

**From:** JShealA-Hearing Resource  
**Sent:** Saturday, February 13, 2021 11:05 AM  
**To:** JShealA-HearingNPEm Resource  
**Subject:** FW: Additional Information

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**From:** Michael McBrearty < >  
**Sent:** Friday, November 02, 2018 11:38 AM  
**To:** Checkle, Melanie <Melanie.Checkle@nrc.gov>; Luina, Scott <Scott.Luina@nrc.gov>  
**Subject:** [External\_Sender] Additional Information

Melanie, Scott,

I recently read NRC IR 2018-012, dated August 17, 2018, for WBN, and noticed the NRC has opened an Unresolved Issue (URI) for TVA having previously revised its AEA procedure to remove certain Adverse Employment Actions (AEA's), including "Denial of Access," such that these AEA's no longer required an Executive Review Board (ERB). The URI will determine whether TVA violated the associated 2009 Confirmatory Order by modifying the AEA procedure in this manner.

I would like to note the following:

1) After the NRC issued the 2017 Confirmatory Order to TVA, there was much internal discussion about proposed changes to the AEA procedure, and specifically TVA's plans to remove many of the AEA's that would have required an ERB based on the 2009 Confirmatory Order. There were a number of people, including myself, that candidly disagreed with the planned changes because I (we) felt that the changes did not comply with the 2009 Confirmatory Order, and also because the changes were not consistent with good industry practice. While I did not document my discussions, I recall specifically discussing my concerns with Jim Polickoski, the Corporate Licensing CFAM; Mr. Polickoski was the individual that led the Root Cause Team and was involved with many of the corrective actions. TVA management (I believe Erin Henderson, Joe Shea, and likely David Czufin and possibly the CNO were aware of the dissenting opinions) ignored our concerns and directed that the procedure be revised to exclude the

subject AEA's. TVA managements' intent was to minimize the number of ERB's and give management more flexibility to administer discipline without being challenged to assess impact on Safety Conscious Work Environment or to assess whether the disciplinary actions comport with employee protection regulations. In this respect, the actions taken by TVA management to insist on the procedure changes constitute a willful violation of the 2009 Confirmatory Order.

2) The action TVA took against me in May 2018 was a "Denial of Access," but with no loss of pay. They maintained me in an indefinite paid nonwork status for over three months, with the continual threat of termination held over me, until I resigned in late August 2018. I have no doubt that the reason TVA continued to pay me while denying my access was to avoid having to exercise the AEA procedure and convene an ERB; TVA would not have been able to justify any disciplinary action against me. I believe the action TVA took against me is prima facie evidence supporting a willful violation of the Confirmatory Order.

Please consider this information as you investigate my concerns.

Sincerely,

Michael McBrearty

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