

GOVERNMENT ACCOUNTABILITY PROJECT

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DOCKETED
USNRC

April 23, 1992

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Ms. Cynthia Pederson, Director,
Enforcement and Investigations
Coordination Staff
Nuclear Regulatory Commission
799 Roosevelt Road, Building 4
Glen Ellyn, Illinois 60137

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Mr. James Lieberman, Director,
Office of Enforcement
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Detroit Edison safeguards information security breaches and
intimidation of whistleblower
FOIA Request
Via Fax

Dear Ms. Pederson and Mr. Lieberman:

Thank you for calling me about our April 21, 1992 letter
about the implications of Larry v. The Detroit Edison Company.
It was good to hear from you.

I greatly appreciate your volunteering to send me documents
on the enforcement conference of August 22, 1991. I look
forward to reading the materials DECO has provided to NRC in
defense of its security breaches and its anti-whistleblower
discrimination.

On the other hand, Ms. Larry is very disappointed to learn
that the enforcement conference was held last year without ever
affording Ms. Larry or counsel advance notice and an opportunity
to be heard.

She is even more disappointed that there are no current
plans to convene a conference so that she can attend, to correct
the failure to invite her to attend the August 1991 enforcement

¹ Pursuant to the FOIA, we request access to designate
particular documents for photocopying of all documents relating
to the DECO penalty issue, including DECO's "viewgraphs," slides,
correspondence, memoranda, brief(s), tape recordings or
information in computer memories. We request a full waiver of
any fees as release of the requested information is in the public
interest. Thank you.

conference. The current plan is for enforcement action to be taken without Ms. Larry's active involvement.

This procedure appears unwise and unfair. "Justice may not be done in a corner, nor in any covert manner." State ex rel Herald Mail Co. v. Hamilton, 267 S.E.2d 544, 548 (W.Va. 1980), citing 1676 Charter of Fundamental Laws of West New Jersey, ch. XXIII. This precept is especially applicable to the NRC. For NRC to meet with the utility while freezing DECO's victim out of the process creates an unseemly appearance of impropriety -- one that NRC will have difficulty explaining. As Justice Brandeis said, "sunlight is the best disinfectant."

We therefore respectfully request that you reconvene the enforcement conference so that Ms. Larry and her counsel can attend and participate. This will help NRC to take steps to eliminate the chilling effect that DECO's retaliation has had on other Fermi 2 workers, in violation of federal law.

In the alternative, we suggest that NRC might arrange through the OPM judicial loan program to have the penalty heard before a neutral, detached, independent Administrative Law Judge from the U.S. Department of Labor.

The best evidence of what DECO did is found in the sworn testimony in the Department of Labor hearing and in the Administrative Law Judge, Secretary of Labor and Sixth Circuit decisions. You should also examine DECO's platitudinous briefs filed in the Sixth Circuit, seeking with sophistry to justify ad nauseam its mistreatment of Ms. Larry for alerting NRC to knowing breaches in protecting safeguards material that threatened national security.

Has DECO learned any lessons from this case? Apparently not. We understand that after the decision of the Sixth Circuit, DECO managers made remarks about how Ms. Larry only got her old job back, and that DECO was not hurt by the judgment. DECO may take a different tone in discussions with NRC. In the workplace, it

² Many jurisdictions now permit a crime victim to make an "oral allocution" to the court before sentencing, describing to the court the effect of the crime on their life and their family's life. If NRC did not agree to let Ms. Larry participate by reconvening the enforcement conference -- and if NRC did not agree to vest jurisdiction in DOL OALJ -- we request the opportunity for Ms. Larry and her counsel to appear before you and to make an oral allocution. Otherwise, NRC will assess a penalty after a one-sided presentation from DECO, without counterbalancing it by learning first-hand how DECO's invidious discrimination injured Ms. Larry and kept other whistleblowers from sharing information with NRC.

is business as usual, with no repentance demonstrated.

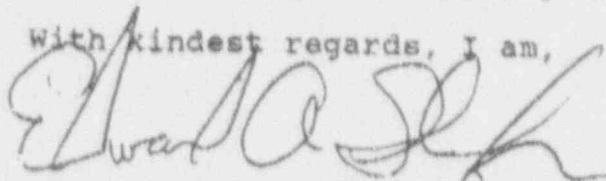
No slick, prepackaged, plastic public relations viewgraph or glib reassurances by smooth-talking DECO executive can ever overcome the strong evidence of DECO's intentional violations of federal law. Any unsworn statements by DECO to NRC, or without the opportunity for cross-examination, should not be considered probative or truthful.

The fact that one individual wrongdoer has been barred from nuclear powerplant employment for life shows the severity of the security violations here. It does not indicate that DECO has already been punished enough; in fact, DECO has not yet been punished at all, half a decade after the security breaches and discrimination at issue here.

A multibillion dollar utility will not be punished by anything less than the most severest in the range of sanctions available to NRC.

After reading DECO's submissions, Ms. Larry may wish to present a brief to you. She hereby requests that NRC afford her time to do so. Both Ms. Larry and I are ready, willing and able to assist your office in any way that we can.

With kindest regards, I am,



Edward A. Slavin, Jr.
Legal Counsel for Constitutional Rights

cc: Ms. Carolyn Larry
Hon. Ivan Selin, Chairman, NRC
Mr. Ben Hayes
Mr. Jeff Hodges

LarryNRC.lt2