agree not to release potentially confidential information. He also advised Carr of his belief that he was being terminated as a result of his October 23, 1986 memo and subsequent defense of his complaint. Carr told Polizzi he would look into his allegations.

On February 28, 1987 Mr. Polizzi contacted the NRC by phone and letter. Approximately one week later Mr. Polizzi was contacted by Mr. Carr's office offering him a job at the TVA. Mr. Polizzi's resume had been in a group of resumes that were submitted by Gibbs & Hill to TVA during the period 1/17/87 to 1/20/87 by Paul Giangreco. This submission of his resume was done by Mr. Giangreco prior to Polizzi's meetings with Ted Kosmopoulos during which he refused to withdraw his complaint. Mr. Polizzi also indicated he was not asked to update his resume as were others who were being considered for the TVA project. His subsequent rehire on March 11, 1987 by Gibbs & Hill to work at the TVA appears to be the result of two factors. First, Gibbs & Hill needed more personnel than was available to fulfill their TVA commitments; even transferring

a group of people from the Comanche Peak site. Second, Mr. Polizzi had clearly stated his intention to pursue his claim with the NRC and his rehire and assignment to Tennessee appears to be a convenient way of forestalling his NRC complaint.

On May 14, 1987 Mr. Polizzi was officially terminated, receiving formal notification from Richard Carr. While Gibbs & Hill claims he was advised earlier, a June 3, 1987 letter from Kenneth Scheppele, president of Gibbs & Hill to former TVA employees points out that meetings were held with the TVA as late as May 13, 1987 in an attempt to renew the contract. Thus, the May 14, 1987 termination date given by the complainant appears to be substantiated by Gibbs & Hill's own documentation.

There has never been any indication of poor work performance and in fact Mr. Polizzi has consistently received above average raises. Thus, the pattern emerges that Gibbs & Hill responded to a Regulation 10CFR 50.55e complaint from a competent employee on a troubled project by first getting him away from the project, then terminating his employment as soon as feasibly possible. His subsequent rehire and termination appear to be an attempt to diffuse Mr. Polizzi's allegations and to obscure the actual reason for his dismissal.

As to Gibbs & Hill's contentions that another employee has filed similar complaints without adverse action, our understanding is that these complaints have been resolved internally without NRC notification. Therefore, we do not feel the circumstances are the same.

This letter will notify you that the following actions are required to abate the violation and provide appropriate relief:

Mr. Polizzi is requesting the sum of \$150,000 (three years salary) plus attorney fees. Mr. Polizzi has been unemployed since May, 1987 and contends that because of this action he will have difficulty in obtaining employment in the industry.

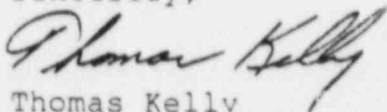
This letter will also notify you that if you wish to appeal the above findings and remedy, you have a right to a formal hearing on the record. To exercise this right you must, within five (5) calendar days of receipt of this letter, file your request for a hearing by telegram to:

The Chief Administrative Law Judge
U.S. Department of Labor
Suite 700 - Vanguard Building
1111 20th Street, NW
Washington, DC 20036

Unless a telegram request is received by the Chief Administrative Law Judge within the five day period, this notice of determination and remedial action will become the final order of the Secretary of Labor. By copy of this letter, I am advising Mr. Polizzi of the determination and right to a hearing. A copy of this letter and the complaint have also been sent to the Chief Administrative Law Judge. If you decide to request a hearing it will be necessary to send copies of the telegram to Mr. Polizzi and to me at 26 Federal Plaza, Room 2251, New York, NY 10278, (212) 264-8185. After I receive the copy of your request, appropriate preparations for the hearing can be made. If you have any questions do not hesitate to call me.

It should be made clear to all parties that the role of the Department of Labor is not to represent the parties in any hearing. The Department would be neutral in such a hearing which is simply part of the fact-development process, and only allows the parties an opportunity to present evidence for the record. If there is a hearing, an Order to the Secretary shall be based upon the record made at said hearing, and shall either provide appropriate relief or deny the complaint.

Sincerely,



Thomas Kelly
Area Director

TK/cbm

cc:

Mr. Lorenzo Mario Polizzi
100 Spring Street
Metuchen, NJ 08840

Betty St. Clair, Esquire
Rabanowitz, Boudin, Standard,
Krinsky & Lieberman, PC
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The Chief Administrative Law Judge
U.S. Department of Labor
Suite 700 - Vanguard Building
1111 20th Street, NW
Washington, DC 20036

Mr. Phil McKee, Deputy Director for
Comanche Peak Project
Office of Special Projects
Nuclear Regulatory Commission
Washington, DC 20555

Texas Utilities Electric Company - 2 -
Mr. William G. Council

The response requested by this letter is not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

original signed by
Stewart D. Ebnetter, Director
Office of Special Projects

Enclosure:
As stated

cc: See next page

bcc with enclosure:
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L. Chandler, OGC
J. Taylor, DEDO

Docket File

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J. Lyons
J. Wilson
R. Warrick
CPPD-LA
M. Malloy
J. Moore, OGC
E. Jordan
J. Partlow
F. Miraglia
ACRS (10)

OG #1 3/30/89

OFC	: DD:6/PD:OSP	: D:CPPD:OSP	: DD:OSP	: D:OSP			
NAME	: P:McKee:cb	: CIGrimes	: J:Axelrad	: SDEbnetter			
DATE	: 3/21/89	: 3/26/88	: 4/6/88	: 4/8/88			

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