

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Sequoyah
Watts Bar
Browns Ferry

Docket Nos.: 05000259, 05000260
05000296, 05000327
05000328, 05000390
05000391

License Nos.: DPR-33, DPR-52,
DPR-68, DPR-77,
DPR-79, NPF-90,
NPF-96

EA-20-006

EA-20-007

U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) Report No. 2-2018-033, completed on October 3, 2019, and OI Report No. 2-2019-015, completed on January 21, 2020, identified four violations of an NRC regulation, Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

- A. 10 CFR 50.7(a), states, in part, that “Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment.”
1. Contrary to the above, on March 9, 2018, the Tennessee Valley Authority (TVA) discriminated against a former Sequoyah employee for engaging in protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns regarding a chilled work environment, filing complaints with the Employee Concerns Program, and by raising concerns regarding the response to two non-cited violations. After becoming aware of this protected activity, the former Director of Corporate Nuclear Licensing (CNL) filed a formal complaint against the former employee. The filing of a formal complaint triggered an investigation by the TVA Office of the General Counsel. This action was based, at least in part, on the former employee engaging in protected activity.

2. Contrary to the above, on May 25, 2018, TVA discriminated against a former Sequoyah employee for engaging in a protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns about a chilled work environment, filing complaints with the Employee Concerns Program, and raising concerns about the regulatory response the Kirk Key and Service Life non-cited violations. After becoming aware of this protected activity, TVA placed the former employee on paid administrative leave until the former employee resigned in August 2018. This action was based, at least in part, on the former employee engaging in protected activity.

This is Severity Level II problem (Enforcement Policy Sections 2.2.1.d, 6.10).
Civil Penalty - \$303,471

- B. 10 CFR 50.7(a), states, in part, that “Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment.”

1. Contrary to the above, on March 9, 2018, TVA discriminated against a former corporate employee for engaging in protected activity. Specifically, the former corporate employee engaged in protected activity by raising concerns of a chilled work environment. After becoming aware of this protected activity, the former Director of CNL filed a formal complaint against the former employee. The filing of a formal complaint triggered an investigation by the TVA Office of the General Counsel that resulted in the former employee being placed on paid administrative leave followed by termination. This action was based, at least in part, on the former employee engaging in a protected activity.
2. Contrary to the above, on January 14, 2019, TVA discriminated against a former corporate employee for engaging in protected activity. Specifically, the former corporate employee engaged in protected activity by raising concerns of a chilled work environment to the former Vice President of Regulatory Affairs and a TVA attorney during a TVA Office of the General Counsel investigation. After becoming aware of this protected activity, the former Vice President of Regulatory Affairs played a significant role in the decisionmaking process to place the former employee on paid administrative leave and terminate the former employee. These actions were based, at least in part, on the former employee engaging in a protected activity.

This is Severity Level I problem (Enforcement Policy Sections 2.2.1.d, 6.10).
Civil Penalty - \$303,471

Combined total Civil Penalty: \$606,942.

Pursuant to the provisions of 10 CFR 2.201, the Tennessee Valley Authority is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a copy to the Document Control Desk, Washington, DC 20555-0001, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty. This reply should be clearly marked as a "Reply to a Notice of Violation (EA-20-06 and EA-20-07)" and should include for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; (4) your plan and schedule for completing short and long term corrective actions and (5) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

TVA may pay the civil penalty in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer within 30 days of the date of this Notice addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation (EA-20-06 and EA-20-07)" and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing (a) civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above (i.e., Reply to Notice of Violation, Statement as to payment of civil penalty(ies), and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S., Nuclear Regulatory Commission, Region II, 245 Peachtree Center Ave. N.E., Suite 1200, Atlanta, GA 30303, and the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice."

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 24th day of August 2020.