



KANSAS GAS AND ELECTRIC COMPANY

GLENN L. KOESTER
VICE PRESIDENT - NUCLEAR

December 3, 1984

Mr. James M. Taylor
Deputy Director
Office of Inspection and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

KMLNRC 84-207
Re: Docket No. STN 50-482/84-87
Ref: Letter KMLNRC 84-189 dated 10/23/84 from
GLKoester, KG&E, to RCDeYoung, NRC
Subj: Enforcement Action 84-87

Dear Mr. Taylor:

Your recent letter concerning the above-referenced matter has been received. As you have noted, James Wells was reinstated as a contract employee at the Wolf Creek Generating Station on or about October 30, 1984. This reinstatement was pursuant to an Order dated October 15, 1984, issued by United States District Court Judge Dale E. Saffels in the enforcement proceeding filed by Mr. Wells in the United States District Court for the District of Kansas (Case No. 84-2290). Essentially, the Order required Kansas Gas and Electric Company to comply with the Order of the Secretary of Labor. Pursuant to Kansas Gas and Electric Company's Motion to Alter and Amend or Stay this Order, an additional Order dated November 20, 1984, was issued by Judge Saffels. This Order quantified the monetary amount of back-pay and attorneys' fees due pursuant to the Secretary of Labor's decision. The Order denied Kansas Gas and Electric Company's request for amendment or alternation of the original Order and also its motion for a stay. The Order will become final on December 3, 1984, after which time Kansas Gas and Electric Company will have thirty (30) days to perfect an appeal to the U.S. Court of Appeals for the Tenth Circuit.

There have been other legal proceedings which have affected the above-referenced matter. A request for hearing on the remedial issues has been filed with the Secretary of Labor's office in the original proceeding (Case No. 83-ERA-12). The filing requests a hearing on the question of reinstatement and pay-back determinations by the Secretary of Labor. No response has been received concerning this request.

In the Tenth Circuit Court of Appeals (Case No. 84-2114), a Motion has been filed by Kansas Gas and Electric Company for a stay pending appeal

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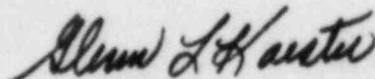
of the decision of the Secretary of Labor insofar as the decision requires payment of money damages or attorneys' fees to James Wells. This is pursuant to the statutory procedures set out in P210. The appeal of the Secretary of Labor's decision has also been docketed and a briefing schedule established in this matter.

The developments outlined above in no manner whatsoever affect the positions stated by Kansas Gas and Electric Company in our October 23, 1984 letter. The ultimate issue to be decided is the validity of the Secretary of Labor's decision. The reinstatement of Mr. Wells was not intended as, nor should it be interpreted as acquiescence or agreement with the Secretary of Labor's decision. The appeal of that Order is still pending and the final determination by the Courts will determine its validity.

Again, we believe the appropriateness of the NRC in relying upon the Secretary of Labor's Order prior to its judicial review is premature. Kansas Gas and Electric Company would continue and renew its request that the NRC suspend the civil penalty proceeding pending completion of judicial review. This would be consistent with past practice by the NRC and would prevent any possible prejudice to the positions taken on appeal by Kansas Gas and Electric Company. This Company should be entitled to pursue the legal remedies available to it free from premature punishment.

If any other additional information is required in completing your evaluation of our request, please advise at once.

Yours very truly,



Glenn L. Koester
Vice President - Nuclear

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xc:RDMartin, Reg. IV
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