

**U.S. Department of Labor**

Office of Administrative Law Judges  
2 Executive Campus, Suite 450  
Cherry Hill, NJ 08002

(856) 486-3800  
(856) 486-3806 (FAX)



**Issue Date: 11 December 2006**

Case No.: 2006-ERA-00032

In the matter of

**SHAM MEHTA**

Complainant

v.

**DOMINION NUCLEAR CONNECTICUT, INC.**

Respondent

**RECOMMENDED DECISION AND ORDER**  
**APPROVING SETTLEMENT AGREEMENT**

This proceeding arises from a complaint filed by Sham Mehta (“Complainant”) against Dominion Nuclear Connecticut, Inc. (“Respondent”), alleging violation of § 211 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (“ERA”).

On December 5, 2006, the parties filed a Joint Motion for Approval of Settlement Agreement, Dismissal with Prejudice, and Confidential Treatment of Settlement Agreement. I must determine whether the terms of the Settlement Agreement are a fair, adequate, and reasonable settlement of the complaint. Smyth v. Regents of the Univ. of Cal., LANL, ARB No. 98-068, ALJ No. 1998-ERA-3 (ARB Mar. 13, 1998); see also 29 C.F.R. §§ 24.6(f)(1), 24.7(a), 24.8(a). Both parties are competently represented by counsel.

The agreement appears to encompass the settlement of matters arising under various laws, only one of which is the ERA. See e.g. ¶ 1.1. However, I have limited my review of the agreement to determining whether its terms are a fair, adequate, and reasonable settlement of the Complainant’s allegations that Respondent violated the ERA. See Poulos v. Ambassador Fuel Oil Co., Inc., Case No. 86-CAA-1, (*Sec’y Order*, Nov. 2, 1987) (holding that “[The Secretary’s] authority over settlement agreements is limited to such statutes as are within [the Secretary’s] jurisdiction and is defined in the applicable statute”).

The parties request that the Settlement Agreement remain confidential. See e.g. § VI. This confidentiality provision does not violate the requirement of the law. See generally Conn. Light and Power Co. v. Sec’y of Labor, 85 F.3d 89 (2nd Cir. 1996); Bragg v. Houston Lighting and Power Co., 1994-ERA-38 (*Sec’y Order*, June 19, 1995). However, the parties are advised that their submissions, including the agreement, become part of the record of the case, and are subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The FOIA requires Federal agencies, including the Department of Labor, to disclose requested records unless they are

exempt from disclosure under the Act. Therefore, the Department of Labor must respond to any request to inspect and copy the record of this case as provided in the FOIA. The Administrative Review Board has noted that:

If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.

Seater v. S. Cal. Edison Co., 1995-ERA-13 (ARB March 27, 1997). The parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

Having reviewed the settlement agreement with regard to the ERA complaint, I make the following findings:

- 1) The settlement agreement appears to be fair and reasonable, and its terms are a fair, adequate, and reasonable settlement of the Complainant's complaint.
- 2) This Decision and Order shall have the same force and effect as one made after a full hearing on the merits.
- 3) The parties are deemed to have waived any further proceedings before the U.S. Department of Labor regarding the matters that are the subject of their settlement agreement, and seek a dismissal with prejudice of the pending proceedings based on the executed settlement agreement.
- 4) The parties have articulated specific reasons why this entire Agreement should be subject to the provisions of 29 C.F.R. § 70.26. They entered into this Agreement based in part upon their expectation that, in the event of a FOIA request, the parties would be contacted and given the opportunity to object to disclosure. See 29 C.F.R. § 70.26 (2006).

Based on the foregoing, and in accordance with the parties' agreement, it is ORDERED that:

- 1) The settlement agreement is APPROVED.
- 2) The hearing scheduled for December 11, 2006 is CANCELLED.
- 3) The ERA complaint in this matter is DISMISSED with prejudice.
- 4) The terms of the Settlement Agreement shall not be disclosed by any party, either specifically or generally, except as provided by the Agreement or as required by the FOIA or other statute.

**A**

Adele H. Odegard  
Administrative Law Judge

Cherry Hill, New Jersey

**NOTICE:** This Recommended Decision and Order 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.