



Issue Date: 20 June 2018

CASE NO.: 2018-ERA-00003

IN THE MATTER OF:

TERRY LEISINGER

Complainant

v.

**UNION ELECTRIC COMPANY, INC.
d/b/a AMEREN MISSOURI**

Respondent

**ORDER APPROVING SETTLEMENT AGREEMENT AND RELEASE AND
ORDER DISMISSING COMPLAINT WITH PREJUDICE**

This proceeding arises from a complaint filed under the “whistleblower” protection provisions of the Energy Reorganization Act of 1974, U.S. Code, Title 42 §5851 (“ERA”), and is governed by the implementing Regulations found in the Code of Federal Regulations, Title 29, Part 24 and Part 18. The claim was referred to the Office of Administrative Law Judges for formal hearing upon Complainant’s 12 Feb 18 appeal of the Occupational Safety and Health Administration 24 Jan 18 determination denying the complaint.

On 15 Jun 18, the Parties filed a Confidential Settlement and General Release Agreement and a request for dismissal of complaint with Prejudice.

In reviewing the Settlement Agreement, I must determine whether the terms of the agreement fairly, adequately and reasonably settle the Complainant’s allegations that the Respondent violated the ERA whistleblower provisions. I find the Settlement Agreement complies with the standard required and it is **APPROVED** pursuant to 29 C.F.R. §70.26. Pursuant to the parties’ request, the copy of the Settlement Agreement will therefore be maintained in a separate envelope that is identified as being “Personal Private Information” and “Confidential Commercial and Financial Information.” See *Duffy v. United Commercial Bank*, 2007-SOX-00063 (Oct. 23, 2007). I find the Settlement Agreement contains financial information and business information that is privileged or confidential within the meaning of 29 C.F.R. §70.2(j), as well as personal information relating to the Complainant.

As to confidentiality, the parties are advised that notwithstanding the confidential nature of the Settlement Agreement, all of this filings, including the Settlement Agreement, are part of the record in this case and may be subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. §552 *et seq.* The Administrative Review Board 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., USDOL/OALJ Reporter (PDF), ARB N0. 97-072, ALJ No. 1995-ERA-00013 at 2 (ARB March 27, 1997) (emphasis added). Should disclosure be requested, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. §70.26.

In view of the foregoing, I approve only the terms of the agreement pertaining to Complainant’s ERA Case.

Accordingly, **IT IS HEREBY ORDERED** the Settlement Agreement be **APPROVED** and the instant complaint be **DISMISSED** with prejudice.

ORDERED this 20th day of June, 2018, at Covington, Louisiana.

PATRICK M. ROSENOW
Administrative Law Judge