



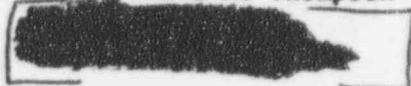
# NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

January 3, 1996

50-448

Mr. Ronald A. Thompson



EX 6

E-4p6

Dear Mr. Thompson,

[REDACTED], has advised me of your regulatory concern regarding the settlement agreement that you reached in October 1995 with Houston Lighting and Power (HL&P). He has also provided me with copies of the information you provided with the financial terms of the agreement deleted.

EX 6

It appears that certain language in the third and fourth sentences of paragraph 5.b. and the first sentence of paragraph 5.e. of the settlement agreement dated October 25, 1995, may give rise to a conflict with Nuclear Regulatory Commission (NRC) requirements. Insofar as this language appears to commit HL&P to not reveal to another nuclear power reactor licensee information relevant to safety matters covered by NRC rules, the sentences, in our view, are contrary to public policy. It also appears that certain language in paragraph 5.f. is inconsistent with the language in paragraphs 5.b. and 5.e. of the settlement agreement insofar as it provides an exception to confidentiality. Regardless of how that inconsistency may be resolved, the NRC position is as stated below.

We note that the suspension of unescorted access in this case is not a bar to future employment in a licensed nuclear power reactor. It is, however, a fact that the NRC considers relevant and material to the decision of a licensee regarding unescorted access to protected or vital areas at a nuclear power reactor. If an inquiry is made of HL&P by another NRC nuclear power reactor licensee or its contractors or subcontractors pursuant to NRC rules, we would expect HL&P to reveal the suspension. Further, according to NRC rules, it is incumbent upon you to reveal the suspension if asked by a future employing NRC nuclear power reactor licensee or its contractors or subcontractors pursuant to NRC rules. If you or HL&P fails to provide information regarding the suspension of your unescorted access authorization as required by NRC regulations, the failure will be a violation of NRC regulations and the violator may be subject to enforcement action by the NRC.

In summary, it is our position that you, HL&P, and any potential future employing NRC nuclear power reactor licensee must comply with NRC regulations that govern identifying the suspension of unescorted access to protected or vital areas of nuclear power reactors. The regulations that apply are given in the following sections of Title 10 of the Code of Federal Regulations: Part 26, "Fitness For Duty Programs"; Section 50.5, "Deliberate misconduct"; and Section 73.56, "Personnel access authorization requirements for nuclear power plants." I have enclosed information on the applicable parts of the regulations for your information.

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Due to the regulatory significance of your concern we have provided the above information to HL&P and asked that it advise us of as to what actions it intends to take if an inquiry such as described above is made regarding you. We also asked HL&P to advise us of any other settlement agreements of this nature that it has reached with other individuals, any subsequent inquiries such as described above regarding those individuals, and any HP&L responses to such inquiries.

I hope this adequately addresses your concern. If you have any questions, please contact Nancy Ervin of my staff. She can be reached at (301) 415-2946.

Sincerely,

Original signed by

William T. Russell, Director  
Office of Nuclear Reactor Regulation

Enclosure: As stated

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NRC REGULATIONS THAT GOVERN IDENTIFYING THE SUSPENSION OF UNESCORTED ACCESS  
TO PROTECTED OR VITAL AREAS OF NUCLEAR POWER REACTORS

10 CFR 26.27(a)(1)(i) requires that licensees obtain written statements from individuals being considered for unescorted site access as to whether they were ever denied activities within the scope of the rule. Suspension of unescorted access to protected or vital areas of a nuclear power reactor because of fitness-for-duty concerns pertaining to mental impairment is viewed as a denial within the scope of the rule.

10 CFR 26.27(a)(2) requires that licensees complete suitable inquiries to determine if the individuals addressed in 10 CFR 26.27(a)(1) have ever been denied unescorted access at any other nuclear power plant. Suspension of unescorted access is viewed as a temporary denial that can become permanent.

10 CFR 26.27(b) states, "Failure to list reasons for removal or revocation of unescorted access is sufficient cause for denial of unescorted access."

10 CFR 50.5(a)(2) states, "Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:... Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC". Information regarding suspension of unescorted access is viewed as being material to the NRC.

10 CFR 50.5(b) addresses enforcement actions that may be taken against persons who violate 10 CFR 50.5(a)(2).

10 CFR 73.56(b)(4) states "Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization."

10 CFR 73.56(f)(2) requires that licensees make information obtained in accordance with the rule available to other licensees, contractors, or vendors provided the requests for information are accompanied by signed releases from the individuals being processed for unescorted access.

ENCLOSURE