DOCKETED USNRC FEB 19 1980 Office of the Secretary Docketing & Service Branch

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | |
|---|---|
| In the Matter of<br><br>COMMONWEALTH EDISON COMPANY<br><br>(Byron Nuclear Power Station, Units 1 and 2) | Docket Nos. 50-454<br>50-455 |

MOTION FOR A RULING ON THE ADMISSIBILITY
OF CONTENTIONS OF THE
LEAGUE OF WOMEN VOTERS OF ROCKFORD

Commonwealth Edison Company ("Edison" or "Applicant"), pursuant to 10 CFR §2.730, moves the Board to enter an order ruling on the admissibility of the contentions of the League of Women Voters of Rockford (the "League") filed on July 28, 1979; or, alternatively, to grant the parties 15 days to brief the admissibility of said contentions. In support of this Motion, Applicant states as follows:

1. The Notice of Opportunity for Hearing in this proceeding was published in the Federal Register on December 15, 1978 (43 F.R. 58659). Thereafter, on January 13, 1979, the League filed a Petition For Leave To Intervene which was amended by letter dated February 3, 1979. By Order dated March 23, 1979, the Board ruled that the League had standing to intervene in this proceeding and reminded the League that, pursuant to 10 CFR §2.714(b), they must file a supplement to their petition to intervene which should include a list of contentions the League seeks to have litigated in this matter.

B002270458

2. On July 28, 1979, the League filed a list of contentions. Applicant answered the League in a pleading dated August 20, 1979, which the Board granted leave to file instanter at the prehearing conference held in Rockford, Illinois on August 21, 1979. As is set forth in the "Answer of Commonwealth Edison Company to the Contentions of the League of Women Voters of Rockford, Illinois," dated August 20, 1979, both the NRC Staff and Applicant had attempted on several occasions to negotiate with the League on a set of stipulated contentions. Following an extended discussion on the record during the prehearing conference, the Board provided all the parties an additional opportunity to negotiate in an effort to refine contentions and requested that the results of said negotiations be communicated to the Board by October 15, 1979 (Tr. p. 114).

3. On September 26, 1979, representatives of the League, the NRC Staff and the Applicant met in Chicago, Illinois, in the offices of Myron Cherry, Esq., who was at the time aiding the League in negotiations to refine contentions. Extended discussions were held with respect to each of the League's contentions during which the Applicant and NRC Staff presented orally and in detail their position on each contention and possible areas of compromise. At the request of the League, Applicant, by letter dated October 8, 1979 (a copy of which is attached as Exhibit A), and the NRC Staff, by letter dated October 22, 1979 (a copy of which is

attached as Exhibit B), provided in writing a detailed statement of position with respect to each League contention.

4. As indicated in letters to the Board dated October 12, 1979, November 27, 1979, and January 22, 1979 (attached hereto as Exhibits C, D and E), there has been no progress whatsoever in negotiations between the parties with respect to the League's contentions since the September 26, 1979 meeting and follow-up letters dated October 8, 1979 and October 22, 1979. Although the League, through Mr. Cherry, has promised on several occasions to present in writing, by stated deadlines, amended contentions on behalf of the League, each deadline passed without action by the League. In contrast, negotiations with DAARE and SAFE, the other parties intervening in this proceeding, have progressed to the point that a complete stipulation on contentions appears imminent.

5. In view of the foregoing, Applicant believes that further attempts to negotiate with the League are unwarranted and that the Board should rule on the admissibility of the League's contentions.

Wherefore, Applicant respectfully moves the Board to decide the admissibility of the contentions previously filed by the League based on the pleadings filed to date with respect to those contentions. (We note that the Answer of Applicant omitted to state Applicant's opposition to

League Contention 13 in the Conclusion, although in the body of the Motion we clearly opposed the Contention.) Alternatively, Applicant requests that the Board set a briefing schedule to allow each of the parties 15 days to more fully set forth arguments supporting their positions on the League's contentions.

Respectfully submitted,

DATED: February 13, 1980

Michael I. Miller

Paul M. Murphy

Alan P. Bielawski
Attorneys for
Commonwealth Edison Company

ISHAM, LINCOLN & BEALE
One First National Plaza
Suite 4200
Chicago, Illinois 60603
(312)558-7500

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | | |
|---|---|---|
| In the Matter of<br><br>COMMONWEALTH EDISON COMPANY<br><br>(Byron Nuclear Power Station,<br>Units 1 and 2) | ) | Docket Nos. 50-454<br>50-455 |

CERTIFICATE OF SERVICE

I, Alan P. Bielawski, one of the attorneys for Commonwealth Edison Company, certify that copies of "Motion For A Ruling On The Admissibility Of Contentions Of The League Of Women Voters Of Rockford" have been served in the above-captioned matter on the following by United States mail, postage prepaid, this 13th day of February, 1980:

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing Board Panel
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. A. Dixon Callihan
Union Carbide Corporation
P.O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Myron Karman, Esq.
Office of the Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

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

Atomic Safety and Licensing Board Panel
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Appeal Board Panel
United States Nuclear Regulatory Commission
Washington, D.C. 20555

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

Chief Hearing Counsel
Office of the Executive Legal Director
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Ms. Betty Johnson
1907 Stratford Lane
Rockford, Illinois 61107

Ms. Beth L. Galbreath
734 Parkview
Rockford, Illinois 61107

Dr. Julianne Mahler
Center for Governmental Studies
Northern Illinois University
DeKalb, Illinois 60115

Dr. Bruce von Zellen
Department of Biological Sciences
Northern Illinois University
DeKalb, Illinois 60115

Myron M. Cherry, Esq.
Cherry, Flynn & Kanter
One IBM Plaza
Room 4501
Chicago, Illinois 60611

DATED: February 13, 1980

Alan P. Bielawski

Exhibit "A"

ISHAM, LINCOLN & BEALE

October 8, 1979

Ms. Betty Johnson
1907 Stratford Lane
Rockford, Illinois 61107

Dear Ms. Johnson:

As promised during our meeting on September 26, 1979, this letter identifies Applicant's position on your contentions and other matters discussed at the meeting. A preliminary matter discussed was the relationship between Mr. Myron Cherry and yourself. It is our understanding that Mr. Cherry does not represent you and is not acting as an attorney in this proceeding. Therefore, we will continue to communicate directly with you as designated representative of the League of Women Voters. As an accommodation to yourself, we will send to Mr. Cherry copies of letters and pleadings relating to the purpose of the September 26 meeting, i.e., the attempt to negotiate contentions.

As you will see from our discussion below concerning specific contentions, some of the issues raised in your original contentions could be the subject of contentions to which Illinois may be willing to stipulate as valid issues for hearing. In an effort to further clarify our position regarding the form and substance of contentions to which we would be willing to stipulate, we have included certain proposed draft contentions immediately following the iteration of our position regarding your original contentions. We would be willing to stipulate to the admissibility of these proposed contentions, if you would agree to substitute these draft contentions for your original contentions. If you have problems with our proposed contentions, we are perfectly willing to discuss modification with you. You will note that none of our proposed contentions do not address all of the issues which are raised in your original contentions. This is because we believe that certain subparts of your contentions raise issues which are clearly [illegible]. If you agree that our proposed contentions adequately address those portions of your original contentions as to which we have not objected, we would suggest that the parties stipulate to the proposed contentions, and that you raise those issues which we find objectionable in separate contentions. In this way, the Licensing Board need address

itself only to those matters as to which the parties are unable to reach agreement.

Furthermore, as I noted during the course of our meeting, Applicant is willing, in the spirit of compromise or in the instance where the basis is not in serious dispute, to waive the requirement of a stated basis with respect to certain contentions. We will identify those contentions as to which we are willing to waive the basis requirement in our discussion below concerning specific contentions.

Applicant's position on your contentions, based on full consideration of our discussions at the meeting, is as follows:

Contention 1

Contention 1, we believe, is adequate to identify the NRC Task Action Plans to which you refer, but is inadequate as a contention. We believe that the *River Bend* decision quoted in Answer of Commonwealth Edison Company To The Contentions of the League of Women Voters of Rockford, Illinois and Answer of Commonwealth Edison Company to the Statement of Contentions of DAARE and SAFE sets forth the requirements for raising the subject matter of Task Action Plans as a contention.

Contention 2

With respect to Contention 2, which deals with the fuel storage racks proposed for the Byron spent fuel pool, our position is that by virtue of the fact that the rack design has been altered from that proposed at the CP hearing, this issue is not precluded under the doctrine of *res judicata*. Our position on the subparts of Contention 2 are as follows:

Subpart 1 - This subpart does not specifically [illegible] inadequacies in the safety analysis or criticality [illegible] analysis of the spent fuel pool and is, therefore, deficient. To the extent that the specific items raised in subpart 4 are meant to be the inadequacies alluded to in subpart 1, we believe that subpart 1 and subpart 4 should be combined and could constitute a valid contention.

Subpart 2 - This subpart does not raise any issue at all but merely states the reason why the design of the spent fuel pool racks should not be considered to have been fully adjudicated at the CP stage.

Subpart 3 - This subpart appears inherently unrealistic. We could not stipulate to this portion of the contention unless you were prepared to present a supportive basis for your claim that the new rack configuration increases the possibility of spent fuel pool accidents.

Subpart 4 - We cannot accept the "include, but are not limited to" language in this subpart. However, in view of the fact that the rack configuration has been changed, we would be willing to litigate the question of spent fuel heatup and the potential for radioactive releases in the event of a loss of water accidents initiated by cooling system breakdown, cask drop accidents, criticality accidents, and site abandonment. We are also willing to litigate the adequacy of the fuel pool to withstand or the need to design against earthquakes, sabotage, large airplane crashes and tornadoes missiles.

Subpart 1 - We are willing to litigate the question of routine or accidental releases of radionuclides from the fuel pool. However, this issue is, in our opinion, wholly unrelated to subparts (a) and (b) of subpart 1. Moreover, we will not stipulate to any contention which contains those subparts because they are the subject matter of Commission Regulation and on going rulemaking proceedings.

Applicant's Proposed Contention 2

Applicant is planning to store more spent fuel in the spent fuel storage pool than was included in the CP application by utilizing high density storage racks. The use of these racks was not considered at the construction permit stage.

(1) Applicant should be required to establish that the geometric configuration of the high density racks will be adequate to prevent criticality in the fuel storage system. (See 10 CFR Part 50, Appendix A, Criterion 62).

(2) Applicant should be required to establish that the spent fuel storage system, as modified, is either designed for or that there is no need to design against the following postulated accident conditions to assure adequate safety to the public from the operation of the spent fuel storage system:

(a) spent fuel pool cooling water malfunctions;
(b) drop of a spent fuel shipping cask into the spent fuel pool;
(c) abandonment of the spent fuel pool area because of severe reactor accidents;
(d) earthquakes, sabotage, large airplane crashes and tornado missiles.

Such assurance is necessary because loss of water accidents in the spent fuel pool may lead to zirconium cladding fire and/or zirconium steam reaction.

(3) Applicant should be required to establish that it will not exceed the radioactive emission limits set forth in 10 CFR Part 20 and 10 CFR Part 50, Appendix I, as a result of routine operations involving the modified spent fuel pool.

Contention 3

Our discussion of Contention 3 terminated at the point that we informed you, through Mr. Cherry, that we would not agree to litigate Class 9 accidents. Our position on Contention 3 is as set forth in our earlier discussion, a position on which we may elaborate if Contention 3 is re-submitted to the Licensing Board as drafted. Naturally, if you re-draft Contention 3, our position may change.

Contention 4

Applicant is willing to accept as a valid contention the proposition that full analysis of the Fuel Handling Accident requires changes in the reactor design for the Fermi 2 Station. With respect to all other matters raised in Contention 4, we believe these issues were fully resolved at the CP stage. With respect to subpart 7, I regret that to you that you are simply in error. It is my understanding that you will voluntarily drop subpart 8.

Applicant's Proposed Contention 4

Intervenor contends that the Plum River Fault was discovered after the construction permit seismic analysis and findings were made, and that therefore the construction permit seismic analysis did not consider all pertinent information relating to the seismology of the plant site. In light of this newly discovered information, Intervenor contends that an inappropriately low ground acceleration was assumed for the design of the plant's structures, systems and components important to safety and that the radwaste building and seismic instruments should be designed to seismic Category I requirements.

Contention 5

We believe that, except as set forth below, we can stipulate to admission of Contention 5. We would request that you change the citation in your preamble to Contention 5 to refer to Appendix E of 10 CFR Part 50. It is our understanding that you will redraft subpart 1 to clarify your intent. It was my understanding that you intended to question the extent to which Applicant's emergency plan adequately interrelates with the plans of the various offsite agencies which will be responsible to implement offsite emergency plans.

Subpart 4 - We fail to understand the significance of the first two lines of this subpart, but we are willing to litigate whether it is necessary to plan to evacuate the transient population in the low population zone and, if this is necessary, whether adequate plans have been developed to do so.

Subpart 5 - We do not understand this subpart and, therefore, could not stipulate to admitting the issue sought to be raised.

We have amended your contention to reflect the emergency evacuation planning radius which has recently been proposed by the NRC/FEMA Task Force on emergency planning. [illegible] our proposed contention we would be willing to permit the admission of the contention following the issuance of final NRC staff guidance regarding the required planning radius, or raising issue(s) concerning applicant's compliance with such guidance.

Applicant's Proposed Contention 5

Intervenor contends that Applicant's emergency response plans do not comply with Appendix E to 10 CFR Part 50 for the following reasons:

(a) There is no discussion of the interrelation of Applicant's emergency plan with the plans of the various offsite agencies which will be responsible for implementation of offsite emergency plans. These agencies should include agencies which are responsible for implementing emergency response measures in which lie within a 10 mile radius of the Byron Site.

(b) There is no discussion of plans to evacuate the transient population in the low population zone during an emergency situation.

Amended Contention 6

This was fully considered at the CP stage, and we will not stipulate to admission of this issue.

Contention 7

We understand Contention 7 to assert that the radwaste control facilities proposed by Applicant fail to meet the as-low-as-reasonably-achievable requirements of 10 CFR §§50.34a and 50.36a in that available systems exist to better contain Krypton-85. With the exception of Subpart 4, we would stipulate the admission of Contention 7 if the preamble is changed from "NEPA and 10 CFR 50" to "10 CFR §§50.34a and 50.36a."

Subpart-4

We are unaware of the "preliminary study" which is alluded to, and we have not been able to identify the [illegible] basis for the assertions made in this subpart. Therefore, we are unwilling to stipulate to this portion of Contention 7.

Applicant's Proposed Contention 7

Intervenor contends that Applicant has [illegible] the low as reasonably achievable requirements of 10 CFR §§ [illegible] and 50.36a in that Applicant is not using the best available technology for containment of Krypton-85 which can achieve 99% containment.

(1) It is important that Krypton-85 be contained because it is a gamma and beta emitter with a half life of 10.6 years. When released into the atmosphere, it has worldwide distribution and build-up with no means of removal except by decay.

(2) Kr-85 adversely affects living tissue in two ways: Build up in atmosphere increases external (cloud) radiation gamma and beta rays. Inhalation distributes it throughout the body along with non-radioactive inert Krypton, where it participates in ionic or covalent bonding, forming clothrates, and is highly soluble in non-polar solvents including body lipids. Ordinary values and estimated doses are based on external dose received, which does not take into account the more dangerous internal absorption or concentration.

(3) Available methods to remove Kr-85 from stacks which are not being used by the Applicant include:

(a) A low-cost solvent extraction process;
(b) Absorption onto activiated charcoal at cryogenic temperatures;
(c) Condensation in liquid nitrogen followed by fractural distillation;
(d) Selective permeating through cellulose acetate or silican rubber membrane.

Amended Contention 8

As I indicated at the September 28 meeting, amended Contention 8 is generally acceptable, subject to two minor changes: the reference to "NEPA and 10 CFR Part 50" should be changed to "10 CFR §§50.34a and 50.36a," and the subject matter in subparts 10b and 10d should be broken out as a separate contention because radiation doses to workers are covered by an entirely different regulation than that which relates to doses to the general population. In more careful review of your amended Contention 8, subpart 11b, I noticed that you raise the issue of the so-called overlapping circles of radiation from several nuclear facilities. This issue is one which we agreed to litigate with DRBRM and SMD and language for a very definite and specific contention was agreed on with them. I would suggest that you adopt the DRBRM-SMD contention, if it is acceptable to you.

Applicant's Proposed Contention 8

Intervenor contends that Applicant has failed to meet the requirements of 10 CFR §§50.34a and 50.36a because Applicant has not adequately monitored and presented a design base for the Byron plant which will keep radiation levels as low as reasonably achievable as required for operation of the plant to protect the health and safety of the public. To keep radiation levels as low as reasonably achievable, Applicant should provide and utilize:

A. More adequate environmental and discharge monitoring of radioactive emissions from the Byron plant, which include:

(1) Monitoring devices at more locations within and without the plant site.

(2) Provisions for more frequent reading of monitors by independent analysts.

(3) Better monitoring devices which include:

(a) An automatic system of monitoring that notifies local authorities by an alarm when discharged emission exceed design limits;

(b) Monitoring devices that measure differences in alpha, beta and gamma dose levels, which presently aren't being adequately considered and measured;

(c) Monitoring and recording of emissions of all dangerous long lived radionuclides, including especially I-129 and Plutonium;

(d) Bioaccumulative testing in a tiered system to assess the uptake of radioactive and chemical pollutants from bottom sediment or soil to lower organisms and to contamination of the food chain of man and other life.

B. More accurate calculation of danger areas which can be accomplished by utilizing information from the improved monitoring suggested above and also by:

(a) including in calculation of dose the large transient populations in the low population zone around the plant, including school children when present in 11 schools and others participating in recreational facilities;

(b) including internal radiation dose from by inhaled and/or ingested radionuclides which are deposited in different parts of the body where they give repeated radiation or until they are eliminated from the body.

Applicant's Proposed Contention 8a

Intervenor contends that Applicant has not met the as-low-as-reasonably-achievable requirement of 10 CFR §20.1(c) in that there is inadequate record keeping of radiation exposures to workers on site and inadequate training of transient workers to minimize radiation exposures.

Applicant's Proposed Contention 8b

Intervenor contends the cumulative radiation exposure to Rockford area residents from the Byron Station in addition to Zion Station, Dresden Station, LaSalle Station, Quad Cities and Braidwood exceeds the limits set forth in 40 CFR §190.

Contention 9

We cannot agree to litigate as a safety or an environmental issue any proposed chemical decontamination of the Byron Station for the simple reason that we are not requesting authorization for any such procedure in this proceeding, and there is no reason to believe at this time that any such chemical cleaning will ever be necessary.

Contention 10

[illegible] of transmission lines and transmission system alternatives were fully analyzed and considered at the CP stage. At the September 26, 1979 meeting, you indicated a willingness to delete references to 765kv lines if we would provide a statement from the Company that there exist no plans to install 765kv lines to the Byron Station Units 1 and 2 into Ellison's transmission system. We will advise you in the very near future whether we can provide such a statement.

Contention 11

Contention 11, we believe, [illegible] the [illegible] and willingness of the Company to comply with the [illegible] assurance regulations set forth in 10 CFR Part 50, Appendix B, in light of the noncompliance items identified in the contention. We would be willing to stipulate to a contention which seeks to litigate the Company's ability and willingness to operate Byron Station in compliance with 10 CFR Part 50, Appendix B. We do not seriously dispute the fact that there may be an adequate basis for this contention. Thus, we would be willing to waive this requirement with respect to this Contention.

Applicant's Proposed Contention 11

Intervenor contends that Commonwealth Edison Company does not have the ability and/or willingness to comply with 10 CFR Part 50, Appendix B as evidenced by its past history of non-compliance. In addition, Commonwealth Edison's quality assurance program does not require complete independence of the quality assurance functions from other departments within the Company.

Contention 12

Effects of cooling towers were fully analyzed and considered at the CP stage, and we would be unwilling to stipulate to a contention which seeks to relitigate such matters.

Contention 13

Contention 13 raises a number of unrelated issues, each of which is inappropriate for consideration in this proceeding.

Subpart 1 - This subpart pertains to purely economic matters. As we stated in our Answer to the League of Women Voters' Contentions, such matters as raised have been held to be outside the jurisdiction of the Nuclear Regulatory Commission, and thus we could not stipulate to this subpart.

Subparts 2 & 3 - A long line of decisions narrowly limits the need for power inquiry at the operating license stage. Absent a preliminary showing that Byron Station will not be needed or useful in the foreseeable future to meet demand, displace reliance on source of environmentally inferior fuel sources or to replace retired generating units, need for power is not an issue in this stage of the proceeding. Inasmuch as you have not made such a showing and since it is our opinion that this showing cannot be made, we cannot stipulate to a contention which seeks to raise the issues addressed in Subparts 2 and 3 of Contention 13.

Exhibit "B"

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

October 22, 1979

Mrs. Phillip B. Johnson
1907 Stratford Lane
Rockford, Illinois 61107

In the Matter of
Commonwealth Edison Company
(Byron Station, Units 1 and 2)
Docket Nos. 50-454 and 50-455

Dear Mrs. Johnson:

As the Staff indicated during our meeting with you and Mr. Myron Cherry in Chicago on September 26, 1979, this letter presents the NRC Staff's position on the contentions of the League of Women Voters of Rockford, as amended, with due regard to Applicant's counsel's letter to you dated October 8, 1979. Since no Notice of Appearance has been filed by Mr. Cherry, we are sending him a copy of this letter to you and will send him copies of any pleadings or documents filed by the Staff relative to our attempt to negotiate contentions for the Byron proceeding.

Our position with respect to your contentions is as follows:

Contention 1.

As we have previously indicated, it is the Staff's position that this proposed contention, in its present form, is inadmissible, as it provides a list of generic reactor issues without providing the required nexus in each case. The discussion of "nexus," in the River Bend decision at 6 NRC 773 should be of help to you.

To the extent that a satisfactory nexus is demonstrated with regard to any of these generic items as it relates to the Byron facility, such issues may be considered appropriate for litigation in this proceeding. All applicable outstanding generic issues will be discussed in the Staff's Safety Evaluation Report which will be issued later.

Contention 2.

The Staff is in agreement with Isham, Lincoln & Beale in its response to your Contention 2, and would support the revised contention mentioned in their letter.

Dupe
7911130083

Contention 3.

The Staff opposes Contention 3 as drafted on several bases. We do not agree to litigate Class 9 accidents at this time. The contention lacks the required specificity. Portions of the contention, to the degree that their meaning is understandable, would appear to constitute a direct challenge to the Commission's regulations. We will await your redrafted contention or contentions concerning certain of the items contained in the present proposed Contention 3 which you wish to litigate.

Contention 4.

The Staff response is the same as that expressed by Mr. Murphy in his letter to you. We would not oppose a contention drafted in the form of Applicant's proposed Contention 4.

Contention 5.

The Staff agress that the subject matter of Contention 5 is proper for litigation in this proceeding, and we would not oppose a contention drafted in the form of Applicant's proposed Contention 5.

Amended Contention 6.

The Staff must oppose admission of this contetion as submitted. There is no specificity with respect to those matters which were not covered during the Construction Permit proceeding for this station.

Contention 7.

The Staff would not oppose a contention drafted in the form of Applicant's proposed Contention 7. (Applicant's reference to subpart 4 of your contention should be to subpart 3.)

Amended Contention 8.

Our position is basically in accordance with Applicant's on this contention, and we would not oppose a contention drafted in the nature of Applicant's proposed Contention 8, 8a and 8b.

Contention 9.

Absent any showing of a factual basis to assume midterm chemical decontamination of the Byron facility will be required, the Staff does not feel this is a litigable issue.

Contention 10.

The Staff position is that where there is an impact from transmission lines which have either become known or have been developed since the Construction Permit proceeding, these impacts would be relevant in this proceeding. We, too, are awaiting Applicant's advice as to whether they plan to install 765 KV lines to tie the Byron Station, Units 1 and 2, into their transmission system.

Contention 11.

The Staff does not oppose a contention on this issue and would support a contention drafted in the form of Applicant's proposed Contention 11.

Contention 12.

As stated, Contention 12 is not admissible. You must show where these effects in your contention were not considered in the Construction Permit proceeding.

Contention 13.

The Staff position is the same as that expressed by Mr. Murphy in his letter to you. We would oppose subparts 1, 2, 3, and 5 of the contention as presently drafted. During our meeting, it was suggested that subpart 4 of this contention be presented as a separate contention, and it is our understanding that you are considering re-drafting of this subpart.

It is hoped that the Staff comments herein and the letter from Mr. Murphy to you, as well as the discussions which took place in Chicago on September 26, will assist you and Mr. Cherry in the formulation of revised contentions.

Upon resubmission of such revised contentions, the Staff will respond to these in a formal manner.

Sincerely,

Myron Karman

Myron Karman
Counsel for NRC Staff

cc: Paul Murphy, Esq.
Myron Cherry, Esq.

Exhibit "C"

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

October 12, 1979

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. A. Dixon Callihan
Union Carbide Corporation
P. O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

In the Matter of
Commonwealth Edison Company
(Byron Station, Units 1 and 2)
Docket Nos. 50-454 & 50-455

Gentlemen:

In accordance with the Licensing Board's request for a progress report on continuing negotiations between Applicant, Intervenors and NRC Staff regarding contentions in the Byron 1-2 operating license proceeding, the following report is submitted with the consent of all parties:

1. On September 25, 1979, counsel for Staff and Applicant met with counsel and individual members of DAARE/SAFE in Dekalb, Illinois. Draftsmanship and substance of Intervenors' contentions was discussed. The outcome of that meeting was that Intervenors would obtain technical assistance, consult with counsel, and forward revised proposed contentions to Applicant and Staff. Further action by the parties will await receipt of those contentions, which are expected to be served by mail no later than October 22, 1979.

2. On September 26, 1979, counsel for Applicant and Staff met with Myron Cherry, Esq., and individual representatives of the League of Women Voters of Rockford, Illinois, in Chicago, Illinois. Draftsmanship and substance of Intervenor's proposed contentions was similarly discussed at this meeting. The outcome of this meeting was that Applicant would submit to Intervenor and Staff a detailed statement of position on Intervenor's present proposed contentions. This document was mailed on October 9, 1979. Subsequently, Staff will furnish to Intervenors its statement of position on the proposed contentions. Thereafter, Intervenors will submit a revised statement of proposed contentions to Applicant and Staff, which is expected no later than November 2, 1979.

Dupe
7911080421

3. After receipt of each Intervenors' revised submission of proposed contentions, an attempt will be made to arrive at a stipulation of contentions for discovery and litigation with each Intervenor.

4. The parties propose to notify the Licensing Board of the progress of their ongoing efforts 45 days from the date of this letter--November 27, 1979. It is hoped that the parties will have concluded all negotiations by this time.

Sincerely,

Myron Karman

Myron Karman
Counsel for NRC Staff

cc: Paul M. Murphy, Esq.
Mrs. Phillip B. Johnson
Jerome Hughey, Esq.
Dr. Bruce von Zellen
Ms. Beth L. Galbreath
Atomic Safety and Licensing
Board Panel
Atomic Safety and Licensing
Appeal Board Panel
Docketing and Service Section

Exhibit "D"

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 27, 1979

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. A. Dixon Callihan
Union Carbide Corporation
P. O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

In the Matter of
Commonwealth Edison Company
(Byron Station, Units 1 and 2)
Docket Nos. 50-454 & 50-455

Gentlemen:

In accordance with the Licensing Board's request for a progress report on continuing negotiations between Applicant, Intervenors and NRC Staff regarding contentions in the Byron 1-2 operating license proceeding, the following is an update since the last report on October 11, 1979.

Both the Staff and the Applicant have furnished all Intervenors with statements of position on contentions.

On November 26 and November 27, 1979, Staff Counsel spoke with Mr. Myron Cherry who advised that he will be filing a Notice of Appearance on behalf of the League of Women Voters of Rockford within the next few days. He also indicated that he will file revised contentions for the Applicant and Staff to examine shortly after the first of January 1980.

With respect to DAARE/SAFE, Counsel for Applicant and Staff met again with representatives of DAARE/SAFE in DeKalb, Illinois on November 13, 1979 to discuss contentions. It was agreed that DAARE/SAFE would serve their revised statement of contentions by December 14, 1979.

Dupe
7912060545

After receipt of the Intervenors' revised contentions, the Staff and Applicant will advise the Board as to the agreed upon contentions. Formal responses by Staff and Applicant relative to the remaining contentions will be filed by February 9, 1980.

Sincerely,

Myron Karman

Myron Karman
Counsel for NRC Staff

cc: Paul M. Murphy, Esq.
Myron M. Cherry, Esq.
Mrs. Phillip B. Johnson
Dr. Julianne Mahler
Atomic Safety and Licensing
Board Panel
Atomic Safety and Licensing
Appeal Board Panel
Docketing and Service Section

Exhibit "E"

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

ONE FIRST NATIONAL PLAZA FORTY-SECOND FLOOR
CHICAGO ILLINOIS 60603

TELEPHONE 312-558-7500 TELEX 2-5280

WASHINGTON OFFICE
1000 WM STREET N.W.
FOURTH FLOOR
WASHINGTON, D.C. 20036
202-833-0730

January 22, 1980

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. A. Dixon Callihan
Union Carbide Corporation
P.O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: In the Matter of Commonwealth Edison Company
(Byron Station, Units 1 and 2)
Docket Nos. 50-454, 50-455

Gentlemen:

In accordance with the Licensing Board's request for a progress report on continuing negotiations between the Applicant, intervenors and the NRC Staff regarding contentions in the Byron Station operating licensing proceeding, the following is an update since the last report by letter dated November 27, 1979, from Myron Karman, counsel for the NRC Staff, to the Licensing Board.

1. On January 22, 1980, representatives of the Applicant, NRC Staff counsel and Dr. Julianne Mahler, spokesperson for DAARE and SAFE, held a telephone conference call regarding the DAARE and SAFE contentions. Dr. Mahler indicated that the "Statement of Contentions" dated December 10, 1979, filed in this proceeding and served on all parties, were not intended to represent the final contentions of DAARE and SAFE. Counsel for the Applicant and counsel for the NRC Staff had been previously advised that said "Statement of Contentions" reflected draft contentions for negotiation. Both the NRC Staff and the Applicant have forwarded to Dr. Mahler written comments and statements of positions with respect to these draft contentions. Dr. Mahler indicated that, based on the comments of the Applicant and NRC Staff, together with additional information requested of the

Dup
8002120441

Applicant, DAARE and SAFE would be prepared to determine its final position on all contentions by February 8, 1980. This time frame is acceptable to both the Applicant and the NRC Staff. Although the parties have not fully discussed all ministerial details, it is anticipated that very shortly after February 8, 1980, the parties will present their positions on the final contentions of DAARE and SAFE, possibly in the form of a stipulation between all parties, and submit briefs in support of their positions within a reasonable time thereafter.

2. With respect to the intervention by the League of Women Voters of Rockford, the status of negotiations remains as stated in Mr. Karman's letter of November 7, 1979; that is, the parties are awaiting receipt from the League of Women Voters of draft revised contentions to examine for the purpose of determining the possible areas of agreement. This status is also identical to the status as reported in the October 12, 1979 letter from Myron Karman to the Licensing Board. I was informed today by Mrs. Betty Johnson that Myron Cherry has been retained to act as counsel for the League of Women Voters in this proceeding and would be filing shortly a notice of appearance and revised statement of contentions. I was unable to reach Mr. Cherry to learn when this filing would take place.

Respectfully,

Paul M. Murphy
One of the Attorneys for
Commonwealth Edison Company

PMM/sag

cc: All parties on attached
Service List