

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR, United States *
Department of Labor, *

Complainant, *

v. *

DOMINION ENERGY NEW ENGLAND, INC. *

Respondent, *

IBEW Local # 326 *

Authorized Employee *
Representative, *

DOCKET NO. 08-0808

REGION I

INSP.#311425474

SETTLEMENT AGREEMENT

Complainant and Respondent hereby stipulate and agree that:

(1) On May 5, 2008, Respondent was cited for alleged violations of the Occupational Safety and Health Act of 1970, 29 USC 651, et seq., hereinafter referred to as the Act and was issued a Notification of Proposed Penalty in the total amount of \$46,800.00.

(2) Respondent, an employer within the meaning of section 3(5) of the Act, duly filed with a representative of the Secretary of Labor a notice of intent to contest the citations and penalties. This notice was duly transmitted to the Review Commission and it is agreed that jurisdiction of this proceeding is conferred upon said Commission by section 10(c) of the Act.

(3) The Secretary of Labor has filed a Complaint herein stating with particularity the violations alleged, the penalty proposed and the issues in contest before the Commission.

(4) Complainant and Respondent have agreed to resolve this matter, without the necessity of further pleadings, as follows:

(A) Citation No. 1, Item No. 1 shall be deleted.

Dominion agrees to clean and inspect the lower dead air spaces in all coal-fired boilers it operates in New England every two years. Inspections shall include at a minimum a thorough visual examination, and shall be performed in accordance with, and include any additional steps required by, the standards and requirements practiced within the industry, for example the National Board Inspection Code (NBIC), in view of the circumstances and history of each individual boiler unit. Inspections will also proceed in accord with dictates of state authorities having jurisdiction, and with applicable state regulations.

Dominion agrees to monitor every two years and repair and maintain the refractory material above the lower dead air space in Boiler Unit No. 3 at the Salem Harbor plant, and agrees to monitor every two years, and repair as needed, the condition of refractory material at the lower dead air spaces of each of the coal-fired boilers it operates in New England, to minimize ash from accumulating in those lower dead air spaces.

Citation No. 1, Item No. 2 shall be deleted.

Citation No. 1, Item No. 3 shall be recharacterized to Other than Serious.

Citation No. 1, Item No. 4 shall be recharacterized to Other than Serious.

Citation No. 1, Item No. 5 shall be deleted. On or before January 30, 2009,

Respondent shall conduct and document a workplace hazard assessment of the task of removing

klinkers from the boiler at Unit No. 3 at the Salem Harbor plant, and shall execute a certification that said hazard assessment has been completed.

Citation No. 1, Item No. 6 shall be deleted.

Citation No. 1, Item No. 7 shall remain as cited.

Citation No. 1, Item No. 8 shall be recharacterized as Other than Serious.

Citation No. 1, Item No. 9 shall be remain as cited.

Citation No. 1, Item No. 10 shall be remain as cited.

(B) The total penalties shall be modified to \$23,400.00.

(C) The Citations are deemed amended to include the abatement measures described and set forth above in this Settlement Agreement. Failure to comply with these abatement measures constitutes failure to abate the Citations.

(D) The abatement date for all items of the Citation is 30 days from the date this agreement is signed by the Complainant unless otherwise specified above.

(5) In view of the aforesaid, Respondent hereby withdraws its Notice of Contest and the parties agree that the Citation and proposed penalty and the abatement measures and dates as amended by this agreement, shall be affirmed and become the final Order of the Occupational Safety and Health Review Commission.

(6) Respondent certifies that the violations alleged have been abated or will be abated by the abatement dates as shown in the Citation as amended above. For each item in the Citation which is affirmed in this agreement, Respondent will submit to the issuing area director an Abatement Certification as required by 29 CFR 1903.19(c). For each item such certification shall be submitted within 30 days of signing this agreement or within 10 days of the abatement

date described herein, whichever is later. Respondent also agrees to submit such abatement documentation as is required by 29 CFR 1903.19(d).

Respondent further certifies that the total amended penalty has been paid with the return of the Settlement Agreement to Complainant.

Respondent agrees to comply with the Act in all respects in the future.

(7) Respondent certifies that this Settlement Agreement has been given to employees represented by an authorized representative, by serving a copy on Mr. James Simpson, Business Manager, IBEW Local # 326, 707 Turnpike Street, North Andover, MA 01845 by X first class mail, personal delivery on December ^{22nd}, 2008, in accordance with Rules 7 and 100 of the Review Commission Rules of Procedure. It is hereby further certified by Respondent that this Settlement Agreement has been served on employees, by posting this agreement in a place where the Citation is required to be posted, on December ^{22nd}, 2008, in accordance with Rules 7 and 100 of the Review Commission's Rules of Procedure.

(8) None of the foregoing agreements, stipulations, and actions taken by Respondent shall be deemed an admission by Respondent of the allegations contained within the Citations, Notification of Penalties and the Complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the purpose of settling this matter economically and amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act (29 USC 651, et seq.).

(9) Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

DOMINION ENERGY NEW ENGLAND, INC.

BY 

Stephen C. Yonay

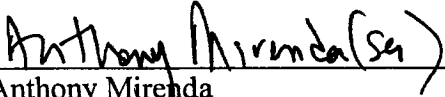
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DATE: December 19, 2008

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DATE Jan. 2, 2009