

ENCLOSURE

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Philadelphia Electric Company
Limerick Nuclear Generating Station
Limerick, Pennsylvania

Docket No. 50-352
License No. NPF-39
EA 92-164

Based on the results of investigations and hearings conducted by the U.S. Department of Labor (DOL) (DOL case 92-ERA-27) and the resulting decision by a DOL Administrative Law Judge (ALJ), dated June 22, 1992, the NRC has determined that a violation of its regulations occurred. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

10 CFR 50.7 prohibits discrimination by a Commission licensee, permittee, an applicant for a Commission license or permit, or a contractor or subcontractor of a Commission licensee, permittee, or applicant against an employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, reporting of quality discrepancies and safety and safeguards concerns by an employee to his employer or the NRC.

Contrary to the above, an employee of Protection Technology Inc. (PTI), a security subcontractor of the Philadelphia Electric Company, who was a security guard at the Limerick Nuclear Generating Station, was unlawfully discriminated against as described in the DOL ALJ Recommended Decision and Order issued June 22, 1992 (DOL case 92-ERA-27). Specifically, the employee was required to undergo a psychological evaluation and subsequently discharged on January 7, 1992, by PTI in retaliation for engaging in protected activities. The protected activities included raising safeguards concerns to licensee management regarding security operations while performing his duties at the Limerick Nuclear Generating Station.

This is a Severity Level III violation (Supplement VII).
Civil Penalty - \$25,000

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Pursuant to the provisions of 10 CFR 2.201, Philadelphia Electric Company (Licensee) is hereby required to submit a written statement or explanation in response to this Notice of Violation and Proposed Imposition of Civil Penalty (Notice) to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of a final decision of the Secretary of Labor in this case. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted and, if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a demand for information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section V.B of 10 CFR Part 2, Appendix C (1992), should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282(c).

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Enclosure

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The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406 and a copy to the Senior Resident Inspector, Limerick Unit 1 and 2.

Dated at King of Prussia, Pennsylvania
this 8th day of December 1992

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