

ENCLOSURE 1

NOTICE OF VIOLATION

Mr. Gary Pageau

IA 99-003

During an investigation conducted by the NRC Office of Investigations (OI) at the Seabrook Station between January 29, 1998, and May 27, 1998, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5 requires, in part, that any employee of a licensee, or any employee of a contractor of a licensee, may not engage in deliberate misconduct that causes a licensee to be in violation of any NRC requirement.

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, reporting of safety concerns by an employee to his employer.

Contrary to the above, on January 16, 1998, you engaged in deliberate misconduct that caused North Atlantic Energy Services Corporation, an NRC licensee, to be in violation of 10 CFR 50.7, in that you discriminated against an electrician employed by Williams Power Corporation at the licensee's Seabrook Station facility, as a result of his engaging in protected activity. Specifically, you retaliated against the electrician by selecting him for a layoff at least in part because he had raised a concern on January 7, 1998, to a licensee Quality Control inspector regarding a wiring discrepancy in the control panel of the control building air-conditioning (CBA) system, a safety-related system.

This violation is classified at Severity Level III (Supplement VII).

Pursuant to the provisions of 10 CFR 2.201, you are hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, and (3) the corrective steps that will be taken to avoid further violations. Your response may reference or include previous correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand

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for Information may be issued as to why you should not be precluded in the future from involvement in NRC licensed activities, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

If you contest this enforcement action, you should also provide a copy of your response to the Deputy Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy information so that it can be placed in the PDR without redaction. If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy).

Dated this 3rd day of August 1999



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

August 3, 1999

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 Peschel
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.

ENCLOSURE 2

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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 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.

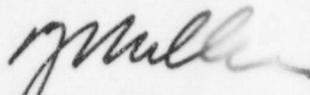
Therefore, to emphasize the importance of continuously assuring a work environment that is free of any harassment, intimidation, or discrimination against those who raise safety concerns, and to encourage prompt identification of violations, I have been authorized, after consultation with the Director, 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

ENCLOSURE

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

North Atlantic Energy Service Corporation
Seabrook Station

Docket No. 50-443
License No. NPF-56
EA 98-165

During an NRC investigation conducted by the NRC Office of Investigations (OI) between January 29, 1998, and May 27, 1998, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.7 prohibits, in part, discrimination by a Commission licensee or a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, reporting of safety concerns by an employee to his employer.

Contrary to the above, on January 16, 1998, a licensee contractor discriminated against a contractor electrician due to the employee's involvement in protected activity. Specifically, the contractor electrician was selected for a layoff on January 16, 1998, due, at least in part, to the fact that he had raised a concern to a licensee Quality Control inspector on January 7, 1998, regarding a wiring discrepancy in the control panel of the control building air-conditioning (CBA) system, a safety-related system. (01013)

This violation is classified at Severity Level III (Supplement VII).
Civil Penalty - \$55,000

Pursuant to the provisions of 10 CFR 2.201, North Atlantic Energy Service Corporation (NAESCO or Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown.

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Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of the Enforcement Policy should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalties, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, statement as to payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Enclosure

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In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 3rd day of August 1999