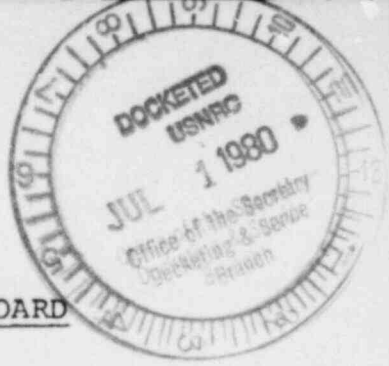

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of	)	
	)	
COMMONWEALTH EDISON CO.	)	Docket Nos. 550-559
et al.,	)	and 550-600
(CARROLL COUNTY SITE)	)	

APPLICANTS' BRIEF IN RESPONSE TO PETITIONERS' APPEAL FROM DENIAL OF INTERVENTION

Submitted on Behalf of:

Commonwealth Edison Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company

By:

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DATED: June 27, 1980

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I.

Procedural History Relevant to Petitioners' Appeal

On April 5, 1979, Commonwealth Edison Company, Interstate Power Company and Iowa-Illinois Gas and Electric Company ("Applicants") initiated an application for construction permits for the Carroll County Station, Units 1 and 2, and requested that the Nuclear Regulatory Commission ("Commission" or "NRC") conduct an early site review and hearing and reach an early partial decision on issues of site suitability. Included as an attachment to this submittal was a document entitled "Proposed Findings on the Issues of Site Suitability on which Commonwealth Edison Company is Requesting Review."

On May 4, 1979, the Commission published a notice announcing that a hearing would be held in respect of Applicants' request for an early site review, and authorized the filing of petitions for leave to intervene in this proceed-

ing by any person whose interest may be affected thereby. (44 Fed. Reg. 26229).

Citizens Against Nuclear Power ("CANP"), James Runyon and Edward Gogol (jointly referred to as "Petitioners"), as well as others, filed a "Petition for Intervention" in this proceeding. Petitioners predicated their standing to intervene upon the proximity of their residences (and, in the case of CANP, upon the residences of some of their members) to the proposed site of the Carroll County Station. In its Order entered July 30, 1979, the Atomic Safety and Licensing Board ("Licensing Board") scheduled a Special Prehearing Conference to be held on September 19, 1979. Prior to the Special Prehearing Conference, Petitioners submitted an Amended Petition For Leave To Intervene, which set forth the contentions Petitioners desired to introduce in the proceeding. Petitioners' contentions did not raise matters within the scope of the issues for which Applicants ultimately* seek review in this early site suitability proceeding.

In general, Petitioners' contentions relate to the following subject matters: (1) need for power (Contention 1);

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* At the time Petitioners filed their Amended Petition, Applicants' Proposed Findings included broadly-worded findings relating to need for power (Proposed Finding 8) and end-of-life decommissioning of the plant (Proposed Finding 131). During the course of the Special Prehearing Conference, Applicants requested leave to withdraw these Proposed Findings based upon Applicants' belief that these subjects were inappropriate for consideration in early site review proceedings (Tr. at 36). Applicants' request was granted by the Licensing Board (Tr. at 45).

(2) alternative sources of energy (Contentions 2, 6, 12); (3) Applicants' financial qualifications (Contention 3); (4) overall cost/benefit balance (Contentions 4, 11); (b) the cost to ratepayers of nuclear power (Contentions 5 and 11); (6) plant decommissioning (Contention 10); (7) general concerns regarding the inability to design and operate nuclear plants without undue risk to the public health (Contention 13); (8) inadequacy of insurance coverage (Contention 14); and (9) general inability to provide for emergency evacuation (Contention 15). Applicant has, for the Board's convenience, attached a copy of Petitioners' contentions to this Brief (see Attachment A).

On September 19, 1979, a Special Prehearing Conference was held. Thereafter, on October 10, 1979, the Licensing Board entered its "Memorandum of Special Prehearing Conference And Order" in which it denied the intervention of Edward Gogol for lack of standing. The Licensing Board also tentatively dismissed 14 of the 15 contentions submitted by Petitioners and held in abeyance the determination of the acceptability of Petitioners' final contention. The Licensing Board also granted Applicants and Petitioners leave to file briefs in support of contentions which were previously rejected or in support of dismissing contentions which were tentatively accepted. These briefs were timely filed.

On May 30, 1980, the Licensing Board entered its "Memorandum And Order Re: Contentions," wherein it dismissed all of the contentions submitted by Petitioners for failure

to raise issues which are appropriate in early site suitability proceedings. Petitioners have appealed from the Licensing Board's denial of Petitioners' contentions 1, 2, 4, 6, 7, 8, 9, 10, 11 and 13, on the grounds that pursuant to NEPA and the Commission's regulations the issues raised in these contentions must be considered in this proceeding, and from the denial of standing of Edward Gogol. Pursuant to 10 CFR §2.714a, Applicants file this brief and respectfully request, for the reasons set forth below, that the Licensing Board's decision be sustained.

II.

Issues Presented for Review

The issues raised by Petitioners' appeal are:

1. Whether the Commission's regulations require that all environmental considerations be addressed in an early site suitability proceeding;

2. Whether the Commission's regulations are consistent with the requirements of NEPA; and

3. Whether an individual who resides 130 miles from a proposed nuclear power station has standing to intervene in an early site suitability proceeding.

III.

Summary of Argument

Petitioners argue that it was error for the Board to rule that NEPA does not require that issues raised in various of Petitioners' contentions need be resolved in an

early site review proceeding. Applicants believe that Petitioners have misconstrued the decision of the Licensing Board. While the Board's ruling on Petitioners' contentions is far from a model of clarity, it appears that the Board held only that those portions of the Commission's Rules of Practice governing early site review proceedings do not require and, indeed, contemplate that the full scope of review required under NEPA need not be completed as part of an early site review proceeding. The Commission's regulations governing early site review proceedings expressly provide that the applicant select those issues on which review is sought and contemplate that such a proceeding would involve less than a full NEPA review.

To the extent that Petitioners argue that these provisions themselves are inconsistent with NEPA, the Licensing Board and this Board, in reviewing the Licensing Board's decision, are prohibited by 10 CFR §2.758 from entertaining this argument. In any event, Petitioners' interpretation of NEPA and the scope of the proposed federal action in this early site review proceeding is erroneous. Although the Commission is required to comply with Section 102(2)(C) of NEPA prior to issuance of an authorization for a private party to engage in activities which significantly affect the quality of the human environment, it is not required to complete its NEPA review prior to the issuance of a partial initial decision which does not authorize such activities. Nor does NEPA require that the environmental review take

place at any particular stage of a licensing proceeding, so long as the NEPA review is completed prior to commencement of construction. In short, the Commission's Rules of Practice expressly provide for less than a full environmental assessment at the early site review stage of hearings on a construction permit application; the validity of these procedures are not subject to challenge in this proceeding, absent specific authorization by the Commission; and, in any event, the challenge itself is based on an erroneous interpretation of NEPA, and the cases decided thereunder and is, therefore, without merit.

Finally, under well-established precedent, a petitioner basing his standing to participate in NRC proceedings upon his residence and ownership property located 133 miles from the proposed site has no right to intervene.

IV.

Argument

A. The Commission's Rules Do Not Require A Full NEPA Review As Part Of Every Early Site Review

1. 10 CFR §51.5(a)(10) Is Not Applicable To Early Site Review.

In arguing that the Licensing Board erred in dismissing Petitioners' Petition to Intervene, Petitioners assert that, although the Commission's rules do not explicitly state that an early partial decision on site suitability issues must be preceded by the full review and consideration of the matters set forth in Section 102(2)(C)

(42 USC 4332) of NEPA (42 USC §§4321 et seq.),* 10 CFR §51.5(a)(10) does so require by implication. Petitioners have misinterpreted 10 CFR §51.5(a)(10), which applies only to "any other action which the Commission determines is a major Commission action significantly affecting the quality of the human environment" (emphasis supplied). As we show below, the Commission's regulations relating to early site review clearly evince the Commission's determination that an early decision on site suitability issues is not such a major Commission action. Rather, early site review is one step in the review of a construction permit application subject to 10 CFR §51.5(a)(1). Although 10 CFR §51.5(a)(1) requires that the environmental review be completed prior to issuance of a construction permit, it does not specify the precise timing of completion. The earliest time specified in the Commission regulations for the completion of the environmental review is prior to the grant of limited construction authorization under 10 CFR §50.10(e).

2. The Commission's Procedures Governing Early Site Review Do Not Require That Full NEPA Review Be Completed At The Early Site Review Stage of Proceedings On A Construction Permit Application.

10 CFR §2.101(a-1) provides that an applicant for a construction permit "may request that the Commission conduct an early review and hearings and render an early partial decision in accordance with Subpart F or issues of site

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* Throughout this Brief, "NEPA" refers specifically to Section 102(2)(C) of that Act.

suitability within the purview of the applicable provisions of Parts 50, 51, and 100 . . .." In such cases, an applicant for a license to construct a nuclear power reactor may submit the information required of applicants in four parts. Part one of the information required must include any information required by 10 CFR §50.34(a)(1) (the "PSAR") and 10 CFR §50.30(f) (the "ER") "which relates to the issue(s) of site suitability for which an early review, hearing and partial decision are sought . . .", together with inter alia "proposed findings on the issues of site suitability on which the applicant has requested review . . .." (10 CFR §2.101(a-1)(1)). If an applicant for a construction permit requests an early partial initial decision on the issues of site suitability pursuant to §2.101(a-1), then the notice of hearing setting forth the issues to be considered "shall be modified so as to relate only to the site suitability issue or issues under review." (10 CFR §2.604(a)).

These provisions clearly contemplate that the applicant select the site suitability issues on which it seeks an early partial decision.* Moreover, because the jurisdiction of the Licensing Board assigned to conduct early hearing on site suitability issues is limited to consideration

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* The Commission may, however, decline to initiate early hearings where the information supplied by the applicant indicates further review would be likely to identify superior alternative sites or an early decision on a limited number of issues would not be in the public interest (10 CFR §2.604(b)).

of those issues noticed for hearing, the hearings themselves and, thus, Petitioners' contentions, must be limited to those issues selected for early review by the applicant.* See: Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 NRC 287 (1979).

The Commission, in providing that the applicant select the issues on which it sought early site review, clearly recognized that the applicant might not seek review of all issues which, under NEPA and 10 CFR Part 51, need be resolved prior to the authorization of construction. The regulations require that only the portions of applicants' ER relevant to the issues on which an applicant seeks review be filed with a request for early site review. (10 CFR §2.101(a-1)). Moreover, the early site review regulations provide explicitly that no limited work authorization be issued pursuant to Part 50 without completion of the full review required by Section 102(2)(C) of NEPA and 10 CFR Part 51 (10 CFR §2.606).

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* In this appeal, Petitioners do not argue that any of the contentions which they assert were erroneously rejected fall within the scope of the issues noticed for hearing or within the scope of the proposed findings submitted by Applicants and, thus, by inference, appear to concede that they do not. We note that Contentions 1, 2, 4, 6, 10 and 11 all relate to findings which Applicants expressly indicated they did not seek at this stage of the proceeding; i.e., those issues related to need for power (Tr. at 36 and 45), decommissioning (Tr. at 36 and 45), alternative sources of energy (Proposed Finding 136) and cost/benefit balancing (Proposed Finding 117). And, Applicants have not been able to discern any relationship between the remaining contentions and the issues on which early findings have been requested.

These provisions would be meaningless if completion of the full review under NEPA and Part 51 were required in connection with all partial decisions on site suitability issues. Indeed, in promulgating the regulations governing early site review, the Commission stated "[f]inally, the effective rule provides that only one review of site suitability issues could be conducted prior to the full NEPA construction permit review." (Emphasis supplied) (42 Fed. Reg. 22882 (April 22, 1976)).

Petitioners' argument that "need for power most urgently warrants consideration" (Brief, p. 8) at this stage of the construction permit hearings cannot be reconciled with the Commission's Statement of Consideration published with the early site review regulations. In discussing the criteria upon which the Commission may decide not to initiate an early review, the Commission stated that such criteria were consistent with current practices as reflected in Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-277, 1 NRC 539 at 547 (1975) (42 Fed. Reg. 22882 (May 5, 1977)). The Douglas Point decision specifically found that it would be appropriate to resolve certain site suitability issues, even though the applicant had postponed planned construction of the facility and withdrew its request that the Licensing Board make findings on need for power. Moreover, need for power is an issue on which early findings are unlikely to retain their

validity in subsequent reviews and, therefore, not particularly suited for early review. (10 CFR §2.605(b)(2)).

If the arguments advanced by Petitioners on the scope of review required during the early site review stage were accepted by the Appeal Board, the salutary purposes of early site review would be frustrated. The primary purpose of early site review is to screen out unacceptable sites prior to the time an applicant has developed all of the information eventually needed to support a construction permit application. (41 Fed. Reg. 16835 (April 22, 1976)). This purpose is obviously incompatible with Petitioners' apparent position that all matters which must be resolved prior to issuance of a construction permit are ripe for adjudication at this early stage of partial review.

3. 10 CFR §2.758 Prohibits Any Challenge To The Validity Of The Early Site Review Regulations.

Although they do not so state, the arguments advanced by Petitioners cannot be reconciled with the express language of 10 CFR §2.101(a-1) and 10 CFR Part 2, Subpart F and appear to challenge these provisions as being incompatible with the requirements of NEPA. Neither the Licensing Board nor this Board are empowered to consider such an argument. (10 CFR §2.758). In any event, as we show below, the Commission's rules governing early site review are well within the scope of the discretion entrusted to federal agencies pursuant to NEPA as interpreted by the courts.

B. NEPA Does Not Require The Issues Raised By Appellants To Be Considered At This Early Site Review

The regulatory structure providing for early site review and the sequential consideration of technical and environmental issues is entirely consistent with the requirements of NEPA. NEPA requires "that environmental concerns be integrated into the very process of agency decision making." Andrus v. Sierra Club, 442 U.S. 347, 350 (1979). To accomplish this goal, NEPA mandates an environmental impact statement prior to "major Federal actions significantly affecting the quality of the human environment." (24 USC 4332). It is, however, within the province of the agency's discretion as to when "during the germination process" of a federal action "an impact statement should be prepared." Kleppe v. Sierra Club, 427 U.S. 390, 406 (1976).*

The major federal action involved in the case at hand is the issuance of Applicants' construction permit. (10 CFR §51.5(a)(1)). The fundamental purpose of the early site suitability provisions is to permit an applicant to seek an even earlier review of site suitability issues than would be required under NEPA or the Commission's prior regulations governing review of construction permit applications. Thus, the early site review regulations merely

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* See also the Council on Environmental Quality Regulations, 40 CFR §1500.6, which provides:

> The definition of major action significantly affecting the environment is the responsibility of each Federal agency, to be carried out against the background of its own particular operations.

authorize the commencement of the environmental review of certain issues in advance of the point in time required by the Commission's prior regulations and NEPA. And, the early site suitability regulations provide safeguards to insure that the early review and hearings serve their intended purpose by granting the Commission the discretion to determine on an ad hoc basis whether certain issues should not be entertained at that stage on the ground that, inter alia, the findings on these issues would most likely not retain their validity in later reviews. (10 CFR §2.605(b)). As such, these procedures not only comply with NEPA, but they also further the intended purposes of that Act.

Petitioners misconstrue existing case law in arguing that an environmental impact statement is required at the early site review stage. The cases cited by Petitioners merely hold that the environmental review under NEPA must precede the activities from which adverse environmental consequences would flow.* Early site review is clearly dis-

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* In Natural Resources Defense Council v. USNRC, 559 F.2d 824 (2d Cir. 1976), vacated and remanded, 434 U.S. 1030 (1978) (remanded to consider question of mootness), the court held that it was impermissible to license individual facilities, the viability of which depended on the wide-scale use of plutonium, without first considering the environmental consequences of the wide-scale use of plutonium. Similarly, Scientists Inst. For Pub. Info., Inc. v. AEC, 481 F.2d 1079 (D.C. Cir. 1973) held that the Atomic Energy Commission could not devote substantial funds to develop an active new technology without first evaluating the environmental consequences of the technology. In Gage v. Commonwealth Edison Co., 356 F.Supp. 80 (N.D. Ill. 1972), the court simply held that activities of a private party which do not preclude

(Cont. next page)

tinguished from the situations discussed in those cases because a decision on these issues will not authorize applicants to engage in activity adversely affecting the environment. Indeed, unlike the situation in LaRaza Unida v. Volpe, 337 F.Supp. 221 (N.D. Calif. 1971), affirmed, 488 F.2d 559 (9th Cir. 1973), cert. denied, 409 U.S. 890 (1972), applicants here are explicitly precluded from taking any such action absent completion of the full review mandated by NEPA. (10 CFR §2.606(a)).

Petitioners exhibit their misunderstanding of the early site review proceeding when they claim that early review of site suitability issues "serves as much to affect the environment as does a Commission decision to grant a permit to construct a specific plant." A decision favorable to an applicant on an early site review request authorizes no activities whatsoever. On the other hand, an unfavorable decision could prevent the commitment by applicants of the resources necessary to finalize a full construction permit application for a nuclear power reactor at the site.

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*Cont. from page 13

subsequent meaningful environmental review need not be preceded by a NEPA review. In contrast, the court required an environmental impact statement to be made in LaRaza Unida v. Volpe, 337 F.Supp. 221 (N.D. Calif. 1971), affirmed, 488 F.2d 559 (9th Cir. 1973), cert. denied, 409 U.S. 890 (1972), based, in part, upon Department of Transportation guidelines defining the challenged programs as "federal actions" and the fact that the environmental damage was occurring on an ongoing and continuing basis and, thus, could not be meaningfully evaluated at a later date.

The Council on Environmental Quality Regulations states that "[a]gencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts." (40 CFR §1501.2). The early review of site suitability issues implements this mandate. If anything, this procedure will minimize the resources applicants expend in the pre-construction license stage. In proposing the early site review, the Commission determined that early review decision on site suitability issues offered several advantages over the prior licensing practice, including early resolution of site-related problems prior to the commitment by applicant of the substantial resources needed to prepare a complete application for construction permit and improvement in the efficiency of the licensing process and in enhancement of public participation at the crucial early stage of the licensing process. (41 Fed. Reg. 16835). Thus, contrary to Petitioners' contention, the early site review proceeding is not only consistent with, but also enhances, the Commission's ability to conduct the environmental review required by NEPA.

Further, contrary to Petitioners' apparent belief, the administrative resources the Commission must expend to conduct this review do not constitute the irretrievable commitment of resources within the meaning of NEPA. Quite obviously, NEPA cannot be interpreted to require that an

environmental analysis be completed prior to the time the agency commences its environmental review.

C. The Licensing Board Properly Dismissed Edward Gogol From This Proceeding For Lack Of Standing

The Licensing Board properly rejected all of the contentions filed on behalf of Mr. Gogol. Consequently, pursuant to 10 CFR §2.714(b), Mr. Gogol, as well as the other Petitioners, should not be authorized to participate as parties in this proceeding, regardless of the outcome of the issue addressed in this section of the brief. Nonetheless, as will be established below, Mr. Gogol's individual petition was properly dismissed for lack of standing.

The principles governing the standing of an individual to participate as a party in proceedings before the Commission were addressed by this Board in Public Service Co. of Oklahoma (Black Fox Station, Units 1 and 2), ALAB-397, 5 NRC 1143 at 1144-45 (1977).

> Under the Atomic Energy Act [Section 189a., 42 USC 2239(a)] and our Rules of Practice [Section 2.714(a), 10 CFR §2.714(a)], one seeking to intervene as a matter of right in an NRC proceeding must assert an interest [which] may be affected by that proceeding. It is now settled that, in determining whether such an interest has been sufficiently alleged, the adjudicatory boards are to apply contemporaneous judicial concepts of standing. More specifically, the petitioner for intervention must allege both (1) "some injury that has occurred or will probably result from the action involved" and (2) an interest "arguably within the zone of interests" to be protected or regulated by the statute sought to be invoked. Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, [4 NRC 610, 613-14 (1976)].

In the Black Fox decision, in rejecting a petition to intervene by one petitioner, the Appeal Board stated as follows:

> For it is perfectly clear that, absent the existence of such ability, there is no conceivable justification for allowing [petitioner's] participation in the proceeding on the issue. As the Licensing Board pointed out, [petitioner's] interest in the construction and operation of Black Fox is "remote"-resting entirely upon her occasional trips from her residence in Oklahoma City (125 miles from the site) to Tulsa (23 miles from the site) and other unspecified communities asserted to be "near" the site.

5 NRC at 1150 (emphasis supplied). See also Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 (1977) (denial of intervention of petitioner residing in excess of 100 miles from site of plant).

Mr. Gogol predicates his standing on his residence and ownership of property which is located 133 miles from the Carroll County site, and has alleged no other contacts with the site. Thus, under established precedent he has no right to intervene in this proceeding.

V.

Conclusion

For the reasons stated above, the Appeal Board should affirm the Licensing Board's rulings dismissing all of the contentions submitted by Petitioners and denying the intervention of Edward Gogol for lack of standing, and hold as a matter of law that early site review proceedings need not include the full scope of review required under NEPA.

DATED: June 27, 1980

Respectfully submitted,

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III. Contentions

1. The following contentions deal with the applicants' projected demand for electricity:

a) In deriving peak load forecasts for the period 1979-2000, Applicants did not adequately account for decreased need for applicant-supplied electricity due to increased customer utilization of local solar heating devices, local solar hot water collectors, local photovoltaic cell-produced electricity and conservation measures;

b) In deriving peak load forecasts, Applicants did not adequately account for increased utilization of devices and measures described in contention 1.(a) through tax credits and other governmental incentives, decreased costs and increased efficiency of same;

c) In deriving peak load forecasts, Applicants did not adequately account for impact of cogeneration wind, natural gas, and other alternative sources of energy;

d) In deriving peak load forecasts, Applicant Commonwealth Edison estimated the output for the period 1988 through 2000 based upon simple extrapolation and not upon rigorous analyses. As the facilities are scheduled to be completed around 1988, it is essential that the most rigorous analysis be employed to ensure that the demand for electricity is not over or under estimated. Further, in its econometric modeling, and by its simple extrapolation using data accumulated since 1960, Commonwealth Edison has failed to adequately account for the substantially decreased rate of increase in demand of its customers. Since 1973, due to ever increasing costs and public awareness of the scarcity of certain fule sources, including uranium and oil, there has been a notable drop in said rate and universal attempts at conservation. Our President has proclaimed "the moral equivalent of war" regarding this country's energy problems and has urged the implementation of conversation measures to combat these problems. The customers of Commonwealth Edison have responded to all these factors. From 1974 to 1978, the average annual increase in demand has been only

2.4%. Yet Commonwealth Edison predicts the demand of its customers to blindly increase at least 5.1% each and every year from 1979-2000, and the output over that period to increase by 300%. In making such predictions, Commonwealth Edison very clearly does not adequately account for the substantially slowed-down growth rate it has experienced since the key year of 1973;

e) In deriving peak load forecasts, Applicants do not identify the customers who are to utilize power to be furnished by the proposed facilities. Rather Applicants perform their statistical anaysis on figures relating to their respective statewide sales, including municipal areas such as those including and surrounding Chicago. As such, Applicants fail to adequately account for possible differences between the rate of increase or decrease of consumption in the primarily rural area to be serviced by the proposed facilities, and those rates in the overall statewide areas utilized in applicants' load calculations.

2. Applicants fail to adequately consider alternative sources of energy, especially that of coal-fired power plants. By 1987, the year the proposed facilities will be ready to go on line, the cost per kilowatt hours of nuclear-powered electricity will be approximately 60% more expensive than that of coal-powered electricity. Further, Applicants have failed to adequately consider the consequences of bypassing this alternative, as the world supply of uranium may be wholly depleted prior to the cessation of the expected lifetime of the facilities, and Applicants' customers may face serious brownouts or service interruptions as a direct result thereof.

3. Applicants have not demonstrated that they have the capital required or are otherwise financially qualified to build the facilities.

4. The oldest commercial nuclear power reactor is Dresden I, which is approaching an age of 20 years. The proposed decontamination of Dresden I piping, necessary for continued operation of the Dresden plant, is as yet undemonstration; there is no assurance that it will work. Hence there is no assurance that the operating life of the Carroll County plants will be 40 years (as assumed by Applicants), or that it will even approach that figure. Therefore, any overall summary cost-benefit analysis for the station which assumes a 40-year operating life is invalid.

5. The recent history of applicant Commonwealth Edison rate hike requests, and the motivations for them, indicates that construction of the Carroll County nuclear plants will require large rate increases. Thus the construction of the Carroll County plant will impose severe financial hardships on large sectors of our society--especially those poor people whose finances are strained to the breaking point as a result of the continuing inflation.

6. Construction of the Carroll County plant will tie up large amounts of capital, which will not be serving any useful purpose since the need for the power from Carroll County has not been demonstrated. This capital could be more profitably invested in other sectors of the economy in which there is a demonstrated need for new growth. Since nuclear power is one of the most capital-intensive and the least labor-intensive of the sectors of our economy, building the Carroll County plant will result in a net loss of jobs. Were the capital Applicants propose to invest in the construction and operation of alternative sources of electricity such as photovoltaic cells, wind turbines, fluidized-bed boilers, and cogeneration and other conservation technologies, the number of jobs created would be far greater than if that capital is invested in the Carroll County plant.

7. Applicants have not indicated how much spent fuel will be stored on site, nor for how long it will be stored there.

8. Applicants have not indicated the specific place the spent fuel from Carroll County will be taken to. Currently there is only one place in the U. S. which accepts shipments of spent fuel--General Electric's Morris Operation, 50 miles southwest of downtown Chicago. There is no assurance of the continued operation of the Morris Operation, not of any room in the Morris Operation in the event of its continued operation, nor of the creation of any other repositories for spent fuel.

Furthermore, there is no demonstrated technology for treatment and ultimate safe disposal of these spent fuel wastes, and there is no assurance that such a technology will ever be found.

Therefore, it is entirely possible that the Carroll County plant will become a permanent high-level radioactive waste dump. There is no provision in the regulations for the NRC to grant applicants a license for creating a permanent high-level radioactive waste dump.

9. Applicants have not indicated where the radioactive wastes produced by Carroll County will be taken. Although there are several sites currently operating for the burial of these wastes, there is no assurance that these will continue to operate. (These sites could be found to fail to meet current NRC safety standards, or the standards could be changed to require other methods of disposal.) There is no assurance that any other burial sites will be licensed. Therefore, the Carroll County plant could become a permanent low- and intermediate-level radioactive waste dump, and this possibility is not allowed for in NRC regulations.

10. Applicants have not indicated how decommissioning the plant will be carried out. The sucessful decommissioning of such a large nuclear plant has never before been attempted or completed. Thus there is no assurance that Applicants will be able to successfully decommission the plant.

11. Since the ultimate methods of disposal of the spent fuel and other radioactive wastes produced by the Carroll County plant is not known, there is no way that the costs of such disposal can be known. Since the ultimate method of decommissioning of the plant is not known, there is no way that the costs of such decommissioning can be known. Since these costs are unknown, there is no assurance that they will not be much larger than Applicants projected. Hence, much larger rate increases will be needed to pay for the ultimate cost of the Carroll County plant, and any summary cost-benefit analysis produced before the exact magnitude of these costs are known must be invalid.

12. The recent disclosures concerning health and safety conditions at Commonwealth Edison's uranium mine and mill in Colorado indicate that Com Ed may be unable to obtain fuel for the Carroll County plant without causing unacceptable releases of tailings-originated radioactivity to the environment and without causing unacceptable radiation exposures to the workers in the uranium mine and mill. Applicant Commonwealth Edison has presented no evidence that it will safely be able to obtain fuel for the Carroll County plant.

13. The accident record of U. S. commercial nuclear power reactors indicates a strong possibility of meltdown of the Carroll County reactor cores, if they are built. Reactors which have either suffered severe accidents and/or came close to meltdowns include the Fermi I reactor (partial core meltdown, 1966), the Browns Ferry reactors (fire leading to disabling of the cooling systems, 1975), the Duane Arnold reactor (cracks discovered in main coolant inlet pipes, 1977), and the Three Mile Islane II reactor (loss of coolant accident, 1979). A catastrophic accident could result in the atmospheric release of substantial fractions of the reactors fission product inventory, leading to radiation levels high enough to cause acute radiation sickness among thousands of people, and epidemics of cancers, birth defects, and genetic diseases in the following years. The consequences of such an accident are unacceptable, and regulations do not allow the licensing of plants which can result in such catastrophic outcomes.

14. The Price-Anderson Act is inadequate to provide full insurance coverage for such accidents, and Applicants are unable and unwilling to obtain insurance to cover the full costs and consequences of catastrophic accidents involving Carroll County. Government estimates indicate that a catastrophic accident could cause damages to property in the range of tens of billions of dollars.

15. Illinois has no federally approved plan for evacuating populations in the event of catastrophic accident. No such plans exist for the Carroll County area, and it is likely that no suitable evacuation plan will be found.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of		
COMMONWEALTH EDISON CO. et al., (CARROLL COUNTY SITE)	)	Docket Nos. 550-559 and 550-600

CERTIFICATE OF SERVICE

I, Alan P. Bielawski, one of the attorneys for Commonwealth Edison Company, et al., certify that copies of "Applicants' Brief In Response To Petitioners' Appeal From Denial Of Intervention" have been served in the above-captioned matter on all parties on the attached service list by United States mail, postage prepaid, this 27th day of June, 1980.

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DATED: June 27, 1980

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