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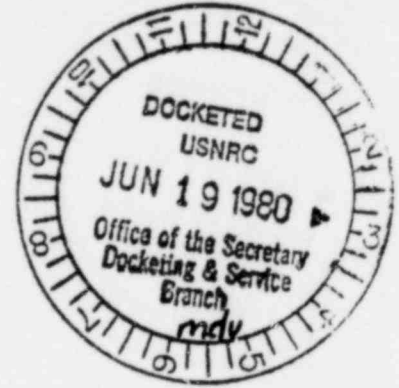
June 16, 1980

DOCKET NUMBER

PETITION RULE PRM-2-10⁷
 (45 FR 26071)

Secretary of the Commission
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555

ATTENTION: Docketing and Service Branch



Dear Sir:

Commonwealth Edison Company ("Commonwealth") hereby submits comments in respect of the petition for rulemaking filed by Citizens Advisory Board of the Metropolitan Area Planning Agency ("Petitioner") PRM-2-10, 45 Fed. Reg. 26071 (April 17, 1980). Commonwealth presently holds operating licenses for seven nuclear reactors and construction permits for six additional reactors. It has also filed an application for early site review for two units to be located in Carroll County, Illinois. Commonwealth, therefore, has considerable experience with the nuclear licensing process and a large stake in improving the efficiency of the licensing process.

Commonwealth strongly opposes Petitioner's request that informal public hearings be held in all licensing actions, and that "interested persons" be allowed to request formal hearings without being required to intervene. Both requests are contrary to the provisions of the Atomic Energy Act of 1954 (the "Act") and inconsistent with the need for efficiency in the licensing process, which the Commission has recently reaffirmed. 45 Fed. Reg. 20260 (March 27, 1980).

Section 189a of the Act already requires public hearings prior to the issuance of construction permits. It also provides the opportunity for a public hearing in respect of all other licensing actions, although it permits the Commission to issue requested amendments to construction permits or operating licenses upon a determination by the Commission that the amendments involve no significant hazards considerations. Thus, the Act already provides a balance between permitting public participation and the need for efficiency in the licensing process. The Commission is not free to recalculate this balance.

Moreover, the scheme advanced by Petitioner would be unworkable. Petitioner is obviously unfamiliar with the tremendous volume of license amendments which are routinely processed by the NRC. To hold informal hearings on each one would be impracticable. The sheer volume of such licensing actions would ensure a virtually continuous informal hearing in respect of each nuclear station. And without some threshold finding akin to the "significant hazards consideration" finding presently mandated by the Act, the truly important licensing actions would be obscured in clouds of trivia, rather than revealed to public scrutiny as Petitioner doubtless intends.

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Petitioners' second proposal, that interested persons be allowed to request a formal hearing without being required to intervene, would be inconsistent with Section 274(1) of the Act. That provision expressly grants interested states the privilege to participate but not intervene in formal licensing proceedings. Granting similar privileges to any interested persons would be inappropriate. Moreover, formal proceedings currently cost licensees and the federal government tens and even hundreds of thousands of dollars. It is outrageously inequitable for Petitioners to demand that such cost be incurred by others while "interested persons" stand by without being required to intervene or contribute anything to the process.

Finally, it should be recognized that increasing the frequency of informal or formal hearings, as contemplated by Petitioner, would result in a significant drain on licensee and Staff resources. Yet, according to the recent report of the NRC's Special Inquiry Group:

Practically all those who are familiar with the licensing process, including most Licensing Board members who responded to a questionnaire sent out by the Special Inquiry Group, agree that the formal hearing process does little to enhance the quality of reactor safety. (Volume I, page 140)

Commonwealth understands that for reasons of public policy, public hearings are a necessary part of the process of nuclear regulation. Nevertheless, in allocating the limited resources of Staff and licensees, first priority has to be given to making plants as safe as possible. Frequent public hearings of trivial matters would divert management attention and engineering resources away from plant operations and design reviews which are the established mechanisms for maintaining plant safety.

Commonwealth believes that the remaining portion of the petition, dealing with scheduling matters, is unnecessary in view of current NRC practice. Hearings are generally held in the vicinity of the affected facilities, and Licensing Boards, in Commonwealth's experience, have usually gone out of their way in holding additional sessions or evening sessions to accommodate public participation.

Sincerely,

D. L. Peoples
Director of
Nuclear Licensing