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USNRC

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OFFICE OF SECRETARY
DOCKETING

DOCKET NUMBER
PROPOSED RULE PR 2
(59FR60697)



January 26, 1995

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Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, DC 20555

ATTENTION: Docketing and Services Branch

SUBJECT: Calvert Cliffs Nuclear Power Plant
Unit Nos. 1 & 2; Docket Nos. 50-317 & 50-318
Comments on Revision to 10 CFR Part 2, Policy Statement for Enforcement
Actions on Discrimination (59FR60697)

The Baltimore Gas and Electric Company is pleased to provide the following comments on the revision to the Nuclear Regulatory Commission (NRC) General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy) to address issues associated with discrimination. We support the comments submitted by the Nuclear Energy Institute. We have the following comments that emphasize our concerns regarding the issue of civil penalty adjustment for corrective action.

In the revised policy statement, the NRC states their belief that a proposed penalty should be mitigated only if a personal remedy is provided. While there are cases where settlements are an effective and efficient way to resolve allegations, forcing a licensee to provide a personal remedy through a rapid settlement may not be the best resolution in a particular case. However, with this policy statement, the NRC has so heavily weighted the enforcement policy in favor of settlement that licensees will now be at an extreme disadvantage in their efforts to resolve allegations of discrimination. The result may be that licensees will have little choice but to provide a personal remedy, even for claims of questionable merit.

The following two examples illustrate concerns with the NRC's timing and escalation of enforcement action:

- ♦ The NRC has not provided any evidence to show how a chilling effect is placed on the work force simply because the licensee chooses to make no changes to its policies and procedures until after the Department of Labor has decided the case. Therefore, there is no basis to penalize the licensee for awaiting the outcome of a proceeding, regardless of its final outcome.

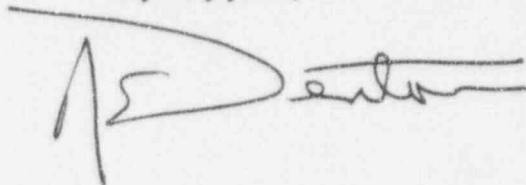
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- ♦ Similarly, there is no basis to escalate enforcement when "broad" corrective action is not taken until after a Secretary of Labor's decision upholds an Administrative Law Judge's finding of discrimination. To conclude that a licensee's corrective action may be untimely simply because they chose to await the outcome of the proceeding before taking corrective action is unreasonable. It should be reasonable and appropriate for the licensee to take broad corrective action after the Secretary's decision.

Should you have questions regarding this matter, we will be pleased to discuss them with you.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. E. Silberg", written over a horizontal line.

RED/JMO/dlm

cc: D. A. Brune, Esquire
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