



Northeast  
Utilities System

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Northeast Utilities Service Company  
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Hartford, CT 06141-0270  
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DCg

October 25, 1996  
Docket Nos. 50-245  
50-336  
50-423  
B15952

Mr. James Lieberman, Director  
Office of Enforcement  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

Dear Mr. Lieberman:

Millstone Nuclear Power Station, Unit Nos 1, 2, and 3  
Reply to Notice of Violation and Imposition of Civil Penalty (EA 96-059)

This letter and its attachment provides Northeast Nuclear Energy Company's ("NNECO") final response to the NRC's Notice of Violation ("NOV") dated June 4, 1996, in which the NRC determined that Northeast Nuclear Energy Company ("NNECO") had violated 10 CFR 50.7 in its treatment of Mr. Adam McNiece, an employee of Bartlett Nuclear Company. The NOV stated that NNECO was required to submit a response to the NOV within 30 days and could delay responding to the civil penalty until 30 days after the Secretary of Labor issued a final decision in Mr. McNiece's related proceeding before the Department of Labor. NNECO responded to the NOV by letter dated July 2, 1996, which identified the corrective steps taken, the results achieved and the additional corrective steps planned by NNECO to avoid future violations and confirming NNECO's full compliance with the Commission's regulations. Those actions will be further reviewed and considered as NNECO develops the comprehensive plan required by NRC's Order of October 24, 1996.

On or about August 28, 1996, NNECO, Bartlett Nuclear Company, and Mr. McNiece reached a settlement of their outstanding differences including Mr. McNiece's claims that NNECO and Bartlett violated Section 211 of the Energy Reorganization Act in their treatment of him. The Settlement was submitted to the Administrative Review Board of the Department of Labor on September 9, 1996, for its approval. On September 25, 1996, the Administrative Review Board approved the settlement in a final order which also dismissed Mr. McNiece's complaint.

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In accordance with the NOV and 10 CFR 2.205, we are hereby tendering payment of the proposed fine in the amount of \$100,000. In doing so, NNECO continues to believe that it acted properly in its treatment of Mr. McNiece for the reasons stated in our letter of March 20, 1996. At the same time, I would also note that NNECO is committed to numerous programs including those set forth in our letters to you of March 20, 1996, and July 2, 1996, aimed at assuring that our nuclear organization employees continue to feel free to raise safety concerns.

Should you have any questions regarding this response, please contact me directly.

Very truly yours

NORTHEAST NUCLEAR ENERGY COMPANY

FOR: Ted C. Feigenbaum  
Executive Vice President and  
Chief Nuclear Officer

BY: 

T. L. Harpster  
Director - Nuclear Licensing Services

Subscribed and sworn to before me

this 25<sup>th</sup> day of October, 1996



Kathleen T. Gabes  
Notary Public

Date Commission Expires:

~~My Commission Expires~~ December 31, 1997

cc: H. J. Miller, Region I Administrator  
T. A. Easlick, Senior Resident Inspector, Millstone Unit No. 1  
P. D. Swetland, Senior Resident Inspector, Millstone Unit No. 2  
A. C. Cerne, Senior Resident Inspector, Millstone Unit No. 3

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Attachment 1

Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3

Reply to Notice of Violation and Proposed Civil Penalty

October 1996

Millstone Nuclear Power Station, Units 1, 2 and 3  
Reply to Notice of Violation and Proposed Civil Penalty

Restatement of the Violation

10 CFR 50.7(a), in part, prohibits discrimination by a Commission licensee against an employee or contractor employee for engaging in certain protected activities. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in Section 211 of the Energy Reorganization Act (ERA) of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act (AEA) or the Energy Reorganization Act. The protected activities include but are not limited to providing the Commission information about alleged violations of the ERA or the AEA or possible violations of requirements imposed under either of these statutes.

Contrary to the above, as determined in the DOL Administrative Law Judge's Recommended Decision and Order in case 95-ERA-18 and 47, dated December 12, 1995, Northeast Nuclear Energy Company (NNECO) discriminated against Adam McNiece, a senior health physics technician for engaging in protected activities.

This is a Severity Level III violation (Supplement VII).  
Civil Penalty - \$100,000.

Admission or Denial of the Alleged Violation

NNECO maintains that the treatment of Mr. McNiece did not violate Section 211 of the Energy Reorganization Act or 10 CFR 50.7 of the Commission's regulations. However, on or about August 28, 1996, NNECO, Bartlett Nuclear Company, and Mr. McNiece reached a settlement of their outstanding differences including Mr. McNiece's claims that NNECO and Bartlett violated Section 211 of the Energy Reorganization Act in their treatment of him.<sup>(1)</sup> On September 25, 1996, the Department of Labor's Administrative Review Board approved the settlement in a final order which also dismissed Mr. McNiece's complaint. In light of this settlement,

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<sup>(1)</sup> Mr. McNiece has an additional complaint pending before Judge DiNardi of the Department of Labor which was also settled in the agreement approved by the Administrative Review Board. On October 1, 1996, the Administrative Law Judge in that case, Judge DiNardi issued a Recommended Decision and Order approving the settlement and dismissing the complaint.

and the Administrative Review Board's approval, NNECO will not contest this violation and has enclosed payment of the proposed civil penalty amount.

Reasons for the Violation If Admitted and If Denied, Reasons Why

NNECO's March 20, 1996, submittal to the NRC provides the reasons why it believes that the treatment of Mr. McNiece did not violate Section 211 of the Energy Reorganization Act or 10 CFR 50.7 of the Commission's regulations.<sup>(2)</sup>

Corrective Steps That Have Been Taken, and Results Achieved and Corrective Steps That Will Be Taken to Avoid Further Violations

NNECO's Actions to Provide a Remedy to Mr. McNiece

As stated in NNECO's letter of July 2, 1996, Mr. McNiece had been rehired by Bartlett for additional work at Millstone and settlement negotiations were underway. On or about August 28, 1996, the litigation between Mr. McNiece and NNECO which is the subject of this Notice of Violation was settled by agreement of the parties. The Department of Labor's Administrative Review Board, charged by the Secretary of Labor to review all settlements, approved the settlement agreement in a final order dated September 25, 1996, which also dismissed Mr. McNiece's complaint.

NNECO's Actions to Address the Environment for Raising Safety Concerns

As stated in its July 2, 1996, letter, NNECO recognizes the importance of taking affirmative action to assure that the workplace environment throughout the NU system is one which is conducive to the raising and resolving of safety concerns. In NNECO's letters of March 20, 1996, and July 2, 1996, NNECO identified recent initiatives in this area including the implementation of an action plan responding to the recommendations made and issues raised in the employee concerns self-assessment completed for Millstone in January 1996.<sup>(3)</sup> In our July 2, 1996, letter, NNECO provided the status of the implementation of the task assignments arising out of the action plan and the expectations of the Chief Nuclear Officer for the values and behavior considered essential for the future success of NU's nuclear program.<sup>(4)</sup>

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<sup>(2)</sup> Letter to Thomas T. Martin from Donald B. Miller, Jr., "Response to Request for Information Regarding and Employment Action," dated March 20, 1996.

<sup>(3)</sup> "Millstone Employee Concerns Assessment Team Report," dated January 29, 1996, provided to the NRC by letter dated April 9, 1996.

<sup>(4)</sup> June 1996 edition of the NU Nuclear Information Services publication "Power of Five" (page 5), Attachment 2 to NNECO's July 2, 1996 letter, NU Chief Nuclear Officer's "Values for Excellence," Attachment 3 to NNECO's July 2, 1996 letter.

Date When Full Compliance Will Be Achieved

NNECO is currently in compliance with the requirements of Section 211 of the Energy Reorganization Act of 1974, as amended and 10 CFR 50.7 of the Commission's regulations. Nonetheless, as more fully stated in NNECO's letters of March 20 and July 2, 1996, NNECO continues to pursue efforts to enhance its workplace environment to ensure that workers feel free to raise safety concerns without fear of retaliation. These efforts will be incorporated as part of NNECO's comprehensive plans in response to the NRC's Order of October 24, 1996.