



In the Matter of:

**JEFFREY P. CARBONE,
GARY HALES,
S. PARTHASARATHY,
and
MICHAEL SULOUFF,**

COMPLAINANTS,

v.

**HOUSTON LIGHTING & POWER
COMPANY and
HOUSTON INDUSTRIES, INC.,**

RESPONDENTS.

ARB CASE NO. 97-115

**ALJ CASE NOS. 97-ERA-7
97-ERA-8
97-ERA-9
97-ERA-10**

DATE: June 27, 1997

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

These cases arise under the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988 and Supp. IV 1992). The parties submitted a Joint Motion for Approval of Settlement Agreement seeking approval of the settlement and dismissal of the complaints. The Administrative Law Judge (ALJ) issued a Recommended Order of Dismissal on June 23, 1997 approving the settlement.

The request for approval is based on an agreement entered into by the parties, therefore, we must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 29 C.F.R. § 24.6. *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

Review of the agreement reveals that it may encompass the settlement of matters under laws other than the ERA. See ¶¶ 4(f), 5(e), 6(e), 7(f). As stated in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, slip op. at 2:

[The Secretary's] authority over settlement agreements is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute. See *Aurich v. Consolidated Edison Company of New York, Inc.*, Case No. [86-]CAA-2, Secretary's Order Approving Settlement, issued July 29, 1987; *Chase v. Buncombe County, N.C.*, Case No. 85-SWD-4, Secretary's Order on Remand, issued November 3, 1986.

We have therefore limited our review of the agreement to determining whether the terms thereof are a fair, adequate and reasonable settlement of Complainants' allegations that Respondents violated the ERA.

Paragraph 15 provides that the agreement will be governed by the laws of Texas. We construe this to except the authority of the Secretary of Labor and any Federal court which shall be governed in all respects by the laws and regulations of the United States. See *Phillips v. Citizens' Ass'n for Sound Energy*, Case No. 91-ERA-25, Final Ord. of Dismissal, Nov. 4, 1991, slip op. at 2.

The Board requires that all parties requesting settlement approval of cases arising under the ERA provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or to certify that no other such settlement agreements were entered into between the parties. *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Final Order Approving Settlement and Dismissing Complaint, Dec. 3, 1996, slip op. at 3. Accordingly, the parties have certified that the agreement constitutes the entire and only settlement agreement with respect to the complainant's claims. See ¶ 11(d).

We find that the agreement, as so construed, is a fair, adequate, and reasonable settlement of the complaint. Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINT WITH PREJUDICE.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member