

RAS 2866

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 03/16/01
SERVED 03/16/01

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Richard F. Cole
Ann Marshall Young

In the Matter of

FIRST ENERGY OPERATING COMPANY,
FENOC

(Perry Nuclear Power Plant, Unit 1;
Operating License No. NPF-58)

Docket No. 50-440-CivP

ASLBP No. 01-784-01-CivP

EA 99-012

March 16, 2001

MEMORANDUM AND ORDER
(Extension of Suspension and Appointment of Settlement Judge)

This proceeding concerns an Order Imposing Civil Monetary Penalty of \$110,000.00, dated August 3, 2000, involving the alleged violation by FENOC of NRC's employee-protection regulations, based upon the asserted discrimination by a management official against an employee for engaging in protected activities (i.e., testifying in a whistleblowing case before the Department of Labor). At the request of the parties, however, the proceeding has been suspended to accommodate ongoing settlement negotiations. As part of the suspension, the Licensing Board has required status reports concerning the status of settlement negotiations.

The current suspension extends to March 20, 2001, with a status report required by March 8, 2001. In the Joint Status Report filed on that date, the parties reported that they had reached an oral agreement in principle regarding settlement and that good progress had been made in the negotiation of a formal written settlement agreement. The parties observed, however, that they would benefit from the appointment of a separate settlement judge and requested the Board to arrange for such an appointment. The parties further requested

continuation of the suspension period for an additional 45 days until May 4, 2001, to permit both the appointment and involvement of the settlement judge in the negotiations.

The Board agrees that the requested appointment and involvement of the settlement judge might prove useful for the negotiations, and we have recommended that the Chief Administrative Judge appoint such a judge. Further, good cause having been demonstrated, we hereby extend the suspension of this proceeding until May 4, 2001.

IT IS SO ORDERED.

For the Atomic Safety and Licensing Board

/RA/

Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
March 16, 2001

[Copies of this Memorandum and Order have been transmitted this date by e-mail to counsel for each of the parties.]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
FIRSTENERGY NUCLEAR OPERATING)	Docket No. 50-440-CIVP
COMPANY)	
)	
(Perry Nuclear Power Plant, Unit 1))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (EXTENSION OF SUSPENSION AND APPOINTMENT OF SETTLEMENT JUDGE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Ann Marshall Young
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Alan S. Rosenthal
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dennis C. Dambly, Esq.
Susan S. Chidakel, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Roy P. Lessy, Jr., Esq.
Donald R. Livingston, Esq.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1333 New Hampshire Ave., NW, Suite 400
Washington, DC 20036

John K. Wood
Vice President
Perry Nuclear Power Plant
10 Center Road
Perry, OH 44081

Docket No. 50-440-CIVP
LB MEMORANDUM AND ORDER
(EXTENSION OF SUSPENSION AND
APPOINTMENT OF SETTLEMENT
JUDGE)

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 16th day of March 2001