



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

DCB
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May 27, 1988

Docket No. 50-341

AMS No. RIII-88-A-0001

The Detroit Edison Company
ATTN: B. Ralph Sylvia
Group Vice President
Nuclear Operations
6400 North Dixie Highway
Newport, MI 48166

Gentlemen:

On April 7, 1988, the U. S. Department of Labor's Wage and Hour Division in Grand Rapids, Michigan, received a complaint from an employee of Detroit Edison Company. The former employee alleged that he was improperly reassigned because he had raised safety concerns while performing his duties at the Enrico Fermi Nuclear Plant. In response to that complaint, the Wage and Hour Division conducted an investigation, and in the enclosed letter dated May 4, 1988, 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 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 the employee may have had a chilling effect on other licensee or contractor personnel.

Therefore, you are requested to provide this office, within 30 days of the date of this letter, a response which:

1. Provides the basis for the employment action regarding the employee and includes a copy of any investigation reports you have regarding the circumstances of the action; and
2. Describes the actions, if any, taken or planned to assure that this employment action does not have a chilling effect in discouraging other licensee or contractor employees from raising perceived safety concerns.

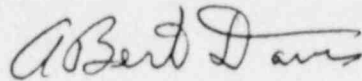
After reviewing your response, the NRC will determine whether enforcement action is necessary at this time to ensure compliance with regulatory requirements.

In accordance with Section 2.790 of the 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.

May 27, 1988

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. Bert Davis
Regional Administrator

Enclosure: As stated

cc w/enclosure:

Patricia Anthony, Licensing

P. A. Marquardt, Corporate

Legal Department

DCD/DCB (RIDS)

Licensing Fee Management Branch

Resident Inspector, RIII

Ronald Callen, Michigan

Public Service Commission

Harry H. Voight, Esq.

Michigan Department of

Public Health

Monroe County Office of

Civil Preparedness

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
2920 Fuller N.E. Suite 100
Grand Rapids, Michigan 49505-3409
616/456-2183



Reply to the Attention of: DHO:pm

May 4, 1988

Mr. Ralph Sylvia
Vice President Nuclear Operations
Detroit Edison Company
6400 N. Dixie Highway
Newport, Michigan 48166

RE: Jaafar M. Hamka vs.
Detroit Edison Company

Dear Mr. Sylvia:

This letter is to notify you of the results of our compliance actions in the above case. As you know Jaafar M. Hamka filed a complaint with the Secretary of Labor under the Energy Reorganization Act (ERA) on April 6, 1988. A copy of the complaint, a copy of Regulations, 29 CFR Part 24, and a copy of the pertinent section 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 Jaafar M. Hamka was a protected employee engaging in a protected activity with 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. Hamka received a less than satisfactory performance appraisal and loss of job responsibilities after expressing concerns regarding certain procedures in his department and indicating that the Nuclear Regulatory Commission would be contacted regarding the matter. After contacting the Nuclear Regulatory Commission, Mr. Hamka was forced to go on medical leave because of difficult working conditions.

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

Reinstatement to Mr. Hamka of the job responsibilities of the position of lead engineer; and reissuance of his performance appraisal with a satisfactory rating with the appropriate pay raise based upon this rating.

RIT-88-R 0001

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May 4, 1988
Detroit Edison Company

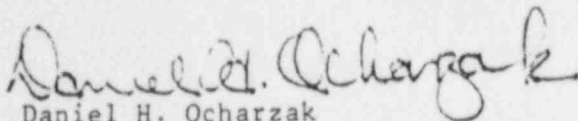
This letter will also notify you that if you wish to appeal the above findings and remedy, you have a right to a formal hearing on the record. To exercise this right you must, within five (5) calendar days of receipt of this letter, file your request for a hearing by telegram to:

The Chief Administrative Law Judge
U.S. Department of Labor
Suite 700, Vanguard Building
1111 - 20th Street NW
Washington, D.C. 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 final order of the Secretary of Labor. By copy of this letter I am advising Jaafar M. Hamka 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 Jaafar M. Hamka and to me at 2920 Fuller N.E. Suite 100, Grand Rapids, Michigan, 49505-3409, telephone 616/456-2183. 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 of the Secretary shall be based upon the record made at said hearing, and shall either provide appropriate relief or deny the complaint.

Sincerely,



Daniel H. Ocharzak
Area Director

cc: Jaafar M. Hamka
Atty Ronald Reosti
Atty Stanley Slazinski
Nuclear Regulatory Commission