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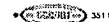
[www.schuchatew.net](http://www.schuchatew.net)

November 30, 2016

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*Via Electronic Mail Only*

Mr. David J. Nelson, Chief Information Officer  
and Chief FOIA Officer  
U.S. Nuclear Regulatory Commission  
Mailstop: T-5 F08  
Washington, DC 20555-0001  
Email: [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov)

CASE NO: 2017-0188  
DATE REC'D: 12/01/2016  
SPECIALIST:  
RELATED CASE:

Re: Freedom of Information Act Request relating to potential proposed rule making re  
third party arbitrators regarding denial of access and fitness for duty decisions and  
Secy-15-0149

Dear Mr. Nelson:

Pursuant to the Freedom of Information Act, I am requesting access to the following  
records relating to potential proposed rule making regarding third party arbitrators regarding  
denial of access and fitness for duty decisions in the nuclear industry and Secy-15-0149:

1. Specific identification of,<sup>1</sup> or copies thereof if such documents are not publicly available  
once identified, of all court and arbitration decisions referenced in the November 30,  
2015 Policy Issue (notation vote) (SECY-15-0149) for the Commissioners from Victor  
M. McCree, Executive Director for Operations re "role of third-party arbitrators in  
Licensee Access authorization and Fitness-for-duty determinations at nuclear power  
plants."
2. Specific identification of, or copies thereof if such documents are not publicly available  
once identified, of all court and arbitration decisions not identified or produced in  
response to Request No. 1 above to the extent the Staff or Commission is considering  
them in deciding whether there is a regulatory basis for rule making relating to third party  
arbitrators' role in denial of access and fitness for duty decisions and, if so, what the  
content of the rule/regulation should be.

<sup>1</sup> "Identification" or "identify," as used in this letter, means identification of the court and/or arbitrator, the parties,  
the attorneys, the date and any other information necessary to locate the documents from other sources.

3. As to all court or arbitrator decisions identified or produced in response to Requests 1 and 2 above, please produce documents showing the ultimate resolution of the issue with respect to the employee whose access was at issue in each of those cases.
4. To the extent the Staff or Commission is reviewing individual employee access or FFD decisions that are not reflected in court or arbitration decisions identified and/or produced in response to Requests 1 and 2 above in considering rule making with respect to the role of third-party arbitrators in Licensee Access authorization and Fitness-for-duty determinations at nuclear power plants, please identify<sup>2</sup> or produce documents reflecting these individual situations.

The purpose of this request is to understand the potential regulatory basis for rule making relating to third party arbitrators' role in denial of access and fitness for duty decisions and for unions to be able to insure the Staff and Commission have accurate and complete information necessary to make this determination. Further, this information is relevant to unions having meaningful input into the formulation of any rules if the Staff and Commission determine there is a basis for such rule making.

To the extent you find it necessary to redact any information produced, I request that you do so in a manner that will ensure that the production of such information is still usable for the intended purpose of allowing the unions to ensure the Staff and Commission have accurate information concerning them: this will not possible if the unions cannot examine the alleged problem cases identified. If copies of the documents are in public court records, union records or arbitrator records, then those documents can be identified, rather than produced, so that the union can seek them from other sources; and, if produced instead, then they should not be redacted because they cannot be considered private, confidential or sensitive. We believe that all the above requested court and arbitrator decisions fall in this category.

I ask that you state the specific legal and factual grounds for withholding any documents or portions of documents. If possible, please identify as well each document that falls within the scope of this request but is withheld from release. If requested documents are located in, or originated in, another installation or bureau, please refer this request or any relevant portion of this request to the appropriate installation or bureau. I would like to clarify and reiterate that I am *not* asking for access to any records that are explicitly considered private; rather, I am seeking only those records that are considered to be public information under the Freedom of Information Act. If any of the documents are confidential or safe-guarded and, thus, you claim they cannot be provided, please identify the nature of the document and explain why it is treated as such.

If the information can be sent through email or electronic format, please send it to my email address, [mst@schuchatcw.com](mailto:mst@schuchatcw.com), particularly if providing the information reduces the time

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<sup>2</sup> See note 1 regarding the definition of "identify."

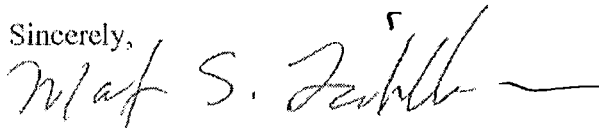
Mr. David J. Nelson  
November 30, 2016  
Page 3

or expense involved. Otherwise, please send the information to my attention at the address on my letterhead.

To help assess my status for copying and mailing fees, please note that my law firm represents not for profit Unions that represent employees employed in the nuclear power plant industry. Disclosure of this information is of important interest of our clients. I am willing to pay reasonable costs incurred in locating and duplicating these materials. Please contact me prior to processing to approve any fees or charges incurred in excess of \$150.00.

Thank you and I look forward to your response.

Sincerely,



Marilyn S. Teitelbaum

MST:sp

cc: Dean Apple, Local 15 IBEW (electronically only)  
Bill Phillips, Local 15 IBEW (electronically only)  
David Sergenti, Local 15 IBEW (electronically only)  
Tom Hinspeter, Local 15 IBEW (electronically only)

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