



**Issue Date: 23 July 2004**

***In the Matter of:***

MARTIN JOHNSON,  
Complainant,

**CASE NO: 2004 ERA 21**

v.

EXELON GENERATION COMPANY,  
Respondent.

**RECOMMENDED DECISION AND ORDER  
APPROVING SETTLEMENT AND DISMISSING COMPLAINT**

This case involves a claim for a violation of the employee protection provisions of Section 211 of the Energy Reorganization Act of 1974, 42 U.S.C. §5851. Complainant has alleged that he was the subject of discriminatory action by Respondent for activities protected under the Act. The parties filed facsimile counterparts signed by the respective parties and their counsel of a Settlement Agreement and Release together with a Stipulation of Dismissal with Prejudice, as Attachment A, and a related letter withdrawing grievances as Attachment B on July 19 and 20, 2004. This tribunal must determine whether the terms of the Settlement Agreement and Release as submitted are a fair, adequate, and reasonable settlement of the complaint. 29 CFR §§24.6(f)(1), 24.7(a), 24.8(a); *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5<sup>th</sup> Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9<sup>th</sup> Cir. 1989); *Fuchko & Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10 (Sec. Order, Mar. 23, 1989, slip op. at 1-2). Both parties are represented by counsel.

Examination of the Settlement Agreement and Release and the Stipulation of Dismissal with Prejudice establishes that the Settlement Agreement and Release is a fair, adequate, and reasonable settlement of the complaint. It incorporates a comprehensive and unrestricted release of the parties, each to the other, of all claims deriving from acts or omissions which occurred prior to the effective date of the Settlement Agreement; a warranty by Complainant that he has not assigned or transferred any claim released under the Settlement Agreement; comprehensive mutual covenants not to sue; and request for withdrawal of specified grievances previously filed. The parties represent that the Settlement Agreement and Release together with Attachment B embodies the entire agreement and understanding between the Parties with respect to the subject matter addressed herein, and that there are no other agreements with respect to the subject matter of this Agreement other than those expressly set forth and referred to in those documents. These provisions and the provisions restricting disclosure are deemed to comport with and to satisfy the requirements of applicable law and regulations. Wherefore, it is

ORDERED that the Settlement Agreement and Release executed by the Parties as of July 19, 2004, be approved, its terms be effectuated, and the case be dismissed in accordance with the Stipulation of Dismissal with Prejudice.

**A**  
EDWARD TERHUNE MILLER  
Administrative Law Judge

**NOTICE:** This Order Approving Settlement will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210. Such a petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. *See* 29 C.F.R. §§ 24.7(d) and 24.8.