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July 10, 1986

Mr. Lando W. Zech, Jr., Chairman  
Mr. James K. Asselstine  
Mr. Frederick M. Bernthal  
Mr. Thomas M. Roberts  
United States Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Re: Alabama Power Company - Nuclear Regulatory  
Commission Investigation/Farley Nuclear Plant

Dear Commissioners:

Yesterday Mr. W.C. Parler, advised me that the Commission has under consideration my proposal to the Office of Investigations of certain terms and conditions for employee interviews at the Joseph M. Farley Nuclear Plant. Those terms and conditions were described in my letter of May 6, 1986, which is attached hereto as Attachment 1. Please accept this letter as a supplement to my earlier correspondence and, where applicable, as a modification of it.

First, with respect to item #5 of my letter, we have been informed that it is legally impossible for the NRC to agree to this condition because of the obligations imposed by the Freedom of Information Act. Accordingly, we agree to modify this proposal so it complies with that law. We would appreciate, however, receiving notification from the NRC if such a request is filed.

My letter did not address the possibility of multiple interviews and, because of the highly technical nature of the investigation, then it is possible that multiple interviews will be required. To assist in the investigation, we are amiable to these, if these repeat interviews

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PDR COMMS NRCC  
CORRESPONDENCE PNU

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are for the purpose of either clarifying the earlier interview or discussing topics or documents that were neither known nor contemplated at the first interview.

Some objection has been made about the presence of an attorney from this office attending the interview. The thought has been expressed by OI investigator Mr. Robert Burch that our presence will "chill" the interview and the full and fair exchange of information between the witness and the investigator. We reject this reasoning and urge you to do so also.

Without commenting on the thinly veiled implication in this comment that an attorney from this office would countenance something less than the whole truth, we call your attention to the fact that our proposed conditions are nothing more than a restatement of the basic rules of conduct used routinely in the Federal Court system of the United States. That court system has been dedicated to finding truth and establishing justice for over two hundred years and to suggest that their methodology "chills" these objectives is to suggest the absurd.

A more likely way to chill the full candor which our witnesses have (and are willing to express to OI) is to invade their homes after being asked not to, telephone them after being asked not to, or seek to conduct clandestine interviews in motel rooms; all of which the Office of Investigations has done in this case.

Instead of this methodology, we propose one which has been developed successfully in the judicial branch of our government, and trust that the Commission will see that our proposal affords basic due process rights to all concerned.

Additionally, we are informed that in interviews conducted with former employees of Alabama Power Company at various plant locations throughout the United States, OI has allowed them to have present an attorney of their choosing. We ask for nothing more here.

In this regard, we restate that each of our clients has voluntarily asked for this firm to represent them. They are

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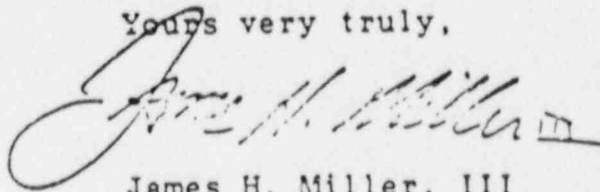
free to discharge us if they so desire; we are ethically bound to advise them of a conflict of interest if in our opinion, one exists.

We restate what we have communicated to OI at every available opportunity, which is that our clients are anxious to cooperate with OI in the investigation and are willing to be interviewed under the conditions we have previously mentioned.

Finally, we wish the Commission to consider that Alabama Power Company is presently a defendant in three lawsuits filed in the Tenth Judicial Circuit for the State of Alabama, in which three former employees are claiming money damages for their wrongful discharge. There will undoubtedly be some overlap in evidence between the OI investigation and the discovery/trial evidence in these litigated matters. This is yet another reason why we feel that the terms and conditions of my earlier letter, as modified here, strike a fair balance between the licensee and OI.

We look forward to hearing from you soon.

Yours very truly,

A handwritten signature in dark ink, appearing to read "James H. Miller, III", is written over the typed name.

James H. Miller, III

JHMiii/dtc

cc: Mr. W.C. Parler