

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

9/18/78

IN THE MATTER OF)
)
COMMONWEALTH EDISON COMPANY)
)
(Dresden Station Units 2 and 3))
)
Proposed Amendments to)
Increase Spent Fuel Storage)
Capacity (43 F.R. 30938))

Docket Nos. 50-237
50-249

APPLICANT'S ANSWER TO
PETITION FOR LEAVE TO INTERVENE

Applicant, Commonwealth Edison Company, by its attorneys, hereby answers the Petition for Leave to Intervene in the above-captioned proceeding, which was filed by the Attorney General of the State of Illinois on September 8, 1978.

1. Standing

Applicant admits that the Attorney General of the State of Illinois is an appropriate party to be admitted to this proceeding and does not object to the granting of the Petition to Intervene in this respect. Applicant denies that the storage of additional spent fuel at Dresden will be a hazard to the citizens of Illinois, that the technical information it has submitted is inadequate, and that granting the proposed amendment would undermine developing NRC policy or national goals.

2. Request for Appointment of Atomic Safety and Licensing Board

Applicant requests that the same Atomic Safety and Licensing Board be established in this proceeding as that established in Docket Nos. 50-295 and 50-304, entitled COMMONWEALTH EDISON COMPANY (Zion Station Units 1 and 2) Facility Operating License Nos. DPR-39 and DPR-40. At the present time, the Attorney General appears to be the sole intervenor in both the Zion and Dresden proceedings. Most of the Attorney General's contentions in this proceeding are similar or identical to the contentions he has raised in the Zion proceeding. Appointment of the same Atomic Safety and Licensing Board for both matters would facilitate consolidation of common issues of law and fact where practicable. Even as to those issues which are not consolidated, appointment of the same Licensing Board would help minimize scheduling difficulties and reduce duplicative work by all parties and by the Atomic Safety and Licensing Board Panel.

Applicant submits that the Atomic Safety and Licensing Board should be appointed immediately to set a schedule for prehearing activities and to determine whether a hearing will ultimately be required. Applicant believes that prehearing procedures, including motions for summary disposition pursuant to 10 CFR § 2.749, may demonstrate that there are no genuine issues to be heard at a hearing.

3. Environmental Impact Statements

Applicant contends that the Attorney General's request that the Commission prepare an environmental impact statement should be denied. 10 CFR § 51.5(b) indicates that the Commission will determine on a case-by-case basis whether the issuance of amendments to operating licenses require the preparation of an environmental impact statement. The proposed amendments to the Dresden operating licenses will not authorize significant changes in the amounts or types of radioactive effluents or a significant increase in the authorized power level. Accordingly, Applicant's position is that the Commission need only prepare a negative declaration and environmental impact appraisal. Northern States Power/Vermont Yankee (ALAB-455, 7 NRC 41, January 1978) supports Applicant's position.

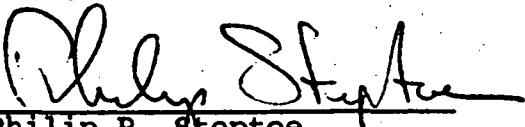
4. Contentions

Since revised § 2.714 does not contemplate that contentions will be finalized in a petition to intervene and since the Attorney General's petition expressly preserves the opportunity to modify contentions, Applicant reserves its right to object to contentions. Applicant submits that discovery and informal conferences between the parties should commence immediately to allow the development of the contentions into their final form and to mini-

mize the number of legal issues which will be presented to the Atomic Safety and Licensing Board. At the outset, it is Applicant's position that Contentions 1, 2, 4, 5, 22 and 23 fail to state claims upon which relief can be granted. Contentions 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26 and 27 do not contain a statement of their basis with reasonable specificity. As such, it is not yet possible to determine whether they are irrelevant or legally insufficient on other grounds.

Applicant expects discovery to clarify these matters and provide a proper basis for legal argument. Accordingly, while Applicant does not believe the current contentions are adequate, it will cooperate in discovery with respect to all contentions without awaiting rulings from the Board.

Respectfully submitted,

By 
Philip P. Steptoe
One of the Attorneys
for Applicant

DATED: September 18, 1978

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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance on behalf of Commonwealth Edison Company in the captioned matter. In accordance with § 2.713 of the Commission's Rules of Practice, the following information is provided:

Name: Michael I. Miller
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District Court for the Northern District of Illinois

Dated: September 18, 1978

Michael I. Miller
Michael I. Miller, One of the
Attorneys for Applicant

Handwritten signature/initials

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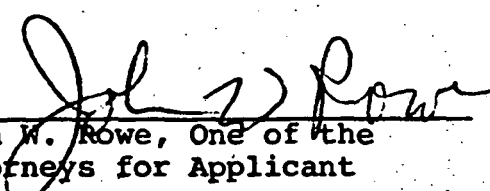
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Notice is hereby given that the undersigned attorney herewith enters an appearance on behalf of Commonwealth Edison Company in the captioned matter. In accordance with § 2.713 of the Commission's Rules of Practice, the following information is provided:

Name: John W. Rowe
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for the Seventh Circuit
United States District Court for
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Dated: September 18, 1978


John W. Rowe, One of the
Attorneys for Applicant

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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance on behalf of Commonwealth Edison Company in the captioned matter. In accordance with § 2.713 of the Commission's Rules of Practice, the following information is provided:

Name: Philip P. Steptoe
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Dated: September 18, 1978


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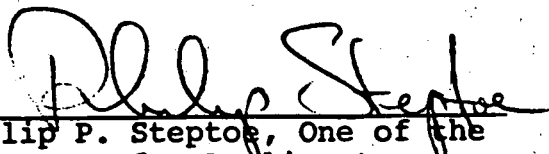
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DESIGNATION OF PERSON UPON
WHOM SERVICE SHALL BE MADE

Commonwealth Edison Company, pursuant to 10 CFR
§§ 2.708(e) and 2.712(b), designates the following person to
be served on its behalf with copies of all papers to be
filed in the above-captioned proceedings:

Philip P. Steptoe
Isham, Lincoln & Beale
One First National Plaza
Suite 4200
Chicago, Illinois 60603


Philip P. Steptoe, One of the
Attorneys for Applicant

Dated: September 8, 1978

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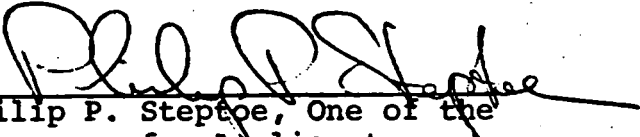
CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Petition for Leave to Intervene," "Notice of Appearance" of Michael I. Miller, "Notice of Appearance" of John W. Rowe, "Notice of Appearance" of Philip P. Steptoe, and "Designation of Person Upon Whom Service Shall be Made" in the above-captioned proceeding have been served upon the following by deposit in the United States mail, first class, postage prepaid, this 18th day of September, 1978:

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

Richard J. Goddard
Office of the Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

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