

December 5, 1986

Docket Nos. STN 50-454
and STN 50-455

Mr. D. L. Farrar
Director of Nuclear Licensing
Commonwealth Edison Company
Post Office Box 767
Chicago, Illinois 60690

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Dear Mr. Farrar:

The Commission has filed the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing" with the Office of the Federal Register for publication. This notice relates to your request of September 3, 1986, supplemented November 7, 1986 and November 24, 1986, to amend the Technical Specifications to Operating Licenses DPR-37 and DPR-60 for Byron Station, Units 1 and 2. The amendment would revise the provisions of the Technical Specifications regarding the spent fuel pool expansion.

Sincerely,

Steven A. Varga, Director
Project Directorate #3
Division of PWR Licensing-A

Enclosure:
As stated

cc: See next page

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Mr. Dennis L. Farrar
Commonwealth Edison Company

Byron Station
Units 1 and 2

cc:

Mr. William Kortier
Atomic Power Distribution
Westinghouse Electric Corporation
Post Office Box 355
Pittsburgh, Pennsylvania 15230

Michael Miller
Isham, Lincoln & Beale
One First National Plaza
42nd Floor
Chicago, Illinois 60603

Mrs. Phillip B. Johnson
1907 Stratford Lane
Rockford, Illinois 61107

Dr. Bruce von Zellen
Department of Biological Sciences
Northern Illinois University
DeKalb, Illinois 61107

Mr. Edward R. Crass
Nuclear Safeguards & Licensing
Sargent & Lundy Engineers
55 East Monroe Street
Chicago, Illinois 60603

Mr. Julian Hinds
U. S. Nuclear Regulatory Commission
Byron/Resident Inspectors Offices
4448 German Church Road
Byron, Illinois 61010

Mr. Michael C. Parker, Chief
Division of Engineering
Illinois Department of
Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704

Ms. Diane Chavez
528 Gregory Street
Rockford, Illinois 61108

Regional Administrator, Region III
U. S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Joseph Gallo, Esq.
Isham, Lincoln & Beale
Suite 1100
1150 Connecticut Avenue, N.W.
Washington, D. C. 20036

Douglass Cassel, Esq.
109 N. Dearborn Street
Suite 1300
Chicago, Illinois 60602

Ms. Pat Morrison
5568 Thunderidge Drive
Rockford, Illinois 61107

Ms. Lorraine Creek
Rt. 1, Box 182
Manteno, Illinois 60950

UNITED STATES NUCLEAR REGULATORY COMMISSION
COMMONWEALTH EDISON COMPANY
DOCKET NOS. STN 50-454 AND STN 50-455
NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT
TO FACILITY OPERATING LICENSE AND
OPPORTUNITY FOR PRIOR HEARING

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-37 and NPF-60 issued to Commonwealth Edison Company (the licensee), for operation of Byron Station, Units 1 and 2, respectively, located in Ogle County, Illinois.

The licensee requested the amendment including associated changes in the combined Technical Specifications for Units 1 and 2 in a letter dated September 3, 1986, supplemented by letters dated November 7, 1986 and November 24, 1986.

The amendment would authorize the licensee to increase the spent fuel pool storage capacity from 1060 to 2869 storage locations in the common pool shared by both units at Byron Station.

The high density spent fuel racks consist of individual cells with 8.85-inch by 8.85-inch (nominal) square cross-section, each of which accommodates a single Westinghouse PWR fuel assembly or equivalent. A total of 2869 cells are arranged in 23 distinct modules of varying sizes in two regions. Region 1 is designed for storage of new fuel assemblies with enrichments up to 4.2 weight percent U-235. Region 1 is also designed to store fuel assemblies with enrichments up to 4.2 weight percent U-235 that have not achieved adequate burnup for Region 2. The Region 2 cells are capable of accommodating fuel assemblies with various initial enrichments which have accumulated minimum burnups within an acceptable bound.

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The amendment would change Technical Specification Section 5.6 to reflect a small increase in the pool reactivity, the decrease in distance between fuel assemblies, and the increase in storage capacity, and incorporate a curve entitled "Minimum Burnup versus Initial Enrichment for Region 2 Storage."

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By _____ the licensee may file a request for hearing with respect to issuance to the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petition for leave to intervene shall be filed in accordance with the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR part 2. If a request for a hearing or petition of leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other

interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner is required to file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity, pursuant to 10 CFR 2.714(b). Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 143 of the Nuclear Waste Policy Act of 1982 (NWP), 42 U.S.C. 10154. Under section 143 of the NWP, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 143 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a

genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWSA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985)). 10 CFR 2.1101 et seq. Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commissioner's rules in 10 CFR Part 2, Subpart G, and §2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be give Datagram Identification Number 3737 and the following message addressed to Steven A. Varga: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Isham, Lincoln & Beal, One First National Plaza, 42nd floor, Chicago, Illinois 60603.

Nontimely findings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 3, 1986 supplemented November 7, 1986 and November 24, 1986, that is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Dated at Bethesda, Maryland, this 4th day of December, 1986.

FOR THE NUCLEAR REGULATORY COMMISSION



Leonard N. Olshan, Acting Director
Project Directorate #3
Division of PWR Licensing-A