



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

DOS
 PDR

August 3, 1999

IA 99-003

Mr. Gary Pageau
HOME ADDRESS DELETED
UNDER 2.790

SUBJECT: NOTICE OF VIOLATION
 (NRC OI Investigation 1-98-005)

Dear Mr. Pageau:

This refers to the investigation conducted by the NRC Region I Office of Investigations (OI) at North Atlantic Energy Service Corporation's (NAESCO) Seabrook Station. Based on the findings of the OI 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 21, 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 conducted with you in the NRC Region I office, to discuss the apparent violations identified during the investigation, their causes, and your corrective actions. The violations were also discussed with your employer, Williams Power Corporation, and NAESCO during a conference, in which you participated, on the same date.

After review of the information developed during the investigation, the information provided during the conferences, and other information provided subsequent to the conferences, including the additional information provided in a letter submitted by your attorney on your behalf dated June 15, 1999, the NRC has concluded that you engaged in deliberate misconduct while acting as a foreman for WPC by selecting a WPC electrician for a layoff, at least in part, in retaliation for his having raised a safety concern. 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 you, and later brought the discrepancy to the attention of a NAESCO quality control (QC) inspector on January 7, 1998. Subsequently, on January 16, 1998, you, while acting in your supervisor's absence, selected this specific electrician for a layoff.

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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 the 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 you 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.

By discriminating against the electrician for raising a safety concern, you deliberately caused NAESCo and WPC to be in violation of NRC requirements. As such, you personally violated 10 CFR 50.5(a) which specifies that any employee of a contractor of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order issued by the Nuclear Regulatory Commission. Given that you were acting as a first line supervisor when you selected the electrician for the layoff, the violation, which is set forth in the enclosed Notice of Violation (Notice), 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).

You should be aware that NRC regulations allow the issuance of civil sanctions, such as a Notice of Violation, directly against unlicensed persons who engage in deliberate misconduct, causing a violation of NRC requirements. Deliberate misconduct includes an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or training instruction. An Order may also be issued to an individual to prevent his or her engaging in licensed activities at all NRC licensed facilities. The NRC gave consideration to the issuance of an Order in this case. However, after consultation with the Director, Office of Enforcement, I have decided to issue the enclosed Notice of Violation and refrain from issuing such an Order. In reaching this decision, we considered that you were an acting supervisor. In addition, we considered the information provided during the enforcement conference by a number of electrical workers that appeared to indicate that you have in the past been supportive of workers raising safety concerns to you. Nonetheless, we emphasize that an employee has an absolute right to raise nuclear safety concerns, including raising them directly with QC inspectors, and that discrimination against an individual for raising a safety concern in the future may result in more significant enforcement action.

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 the 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

Mr. Gary Pageau

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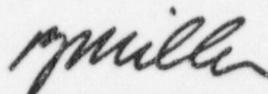
was discovered, constituted violations of requirements contained in Seabrook site procedures. These violations were of minor significance and are not subject to formal enforcement action.

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, with your home address redacted, its enclosures, and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy information so that it can be placed in the PDR without redaction.

If you have any questions or comments, please contact Mr. Clifford Anderson at (610) 337-5227.

Sincerely,



Hubert J. Miller
Regional Administrator

Enclosures:

1. Notice of Violation
2. Letter and Notice of Violation and Proposed Imposition of Civil Penalty to North Atlantic Energy Services Company

cc w/encls:

Mr. T. Feigenbaum, Executive Vice President and Chief Nuclear Officer, NAESCo
Mr. Kenneth Robuck, President, Williams Power Corporation

Mr. Gary Pageau

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HMiller
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