

TESTIMONY

of

ANITA DECKER

Before the

HOUSE COMMITTEE ON OVERSIGHT and GOVERNMENT REFORM

“DEPARTMENT OF ENERGY’S BONNEVILLE POWER ADMINISTRATION:
DISCRIMINATION AGAINST VETERANS AND RETALIATING AGAINST
WHISTLEBLOWERS.”

August 1, 2013

Chairman Issa, Ranking Member Cummings and distinguished members of the Committee on Oversight and Government Reform:

I submit my statement concerning the subject of this Committee hearing. I am here this morning as a result of my reluctant acceptance of the Committee's invitation, which I initially declined given the limited ability to prepare, having to testify only from personal knowledge and the tenuous position of being on administrative leave and with no final findings available. On the advice of counsel, I am appearing rather than challenge the authority of this Committee to require me to appear by subpoena under the circumstances in which I find myself. I am part of the Bonneville Power Administration (BPA) management team; but I am here only in my personal capacity as DOE is the spokesperson for BPA at this hearing and has informed me that I am only to speak from my personal knowledge.

On July 15, 2013, I was placed on administrative leave by the Department of Energy. While on administrative leave, I am not allowed access to documents, personnel or the BPA computer system. This past Sunday afternoon, I was restored to duty only for the purpose of preparing my testimony and attending this hearing. I have now had access to my email and some documents. On Tuesday afternoon I was granted access to speak to some staff for the purpose of refreshing my recollection. I have realized the benefit of review as some of my initial recall may have been inaccurate or incomplete. I will make every effort to be accurate and complete in my responses to your questions today, but please recognize that I would have been better prepared if the circumstances had allowed the opportunity for more complete preparation.

To elaborate, I was placed on administrative leave, according to a memorandum provided me by DOE stating allegations that BPA engaged in improper hiring practices, violations of veterans' preference and merit system principles, and allegations of whistleblower reprisal. When I return to Portland, I expect I will be placed again on administrative leave.

I would like to say at the outset that I would never knowingly allow BPA to implement policies or practices violating the federal policy supporting veterans hiring. I am very proud of BPA's record of veteran hiring, both professionally and personally. My father served in the US Navy, I have a step-brother who is a retired US Marine, a step-sister who left active US Air Force service after 14 years only to spend an additional 19 years as part of the Air Force Reserves, including being deployed to Iraq, and a step-son who served in the US Navy, so the importance of veterans preference has a personal meaning to me. It's my understanding that BPA's hiring of veterans has been roughly comparable to other non-defense executive agencies. I have actively supported veteran personnel and was extremely proud to have received recognition for BPA and me personally for support of veterans at BPA.

The main issue regarding hiring practices had to do with BPA's interpretation and implementation in late 2010 of the category rating process envisioned in the May 11, 2010 memorandum for *Improving the Federal Recruitment and Hiring Process*. BPA's

interpretation of how to apply category rating was incorrect. The issue was identified by BPA staff in May of 2012. And, at that time--more than a year ago--BPA Human Capital Management stopped the practices in question.

In July 2012 when I learned an employee had made or intended to make a complaint to the DOE Inspector General, I requested a meeting of key BPA staff and counsel to review what had occurred. BPA HCM had already begun reviewing past hiring actions to identify impacts on veterans, but we needed to ensure we understood the scope of the impacts and evaluate the hiring cases for the period in question and determine where corrective actions needed to be made. This review was underway when I was asked to temporarily take another assignment but most importantly, the hiring practice that had disadvantaged both veterans and non-veterans had stopped.

In August 2012 I was temporarily reassigned as Acting Administrator of the Western Area Power Administration and relocated to Lakewood, Colorado. Another BPA executive took over as Acting COO at BPA. During my absence I understand DOE HCM were also reviewing specific BPA's hiring case files and policies as well. I returned to my position as COO at BPA nearly 8 months later, in early April, 2013.

Upon returning to BPA, I understood that the "reconstruction process" required when a veteran has not been granted the proper preference had not yet been completed as we were seeking further instruction from DOE to initiate the reconstruction process with respect to veterans. After my return, OPM led an audit with DOE of BPA hiring practices. The IG Inquiry, OPM audit and DOE review of the hiring cases have all been a factor in the delay in an attempt to ensure all issues are known that must be remediated.

With respect to allegations of retaliation against whistleblowers, I can assure the Committee that I take this very seriously and understand the sensitivities that can be associated with protecting whistleblowers. While these actions are in my line of responsibility, I am not the decision maker on the proposed actions. I was aware of some of the actions and my interest was that actions appropriately follow the processes that are designed to protect an individual and the interests of taxpayers, or in BPA's case, ratepayers.

I also take performance management very seriously and believe that the federal personnel system contains checks and balances intended to protect the agency's ability to fairly manage performance and protect employees from retaliation. My training and legal advice from BPA counsel makes clear the federal policy of "zero tolerance" for retaliation. It also counsels management that making a complaint or other protected activity does not insulate an individual from accountability just because the person may engage in protected activity such as complaints to or cooperation with an Inspector General investigation.

In the case or cases that are the subject of the IG Management Alert and a subject of this committee hearing the actions were not determined by a single person or department. In each case, the manager has worked with an Employee Relations Specialist and legal

counsel, both whom have special training and a duty to immediately report retaliation if it is their judgment it has or will occur when working through any proposals for personnel action.

My understanding is that the system exists so that an employee who believes he or she has been subjected to illegal reprisal may raise that issue and obtain relief if legal standards for proving reprisal are met. To my knowledge, the principles of balance between guarding against retaliation and managing performance were being followed.

In summary, in regard to retaliation, until the investigation, audits and any legal determinations are final, jumping to conclusions is inappropriate and may do unintended damage to effective and efficient government and public servants.

In regard to veterans, we made a regrettable mistake, we stopped making the mistake over a year ago and I want be part of making this right.

I will now answer any questions you have.