

Dear Chairman Burns:

Re: SECY-15-0149, ML16063A268

Role of Third Party Arbitrators in Access Authorization and Fitness-for-Duty Determination Reviews at Nuclear Power Plants

International Brotherhood of Electrical Workers, Local Union 605's (IBEW LU 605) members, stewards, officers, Business Manager and Assistant Business Manager along with our business partners in the site leadership at Grand Gulf Nuclear Station (GGNS), the NEI and NRC are all in alignment with our desires to provide and employ safe, qualified and efficient workers of outstanding integrity in the management, operation and maintenance of the nuclear power generating station at GGNS.

Though GGNS is located in a rural portion of Mississippi, it is in our community. We live in and are integral parts of the community and as such have a vested interest in its safe operation for ourselves and for our neighbors.

Our closest of friends who are also our members and our business partners at the site manage, operate and maintain this nuclear station. Local Union 605's brothers and sisters proudly, efficiently and safely provide their services to this plant that is a necessary component of a reliable grid that supports a stability of life to our customers, our friends and neighbors, throughout the region.

We understand and appreciate the importance and heavy responsibility of those who maintain oversight (be it regulatory or otherwise) of this and other nuclear facilities throughout the industry as we consider ourselves a small but influential portion of that oversight.

Our oversight comes with a message of character. It is the message of the principles of the IBEW. We perform our work safely. We perform each task as accurately as our training and skills allow us to perform that task. We perform our work with an economy of all resources that will meet our safe and accurate work principles. While each of these principles has great value, the individual principles cannot stand alone. One without the others leaves an incomplete message and a void in the character of the IBEW craftsmen and craftswomen.

This very character is the soil that underlays the foundation upon which we build successful craftsmen and craftswomen in our industry. If the soil shifts, the foundation cracks and nothing that is built upon it is secure. This very character is necessarily of great concern to our GGNS, the NRC and IBEW LU 605.

The firmament of character as it applies to Fitness for Duty or trustworthiness and reliability and the testing and measuring of this underlayment of the foundation is the genesis of the NRC staff report identified as SECY-15-0149. We have read and understand the intent and implications of the report. We can surmise the actions that may result from the report's natural evolution into further NRC rule/s to modify site specific and industrywide application and enforcement of Authorized Access (AA) criteria.

IBEW LU 605 supports the principles and intentions of the AA criteria for the purpose of assessing character to determine an applicant's or continuing employee's trustworthiness and reliability. We are opposed to the NRC formulating a rule that removes any contractually agreed to arbitrator oversight of

and that arbitrator's ability to provide a remedy to a grievance, whether the Company's position or the Union's position is upheld. This would include the ability to seek and receive relief through the arbitration process of a termination of employment resulting from a management finding of lack of character, in its many manifestations, or failure to meet FFD requirements and the following AA supported revocation of unescorted plant access.

Our reasons for opposition are as follows:

- The Union's and Company's ability to reach a conclusion to grieved disagreements by entering into contractually agreed to, binding arbitration is a cornerstone of our collective bargaining agreements. Any rule making that is directed, in whole or part, at limiting or eliminating this process will be negatively viewed as an interventionist's attempt to limit the ability of IBEW LU 605's members to seek a neutral party, arbitrator hearing of their grievance. This will undercut the NRC's reputation as the action will appear as if the Companies and the NRC have conspired to "rig the game" against those covered under the bargaining units collective bargaining agreements.
- The issue of character assessment can be clouded by personal judgement and experiences. A skilled craftsman who is lauded by one set of management for having a questioning attitude and fearless standards applied when halting a project that has a flawed procedure may be seen as arrogant and insubordinate by another set of management. This could lead to escalating conflict as the employee defends his or her position from supervision's claims of insubordination and ignorance of nuclear procedures. This creates a situation where documentation of incidents is kept and the employee is found to be lacking in the character traits of trustworthiness and reliability. Management could choose to build the case and formulate all the required documentation to satisfy the site's AA criteria to suspend access and then move to terminate employment. Under the proposed new rule this person would have no recourse to have the grievance heard by an agreed upon arbitrator who has the authority to remedy the situation.
- Arriving at arbitration is not a haphazard process. IBEW LU 605 takes a very small percentage of grievances to arbitration. While I think we owe terminated employees an investigation and a grievance if they wish us to pursue such action, we do not owe them an arbitration defense. We investigate their cases thoroughly and a decision to move to arbitration or not is made by our Executive Board with input from the Business Manager and after consultation with our labor attorney. Undeserving cases are not carried to arbitration. Our IBEW principles must be upheld.
- The proof is in the pudding. Character assessment is difficult business in the most controlled environment. Invariably mischaracterizations will be made with such a large population of workers in the nuclear industry seeking to obtain or maintain unescorted plant access. There are a couple of obvious answers for how a 20 year employee can become untrustworthy or unreliable when 20 years of assessments have said otherwise. A stimulus (a personal tragedy, the stress of working too many hours and taking on too many responsibilities at work, constant pressures and negative feedback from surrounding employees and/or supervision and management, etc.) can drag these character traits to the surface of someone who otherwise

exhibits good decision making skills and high integrity. Or, the 20 years of character assessments were not sufficient to uncover the unwanted traits that were there all along.

- I know personally of employees with great work ethics and impeccable integrity who were pushed beyond the breaking point as they struggled with stimuli beyond their control. There are times when the skill, work ethic and integrity of these employees can work the employee to exhaustion, depression and poor decision making that would present itself as emerging character deficiencies or FFD violations. Removing, surviving or learning to cope with the stimulus has the effect of returning the employee to a more balanced and acceptable state of character expression.
- I have personally represented employees who found themselves in classifications where they were struggling and would have, eventually, failed miserably and the resulting stresses manifested themselves horribly in the person's attitude. A change in line of progression was the remedy to salvage an employee destined for termination and gain a valuable team member in a discipline that he was more suited to learn and perform.
- I have personally seen employees terminated under FFD, accept their terminations and move on to other skill intense and technical fields where they performed with commendable levels of skill and integrity. It is a shame that they could not have been salvaged and their skills and integrity be retained in the electric utility industry.
- I have personally been involved in arbitrations and settlements where terminated employees had their employment reinstated. As part of the investigations that lead to their terminations, they each had their commitment to safe work practices and integrity assailed. They are all at work today in their old jobs and performing with the highest levels of journeymanship and exhibiting strong commitment to the IBEW's principles. Their current supervision and management are pleased to have them back on board.
- There is no proof remarked upon in this pudding of the workers who were referenced in the NRC staff report as having been returned to work by arbitrators and those rulings subsequently being upheld in Courts of Appeals. This begs questions that are yet unanswered in the context of this discussion. Was some wrong actually perpetrated on these employees that needed an unbiased eye to see? Are these employees back at work today performing as valued members of their work groups? Did the character assessment process or FFD fail us all and lead to the removal of access and termination of valuable and/or salvageable employees? Did the arbitrator hear the case, understand the intricate details and gravity of the case and correctly rule to reinstate employment?

These examples are not all nuclear industry related or the results of arbitrator rulings but can serve as cautionary tales as we discuss eliminating the bargained check and balance of arbitrator oversight. For the reasons expressed above, the leadership and membership of IBEW LU 605 cannot support any attempt to circumvent our collectively bargained arbitration procedure.

Respectfully,

J. Ken Matthews

Business Manager, IBEW LU's 605/985

CHAIRMAN Resource

From: ibewlocal605 <ibewlocal605@bellsouth.net>
Sent: Thursday, April 21, 2016 4:32 PM
To: CHAIRMAN Resource
Cc: Anna Jerry
Subject: [External_Sender] IBEW 605's comments on SECY-15-0149, ML16063A269
Attachments: NRC letter opposing restriction of arbitrator oversight 4.21.16.docx

Chairman Burns,

Please see the letter attached containing the comments from IBEW LU 605 concerning possible NRC rulemaking pertaining to nuclear plant unauthorized access denial and the ability of arbitrators to rule on grievances stemming from any discipline that flows from the denial of access.

Thank you for your consideration,

J. Ken Matthews
Business Manager, IBEW LU's 605 & 985

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Union is power; the most attenuated thread, when sufficiently multiplied, will form the strongest cable. A single drop of water is a weak and powerless thing; but an infinite number of drops united by the force of attraction will form a stream; and many streams combined will form a river; till rivers pour their waters into the mighty ocean, whose proud waves defying the power of man none can stay but He who formed them. HENRY GEORGE SALTER