

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

9/20/78

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

NOTICE

Executive Legal Director Mr. John Rowe, Esq.
United States Nuclear Isham, Lincoln and Beale
Regulatory Commission One First National Plaza
Washington D.C. 20555 Chicago, Illinois 60690

PLEASE TAKE NOTICE that I have today filed with the Nuclear Regulatory Commission of the United States a Petition to Intervene in this cause, a copy of which is attached hereto and herewith served upon you.

PEOPLE OF THE STATE OF ILLINOIS

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

DATED: September 20, 1978

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

PETITION FOR LEAVE TO INTERVENE

The PEOPLE OF THE STATE OF ILLINOIS (hereinafter the "State of Illinois") by WILLIAM J. SCOTT, Attorney General of the State of Illinois, hereby move the United States Nuclear Regulatory Commission (hereinafter the "Commission") for leave to intervene with respect to the Commission's consideration of the request of Commonwealth Edison Company (hereinafter "Licensee") for permission to store spent fuel from any of the units at the Dresden Nuclear Generating Station and the Quad Cities Nuclear Station in any of the spent fuel storage pools of any of the four specified units, and for concurrent issuances of amendments to Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. This petition is filed pursuant to Sections 2.714 and 2.715(c) of Title 10 of the Code of Federal Regulations Part 2 and the "Notice of Proposed Issuance of Amendments to Facility Operating Licenses"; August 22, 1978 (43 F.R. 37245).

The State of Illinois requests that the Commission grant a hearing on this proposed amendment and that the State of Illinois and any other interested individuals and organizations be allowed to participate fully in such proceedings.

The State of Illinois further requests that the Commission prepare an Environmental Impact Statement as required by 10 C.F.R. Part 51 on the Licensee's proposed amendment to its license.

These requests are made pursuant to 42 U.S.C. §2239 and such other statutes and regulations as may be applicable. The facts that constitute the basis for this Petition are as follows:

I
INTEREST OF THE STATE OF ILLINOIS

The People of the State of Illinois are citizens of a state of the United States, and are represented in this action by William J. Scott, Attorney General of the State of Illinois, who represents the People of the State of Illinois in all cases in which they are interested. Illinois Constitution of 1970, Art. V, Sec. 15; Ill. Rev. Stat., ch. 14, par. 4.

The State of Illinois has a substantial interest in the Licensee's request in that:

A. The Quad Cities Nuclear Generating Station and the Dresden Nuclear Generating Station are located in the State of Illinois;

B. Transshipment of fuel between Dresden Station and Quad Cities Station will necessitate transport of spent nuclear fuel across a large part of northern Illinois and through many populated areas. The Department of Transportation has recorded 15 radioactive materials incidents in Illinois for 1977. It has been estimated that reported incidents comprise only 20% of all actual incidents. "Incidents" include leakage, spills and theft of radioactive materials, collision

of trucks carrying transuranics and failure of containers carrying radioactive materials. The State of Illinois is responsible for the health and safety of its citizens and therefore is charged with the responsibility to evacuate citizens from any areas which might become environmentally contaminated by radioactive materials. The State is also responsible for the segregation and decontamination of any areas which might be made hazardous to the public due to a transportation incident. Thus the State of Illinois has an interest in the present proceeding because transshipment could possibly create conditions that are unreasonably hazardous to citizens and environment.

C. Transshipment involves procedures which have not been analyzed in any of the previous license applications of the four units specified in the amendment request. The State of Illinois has an interest in a full examination of the proposed license revisions to ensure that public health and safety will be protected by a complete analysis of all aspects of the transshipment process and the long term consequences of that process.

D. In order to best protect the health, safety and environment of its citizens the State has a responsibility to ensure that all alternatives to the Applicant's request are considered so that if the license is approved it will have been determined that transshipment is the most cost effective, least hazardous method of solving the spent fuel problem.

E. Furthermore, the State of Illinois has a responsibility to its citizens to ensure that if it is determined that the proposed transshipment is necessary that implementation of transshipment will not produce adverse environmental and health effects within the State of

Illinois.

II

NECESSITY FOR AN ENVIRONMENTAL IMPACT STATEMENT

A decision by the Nuclear Regulatory Commission to allow transshipment of spent fuel from any of the five reactors at Dresden Station and Quad Cities Station to any of the four pools specified in the license amendment application would be a major federal action specifically affecting the quality of the human environment; therefore the Commission must prepare an environmental impact statement prior to the hearing on this proposed action.

III

INSUFFICIENCY OF THE LICENSE AMENDMENT REQUEST

A. The amendment request and supporting documentation have not analyzed the procedures necessary to safely package, ship and transfer spent fuel from one reactor to a spent fuel pool at another reactor site. Therefore the Applicant has not presented the Nuclear Regulatory Commission with a proper, detailed application for transportation of radioactive materials as required by 10 C.F.R. Parts 20, 70, 71 and 73.

B. The amendment request and supporting documentation do not describe all feasible alternatives to the transshipment of spent fuel from Dresden to Quad Cities. The application is deficient in that it does not mention that Commonwealth Edison has recently made application to rerack Dresden Station Units 2 and 3 to provide more compact storage of fuel. [In the Matter of Commonwealth Edison Co. Dresden Station,

Units 2 and 3, Amendments to Facility Operating License Nos. DPR-19 and DPR-25 (Increase Spent Fuel Storage Capacity) Docket Nos. 50-237 and 50-249]. Should the request to increase spent fuel storage capacity be granted Dresden would have storage for spent fuel until 1991. In its Draft Generic Environmental Impact Statement on the Handling and Storage of Spent Light Water Power Reactor Fuel; NUREG 0404, the NRC estimated that for Commonwealth Edison "transshipment could effectively postpone their storage crisis until 1985-1986" (NUREG 0404 at 3-33 and 3-34). Transshipment appeared so unlikely to the NRC as a solution to the spent fuel problem that environmental impacts and financial factors were not even considered. The possibility of re-racking places in question the wisdom of granting transshipment at the current time. At least, the NRC should require the Applicant to revise its request with a thorough analysis of all reasonable alternatives to the proposed transshipment and to include a comparative cost-benefit analysis for all alternatives considered.

C. The license amendment request is contrary to a previous NRC decision regarding transshipment between Commonwealth Edison reactors. An Environmental Impact Appraisal was issued by the Office of Nuclear Regulation in regard to a modification of Spent Fuel Pools at Dresden and Quad Cities on January 30, 1978. Transshipment was considered as an alternative to the proposed re-racking and it was concluded that "storage at another reactor site is not a realistic alternative at this time or in the foreseeable future" (Environmental Impact Appraisal by the Office of Nuclear Reactor Regulation Relating to a Modification to the Spent Fuel Pool...Dresden and Quad Cities, Docket Nos. 50-237, 50-249. 50-265, January 30, 1978, p.15) The NRR considered the trans-

shipment alternative so unfeasible that they did not do a cost/benefit analysis even for purposes of comparison with other proposed alternatives. Transshipment at the present time is no more feasible than it was 8 months ago. Unless the Applicant can prove otherwise, its Application should be denied.

D. The license amendment request and supporting documentation do not address the significant question of transportation of spent nuclear fuel from one reactor to another. Neither environmental impact nor financial considerations have been analyzed. Commonwealth Edison has previously recognized that transshipment can create hazards and should be used only if it proves to be a cost efficient and necessary means to solve the storage problem. A letter of April 23, 1976 from Commonwealth Edison's G.A. Abrell to D.C. Zieman of the NRC discussed a safety report Commonwealth Edison had prepared in a previous request for transshipment. The letter states that the safety report did not address the transportation of spent fuel between stations. The letter further states "Should these additional shipments become necessary the possibility of a transportation accident will increase as a result of greater exposure...spent fuel shipments between stations would be undertaken only if significant impact on unit availability would result."

The NRC has acknowledged that even under normal conditions there is some radioactive emission from spent fuel in transit. "A package in normal transport does give a small dose to a lot of people, because of the nature of the transportation process." (NUREG 0170 FES on Transport of Radioactive Material, December 1977, p.8-20)

The NRC should require the Applicant to supplement its license

amendment request with (1) an analysis of the transportation aspects of transshipment including an event tree or other accident probability analysis; (2) an analysis of the biological effects of transportation incidents involving the release of radioactive substances; (3) an analysis of the biological effects of normal transport through populated areas and agricultural regions.

E. The license amendment request and supporting documentation are deficient in failing to analyze the ramifications of storing fuel from a boiling water reactor (BWR) in facilities designed to accommodate the smaller fuel elements from pressurized water reactors (PWR). Such mixed storage is envisioned by the Applicant. "The proposed amendments would revise the licenses of the four units (Dresden Units Nos. 2 and 3 and Quad Cities Units 1 and 2)* to permit storage of spent fuel from any of the units at the two stations, including Dresden unit No. 1;* in the spent fuel storage pools of any of the four specified units,..." (43 F.R. 37245).

In the Draft Generic Environmental Impact Statement on the Storage of Spent Fuel, NUREG 0404, the NRC analysis of transshipment modes "assumes that transshipment only occurs between like reactor sites; that is BWR fuel goes to BWR pools and PWR fuel to PWR pools" (NUREG 0404, Vol. 1, at 3-27.)

* All PWRs.

**Dresden Unit No. 1 is a BWR.

The Office of Nuclear Reactor Regulation considered storage of BWR fuel in PWR pools when it prepared the Environmental Impact Appraisal of January 30, 1978. (See §III(c) above) "There is at present some unused storage space at the Zion spent fuel storage pools. Such space is intended to store fuel from the Zion units (PWRs) and the storage racks are not compatible with BWR spent fuel" (Environmental Impact Appraisal, January 30, 1978 at 15). The Applicant in its present request has failed to show how storage of BWR fuel in PWR pools can be accomodated.

IV

RESERVATIONS

In accord with the specifications of the notice os this proposed issuance of amendments to facility operating licenses (43 F.R. 377245) the State of Illinois reserves the right to submit contentions as amendments to this Petition for Leave to Intervene up to 15 days before the first prehearing conference scheduled in this proceeding.

As this Petition for Leave to Intervene is in part based upon documents which may be superceded, modified or supplemented before or during a hearing on this matter, the State of Illinois respectfully reserves the right to modify, amend, add or delete sections and contentions.

V

CONCLUSION

Thw People of the State of Illinois ask that the Nuclear Regulatory Commission:

A. Institute a formal proceeding to consider Commonwealth Edison's request for transshipment between Dresden and Quad Cities Stations.

B. Grant the State of Illinois leave to intervene and be admitted as a party.

C. Issue no license amendment unless and until a final environmental impact statement has been published and considered by the Commission.

D. Issue no license amendment unless and until all of Petitioner's Contentions are satisfactorily answered and resolved.

Further the State of Illinois asks that the Commission act upon its Petition in an expedient manner, and that the Commission decide whether to grant the relief requested in this Petition before any further consideration of an action on the Licensee's request. Such action, either by Staff or Commission, prior to the Commission's action on this Petition shall be considered a denial of this Petition and final agency action subject to judicial review.

The State of Illinois further requests that it be given prompt notice of any action taken by the Commission or the Staff on the Applicant's request to amend its licenses by contacting either Assistant Attorney General, Susan N. Sekuler or Russell R. Eggert, by telephone or telegram on the day such action is taken.

PEOPLE OF THE STATE OF ILLINOIS

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY:


SUSAN N. SEKULER
Assistant Attorney General

OF COUNSEL:

RUSSELL R. EGGERT
Chief, Northern Region
Environmental Control Division

SUSAN N. SEKULER
Assistant Attorney General
Environmental Control Division

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(312) 793-2491

BEFORE THE NUCLEAR REGULATORY
COMMISSION OF THE UNITED STATES OF AMERICA

A F F I D A V I T

I, SUSAN N. SEKULER, an attorney, hereby certify the following in support of the foregoing Petition to Intervene:

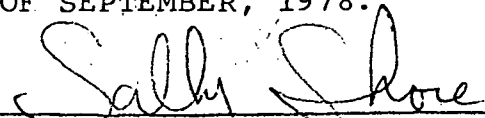
1. That I am an Assistant Attorney General with the Environmental Control Division of the Office of the Attorney General of Illinois;

2. That I am of counsel for the State of Illinois in the matter of Commonwealth Edison Co., Quad Cities Station, Units 1 and 2; and Dresden Station, Units 2 and 3, Docket Nos. 50-237, 50-249, 50-254 and 50-265.

3. That all facts alleged in this Petition to Intervene attached hereto are true to the best of my knowledge and belief.


SUSAN N. SEKULER

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 20TH DAY
OF SEPTEMBER, 1978.


Notary Public

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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EDISON CO. Quad Cities Station)
Units 1 and 2; Dresden Station)
Units 2 and 3)
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DPR-19, DPR-25, DPR-29) 50-254
and DPR-30) 50-265

A P P E A R A N C E

The PEOPLE OF THE STATE OF ILLINOIS hereby appear in
the above captioned matter by WILLIAM J. SCOTT, Attorney General
of the State of Illinois.

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY:


RUSSELL R. EGGERT
Assistant Attorney General

OF COUNSEL:

RUSSELL R. EGGERT
Chief, Northern Region
Environmental Control Division

SUSAN N. SEKULER
Assistant Attorney General
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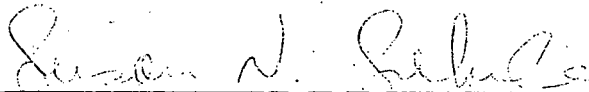
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-237
(Quad Cities Station, Units 1 and 2;) 50-249
Dresden Station, Units 2 and 3) 50-254
50-265

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713(a), 10 C.F.R. Part 2, the following information is provided:

Name	Susan N. Sekuler
Address	Illinois Attorney General 188 West Randolph Street Suite 2315 Chicago, Illinois 60601
Telephone Number	Area Code-312 793-2491
Admissions	Supreme Court of Illinois United States District Court, Northern District of Illinois United States Court of Appeals for the Seventh Circuit United States Court of Appeals for the D.C. Circuit
Name of Party	People of the State of Illinois



SUSAN N. SEKULER
Assistant Attorney General

Dated at Chicago, Illinois
this 20th day of September, 1978.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION


BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
COMMONWEALTH EDISON COMPANY)	Docket Nos. 50-237
(Quad Cities Station, Units 1 and 2;)	50-249
Dresden Station, Units 2 and 3))	50-254
)	50-265

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713(a), 10 C.F.R. Part 2, the following information is provided:

Name	Russell R. Eggert
Address	Illinois Attorney General 188 West Randolph Street Suite 2315 Chicago, Illinois 60601
Telephone Number	Area Code 312- 793-2491
Admissions	Supreme Court of Illinois United States District Courts Northern District of Illinois, Southern District of Illinois United States Court of Appeals for the Seventh Circuit United States Court of Appeals for the D.C. Circuit
Name of Party	People of the State of Illinois



RUSSELL R. EGGERT
Assistant Attorney General

Dated at Chicago, Illinois
this 20th day of September
1978.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF COMMONWEALTH)	
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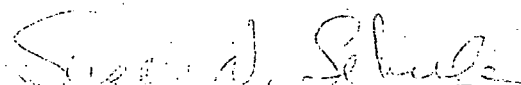
CERTIFICATE OF SERVICE

I, SUSAN N. SEKULER, hereby certify that I have this 20th day of September, 1978 served copies of the foregoing Petition for Leave to Intervene on each of the following persons by causing same to be deposited in envelopes addressed to said persons, first class, postage prepaid, and deposited with the United States Postal Service at 160 North La Salle Street, Chicago, Illinois 60601.

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

Executive Legal Director
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

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



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