

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

1/26/79

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.

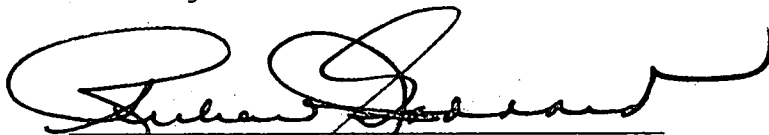
7. Nothing contained in this Stipulation:

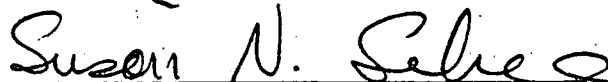
(a) shall be deemed an admission by the Staff or Applicant on the merits of any contention or the validity of any allegation of fact or law stated in any contention; nor,


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

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January 25, 1979

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Assistant Attorney General
Environmental Control Division
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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.

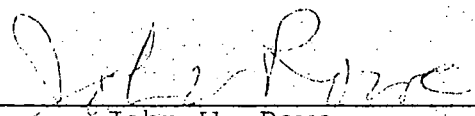
Contention 11 requests that Edison demonstrate its
intention and ability to comply with the Department of
Transportation regulations contained in 49 CFR Parts 171-179
which govern the transportation of hazardous materials. We
are authorized to represent that Commonwealth Edison has re-
viewed the provisions 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 infor-
mation 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 le-
gally applicable to Edison's amendment request. Specifi-
cally, §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

Attachment B

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 transportation 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.

Attachment C

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.

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CERTIFICATE OF SERVICE

I, Alan P. Bielawski, one of the attorneys for
Commonwealth Edison Company, certify that copies of
"STIPULATION OF CONTENTIONS" have been served in the
above-captioned matter on the following by the United
States mail, postage prepaid, this 26th day of January,
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