

November 2, 1984

Mozart G. Ratner, Esq.
1900 M Street, N.W.
Suite 610
Washington, D.C. 20036

Dear Mr. Ratner:

I am in receipt of your letters to me of September 20, 1984, and October 10, 1984 requesting an NRC staff opinion concerning the legality of a February 15, 1984 letter issued by the General Electric Company (GE) to your client, Ms. Vera English. You should be aware that my views contained herein are not to be considered an interpretation binding on the Commission in accordance with 10 CFR 70.6. The GE letter directs your client to apprise GE management of information related to violations of established work procedures and practices within the Chemet Laboratory of GE's Wilmington facility. The letter concludes with a statement to the effect that failure on the part of your client to comply with the direction could result in severe disciplinary action.

The Commission's regulations require that workers be instructed in their responsibility to promptly report to the licensee any condition which may lead to or cause a violation of Commission regulations and licenses or unnecessary exposure to radiation or radioactive material. See 10 CFR 19.12. Implicit in the regulation is that employees should provide such information to their employers. If any employee also wishes to communicate concerns associated with radiation health and safety directly to the NRC, he or she must have the freedom to do so without the fear of reprisals. Such reprisals are specifically prohibited by 10 CFR 70.7. The materials attached to your September letter, including excerpts from the GE Employee Handbook, do not appear to establish on their face a violation of Commission requirements.

Whether actions of the employer in any given case were in retaliation for an employer coming directly to the NRC with information and therefor in violation of Commission requirements, or were motivated by the legitimate needs of an employer is of course dependent on the circumstances of the particular matter. I am not in a position to offer a more definite view as to whether there are circumstances surrounding the February 15, 1984 letter that demonstrates that such a letter was in violation of Commission requirements. As you are aware, Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) establishes a mechanism before the Department of Labor (DOL) for resolving disputes in this area.

Sincerely,



James Lieberman
Chief Counsel
Regional Operations and Enforcement
Office of the Executive Legal Director

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PDR FOIA
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cc: N. Jensen, OGC

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
JAN 10 1985

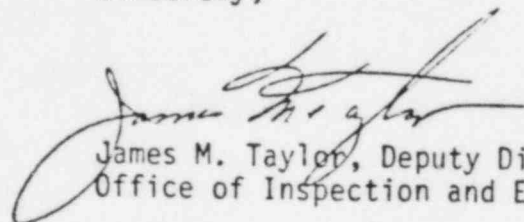
Mozart G. Ratner, Esq.
Suite 610
1900 M Street, NW
Washington, DC 20036

Dear Mr. Ratner:

This letter acknowledges receipt of the Petition of Ms. Vera M. English filed on her behalf by yourself and Mr. Arthur M. Schiller on December 13, 1984. The Petition makes reference to five Inspection Reports reviewing activities at the Wilmington, North Carolina facility of the General Electric Company (Licensee). The Petition asserts that these Inspection Reports are deficient for failing to identify a variety of deviations and violations in the activities of the Licensee at its Wilmington facility. The Petition requests that all five Inspection Reports be withdrawn, that new Inspection Reports be issued correctly documenting the alleged violations and deviations at the Wilmington facility as identified in the Petition and its attachments, that Notices of Violation be issued, and that the Nuclear Regulatory Commission commence appropriate enforcement action, including the assessment of civil penalties, consistent with the Commission's General Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C, as revised, 49 Federal Register 8583 (March 8, 1984). The Petitioner also requests the institution of proceedings pursuant to 10 CFR § 2.202 and the scheduling of hearings on the matters raised in the Petition.

The Petition, which has been referred to my Office for action, is being treated under 10 CFR 2.206 of the Commission's regulations. The NRC staff will review the Petition and I will issue a formal decision with regard to it within a reasonable time. A copy of the notice that is being filed for publication for the Office of the Federal Register is enclosed for your information.

Sincerely,


James M. Taylor, Deputy Director
Office of Inspection and Enforcement

Enclosure: as stated

cc w/encl.:

Arthur M. Schiller, Esq.
Suite 1300
1000 Connecticut Avenue, NW
Washington, DC 20006

General Electric Company
Wilmington, NC

Appendix 1

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[7590-01]

NUCLEAR REGULATORY COMMISSION
Docket No. [70-1113]

GENERAL ELECTRIC COMPANY
(Wilmington, North Carolina Facility)

REQUEST FOR ACTION UNDER 10 CFR 2.206
REGARDING ACTIVITIES AT THE WILMINGTON, NORTH CAROLINA
FACILITY OF THE GENERAL ELECTRIC COMPANY

Notice is hereby given that, by her Petition of December 13, 1984, Ms. Vera M. English (Petitioner) requests that the Nuclear Regulatory Commission review and withdraw certain Inspection Reports which allegedly improperly dismiss certain alleged violations and/or deviations associated with the activities of the General Electric Company at its Wilmington, North Carolina facility. The Petition requests that new Inspection Reports be issued properly documenting violations and deviations in the activities carried out at the Wilmington facility. The Petition also requests that the Commission issue Notices of Violation and take enforcement action as appropriate including the imposition of civil penalties. Petitioner further requests the institution of proceedings pursuant to 10 CFR 2.206 and the scheduling of hearings on the matters raised in the Petition.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and appropriate action will be taken on the

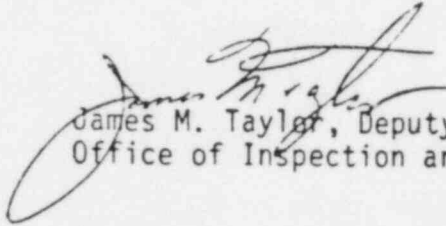
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request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the local Public Document Room for the Wilmington facility located at [insert address].

Dated at Bethesda, Maryland this 12th day of January 1985

FOR THE NUCLEAR REGULATORY COMMISSION


James M. Taylor, Deputy Director
Office of Inspection and Enforcement