



Issue Date: 19 January 2005

Case No.: 2005-ERA-00003

In the Matter of

ROBERT W. HAWKINS,
Complainant

v.

FLORIDA POWER AND LIGHT COMPANY,
Respondent

Appearances:

John M. Abramson, Esq., for Complainant
Marjan Mashhadi, Esq., for Respondent
Mitchell S. Ross, Esq., for Respondent

Before:

RICHARD E. HUDDLESTON
Administrative Law Judge

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

This proceeding arises under the provisions of Energy Reorganization Act of 1974 ["ERA"], as amended, 42 U.S.C. Section 5851, and the implementing regulations at 29 C.F.R. Part 24. On June 28, 2004, Robert Hawkins ("Complainant") filed an ERA complaint with the Occupational Safety and Health Administration ("OSHA") of the United States Department of Labor, against Florida Power and Light Company ("Respondent"). Following an investigation and determination by OSHA, a formal hearing was requested on October 22, 2004. A hearing was scheduled to commence on January 25, 2005, in Miami, Florida.

On January 3, 2005, the parties submitted a Joint Motion for Approval of Settlement Agreement and Dismissal with Prejudice. 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). Both parties are competently represented by counsel.

Upon review of the motion and the settlement agreement, I make the following findings:

1. I find that the Settlement Agreement and Release is a fair, adequate, and reasonable settlement of the complaint, and it further appears that it effectuates the purposes and policies of the statute under which it arises;

2. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits;
3. The Settlement Agreement is the entire and only settlement agreement between the parties arising from the factual circumstances that formed the basis for the claims under the ERA;

ORDER

Accordingly, it is hereby ORDERED that:

1. The motion of the parties for treatment of the settlement pursuant to 29 C.F.R. §70.26 is granted;
2. The Settlement agreement is approved as a fair, adequate, and reasonable settlement of the complaint;
3. The complaint filed in this matter is dismissed with prejudice; and
4. 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 petition for review must be received by the Administrative Review 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.

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RICHARD E. HUDDLESTON
Administrative Law Judge