

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

6/12/79

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
COMMONWEALTH EDISON COMPANY, et al.  
(Carroll County Site)

NRC PUBLIC DOCUMENT ROOM

Docket Nos. S50-599  
S50-600



NRC STAFF ANSWER TO STATE OF ILLINOIS'  
"PETITION FOR LEAVE TO INTERVENE"

On May 4, 1979 the Nuclear Regulatory Commission (NRC) published a "Notice of Hearing on Application for Construction Permits and a Request for Early Site Review." 44 Fed. Reg. 26229. That notice provided that any person whose interests could be affected by the proceeding may file a petition to intervene by June 4, 1979. In a pleading dated June 4, 1979, the State of Illinois made a timely request to intervene under 10 CFR §§2.714 and 2.715(c).

I. Standing

The Staff addresses the interest requirements of 10 CFR §2.714 here. The adequacy of contentions will be addressed prior to the special pre-hearing conference held pursuant to 10 CFR §2.714(b) and §2.751a.

The NRC Staff does not oppose the admission of the State as a party to this proceeding and suggests that at present it could be appropriately admitted under either the provisions of 10 CFR §2.714 or as an interested state under the provisions of 10 CFR §2.715(c). Project Management Corp. (Clinch River Breeder Reactor Plant), ALAB-354, 4 NRC 383 (1976). To the extent that the

457

17907190

602 G

State seeks to intervene pursuant to §2.714, however, it must meet the standing requirements applicable to all parties in Commission proceedings. Sierra Club v. Morton, 405 U.S. 727 (1972); Tennessee Valley Authority (Watts Bar) ALAB-413, 5 NRC 1418 (1977); Allied General Nuclear Services (Barnwell) ALAB-328, 3 NRC 420, 423 (1976).

To establish standing, the provisions of 10 CFR §2.714(a)(2) require that a petitioner to an NRC proceeding shall:

1. Set forth the "interest" of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene; and
2. Identify the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

As to the interest portion of Section 2.714, the NRC Staff opines that the State of Illinois has satisfactorily established its interests in the subject matter of this proceeding in their Petition at 2-3.

As to whether the State has sufficiently identified the specific "aspects" of the proceeding as to which it wishes to intervene, the Staff notes that under the revised §2.714, an "aspect" is probably broader than an admissible contention but narrower than a general reference to the operative statutes and regulations. Consumer Power Company (Midland Units 1 and 2), LBP-78-27, 8 NRC 275 (1978). The Staff opines that the policy considerations outlined by the State at pp. 2-3 meet the "aspect" requirement, which the State may subsequently refine to arrive at acceptably specific contentions.

## II. Environmental Impact Statement

Petitioner asserts on page 3 of its Petition that the Commission must prepare an Environmental Impact Statement prior to hearing of issuance of the construction permits. The Staff agrees. An environmental impact statement in this cause is presently being prepared by the NRC Staff.

## III. Reservations

Petitioner reserves the right to submit contentions and amend its petition not later than fifteen (15) days prior to the first prehearing conference. Staff does not oppose such reservations.

## IV. Other Relief

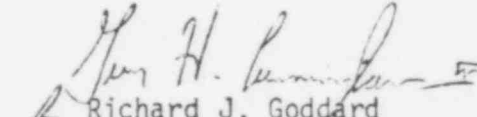
The State, at page 4 of its Petition to Intervene, asks that the NRC act on its requests in an expedient manner and decide whether to grant the relief requested in its Petition before any further consideration of or action on Applicants' request for construction permits is undertaken by either the Staff or the Commission. While it is not clear to Staff Counsel what Staff considerations the State wants precluded, it is important that the NRC Staff's authority to review the proposed construction permits not be impaired. See Northeast Nuclear Energy Company, et al. (Montague Nuclear Power Station, Units 1 and 2), LBP-75-19, 1 NRC 436 (1975); 10 CFR §102(a). The Licensee here will not be authorized to undertake any significant activities associated with construction in the absence of permission from this Atomic Safety and

Licensing Board. Kansas Gas and Electric Co. (Wolf Creek Nuclear Generating Station, Unit 1), CLI-77-1, 5 NRC 1 (1977).

V. Notice of Action

The State requests that the State of Illinois be given prompt notice of any action taken by the Commission or the Staff on the Licensee's request for early site review and construction permits. Again, while it is not clear to the Staff what would constitute "any action" by the Staff or Commission, the State will be placed on the service lists for this case and will receive timely notice of all actions being taken.

Respectfully submitted,

  
Richard J. Goddard  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 12th day of June, 1979.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

COMMONWEALTH EDISON COMPANY, et al.

(Carroll County Site)

}  
Docket Nos. S50-599  
S50-600  
}

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF ANSWER TO STATE OF ILLINOIS' 'PETITION FOR LEAVE TO INTERVENE'" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 12th day of June, 1979.

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

Mr. John W. Cox, Jr.  
Jo Daviess County Ad Hoc Committee  
on Nuclear Energy Information  
906 Campbell Street  
Galena, Illinois 61036

\* Mr. Glenn O. Bright  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. James C. Schwab  
State Coordinator  
Iowa Public Interest Research Group, Inc.  
36 Memorial Union, Iowa State University  
Ames, Iowa 50010

Dr. Robert L. Holton  
School of Oceanography  
Oregon State University  
Corvallis, Oregon 97331

Nancy J. Bennett  
Assistant Attorney General  
Environmental Control Division  
188 West Randolph, Suite 2315  
Chicago, Illinois 60601

Philip P. Steptoe, Esq.  
Isham, Lincoln & Beale  
One First National Plaza, 42nd Floor  
Chicago, Illinois 60603

Thomas J. Miller  
Attorney General of Iowa  
State Capitol Complex  
Des Moines, Iowa 50319

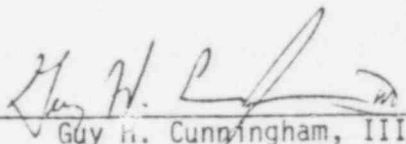
Mr. Jim Dubert  
C/o Iowa Socialist Party  
2801½ West Street  
Ames, Iowa 50010

457 177

\*Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*Atomic Safety and Licensing  
Appeal Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

  
\_\_\_\_\_  
Guy H. Cunningham, III  
Assistant Chief Hearing Counsel