



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



OFFICE OF THE
SECRETARY

November 5, 1980

Docket Nos. S50-599
S50-600

Jan L. Kodner, Esq.
230 West Monroe Street
Suite 2026
Chicago, Illinois 60606

In the Matter of
Commonwealth Edison Company, et al.
(Carroll County Site)

MAIL ROOM SERVICES

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Dear Mr. Kodner:

This is to inform you that the time provided by NRC regulations within which the Commission may act to review the Appeal Board decision (ALAB-601) in this docket has expired. The Commission has declined any review.

Commissioner Gilinsky would have preferred that the Commission take review and provided the following comment:

"This is another case in which the importance of the issues, the first delineation of the scope of an early site review, justifies Commission review, if only to summarily affirm."

In connection with his concurrence in no review, Commissioner Bradford provided separate views which are enclosed.

Accordingly, the decision became final agency action on November 4, 1980.

Sincerely,

Samuel J. Chalk
Samuel J. Chalk
Secretary of the Commission

Enclosure:
Separate Views of Commissioner Bradford

cc: Service List

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SEPARATE VIEWS OF COMMISSIONER BRADFORD

I concur that no review is warranted in this case. However, an early site review could conceivably "significantly affect the quality of the human environment" within the meaning of Section 102(2)(c) of NEPA [42 U.S.C. 4332(2)(c)]. Specifically, under the "sunk costs" rule of the Seabrook case,^{1/} an applicant might invest so much in an early site review as to bias the alternative site analysis required by NEPA at the CP stage. Confronted by such a case, the Commission would have to consider whether the "impact" of the early site approval was sufficient to trigger a NEPA review.^{2/}

1/ Public Service Company of New Hampshire (Seabrook Station, Units 1 & 2), CLI-77-8, 5 NRC 503, 533-36 (1977)

2/ It is not at all clear that such a review would encompass the "need for power" review sought here. Since an early site review does not address the plant itself, the agency's obligation to consider the alternative of not building the plant will not come into play at that stage in any case.