

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-2147

PUBLIC SERVICE ELECTRIC & GAS COMPANY

v.

LOCAL 94 INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,

Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

(District Court No. 99-CV-3634)
Magistrate Judge: John J. Hughes

Submitted Under Third Circuit LAR 34.1(a)
January 14, 2002

Before: ALITO and ROTH, Circuit Judges, and SCHWARZER, Senior District Judge.

(Opinion Filed: January 31, 2002)

MEMORANDUM OPINION OF THE COURT

PER CURIAM:

The facts and procedural background of this case are familiar to the parties. Pursuant to its statutory authority under 42 U.S.C. 2201(i), the Nuclear Regulatory Commission has adopted regulations to ensure that individuals with unescorted access to protected areas of a nuclear power plant are sufficiently trustworthy and do not pose an unreasonable risk to public health and safety, including "the potential to commit radiological sabotage." 10 C.F.R. 73.56 (2000). To screen individuals, nuclear power plant licensees must have in place an access authorization program as part of the facility's physical security plan, and this plan must be approved by the Commission. See *id.*

We hold that the District Court below properly granted Appellee's motion for summary judgment and properly denied Appellant's cross-motions for summary judgment. In his 39-page Opinion accompanying the Order, dated April 6, 2001, the

Magistrate Judge correctly held that issues of site access for employees are not subject to arbitration under the grievance and arbitration provisions of the current collective bargaining agreement between the employer, PSE&G, and the union, Local 94. We have considered all of Appellant's arguments and find no ground to reverse.

The Order of the District Court is AFFIRMED.