



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

August 3, 1999

DCS  
PDR

EA 98-165

Mr. T. C. Feigenbaum  
Executive Vice President and Chief Nuclear Officer  
Seabrook Station  
North Atlantic Energy Service Corporation  
c/o Mr. James Peschei  
Post Office Box 300  
Seabrook, New Hampshire 03874

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL  
PENALTY - \$55,000  
(Office of Investigations Report 1-98-005)

Dear Mr. Feigenbaum:

This refers to the subject investigation conducted by the NRC Office of Investigations (OI) at North Atlantic Energy Service Corporation's (NAESCO) Seabrook Station. Based on the findings of the investigation, apparent violations were identified involving: (1) discrimination by Williams Power Corporation (WPC), a contractor of NAESCO, against an electrician for raising safety issues regarding electrical wiring in the control panel for the control building air conditioning (CBA) system; (2) creation of an inaccurate record by WPC regarding work completed on the CBA system; and (3) the failure to promptly correct the incorrectly terminated cables of the CBA system. The synopsis of the subject OI report was forwarded to you with our letter, dated March 16, 1999. Our subsequent letter, dated April 8, 1999, provided a summary of the facts that led the NRC to conclude that violations may have occurred. On June 2, 1999, a predecisional enforcement conference (conference) was held with you, members of your staff, and representatives of WPC to discuss the apparent violations, their causes, and your corrective actions.

After review of the information developed during the investigation, the information provided during the conference, and other information provided subsequent to the conference, including the additional information provided in your letter dated June 15, 1999, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice). The violation involved discrimination against the WPC electrician who raised a concern regarding a wiring discrepancy in the control panel of the CBA system. Specifically, the WPC electrician identified that two electrical conductors in the CBA control panel were terminated in a configuration opposite that shown in the applicable design documents. The electrician first raised this concern to his foreman, and later brought the discrepancy to the attention of a NAESCO quality control (QC) inspector on January 7, 1998. Subsequently, on January 16, 1998, the WPC foreman selected this specific electrician for a layoff.

9908110154 990803  
PDR ADCK 05000443  
G PDR

11  
IE14

At the conference, you contended that the electrician's raising of the safety concern was not a factor in his selection for layoff, noting that there were legitimate reasons for this action. While legitimate reasons supporting the layoff may exist, the NRC has concluded, based on the evidence developed during the OI investigation and the information provided at the enforcement conference, that the layoff was motivated, at least in part, by the individual's engagement in protected activity. Specifically, the NRC has concluded that the foreman selected the electrician for the layoff at least in part in retaliation for the manner in which he raised the wiring discrepancy; i.e. by bringing it to the attention of the QC inspector. As such, the NRC has concluded that the electrician was discriminated against for raising a safety concern which constitutes a violation of 10 CFR Part 50.7.

The NRC recognizes that these actions were taken by one of your contractors. Nonetheless, the NRC holds the facility licensee responsible for the acts of all personnel employed at its facilities, including contractors. The NRC also recognizes that you took prompt action to review the circumstances of the electrician's layoff, and that you promptly had the electrician reinstated after recognizing the potential chilling effect that could result. Nonetheless, the actions of the WPC foreman resulted in a significant violation of the employee protection standards set forth in 10 CFR 50.7. Given that the violation was caused by an individual who was acting as a first line supervisor, the violation is categorized at Severity Level III in accordance with the NRC Enforcement Policy, "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600 (Enforcement Policy).

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation or problem. Since this violation was willful, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. In this case, the NRC recognizes that you investigated the layoff of the electrician; however, you did not recognize that discrimination occurred. Accordingly, credit is not warranted for identification of the violation. With respect to corrective actions, although you did not conclude that the layoff was motivated by retaliatory reasons, you recognized the potential chilling effect that the layoff could have on other contractor or NAESCo employees. As a result, you recommended that WPC: (1) reinstate the electrician; (2) inform its supervisory and craft employees about the event; (3) improve the quality of documentation supporting personnel actions; and (4) reinforce its commitment to a safety conscious work environment to its entire workforce at the Seabrook station. Additionally, you designated a NAESCo manager to provide additional management oversight of all initiatives devoted to maintaining a safety conscious work environment (SCWE). Further, you conducted an assessment which concluded that a healthy SCWE exists at the Seabrook Station. Therefore, credit for corrective action is warranted.

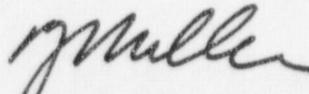
Therefore, to emphasize the importance of continuously assuring a work environment that is free of any harassment, intimidation, or discrimination against those who raise safety concerns, and to encourage prompt identification of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to propose a base civil penalty in the amount of \$55,000 for the violation set forth in the Notice.

Based on the information provided at the conference and on further evaluation of the results of the OI investigation, the NRC has concluded that no violations of 10 CFR 50.9, "Completeness and Accuracy of Information," or 10 CFR 50, Appendix B, Criterion XVI, "Corrective Action," occurred. Specifically, the NRC concluded that, because the wiring discrepancy was noted in the work document, the documentation of the CBA control panel work activities was accurate. Additionally, because the wiring discrepancy was corrected before the CBA system was returned to service, the NRC concluded that your corrective actions for the discrepant condition were not untimely. However, the failure to terminate the conductors in accordance with the applicable design document, and the failure to generate an Adverse Condition Report (ACR) for the wiring discrepancy by the end of the day on which it was discovered, constituted violations of requirements contained in Seabrook site procedures. These violations were of minor significance and are not subject to formal enforcement action.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,



Hubert J. Miller  
Regional Administrator

Docket No. 50-443  
License No. NPF-56

Enclosure: Notice of Violation and Proposed Imposition of Civil Penalty

cc w/encl:

B. Kenyon, President - Nuclear Group  
J. Streeter, Recovery Officer - Nuclear Oversight  
W. DiProfio, Station Director - Seabrook Station  
R. Hickok, Nuclear Training Manager - Seabrook Station  
D. Carriere, Director, Production Services  
L. Cuoco, Esquire, Senior Nuclear Counsel  
W. Fogg, Director, New Hampshire Office of Emergency Management  
R. Backus, Esquire, Backus, Meyer and Solomon, New Hampshire  
D. Brown-Couture, Director, Nuclear Safety, Massachusetts Emergency  
Management Agency  
F. Getman, Jr., Vice President and General Counsel - Great Bay Power Corporation  
R. Hallisey, Director, Dept. of Public Health, Commonwealth of Massachusetts  
Seacoast Anti-Pollution League  
D. Tefft, Administrator, Bureau of Radiological Health, State of New Hampshire  
S. Comley, Executive Director, We the People of the United States  
W. Meinert, Nuclear Engineer

North Atlantic Energy Service  
Corporation

DISTRIBUTION:

SECY  
CA  
PUBLIC  
WTravers, EDO  
MKnapp, DEDE  
FMiraglia, DEDR  
RBorchardt, OE  
DDambly, OGC  
HMiller, RI  
SCollins, NRR  
BSheron, NRR  
WKane, NRR  
Enforcement Coordinators  
RI, RII, RIII, RIV  
BBeecher, OPA  
HBell, OIG  
PLohaus, OSP  
GCaputo, OI  
OE:EA  
OE:Chron  
NUDOCS  
Nuclear Safety Information Center (NSIC)  
DScrenci, PAO-RI  
NSheehan, PAO-RI  
NRC Resident Inspector - Seabrook  
LTremper, OC

*H. Miller*  
8/3/99

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI:ORA	RI:DRP	RI:OI	RI:RC	RI:RA
NAME	TWalker/mjc	RBLouche	BLetts	BFewell	HMiller Jr.
DATE	06/15/99	06/21/99	06/21/99	06/21/99	06/29/98

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI:ORA	OE			
NAME	DHolody	Lieberman			
DATE	06/22/99	7/29/99			

per Email from  
Bobby Summers  
7/29/99

OFFICIAL RECORD COPY

6-PROPOSED REGION 1 PROP. SEA. H&I