



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

December 23, 2004

Debbie Grinnell  
Research Advocate  
C-10 Research and Education Foundation, Inc.  
44 Merrimac Street  
Newburyport, MA 01950

SUBJECT: Alleged Discrimination (U.S. Department of Labor Occupational Safety and Health Administration Case No. 1-0240-04-004)

Dear Ms. Grinnell:

This letter is in response to the letter you sent to the NRC via facsimile on November 24, 2004, wherein you raised questions regarding the letter NRC sent to FPL Energy Seabrook (operator of the Seabrook Nuclear Plant) on October 20, 2004. Similar letters were also sent to the Williams Power Corporation (WPC), and Entergy Nuclear Operations (operator of the Pilgrim plant) on that date. Our letters were issued after a finding by the U.S. Department of Labor's (DOL) Occupational Safety & Health Administration (OSHA) that WPC violated the employee protection provisions of the Energy Reorganization Act by blacklisting an individual in September 2003. Although WPC appealed the finding to a DOL Administrative Law Judge, the NRC issued the letters to obtain the actions that the three companies had taken or planned to take to ensure that this finding did not have a chilling effect on other employees raising safety concerns.

OSHA had found, in its September 8, 2004 letter, that WPC had not shown by clear and convincing evidence that it did not blacklist the individual on September 18, 2003 when the individual was de-selected from an employee list appointed to work a scheduled maintenance shutdown at the Seabrook Nuclear Power Plant (Seabrook). OSHA also found that this occurred after the individual, who was hired by WPC as a pipefitter for a plant shutdown at Pilgrim on or about April 3, 2003, had engaged in a protected activity at the Pilgrim Nuclear Power Plant (Pilgrim). OSHA noted that the individual was laid off at Pilgrim after refusing to work under conditions that he alleged to be illegal.

In your letter to the NRC, you raised a question regarding the OSHA finding that dealt with what responsibility Entergy has with respect to the WPC employee. We hold individual licensees responsible for the actions of contractors that they hire to perform work related to our regulations. Because the WPC employee was involved in a protected activity, while working at Pilgrim and attempting to work for WPC at Seabrook, we also hold both Pilgrim and Seabrook licensees accountable, and are concerned about the possibility that a chilling effect might occur at those sites. By November 19, 2004, the above corporations individually responded to the NRC. As you requested in your voice mail to NRC on November 24, 2004, we have enclosed a copy of the Seabrook response absent any confidential information protected from public disclosure under 10 CRF 2.390.

D. Grinnell  
C-10 Research and Education Foundation, Inc.

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We have completed our review of the Seabrook response, which described the actions it had taken or planned to take to ensure that this finding did not have a chilling effect on other employees raising safety concerns. We have found those actions to be acceptable, and we have no further questions for Seabrook regarding those actions.

In addition, you raised several other questions related to the circumstances under which the WPC employee left the Pilgrim facility and the alleged illegal activity that occurred, the circumstances under which the individual was deselected for the Seabrook site, whether these occurrences constituted a violation, whether these matters have been investigated, whether a chilling effect was caused by these events, and whether there was any communication between the two NRC licensees regarding this matter. These matters are also under review by the NRC. When we have completed our review of this matter, including the results of the final DOL decision when issued, we will inform you of the results.

Thank you for your continued interest in public health and safety.

Sincerely,

***/RA by James T. Wiggins Acting For/***

Samuel J. Collins  
Regional Administrator

Enclosure

1. FPL Energy Letter dated November 19, 2004 (Redacted)

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D. Vito, SAC

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