

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF COMMONWEALTH)	
EDISON CO. Quad Cities Units)	
1 and 2 & Dresden Units 2 and 3	)	Docket Nos. 50-237
	)	50-249
Amendments to Facility	)	50-254
Operating License Nos DPR-19,	)	50-265
DPR-25, DPR-29 and DPR-30)	
(Transshipment of Spent Fuel))	

MEMORANDUM REGARDING STATE OF ILLINOIS CONTENTIONS

On December 29, 1978 the State of Illinois* filed contentions in the above captioned matter. Subsequently attorneys for Commonwealth Edison Company (Applicant), the Nuclear Regulatory Commission (NRC), and the State of Illinois (State) held meetings to resolve conflicts regarding the contentions. As a result of these meetings and consideration of certain representations by Applicant (see Exhibit A) the State of Illinois has agreed to withdraw contentions 10, 11, 12, 14, 15 and 17 as set forth in the December 29, 1978 Statement of Contentions. Revised contention 10 incorporates the basic provisions of original contentions 10 (1-8), 14 and 15. Revised contention 11 replaces original contention 10 (9). The Applicant and NRC have stipulated to the admissibility of revised contention 10, and to the modification of language in revised contention 11. (See STIPULATION OF CONTENTIONS, attached hereto as Exhibit B.) Contentions 1-9, 13 and 16 have been retained as originally filed, except that contention 3 has been amended with the agreement of the Applicant and the NRC.

* The party seeking to intervene in this proceeding is the People of the State of Illinois, represented by the Attorney General of the State of Illinois. Thus the correct reference is to the People or the State of Illinois not the "Attorney General", as referred to in the pleadings submitted by the attorneys for Commonwealth Edison.

The State of Illinois requests the Atomic Safety and Licensing Board to admit contentions 1-9, including 3 as amended; 10, as amended; 11 as amended; 13 and 16 on the grounds that each of these contentions is legally sufficient under 10 C.F.R. §2.714 and is relevant to the existing proceeding.

CONTENTIONS TO BE WITHDRAWN

CONTENTION 10 is withdrawn and replaced by revised contentions 10 and 11.
CONTENTION 11.

In consideration of a letter received from Mr. John Rowe on behalf of Commonwealth Edison Company indicating the company's knowledge of the applicable Department of Transportation Regulations regarding transport of radioactive and hazardous materials and the company's intent to comply with such regulations, the State of Illinois withdraws contention 11.

CONTENTION 12.

In consideration of a letter from Mr. John Rowe, on behalf of Commonwealth Edison Company stating that Commonwealth Edison Company has knowledge of the State of Illinois statutes regarding transport of hazardous materials and emergency notification of the Illinois Emergency Services and Disaster Agency, (IESDA) and in consideration of Mr. Rowe's assurances that Commonwealth Edison has on file with IESDA suitable emergency and notification plans, the State of Illinois withdraws contention 12.

CONTENTION 14 is withdrawn and replaced by revised contention 10.

CONTENTION 15 is withdrawn and replaced by revised contention 10.

CONTENTION 17.

In consideration of a letter from Mr. John Rowe, on behalf of Commonwealth Edison, Co. stating that the company will not store any fuel from any facility in Brooks and Perkin's Boral racks until proper authorization from the Nuclear Regulatory Commission has been obtained, the State of Illinois withdraws contention 17.

AMENDED CONTENTIONS

CONTENTION 3.

Contention 3 originally filed by the Natural Resources Defense Council/Citizens for a Better Environment and adopted by the State of Illinois in part, is now amended as follows:

CONTENTION 3- There is no adequate analysis of the alternatives to the proposed action.

- a) The alternative of using any of the reactors as a last on, first off, plant to reduce spent fuel discharge requirements is not considered.
- b) Omitted.
- c) Applicant has not fully utilized all of the potential it has to store spent fuel in existing pools at each plant. Applicant has requested an amendment to the Dresden Units 2 and 3 licenses, which, if granted, would permit the on site expansion of its spent fuel storage capacity for each of those units from 1420 to 3780 spent fuel assemblies.

REVISED CONTENTION 10.

The "Environmental Survey of Transportation of Radioactive Materials To and From Nuclear Power Plants", WASH-1238 (1972) and the "Final Environmental Statement of Transportation of Radioactive Material by Air and Other Modes", NUREG-0170 (1977), represent studies conducted by the AEC and the NRC in which the environmental impacts of transport-

ation of irradiated fuel were evaluated. These reports considered impacts associated with both accident free transportation and transportation involving hypothetical accident situations.

The Board should determine whether the conditions under which Applicant proposes to ship irradiated fuel will be similar to those upon which the above-referenced studies were based. Such a demonstration would assure the applicability of these studies to Applicant's proposed activities, and should consider the following information furnished by Applicant: (1) the types of materials to be shipped; (2) quantities of materials to be shipped; (3) numbers of curies per shipment; (4) mode(s) of transportation; (5) routing; (6) carrier; (7) estimated dose rates; and (8) plans formulated to deal with emergency situations. In addition, the Board should consider whether the matters raised by the draft SANDIA Report No. 77-1927 affect the conclusions reached in WASH-1238 and NUREG-0170 as they could be applied in the evaluation of the environmental effects of shipping of spent nuclear fuel between Dresden and Quad Cities Station.

REVISED CONTENTION 11.

The license application and supporting documents are deficient in that they do not include any security plans, reports or studies relating to the transport of spent fuel across the State of Illinois. It is therefore impossible to determine (1) whether such shipments will be properly protected and (2) the amount of state assistance required to provide such protection.

CHALLENGE TO NRC REGULATIONS

It has been asserted by the Applicant and staff that certain of NRDC/CBE and State of Illinois contentions are challenges to the NRC regulations. Such an interpretation of contentions 6 and 10 (9) now revised 11, is plausible, but not necessarily correct.

Contention 6 merely requests sufficient information from applicant to make it possible to determine whether additional safeguards against sabotage would be necessary.

Revised contention 11 suggests that some security plan is a necessary element of any transportation plan which is developed by Applicant for its transshipment. Additionally the State of Illinois would require the Applicant to submit this proposed security plan to the State for review to allow the State to properly assess the degree of public assistance the security plan requires.

Information of the kind requested by contentions 6 and 11 might be construed as a challenge to the NRC regulations only if it is found that the above requests require the Applicant's security plan to fall within the ambit of 10 C.F.R. Part 73 and additionally only if it is determined that Part 73 does not apply to spent fuel shipments. *

* The NRC staff asserts that 10 C.F.R. Part 73 security regulations need not apply to spent fuel shipments because according to NUREG-0170 "Final Environmental Statement on the Transportation of Radioactive materials by Air and other Modes" spent fuel is an unattractive target for theft and sabotage. However the FES does not have the authority of a regulation; therefore contentions contrary to conclusions reached in the FES should not be considered challenges to NRC regulations.

The State requests the Board to consider, at the special pre-hearing conference, whether these contentions must in fact be considered as a challenge to the regulations. If it is so ruled the State of Illinois will file the appropriate petitions as required by 10 C.F.R. §2.758.

MEMORANDUM IN SUPPORT OF CONTENTIONS

The State of Illinois requests the Atomic Safety and Licensing Board to admit contentions 1-9 of the NRDC/CBE final contentions, including contention 3 as amended by the State of Illinois in this memorandum, and contentions 10, 11, 13 and 16 of the State of Illinois contentions as amended in this memorandum, on the grounds that each of these contentions is legally sufficient under 10 C.F.R. §2.714 and each is relevant to the existing proceeding.

Each of these contentions states an issue of factual nature which applies to the proceeding. Although it is true, as asserted by Applicant in its motion to strike certain of the State's contentions, that some issues might have been clarified by pre-conference discovery, such discovery is not mandated by the regulations. As the State of Illinois has not yet been formally admitted as a party to these proceedings it is presumptuous of Applicant to even suggest that the State has been dilatory in not seeking discovery to obtain information Commonwealth Edison has failed to provide in its license amendment application. Prior to the special pre-hearing conference the State has no duty to go forward to seek informal discovery; the Applicant has no obligation to supply information to the State; and there would have been no means to assure that discovery was complete and would take place in

an enforceable context. Failure to obtain such discovery prior to the special pre-hearing conference does not invalidate contentions, nor does it destroy the validity of contentions the basis of which is founded upon lack of information which should have been included in the license application.*

The State of Illinois recognizes that several of its contentions assert that the application is deficient because certain required information is lacking. This deficiency makes it impossible for the State and the N.R.C. to properly assess whether the citizens of Illinois will be placed in jeopardy as a result of the proposed transshipment. It is the purpose of these contentions to alert the Board and the Staff to Applicant's obligations to supply all pertinent information prior to being granted a license.

The regulations of the Nuclear Regulatory Commission recognize that at this primary stage of a licensing proceeding many issues continue to require clarification; that is precisely the reason for holding a special pre-hearing conference.

As stated at 10 C.F.R. §2.751(a), provision may be made for a special pre-hearing conference to allow the Board to:

- (1) Permit identification of the key issues in the proceeding.

* 10 C.F.R. §50.32 makes it possible for an applicant to simplify applications and eliminate repetitions by allowing the applicant to "incorporate by reference information contained in previous applications, statements or reports filed with the Commission: Provided that such references are clear and specific". As no such references exist in the present application the State must assume that no studies or reports concerning transport of spent fuel have been made or used by the Applicant.

(2) Take any steps necessary for further identification of the issues.

(3) Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding...

(4) Establish a schedule for further actions in the proceeding...

Further, 10 C.F.R. §2.752 specifies that the purposes of pre-hearing conference include:

(1) Simplification, clarification and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of facts and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule; and

(6) Such other matters as may aid in the orderly disposition of the proceeding.

A Petitioner's burden regarding contentions at the special pre-hearing conference stage is merely to present valid issues open to factual dispute. Although a licensing board may under certain circumstances reject contentions on legal grounds on the pleading alone, it is not permitted to make determinations concerning the merits of contentions otherwise admissible. Northern States Power Company (Prairie Island 1 and 2), ALAB 107, 6 AEC 188 (1973); DuQuesne Light Co. (Beaver Valley, Unit 1) ALAB 109, 6 AEC 244 (1973). Where contentions involve mixed questions of law and fact they are not appropriate for determination as a matter of law

on the pleadings alone. Tennessee Valley Authority (Clinch River Breeder Plant), LBP 76-14, 6 NRC 430 (1976).

In making its pre-hearing determinations as to the admissibility of contentions a licensing board bears no affirmative obligation to create contentions for a petitioner or to transform patently bad contentions into acceptable contentions. Commonwealth Edison Co. (Zion Station), ALAB 226, 8 AEC 381 (1974). "However, where an issue, clearly open to factual adjudication, can be discerned somewhere within the four corners of submitted pleadings, a licensing board is not free to disregard it." Tennessee Valley Authority (Brown's Ferry Nuclear Plant, Units 1 and 2) LBP 76-10, 6 NRC 209 (1976).

At this point in the proceeding any facts alleged must be taken as true; the merits of the contentions are not at issue nor is the determination of adequacy of contentions at a special pre-hearing conference a substitute for consideration of motions for summary disposition as provided by 10 C.F.R. §2.749. Nowhere in the regulations is it stated that Intervenors bear the burden of proving the truth or sufficiency of facts alleged in contentions. In fact, the Licensing Appeal Board has held:

...it is not the function of a licensing Board to reach the merits of any contention contained... (in an intervention petition)... Moreover, Section 2.714 does not require the petition to detail the evidence which will be offered in support of each contention...Needless to say, it will be open to both the applicant and the regulatory staff to move, pursuant to Section 2.749 for summary disposition...The existence of this summary disposition procedure -- which was adopted at the same time as the contentions provision of the present Section 2.714 -- is a further indication of the error in the view of the applicant and the regulatory staff that an intervenor must provide the evidentiary foundation for its contention (i.e., demonstrate that it has merit) before it

is admitted into the proceeding.
Mississippi Power and Light Company (Grand Gulf
Nuclear Station, Units 1 and 2), ALAB-130,
6 AEC 423, 426 (1973).

Accordingly, the Staff and Applicant should not be allowed to use the special pre-hearing conference as a means of circumventing the summary disposition process by having Intervenor's contentions removed from the intervention petition by the assertion of unsworn, untested and unverified statements.

The State of Illinois prays the Board to consider these general precepts when ruling on the admissibility of the following contentions.

CONTENTIONS 1-9.

The State of Illinois adopts the positions put forward the Natural Resources Defense Council in its memorandum in support of these contentions.

CONTENTION 10 (revised)

Revised contention 10 has been deemed valid by stipulation. (See Attachment B herein).

CONTENTION 11 (revised)

The license application and supporting documents are deficient in that they do not include any security plans, reports and studies relating to the transport of spent fuel across the State of Illinois. It is therefore impossible to determine (1) whether such shipments will be properly protected and (2) the amount of state assistance required to provide such protection.

A valid and workable security plan to protect the shipment of spent fuel at shipping and receiving points as well as in transit should be absolutely required by the NRC staff and the Atomic Safety and Licensing Board before any license for transshipment will be issued.

The State's intent in filing this contention is to be assured that the Applicant has devised an adequate security plan to protect spent fuel shipments en route from one facility to another. As the Applicant has made no mention of such a plan in any of the documents accompanying the license application the State does not know whether any plan exists, and certainly has no means by which it could assess the adequacy of such a plan.

The State's interest in having such a plan is the protection of its citizens. The State also has a responsibility to participate in preventing damage to Commonwealth Edison's property and to thwart any sabotage attempts. The State's interest in reviewing such a plan is to assess the amount of state support which will be required should a security problem arise. In order to fully perform their necessary functions state officials must have access to the NRC and Applicant procedures for security.

It may well be that existing security plans designed by the Applicant and previously approved by the Nuclear Regulatory Commission at the time the Dresden and Quad Cities facilities were licensed are sufficient to exclude the necessity of calling on public police forces for assistance in maintaining security. However, the State has no way of knowing this to be true, since the Applicant and

NRC have refused to make available any of the existing security plans.

The Legislature of the State of Illinois has indicated its concern with the problems of sabotage of radioactive materials shipments in ch. 127 Ill. Rev. Stat. §1253(b) which provides for a procedure by which hazardous materials may be exempted from placarding requirements if such placarding "may draw attention to the material and thereby endanger the public health and safety."

The State's interest in reviewing security and sabotage plans is clear. There is a responsibility to protect the health and welfare of its citizens through the use of its police powers.

In part, the objection to contention 11 seems to be based not on the lack of existing documents or on the inability of the State to prove its legitimate interest in reviewing the security plans, but on a Nuclear Regulatory Commission staff determination that it shall be the only body given the power to review security and anti-sabotage criteria. At present there is no substantial justification to allow the staff to maintain this position. Although the staff favors classification of such documents under the Commission regulations, such classification does not presently exist. The State is willing to have all testimony regarding security and sabotage take place in camera, and take any other precautions the Board deems to protect the safety of the spent fuel shipments.

Contention 11 raises relevant questions of fact. According to the standards established for the admission of contentions in contested hearings on applications before the Nuclear Regulatory Commission it is a valid contention and should be admitted.

CONTENTION 13.

The Application and supporting documents do not meet the requirements of 10 C.F.R. Part 71.

A. The License application does not specify the type of license being requested under Part 71.

B. The Application does not meet the minimum requirements of 10 C.F.R. §71.51 to provide a description of a quality assurance program for the proposed transshipment nor does the Application discuss the procedures which will be utilized to meet the standards delineated in Appendix F of Part 71.

C. The License application does not fulfill the requirement of 10 C.F.R. Part 71, subpart B, §71.21 that applications for licenses or license amendments "shall include, for each proposed packaging design and method of transport, the following information in addition to any otherwise required.

- (a) a package description as required by §71.22;
- (b) a package evaluation as required by §71.23;
- (c) an identification of the proposed program of quality assurance as required by §71.24;
- (d) in the case of fissile material, an identification of the proposed fissile class.

D. There are no computations or computer simulations to indicate that criticality will not be reached during shipment (10 C.F.R. §71.33).

E. The application fails to identify the type of package and mode of transport therefore it is impossible to evaluate the effect

of the transport environment on the nuclear safety of the packages (10 C.F.R. §71.37).

F. The application fails to identify the type of package and mode of transport therefore it is impossible to assess whether the spent fuel shipments will meet the standards for hypothetical accident conditions. (10 C.F.R. §71.36).

In its objection to contention 13 Commonwealth Edison states "This application only seeks authority to store spent fuel from one station at the other". ("Answer and Motion to Strike of Applicant, Commonwealth Edison Company in Respect of Contentions Filed by Petitioners, Natural Resources Defense Council, Citizens for a Better Environment, and Illinois Attorney General," filed January 12, 1979, at 17.) The State of Illinois contests Applicant's assertion that this license amendment request is limited merely to the subject of spent fuel storage. For reasons of its own, perhaps to save the time and cost of preparing an adequate license application, Commonwealth Edison would persuade the Board to ignore that what it is asked to rule upon in this proceeding is a request for transshipment. This transshipment would include transportation of a yet unspecified number of fuel elements in a yet unspecified number of casks, which will be taken across the State of Illinois in a yet unspecified number of trips by an unknown means of transportation. This transportation plan is an integral part of the proposed plan to store spent fuel irradiated at one reactor in the spent fuel storage pool of another reactor 150 miles distant.

Obviously then, more than 10 C.F.R. Part 50 must be considered in this proceeding. Parts 51 and 71 must also be adhered

to if Applicant is to be allowed to ship fuel. Applicant would argue that it already possesses a cask licensed under Part 71 and therefore it has no obligation to identify for the NRC staff the necessary elements of its plan to ship fuel. Apparently the staff disagrees as the NRC has not contested the State of Illinois' contentions that 10 C.F.R. §§71.21, 71.22, 71.23, 71.24, 71.33, 71.36 + 71.37, 71.51 and Appendix F must be addressed. The previous licensing of a single cask does not inform the Board as to the present plans and needs of the Applicant, nor does it give the NRC technical staff the proper information to assess the safety and environmental impacts of the proposed shipments. This last requirement is necessary and in fact some questions regarding Part 71 have already been put to the Applicant by the staff.

In its January 12, 1979 "Answer and Motion to Strike...", Edison tried to rebut the State's contention 13 by calling it a challenge to the NRC regulations. It should be obvious to the Board that the contrary is true. The State of Illinois asks only that the Applicant fulfill its obligation to follow existing regulations. The NRC position and the Staff's questions support the State's position in this regard. If anyone has issued a challenge to the regulations of the Commission, indeed, it is the Applicant. For by styling its application as one to store fuel only, baldly ignoring the necessary transportation aspects of the proposed license amendment Edison is asking the Board and the NRC to violate their own regulations for the benefit of a private utility.

Therefore the State prays the Board to admit contention 13 and to require the Applicant to supply the information mandated by the appropriate sections of 10 C.F.R. Part 71.

CONTENTION 16.

The Application and supporting documents are inadequate in that there is no discussion of the economic impacts of transshipment accidents and possible dispersal of radioactive materials e.g. effects on land use, decontamination costs, income loss, evacuation costs, consequences of inadequate insurance coverage.

There can be no question that contention 16 is valid for the purposes of admissibility. The State of Illinois has as much of a duty to see that its citizens are protected from economic harm as from physical harm. Such protection can easily be assured by having the Applicant provide for adequate insurance to cover credible risks from the activities involved in the license request.

Commonwealth Edison has made no mention in its application of (1) its awareness of economic hazards, (2) assessments of economic impacts, (3) whether it currently has sufficient private insurance to cover the company and Illinois citizens in case of an accident, and (4) company programs which would correct economic damage to citizens and their property caused by Edison's proposed transshipment.

The proposed transshipment is not covered by the Price-Anderson Act. There is no guaranty that the Act will be extended to cover transportation of spent fuel from one reactor to another.

[See "Indemnification of Spent Reactor Fuel Stored at a Reactor Site Different Than the One Where It Was Generated"; 44 F.R. 1751, Monday January 8, 1979.]

In light of these circumstances the Atomic Safety and Licensing Board has an absolute obligation to admit Contention 16 and to hear evidence regarding means by which the Applicant proposes to compensate for economic damage that may be caused as a result of the Board's granting a license in this proceeding.

The Applicant may choose to avoid litigating this issue by finding adequate insurance coverage. Alternatively, should Edison be willing to represent that it will not transship spent fuel from any of its facilities for storage at any other of its facilities unless and until such shipment is indemnified under the Price-Anderson Act or by a private insurer, the State of Illinois will withdraw contention 16.

RESPECTFULLY SUBMITTED,

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY:

SUSAN N. SEKULER
Assistant Attorney General
Environmental Control Division
188 West Randolph Street
Suite 2315
Chicago, Illinois 60601
(312) 793-2491

OF COUNSEL:

RUSSELL R. EGGERT
Chief, Northern Region
Environmental Control Division

188 West Randolph Street, Suite 2315
Chicago, Illinois 60601
(312) 793-2491

DATED: January 26, 1979

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

ONE FIRST NATIONAL PLAZA FORTY-SECOND FLOOR
CHICAGO, ILLINOIS 60603

TELEPHONE 312-786-7500 TELEEX: 2-5288

January 25, 1979

WASHINGTON OFFICE
1050 17TH STREET, N.W.
SEVENTH FLOOR
WASHINGTON, D. C. 20036
202-833-9730

Ms. Susan N. Sekuler, Esq.
Russell R. Eggert, Esq.
Assistant Attorney General
Environmental Control Division
188 West Randolph Street, Suite 2315
Chicago, Illinois 60601

Re: In the Matter of Commonwealth Edison Company
(Quad Cities, Units 1 and 2 and Dresden Units
2 and 3), Amendment to Facility Operating
License Nos. DPR-19, DPR-25, DPR-29 and DPR-30,
Docket Nos. 50-237, 50-249, 50-254, 50-265.

Dear Ms. Sekuler:

With respect to concerns raised by some of the Contentions filed by the Attorney General in the referenced proceeding, Commonwealth Edison Company hereby makes the following representations.

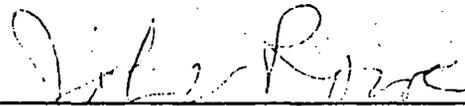
Contention 11 requests that Edison demonstrate its intention and ability to comply with the Department of Transportation regulations contained in 49 CFR Parts 171-179 which govern the transportation of hazardous materials. We are authorized to represent that Commonwealth Edison has reviewed the provisions contained in 49 CFR Parts 171-179 and intends to fully comply with the portions thereof which are relevant to Edison's amendment request.

Contention 12a requests that Edison supply information which would demonstrate its intention and ability to conform with Illinois statutes and regulations governing transportation of radioactive materials. Commonwealth Edison has reviewed Ill. Rev. Stat. ch. 127 §1251 et seq., Ill. Rev. Stat. ch. 95 1/2 §700-1 et seq., and the proposed regulations promulgated pursuant to these statutes contained in 2 Illinois Register 218-1047 and since they correspond to the federal requirements, Edison intends to comply with these statutes and regulations to the extent they are legally applicable to Edison's amendment request. Specifically, §171.15 of the proposed Illinois regulations requires that the Illinois Emergency Services and Disaster Agency be

notified of accidents involving the transportation of radioactive material. Edison has developed a generating station emergency plan, which is on file with the Illinois Emergency Services and Disaster Agency, which provides for notification of this agency in the event of a transportation accident involving radioactive materials. Edison will review the generating station emergency plan to ascertain that it adequately provides for transportation of spent fuel between Dresden and Quad Cities.

Contention 17 is based upon the Attorney General's concern that Edison will store spent fuel in Brooks and Perkins storage racks prior to receiving authorization from the NRC to install such racks. Edison hereby declares that it will not store any spent fuel whatever in a Brooks and Perkins storage rack until such time as the NRC has authorized such action. Further, Commonwealth Edison will not object to the addition by the Attorney General of the following sentence to Contention 3c: "Applicant has requested an amendment to the Dresden Units 2 and 3 licenses, which, if granted, would permit the on site expansion of its spent fuel storage capacity for each of those units from 1420 to 3780 spent fuel assemblies."

Very truly yours,



John W. Rowe
Attorney For Commonwealth
Edison Company

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF)	
)	
COMMONWEALTH EDISON COMPANY)	
	)	Docket Nos. 50-237
Quad Cities Units 1 and 2	)	50-249
and Dresden Units 2 and 3	)	50-254
	)	50-265
Amendments to Facility)	
Operating License Nos.)	
DPR-19, DPR-25, and DPR-29)	
DPR-30.)	

STIPULATION OF CONTENTIONS

In view of the substantial number of matters which were at issue between the State of Illinois ("State"), the NRC Staff ("Staff") and the Applicant, these parties have conducted further conferences in an attempt to simplify the issues now before the Board. The Staff, Applicant, and the State by their respective attorneys hereby agree and stipulate as follows:

1. In view of the representations set forth by the Applicant in Attachment A hereto and the agreements set forth in Paragraphs 2 and 3 herein, the State hereby withdraws contentions 10, 11, 12, 14, 15, and 17, as those contentions were set forth in its December 29, 1978 statement.¹

2. All of the parties to this stipulation agree that the contention set forth in Attachment B should be

¹Except as set forth in Paragraph 3, this stipulation does not cover contentions 1 through 9, which were originally stated by the Natural Resources Defense Counsel and Citizens For A Better Environment and adopted with one exception by the State of Illinois. The parties to this stipulation reserve their previously stated positions with respect to those contentions.

admitted for consideration as a matter in controversy among the parties in this proceeding. This contention is numbered revised contention 10 for convenience.

Applicant and the Staff believe that the reference to the draft SANDIA report in revised contention 10 may fail to meet the specificity requirement of 10 CFR §2.714. However, they believe that the revised contention is a substantial improvement over contentions 10, 14 and 15, which it largely replaces and that it should be admitted subject to further clarification or potential deletion by way of negotiations or motions for summary disposition.

3. All parties to this stipulation agree that the following language should be added to contention 3(c):

"Applicant has requested an amendment to the Dresden Units 2 and 3 licenses, which if granted, would permit the on-site expansion of its spent fuel storage capacity for each of these units from 1,420 to 3,780 spent fuel assemblies."

While consenting to this proposed amendment to contention 3(c), the Staff preserves the position it stated with respect to that contention in its prior pleading.²

4. The State asserts that the contention set forth in Attachment C (formerly contention 10(9)) and numbered for convenience revised contention 11 should be admitted as a matter in controversy. Neither Applicant nor the Staff object to the revised language of this contention. The

²"Response to Natural Resources Defense Counsel and Citizens For A Better Environment's Statement Of Contentions," dated January 12, 1979."

State further asserts that contentions 13 and 16 should be admitted as matters in controversy. The State's memorandum in these respects will be filed January 26, 1979. Applicant and the Staff assert that revised contention 11, contention 13 and contention 16 are not admissible and rely upon their previous pleadings with respect to contentions 6, 13 and 16, respectively.³

5. The parties have entered into this stipulation in a spirit of compromise and cooperation with the goal of minimizing procedural disputes; therefore, no agreements by any party herein shall be construed as a waiver of any rights to invoke any of the Commission's rules and regulations with respect to arguing the admissibility or inadmissibility of any of the unstipulated contentions.

6. Nothing contained in this Stipulation shall be deemed to prevent the State from filing new or amended contentions upon a showing of good cause as required by §2.714 of the Commission's regulations.

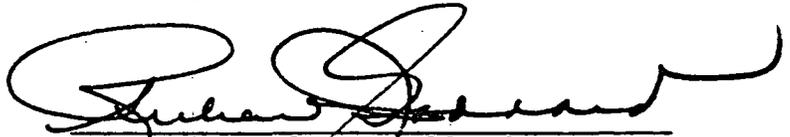
7. Nothing contained in this Stipulation:

(a) shall be deemed an admission by the Staff or Applicant on the merits of any contention or the validity of any allegation of fact or law stated in any contention; nor,

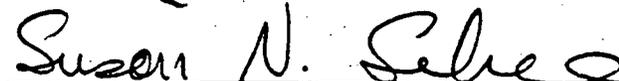
³See Applicant's "Answer and Motion to Strike [etc.]", dated January 12, 1979 and "NRC Staff's Brief in Opposition to the Admission of Certain of the Proposed Contentions of State of Illinois," dated January 12, 1979.

(b) shall be construed as a waiver by any party to this Stipulation of any rights with respect to the admissibility of evidence pursuant to 10 CFR §2.743 of the Commission's regulations.

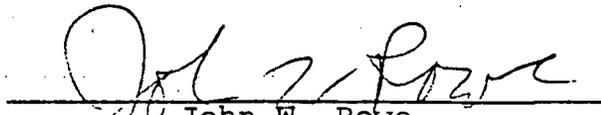
8. Each party to this Stipulation expressly reserves any right to move for summary disposition pursuant to 10 CFR §2.749 of the Commission's regulations.



Richard J. Goddard
Counsel for the Staff



Susan N. Sekuler
Counsel for the State



John W. Rowe
Counsel for the Applicant

gate rules and regulations governing the holding of the State Fair. Such rules and regulations shall prescribe the kinds and classes of exhibits, the conditions under which they shall be received, installed and cared for; the conditions under which racing shall be permitted in the fair grounds, and the rules governing the same; the premiums to be offered and paid; the methods by which judges of exhibits may be employed; the manner certificates of award shall be prepared and premiums paid; and, subject to Section 6.04, the price of admission.

Chapter 127, § 1156.04.

1156.03. Facilities operated by the board—Charges for use. § 6.03. To fix and collect just, reasonable and nondiscriminatory charges for the use of facilities operated and maintained by the Board.

1156.04. Admission fees—Veterans Day. § 6.04. To establish policies governing admission fees, if any, and related charges for activities in the annual state fair, expositions and other events sponsored by the Board. Honorably discharged veterans and their families shall, however, be admitted to the State Fairgrounds free of charge on the day set aside as Veterans Day upon presentation, as identification, of the honorable discharge certificate or a photostatic copy thereof or of a paid up membership card in any recognized veterans organization.

1156.05. Police protection. § 6.05. To police the State Fair Grounds, maintain and preserve order thereon, and protect exhibits from theft, injury or destruction.

1156.06. Programs of activities of educational or cultural value. § 6.06. When not in conflict with the annual fair or necessary preparations for the fair, to sponsor and promote a year round program of activities of educational or cultural value using the facilities operated and maintained by the Board.

1156.07. Executive director—Salary—Employment of personnel. § 6.07. To employ an executive director at an annual salary of \$23,000.00 per annum.

To employ and fix the compensation of such other supervising, technical, professional, clerical, maintenance and craft personnel, on a full time basis or part time basis, as it considers necessary to effectuate the purpose of this Act.

1156.08. Fiscal matters—Annual budget—Deposits—Expenditures. § 6.08. To be responsible for all fiscal matters pertaining to the Fair and the use of facilities operated and maintained by the Board. To prepare and submit an annual budget to the General Assembly setting out both the operating and capital needs for the year. To deposit in the Agricultural Premium Fund in the State Treasury all receipts from and revenues generated by the annual fair or the use of facilities operated and maintained by the Board. To make only such expenditures as are authorized by law and for which moneys are appropriated from the Agricultural Premium Fund.

1157. Transfer of records, property, funds and personnel from the State Fair Agency to the State Fair Board. § 7. On October 1, 1975, all records, property, funds and personnel under the jurisdiction of or employed by the State Fair Agency

are transferred to the State Fair Board, created by this Act.

1158. Severability. § 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid application or provision, and to this end the provisions of this Act are declared to be severable.

DATA INFORMATION SYSTEMS HAZARDOUS MATERIALS COMMISSION

AN ACT creating the Data Information Systems Commission and defining its powers. Approved and effective Dec. 11, 1975, by P.A. 79-1135.

1201. Creation — Membership — Vacancies — Officers. § 1. There is created the Data Information Systems Commission, hereinafter in this Act called the Commission. The Commission shall consist of 2 members of the House of Representatives, 1 of whom shall be appointed by the Speaker and 1 by the House Minority Leader; 2 members of the Senate, 1 of whom shall be appointed by the President and 1 by the Senate Minority Leader; 2 public members appointed by the Speaker of the House; 2 public members appointed by the President of the Senate; 2 public members, 1 each of whom shall be appointed by the House Minority Leader and the Senate Minority Leader; 2 public members appointed by the Governor; a representative of the Department of Administrative Services appointed by the Director of the Department of Administrative Services; a representative of the office of the Secretary of State designated by the Secretary of State; a representative of the Office of the Comptroller designated by the State Comptroller; a representative of the Office of the Treasurer designated by the State Treasurer; and one public member each appointed by the Secretary of State, the State Comptroller, and the State Treasurer. A vacancy does not occur on the Commission because a legislative member is not reelected to serve in the house from which he was appointed. Vacancies in the membership of the Commission shall be filled in the same manner as the original appointments. Members of the Commission shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

The Commission shall select from its membership a chairman and any other officers it considers necessary.

Amended by P.A. 80-67, § 42, eff. July 1, 1977.

1202. Studies and recommendations. § 2. The Commission shall: (1) study the system of management information and data processing by the Government of the State of Illinois and all its departments, officers, agencies, subdivisions and municipalities, with particular emphasis on State-local relations;

(2) recommend present and future electronic data processing installations, budgets and applications; and

(3) recommend procedures and legislation to insure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy incident to electronic data processing.

1203. Cooperation of State departments, agencies, etc. § 3. In all of the Commission's work, all departments, divisions, agencies and offices of the State shall afford to the Commission any requested resources, information, records or advice pertinent to the subject matter of the study.

1204. Annual report of findings and recommendations. § 4. The Commission shall report its findings and recommendations annually to the General Assembly no later than April 1.

1205. Assistants—Employment and compensation. § 5. The Commission may, without regard to the Personnel Code, employ and fix the compensation of necessary assistants.

Chapter 127, § 63b101 et seq.

AN ACT to require labeling of equipment and facilities for the use, transportation, storage and manufacture of hazardous materials and to provide for a uniform response system to hazardous materials emergencies.

Approved and effective Aug. 26, 1976, by P.A. 79-1442.

1251. Legislative findings. § 1. It is the finding of the General Assembly:

(a) That the use, transportation, storage and manufacture of hazardous materials creates a substantial risk that accidents will occur involving such hazardous materials;

(b) That accidents involving hazardous materials create an unreasonable risk to the health, safety and welfare of the People of Illinois;

(c) That the federal government promulgates regulations for the interstate transportation of hazardous materials, but that the People of Illinois can benefit by having such precautions as those included in federal regulation extended to intrastate transportation and other activities which might result in an accident involving hazardous materials;

(d) That often the emergency agency which first responds to an accident involving a hazardous material is unable to determine the nature of the material and is unfamiliar with precautionary measures which must be exercised in handling the material, with resulting use of incorrect emergency procedures endangering both members of the emergency agency and the public; and

(e) That response to hazardous materials emergencies can be accomplished more rapidly and with greater efficiency if one agency of State government with the necessary communications network is designated as the central reporting agency in case of emergency.

1252. § 2. Definitions. The following words and phrases shall have the meaning ascribed to them in Sections 2.01 through 2.08, unless their context implies otherwise: 2

¹Chapter 127, § 1252.01 to 1252.08.

²So in enrolled bill.

1252.01 Person. § 2.01 "Person" means any natural person or individual, firm, association, partnership, co-partnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity, or their legal representative, agent or assigns.

1252.02 Department. § 2.02 "Department" means the Illinois Department of Transportation.

1252.03 Agency. § 2.03 "Agency" means the Emergency Services and Disaster Agency of the State of Illinois.

1252.04 Board. § 2.04 "Board" means the Hazardous Materials Advisory Board.

1252.05 Hazardous material. § 2.05 "Hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property and which is designated a hazardous material pursuant to the "Hazardous Materials Transportation Act", (P.L. 93-633).¹

¹49 U.S.C.A., § 1801 et seq.

1252.06 Emergency agency. § 2.06 "Emergency agency" means police, fire, civil defense, Illinois Emergency Services and Disaster Agency, or any other agency or department charged with the responsibility of responding to an accident involving hazardous materials.

1252.07 Etiologic agents. § 2.07 "Etiologic agents" means the causative agent of disease as defined in Title 18 USC, Sections 831 through 837 as hereafter amended and regulations adopted pursuant thereto.

1252.08 Transportation. § 2.08 "Transportation" means transportation by surface or rail.

1253. Purpose of Act. § 3. It is the purpose of this Act to require the Illinois Department of Transportation to adopt by regulation the federal hazardous materials placarding regulations promulgated pursuant to the "Hazardous Materials Transportation Act" (P.L. 93-633)¹ for interstate and intrastate transportation of hazardous materials as they are applicable in the State of Illinois, and to require the Emergency Services and Disaster Agency to adopt regulations for placarding the use, storage and manufacture of hazardous materials with the following exceptions:

(a) No State placarding requirements shall apply to the use, storage or transportation of a hazardous material which is located on a farm or being transported to a farm and which is used solely for agricultural purposes. It is not the purpose of this section to exempt the owner of an agricultural hazardous material from reporting an accident involving the material as required in Sections 7, 7.01, 7.02, 7.03 and 7.04 of this Act;² nor is it the purpose of this section to exempt from the placarding requirements the storage, transportation or manufacture of a hazardous material which is an agricultural material when the material is in the possession of the manufacturer, distributor, dealer, retailer or any other person who handles the material in larger quantities than those designed for consumer use or for any purpose other than its intended agricultural usage.

(b) If the Agency determines, after public hearing, that State required placarding of a hazardous material during use, storage or manufacture may draw attention to the material and thereby endanger the public health and safety, the Agency may, by regulation, exempt any hazardous material or class of hazardous materials from the State placarding requirements, except that no regulations shall be adopted exempting a hazardous material from placarding without the approval of the Hazardous Materials Advisory Board.

(c) No State placarding requirements shall apply to pipelines or meters involved in the transmission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF COMMONWEALTH)	
EDISON CO. Quad Cities Station)	
Units 1 and 2; Dresden Station	)	Docket Nos. 50-237
Units 2 and 3	)	50-249
	)	50-254
Amendments to Facility	)	50-265
Operating License Nos.)	
DPR-19, DPR-25, DPR-29)	
and DPR-30)	

CERTIFICATE OF SERVICE

I, SUSAN N. SEKULER, hereby certify that I have this 26th day of January, 1979 served copies of the foregoing MEMORANDUM REGARDING THE STATE OF ILLINOIS CONTENTIONS on each of the following persons by causing same to be deposited in envelopes, addressed to said persons, first class mail, postage prepaid, and deposited with the U.S. Postal Service at 160 North LaSalle Street, Chicago, Illinois 60601.

Gary L. Milhollin, Esq.
1815 Jefferson Street
Madison, Wisconsin 53711

Mrs. Elizabeth B. Johnson
Union Carbide Corporation
Nuclear Division
P.O. Box X
Oak Ridge, Tennessee 37830

Dr. Quentin J. Stober
Fisheries Research Institute
University of Washington
Seattle, Washington 98195

Anthony Z. Roisman, Esq.
917 15th Street, N.W.
Washington, D.C. 20005

Secretary of the Commission
United States Nuclear Regulatory
Commission
Washington, D.C. 20555
Attention: Chief, Docketing and
Service Section

Steven C. Goldberg, Esq.
Richard J. Goddard, Esq.
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

John Rowe, Esq., Philip Steptoe,
Esq.
Isham, Lincoln & Beale
One First National Plaza
Chicago, Illinois 60690

SUSAN N. SEKULER
Assistant Attorney General
Environmental Control Division
188 West Randolph, Suite 2315
Chicago, Illinois 60601
(312) 793-2491