



Issue Date: 06 August 2013

CASE NO.: 2013-PSI-00001

In the Matter of:

JOHN TISCARENO,
Complainant,

vs.

PACIFIC GAS & ELECTRIC CO.,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This claim arises under the whistleblower protection provisions of the Pipeline Safety Improvement Act (“the Act”), 49 U.S.C. § 60129 (2002). The parties have settled, and on July 31, 2013, they submitted a proposed “Confidential Settlement Agreement and Release” (“the Agreement”) for approval. *See* 29 C.F.R. § 1980.111(d)(2)-(e). I will find that the proposed settlement is generally proper, and I will approve it. But I will address three issues: confidentiality, choice of law, and the settlement of matters beyond the scope of the Act.

First, the Agreement’s title implies that it is confidential, and a provision limits Claimant’s disclosure of certain items. This Office, however, does not treat settlement agreements or the orders approving them confidentially. Our case files are generally public and subject to disclosure under the Freedom of Information Act. Nothing about the parties’ characterization of their Agreement changes that.

Second, the parties choose California law to control any dispute between them concerning the Agreement. *See* ¶F. As I construe this provision, it is not intended to and does not limit the authority of any federal court or the Secretary of Labor; for the federal courts and the Secretary, the law and regulations of the United States control.¹

Third, some language in the Agreement purports to settle claims beyond the scope of the Act. I limit my review to the Pipelines Improvement Safety Act claim only; anything beyond that exceeds this Office’s jurisdiction.

¹ *See Hildebrand v. H. H. Williams Trucking, LLC*, ARB No. 11-030, ALJ No. 2010-STA-056, slip op. at 3 (ARB Sept. 26, 2011).

That said, I find the proposed settlement agreement fair and reasonable as to the claim under the Pipelines Improvement Safety Act. It adequately protects Mr. Tiscareno, and none of the terms is against public interest. The proposed settlement therefore is APPROVED, and the parties are ORDERED to comply with its terms.

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge