

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

SEP 30 2005

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

v.)

EXELON GENERATION CO. LLC)
(Braidwood Nuclear Power Station),)

Defendant.)

05C 5658
Civil Action No. JUDGE FILIP

COMPLAINT
MAGISTRATE JUDGE ASHMAN

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Lawrence Pincombe ("Pincombe"), who was adversely affected by such practices. Defendant Exelon Generation Company LLC (f/k/a Commonwealth Edison Company, Nuclear Division) Braidwood Nuclear Power Station (hereafter, "Exelon") discriminated against Pincombe on the basis of his disability by refusing to permit him to work overtime, thus causing him a material and tangible loss of benefits.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, ("Title VII"), 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices hereafter alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois.

PARTIES

3. Plaintiff Equal Employment Opportunity Commission (the "Commission") is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Exelon Generation Company LLC has continuously been and is now a Pennsylvania limited liability company doing business in the State of Illinois and has continuously had and does now have at least fifteen (15) employees.

5. At all relevant times, Defendant Exelon Generation Company LLC has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant Exelon Generation Company LLC has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Lawrence Pincombe filed a charge with the Commission alleging violations of Title I of the ADA by Commonwealth Edison, whose successor is Exelon Generation Company LLC.. All conditions

precedent to the institution of this lawsuit have been fulfilled.

8. Since at least March, 2000, Exelon Generation Company LLC has engaged in unlawful employment practices at the Braidwood Nuclear Power Station in Illinois in violation of Title I of the ADA, 42 U.S.C. § 12112(a), (b)(1), and (b)(3)(A). These practices include, but are not limited to, refusing to permit Pincombe to work overtime, on the basis of his disability, which caused him a material and tangible loss of benefits.

9. The effect of the practices complained of above has been to deprive Pincombe of equal employment opportunities and otherwise adversely affect his status as an employee because of his status as a disabled person in violation of Title I of the ADA, 42 U.S.C. § 12112.

10. The unlawful employment practices complained of above in Paragraph 8 above were intentional.

11. The unlawful employment practices complained of above in Paragraph 8 were done with malice and/or reckless indifference to the federally protected rights of Pincombe.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining Exelon Generation Company LLC, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of disability;

B. Order Exelon Generation Company LLC to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices;

C. Order Exelon Generation Company LLC to make whole Pincombe by providing appropriate back pay with pre-judgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

D. Order Exelon Generation Company LLC to make whole Pincombe by providing compensation for past and future pecuniary losses resulting from its unlawful employment practices, in amounts to be determined at trial;

E. Order Exelon Generation Company LLC to make whole Pincombe by providing compensation for non-pecuniary losses, including emotional pain, suffering, loss of enjoyment of life and humiliation, in amounts to be determined at trial;

F. Order Exelon Generation Company LLC to pay Pincombe punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial;

G. Order Exelon Generation Company LLC and its successors to provide training to its officers, managers and employees on appropriate conduct in regard to employees who are disabled;

H. Grant such further relief as the Court deems necessary and proper; and

I. Grant the Commission its costs in this action.

JURY TRIAL DEMAND

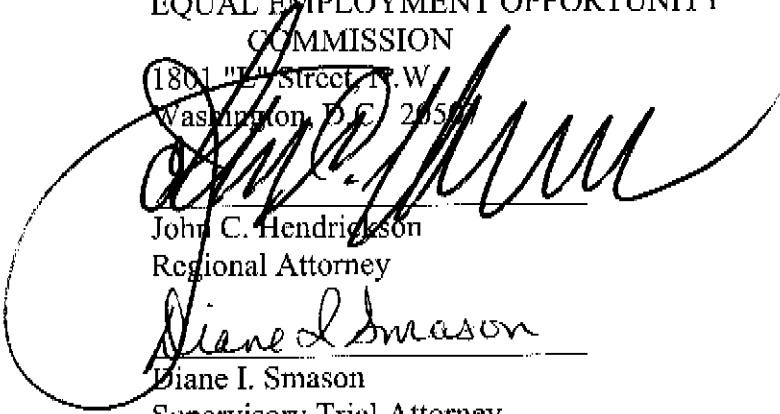
The Commission requests a jury trial on all issues of fact raised by its Complaint.

Respectfully submitted,


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