

TENNESSEE VALLEY AUTHORITY

6N 38A Lookout Place
Chattanooga, Tennessee 37402-2801

March 24, 1988

Mr. Stewart D. Ebnetter, Director
Office of Special Projects
U.S. Nuclear Regulatory Commission
MS 7D24
Washington, D.C. 20555

Dear Mr. Ebnetter:

In the Matter of)
Tennessee Valley Authority)

Docket Nos. 50-327
50-328

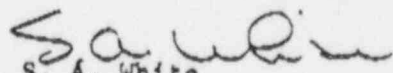
Reference: Letter from Bennie L. Edwards, Area Director, Department of Labor,
dated March 11, 1988, Andrew Bartlik v. Tennessee Valley Authority

I am pleased to respond to your March 16 letter on the above subject.

I believe that Bennie L. Edwards's finding that TVA had refused to extend or renew Andrew Bartlik's contract (a contract that was in fact with American Technical Associates) because he had expressed safety concerns is not supported by the evidence. Accordingly, I have asked TVA's attorneys to appeal to the Secretary of Labor for a hearing, which they have done. In the meantime, the enclosure provides the answers to your questions regarding: (1) the basis for the employment action regarding Mr. Bartlik, and (2) the actions taken or planned to ensure that this employment action does not have a chilling effect in discouraging other licensee or contractor employees from raising safety concerns.

Very truly yours,

TENNESSEE VALLEY AUTHORITY


S. A. White
Manager of Nuclear Power

Enclosure
cc: See page 2

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Mr. Stewart D. Ebnetter

March 24, 1988

cc (Enclosure):

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ENCLOSURE

1. The basis for the employment action regarding Mr. Bartlik

Mr. Andrew Bartlik was an employee of two different contractors, Gibbs and Hill, Inc. and American Technical Associates, Inc., over the period from April 1985 to November 1987 working on TVA Appendix R issues. He was one of approximately 2,800 contract employees working for more than 100 different companies in TVA's Office of Nuclear Power (ONP) with the vast majority supporting the Division of Nuclear Engineering (DNE). These contracted employees were managed by TVA supervisors and augmented TVA's regular staff. These contractor employees were used as helpers. Their companies had no responsibilities for products (deliverables), and the total management burden was on TVA. Furthermore, since the contractor's fees were included in the hourly rates of these "helpers" (commonly referred to as staff augmentees), there was no motivation to complete high quality work on schedule and within reasonable costs. In fact, these contracts worked to the disadvantage of TVA because the longer the contractors stayed, the larger was the fee.

After a review of the situation in 1986, we decided to change this nonproductive situation and to implement a new way of doing business with contractors. At the earliest possible time in 1987, we initiated competition for contracts for the engineering work required to fix TVA's nuclear units. TVA received about 400 proposals for the various scopes of work required. The new way of doing business used performance contracts which included award fee provisions meaning the fee would have to be earned by providing quality products, on schedule, and within approved cost estimates. The contractor's hourly dollar rates for labor and overhead were quoted in the competitive offers without fee and were fixed so that they could not change for approximately 2-1/2 years.

The best qualified, in terms of most value for the dollar, of the competing companies were selected from these 400 proposals. The selections were made by evaluation panels made up of technical, management, financial, and contracts representatives of the appropriate TVA organizations. The panels scored the competitors in accordance with TVA evaluation and selection procedures. The new contracts required the companies to provide deliverables to TVA's specifications, and the winning contractors to manage their own employees to provide these products to TVA's requirements. The fixed hourly labor and overhead rates from the winning contractors were about 25 percent below previous "staff augmentee" rates, and this alone has saved the TVA ratepayers \$231 million.

In addition, it is estimated that the improved productivity which we are realizing from these companies will save an estimated additional \$200 million for a total of over \$400 million saved by changing the way we were doing business with contractors. Furthermore, TVA's ONP managers are far more effective now that they no longer have to manage nearly 2,800 contractor helpers. Companies now must manage their own people. In 1987 TVA phased out all but about 200 of these staff augmentees who were supporting TVA managers in the late 1986 and early 1987 time period. In other words, between May 1987 and December 1987 about 2,600 contractor staff augmentees were phased out.

Mr. Bartlik was one of these contractor staff augmentees who was phased out, and we are informed that Mr. Bartlik was offered a regular TVA job after the decision was made to eliminate contract employees. We are told that he refused. After he declined a regular job, the Mechanical Engineering Branch sought an exception to retain him as a staff augmentee. It is not uncommon for TVA lower level managers to seek a contractor to assist with their work.

Upper level management took a hard line against granting any exceptions to the phase out of staff augmentees because we realized there would be a push to continue relying on these "helpers" which would have significantly increased the costs and defeated our objective to mobilize the contractors and to work in a competitive environment under performing oriented contracts. Exceptions to this policy required the approval of either the Manager or Deputy Manager of ONP and were only made when the ongoing task was nearly complete or when the specific expertise was not available elsewhere and was critical to our restart schedule.

Two exceptions were sought for Mr. Bartlik; one was refused by the Project Engineer at Sequoyah; the second, a contract for Bellefonte, was disapproved by ONP's central office in Chattanooga. Both exceptions were denied in view of TVA's policy against such exceptions. Mr. Bartlik's contract was allowed to expire on November 25, 1987, in accordance with this policy. TVA has refused to extend or renew all but a very small number of the 2,800 contract employees because of the transition to our competitively awarded and incentivized performance contracts.

After it became apparent that Mr. Bartlik would not accept regular TVA employment and could not be retained as a staff augmentee, TVA's Mechanical Engineering Branch considered a performance contract for the Appendix R work. In order to obtain such a contract, a TVA manager was required to clearly define the scope of work that needed to be done, obtain budget approval, and solicit and obtain competitive proposals to accomplish the specific tasks. Because Appendix R work suggested by TVA's Mechanical Engineering Branch was not viewed at that time as a restart item, this request was not pursued to completion.

As this summary indicates, the decisions affecting Mr. Bartlik's employment at TVA were made in accordance with established and well defined TVA policies. TVA does not believe it discriminated or retaliated against Mr. Bartlik or any other individual in implementing these policies.

2. The actions taken or planned to ensure that this employment action does not have a chilling effect in discouraging other licensee or contractor employees from raising safety concerns

As stated in Volume 1, Section V of the Nuclear Performance Plan, the TVA ONP has an extensive program designed to ensure that there is no intimidation and harassment in the workplace. In the presentation to the NRC Commissioners on March 4, 1988, our basis for concluding there is no climate of intimidation and harassment was provided. We have aggressively and systematically eliminated the root causes which could have led to a perception that intimidation existed. Previous improper policies have been rescinded and compensation made to those wronged under these policies. Individuals found guilty for past offenses of intimidation and harassment have been disciplined and counseled. All managers are attending the basic skills training sessions which include a module on preventing intimidation and harassment. When warranted, special training sessions focusing entirely on eliminating even the perception of intimidation and harassment have been conducted.

It is very important that TVA continue the progress made in the last two years enhancing employee trust and confidence in management. TVA has repeatedly said that TVA will not tolerate intimidation and harassment in the workplace.

TVA managers must constantly work to ensure that nothing is done to chill or discourage our employees or contractor employees from raising safety concerns. If there are any indications that a chilling effect is created from the particular event discussed, or for any other reason, TVA will take appropriate corrective action.

TVA currently is appealing the DOL finding concerning Mr. Bartlik. There is no reason to believe that Mr. Bartlik's allegations will have an adverse effect on the comprehensive program that TVA has undertaken or the progress that we have made in the area of intimidation and harassment.