

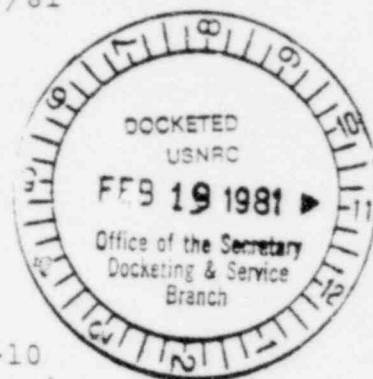


BEFORE THE COMMISSION

2/16/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION



In the Matter of)

COMMONWEALTH EDISON COMPANY)

(Dresden Nuclear Power)
Station, Unit No. 1))

Docket No. 50-10
(Decontamination)

APPLICANT'S BRIEF TO THE COMMISSION

This matter involves a request for hearings by several persons and groups ("Petitioners") in respect of Commonwealth Edison's ("Applicant's") proposal to carry out a chemical cleaning of its Dresden Unit One reactor. On January 8, 1981 the Commission asked the parties to brief three questions prior to its addressing the petition for hearings. Those three questions and Applicant's responses follow.

Question (a):

What, if any, license modifications in addition to the two Technical Specification changes sought by CECO are required for decontamination?

ANSWER:

Applicant agrees with the NRC Staff's response dated January 20, 1981.

Question (b):

What, if any, license modifications are required for a resumption of operation?

ANSWER:

Applicant agrees with the NRC Staff's

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response to this question, but we think one point deserves additional emphasis: Applicant does not know at this time all the license modifications which will be required for restart of Dresden Unit 1. Indeed, present uncertainty concerning eventual NRC requirements arising out of the Systematic Evaluation Program and TMI reviews is one reason why Applicant has deferred the scheduled restart of Dresden Unit 1 until 1986.^{1/}

The NRC Staff Response to Commission Questions provides at footnote 4 a general description of the actions not relating to chemical cleaning which appear at the present time to be required for restart of Dresden Unit One. Applicant has tried to provide herein a somewhat more detailed response. Attachment 1 is a list of Applicant's commitments to make engineering changes or to provide information to the NRC Staff prior to restart of Dresden Unit One. Applicant has not yet proposed, nor is it possible to define pending completion of SEP and the other reviews listed in Attachment 1, the specific license modifications or tech spec changes to be made. The list in Attachment 1 is certain to grow in the near future as the Staff continues to publish new requirements and ask further questions in respect of all operating reactors. We think that Attachment 1 illustrates

^{1/} The other reason is certain short-term cash flow deficiencies currently being experienced by Applicant.

that it would not only be premature, but impracticable to address restart issues in any chemical cleaning hearing.

Question (c):

If license modifications are required for both decontamination and return to operation, how should the hearing be structured?

ANSWER:

The Commission's question apparently indicates that a hearing will be held. If, as Applicant assumes, the basis for this decision is that such a hearing is required by Sholly v. NRC,^{2/} then the notice of hearing should direct the licensing board, in the event Sholly v. NRC is reversed or legislatively corrected prior to completion of the hearings, to allow the chemical cleaning to go forward without further delay on the basis of the Staff's "No Significant Hazards Finding and the Final Environmental Statement. The hearings could continue as a justification of the Applicant's proposal and of the Staff's review, in accordance with what the Commission itself has argued is the appropriate interpretation of the "significant hazards" limitation in Section 189(a) of the Atomic Energy Act.

^{2/} On December 3, 1980, as soon as it learned of the Sholly decision, Applicant wrote to the Commission requesting that a licensing board be appointed so that we could get on with the hearings which seemed required by the decision. At that time Applicant did not know that the NRC would seek an indefinite stay of the mandate in Sholly. Applicant's letter was not a request for the Commission to hold hearings as a matter of discretion if none are required as a matter of law.

Any hearing should address the chemical cleaning itself, together with necessarily related issues such as waste disposal or post-cleaning follow-up requirements. (See NRC Staff Response to Commission Questions, text at pp. 3-4). Since an environmental impact statement has been prepared, ^{3/} it should be presented, along with the Staff's SER, at the hearings. See Calvert Cliffs Coordinating Committee v. AEC, 449 F.2d 1109, 1117-18 (1971). However, if the licensing board agrees with the Staff's conclusion that the chemical cleaning will have no significant impact on the human environment, and further finds that the chemical cleaning does not give rise to "unresolved conflicts concerning alternative uses of available resources" within the meaning of Section 102 (2)(E) of NEPA, there will be no need to discuss alternatives to Applicant's proposal. See, e.g., Virginia Electric and Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB 584, 11 NRC 451 (1980).

The restart and subsequent operation of Dresden Unit One should not be addressed in this hearing -- because these issues cannot be addressed -- but should be the subject of a separate "Notice of Opportunity for Hearing" published upon receipt of Commonwealth Edison's application for the license modifications necessary to restart the unit. In this regard, note that Petitioners have not asked for a hearing on restart of Dresden Unit One. The issues involved

^{3/} Final Environmental Statement related to Primary Cooling System Chemical Decontamination at Dresden Nuclear Power Station, Unit No. 1, NUREG 0686 (October 1980).

in chemical cleaning and restart are clearly separable.^{4/}
And no party will be prejudiced by this separation of issues,
since Petitioners and other "interested persons" will have
the opportunity for a hearing prior to restart of Dresden
Unit One.

A number of suggestions concerning the conduct of
any hearing have been made by the NRC Staff and Petitioners
which we believe could be left to a licensing board. But for
the sake of completeness, Applicant responds as follows.


The NRC Staff urges the consolidation of Petitioners
as one joint party. (NRC Staff Response to Commission
Questions at p. 5) Petitioners have no objection. (Response
of Petitioners to Commission Order at p. 5). Applicant supports
this consolidation.

Assuming there is consolidation, and Ms. Rorem, who
does have an interest in this matter, continues to participate
as one of the Petitioners, Applicant believes it would be re-
dundant and unnecessary to require each of the other Petitioners
to establish his or her interest in the proceeding, as
suggested by the NRC Staff. (NRC Staff Response to Commission
Questions at pp. 5-6).

^{4/} The issues raised by Petitioners to date in respect of
chemical cleaning have primarily related to corrosion
and to the potential migration of chelated wastes following
burial. The issues which must be resolved, at least by
the NRC Staff, prior to restart of the unit have to do
with HPCI, Fire Protection, Environmental Qualification,
Seismic Reanalysis, etc. More generally, the obvious
distinction to make is between cleaning and operating
Dresden Unit One.

Petitioners claim that if their petition is granted their formal contentions need not be submitted until there is an opportunity for discovery under 10 CFR §2.740. Applicant strongly opposes this suggestion. The Commission's Rules of Practice provide that "discovery shall begin only after the prehearing conference provided for in §2.751a and shall relate only to those matters in controversy which have been identified by the Commission or by the presiding officer in the prehearing conference order entered at the conclusion of that prehearing conference." 10 CFR §2.740. As a practical matter, there are more than seven years of studies, experiments and correspondence supporting the proposed chemical cleaning, and it would be unreasonably burdensome for Applicant, its contractors, and, we think, for the NRC Staff to throw this extensive history open for discovery without some prior definition by a licensing board of the specific matters in controversy.

Respectfully submitted,


One of the Attorneys for
Commonwealth Edison Company

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COMMONWEALTH EDISON COMPANY'S SUMMARY OF
REQUESTS FOR INFORMATION/COMMITMENTS
REQUIRED AT THE PRESENT TIME
FOR RETURN TO SERVICE

<u>Letter</u>	<u>Description</u>
1. B.B. Stephenson Letter to J.G. Keppler dated June 30, 1975	Commitment to qualify Dresden Unit I equipment which performs safety functions during and after a postulated LOCA.
2. K.R. Goller letter to R.L. Bolger dated December 9, 1975	NRC authorization to initiate chemical decontamination of Dresden I containing Commonwealth Edison's commitments to conduct testing program, a pre-service inspection program for the primary coolant boundary, and a post cleaning surveillance program.
3. R.L. Bogler letter to Director of NRR dated January 12, 1976	Commitment to modify the core spray system and the reactor protection system (RPS) to comply with IEEE Standard 279.
4. G.A. Abrell letter to D.L. Ziemann dated May 26, 1976	Progress report on High Pressure Coolant Injection System (RPCI), which specified that Commonwealth Edison would remedy inadequate core spray system suction by installing new diesel drive booster pumps.
5. M.S. Turbak letter to K.R. Goller dated March 18, 1977	Commitment to repair valve problems with the modified gas system using new linkages and actuators.
6. C. Reed letter to J.G. Keppler dated April 19, 1978	Commitment to replace the intermediate range neutron monitoring (IRM) system connectors as part of the modification to upgrade the reactor protection system.
7. D.K. Davis letter to R.L. Bolger dated January 6, 1978	NRC Staff letter notifying Commonwealth Edison that the Commission issued Amendment No. 23 to the operating license for Dresden I, which extended the ECCS exemption and date for compliance with IEEE-279 to October 31, 1978 and contained new interim license conditions.

8. J.G. Keppler letter to B. Lee, Jr. dated April 14, 1979 NRC Staff letter transmitting IE Bulletin No. 79-07 which requires action on the part of Commonwealth Edison regarding seismic stress analysis of safety-related piping.
9. J.G. Keppler letter to B. Lee, Jr. dated April 14, 1979 NRC Staff letter transmitting IE Bulletin No. 79-08 which requires action on the part of Commonwealth Edison regarding events relevant to BWR's identified during TMI incident.
10. R. Snaider letter to R.F. Janacek dated May 29, 1979 NRC Staff request for additional information on combustible gas control inside containment.
11. J.G. Keppler letter to B. Lee, Jr. dated July 2, 1979 NRC Staff letter transmitting IE Bulletin No. 79-14 which requires Commonwealth Edison to submit written responses regarding seismic analysis for as-built safety related piping systems.
12. C. Reed letter to J.G. Keppler dated July 5, 1979 Letter stating Commonwealth Edison has undertaken a comprehensive program to resolve concerns raised in IE Bulletin No. 79-02 regarding pipe support base plate designs using concrete expansion anchor bolts.
13. D.L. Ziemann letter to C. Reed dated August 9, 1979 NRC Staff letter notifying Commonwealth Edison that the Commission issued Amendment No. 23 to the operating license for Dresden I which requires completion of fire protection modifications identified in the NRC's Fire Protection Safety Evaluation dated August 9, 1979, and supplements thereto.
14. R.F. Janacek letter D.L. Ziemann dated August 31, 1979 Letter stating that the decision concerning modifications to the emergency condensor valves will be deferred pending completion of the Systematic Evaluation Program (SEP).
15. C. Reed letter to D. Eisenhut dated October 18, 1979 Commitment to demonstrate Dresden Unit I's compliance with the requirements of Enclosures 6 and 7 of D. G. Eisenhut's letter to all operating plants dated September 13, 1979 prior to Dresden Unit I start-up.

16. D.L. Ziemann letter to D.L. Peoples dated October 23, 1979
NRC Staff request for Commonwealth Edison to submit 90 days prior to restarting Dresden Unit I a written commitment that Dresden I will be operated in compliance with the NRC's interim position re containment purging and venting during normal operation and to provide the NRC with information demonstrating initiation of purge and vent valve operability verification on an expedited basis.
17. D.L. Peoples letter to H.R. Denton dated November 30, 1979
Supplementary Response to Commonwealth Edison's October 18, 1979 letter on Lessons Learned Commitments which clarifies Commonwealth Edison's commitment with regard to staffing each operator shift with a technical graduate licensed at the Senior Reactor Operator level.
18. R.F. Janacek letter to D.L. Ziemann dated December 20, 1979
Letter transmitting Core Spray Distribution Modification update to the NRC which describes the new grid design Commonwealth Edison has adopted to modify Dresden Unit I's core spray distribution.
19. J.G. Keppler letter to C. Reed dated July 18, 1980
NRC Staff letter transmitting IE Supplement No. 1 to IE Bulletin No. 80-17 which requires Commonwealth Edison to submit information and take action with regard to the failure of control rods to insert during a SCRAM and supply information on the manpower Commonwealth Edison expends to conduct the review and prepare the responses required by the Bulletin.
20. J.G. Keppler letter to C. Reed dated February 8, 1980
NRC Staff letter transmitting IE Bulletin No. 80-04 requesting Commonwealth to submit information regarding analysis of a PWR main steam line break with continued feedwater addition.
21. J.G. Keppler letter to C. Reed dated April 9, 1980
NRC Staff letter transmitting IE Bulletin No. 80-08 which requires Commonwealth Edison to examine containment liner penetration welds and submit a written response to the NRC.

22. R.F. Janacek letter to D.L. Ziemann dated February 29, 1980
Action plan proposal for resolving seismic design issues which includes commitments by Commonwealth Edison to (1) conduct tests and supply information to the NRC, and (2) implement the results of a review of non-seismic category I auxiliary items of Dresden Unit 2 on Dresden Unit I prior to returning Dresden Unit I to service.
23. R.F. Janacek letter to D.L. Ziemann dated March 10, 1980
Response to NRC letter concerning pipe breakage outside containment stating that the modification to the fire protection system to improve fire system leak detection has already been scheduled.
24. J.G. Keppler letter to C. Reed dated May 8, 1980
NRC Staff letter transmitting IE Bulletin No. 80-11 and requiring Commonwealth Edison to examine and provide a written report on all masonry walls in proximity to safety-related systems.
25. R.F. Janacek letter to T. Ippolito dated April 8, 1980
Response to NRC concerns about fire protection designs for Dresden Unit No. 1 which includes information on the fire detection and water suppression systems to be installed.
26. R.F. Janacek letter to D.L. Ziemann dated May 1, 1980
Commitment to forward information on the retrofit program modifying the Emergency Core Cooling and Reactor Protection Systems for Dresden Unit I.
27. T. Ippolito letter to D.L. Peoples dated May 15, 1980
NRC Staff letter requesting Commonwealth Edison to submit additional information regarding the adequacy of station electric distribution system voltages at Dresden Unit I.
28. D.L. Peoples letter to D.M. Crutchfield dated June 10, 1980
Letter stating that Commonwealth Edison was unable to supply information the NRC had requested regarding the environmental qualifications of electrical equipment at Dresden Unit I due to the retrofit program modifying the Emergency Core Cooling and Reactor Protection Systems, but committing Commonwealth Edison to supply the requested information when it becomes available.

29. D.L. Peoples letter to D. Eisenhut dated June 12, 1980 Commitment to show Dresden Unit I's compliance with the requirements and schedules contained in Mr. D. G. Eisenhut's letter to All Operating Plants dated May 7, 1980, prior to start-up.
30. D.M. Crutchfield letter to D.L. Peoples dated June 11, 1980 NRC Staff letter requiring Commonwealth Edison to respond to the possibility of cracks low pressure turbine discs, and recommending a full UT inspection of at least one low pressure turbine prior to restart of Dresden Unit I.
31. D.G. Eisenhut letter to All Power Reactor Licenses dated May 19, 1980 NRC Staff letter describing its plan for implementing NUREG-0577 which will require Commonwealth Edison to demonstrate the adequacy of the support structures of its nuclear facilities through the submittal of detailed reports by December 31, 1981.
32. D.L. Ziemann letter to D.L. Peoples dated March 6, 1980 NRC Staff letter requesting Commonwealth Edison to submit information showing Dresden Unit I's compliance with environmental qualification guidelines set forth "Guidelines for evaluating environmental qualification of Class 1E Electrical Equipment in operating reactors - Enclosure 1 and 2 to NRC letter to licenses," dated February 15, 1980 by June 2, 1980.
33. D.G. Eisenhut to D.L. Peoples dated August 4, 1980 NRC Staff letter requesting Commonwealth Edison to submit, by September 15, 1980, details of its plans for proceeding with a seismic evaluation program to demonstrate the seismic design adequacy of Dresden Unit I. By letter dated September 11, 1980, Commonwealth Edison deferred its response to Staff's request until some future date prior to Dresden Unit I restart.
34. R.F. Janacek letter to D.G. Eisenhut dated June 26, 1980 Response to NRC Staff's request for information and commitments for providing a second level of undervoltage protection for the 4KV emergency power buses supplying safety related loads at Dresden.

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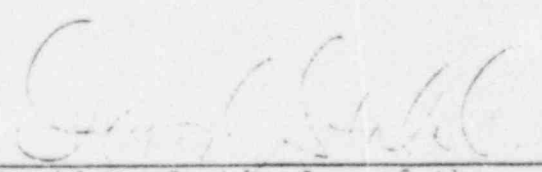
In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket No. 50-10
(Dresden Nuclear Power) (Decontamination)
Station, Unit No. 1))

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance on behalf of Commonwealth Edison Company in the captioned matter. In accordance with §2.713 of the Commission's Rules of Practice, the following information is provided:

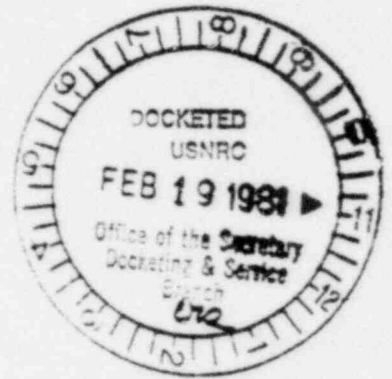
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DATED: February 16, 1981


David M. Stahl, One of the
Attorneys for Commonwealth
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION



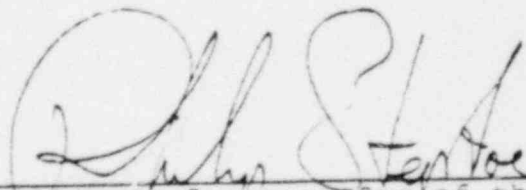
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COMMONWEALTH EDISON COMPANY) Docket No. 50-10
(Dresden Nuclear Power) (Decontamination)
Station, Unit No. 1))

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance on behalf of Commonwealth Edison Company in the captioned matter. In accordance with §2.713 of the Commission's Rules of Practice, the following information is provided:

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DATED: February 16, 1981


Philip P. Steptoe, One of the
Attorneys for Commonwealth
Edison Company

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION



In the Matter of)
)
COMMONWEALTH EDISON COMPANY) Docket No. 50-10
) (Decontamination)
(Dresden Nuclear Power)
Station, Unit No. 1))

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Brief to the Commission," "Notice of Appearance" of David M. Stahl, and "Notice of Appearance" of Philip P. Steptoe in the above-captioned proceeding have been served upon the following by deposit in the United States mail, first class, postage prepaid, this 16th day of February, 1981:

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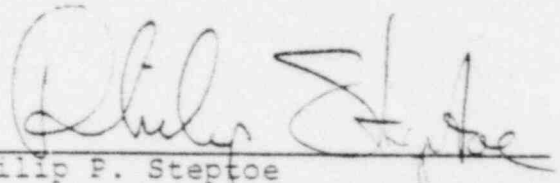
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A handwritten signature in dark ink, appearing to read "Philip P. Steptoe", written over a horizontal line.

Philip P. Steptoe
One of the Attorneys for
Commonwealth Edison Company