

June 8, 1981

MEMORANDUM FOR: Samuel J. Chilk, Secretary
FROM: T. A. Rehm, Assistant for Operations, EDO
SUBJECT: RESPONSE TO J. J. O'CONNOR (CON ED)

Attached is a revision of the O'Connor letter to take into account OGC's comments.

(Signed) T. A. Rehm

T. A. Rehm

Attachment:
As stated

Distribution
~~EDO r/f~~
TAREhm

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PDR ADOCK 05000454
A PDR

OFFICE	AO:EDO						
SURNAME	TAREhm:PK						
DATE	6/8/81						

D R A F T

Mr. James J. O'Connor, Chairman
Commonwealth Edison Company
Post Office Box 767
Chicago, Illinois 60690

Dear Mr. O'Connor:

I am pleased to have this opportunity to respond to your letter of March 27, 1981 concerning the licensing schedule for the Byron Nuclear Station. The Commission shares your concerns about licensing delays, not only for the Byron Station, but for all plants that are potentially affected by delays in the licensing process. During (the past) recent months, the Commission and its staff have spent considerable time in reviewing the licensing schedules for these plants and have undertaken various approaches to shorten them wherever possible.

For those plants nearing completion, the primary problem is the projected length of the hearing process and subsequent Commission review. Under our previous rules, an operating license was not issued until the Appeal Board and the Commission had reviewed the Licensing Board decision. This review process was scheduled to take about three months. (We have published proposed changes to) The Commission has just revised that rule which will shorten this time at least two months. This savings has been applied to all plants.

We also believe we can compress the average hearing schedule from (an average of) 18 months to approximately 11 months by reducing the time allowed for each part of the process and by providing firmer time management. In March, the Commission published for comment proposed rule changes which would help to accomplish this. In addition, we (intend to) issued the enclosed (a) policy statement providing guidance to the Licensing Boards for (on) conducting proceedings so as to expedite the process.

For plants due to be completed in late 1982 and in 1983 and beyond, earlier completion of staff reviews are proposed to help eliminate potential delays. Efforts to expedite staff reviews include (1) hiring of additional staff and mandatory overtime, (2) reallocation of some existing resources to the Office of Nuclear Regulation, and (3) transfer of some scheduled projects from that Office to other NRC Offices.

With regard to hearings, on May 20, 1981, the Commission issued a "Statement of Policy on Conduct of Licensing Proceedings" that provides guidance for the balanced and efficient conduct of all phases of the hearing process. The Commission has proposed rule changes to permit more immediate operation of nuclear power plants that have received favorable decisions by an Atomic Safety and Licensing Board on fuel loading and low power testing or full power operating licenses.

Mr. James J. O'Connor

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In our April 30, 1981 report to the house Appropriations Subcommittee on Energy and Water Development, the projected schedule for the Byron Station was based on your estimated construction completion date and a standard set of hearing assumptions. In order to better allocate our resources, the Director of Nuclear Reactor Regulation, Harold R. Denton has recently requested that the applicants for late 1982 plants and the 1983 plants, including Byron, provide updated construction completion dates. Upon receipt of the responses to the Director's request, the staff will develop case specific hearing schedules in order to identify those staff reviews which need to be accelerated. We recognize that Byron faces strong intervention and that an eleven month schedule is too optimistic. The upcoming re-evaluation will help identify the resources available for reallocation to the Byron licensing review. We agree that if no additional resources are identified, delays will be likely and interim licensing legislation may be the only real solution.

On March 18, 1981, the Commission submitted proposed legislation to Congress which would allow it to authorize interim reactor operation for fuel loading and low-power operating and testing before the completion of a hearing. Such interim operation would save several months and, where the low power testing revealed a need for repairs or modifications, could save substantially more time. This proposed authority would expire at the end of 1983 thereby assuring that this adjustment to our licensing requirements would be temporary and confined to those plants which have been most directly affected by the Commission's post-TMI action.

In conclusion, we believe that the actions we have taken and those we are considering will provide improvements in licensing schedules without compromising the regulatory requirements for safety. Consistent with available resources our goal is that there should be no delay to the operation of 1983 plants, including the Byron Station.

Sincerely,

Joseph M. Hendrie
Chairman

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MAY 13 1981

FOR: The Commissioners

FROM: William J. Dircks, Executive Director for Operations

SUBJECT: LETTER FROM COMMONWEALTH EDISON CONCERNING LICENSING SCHEDULE FOR BYRON

PURPOSE: Approve the proposed letter to Mr. O'Connor.

DISCUSSION: By letter dated March 27, 1981, Mr. O'Connor expressed concerns with our schedule for review of the application for an operating license for the Byron Nuclear Station.

The current schedule for the Byron Nuclear Station, as reported in the April NRC Report to Congressman Beville, is based on an eleven month period from the issuance of the SSER to the Commission decision date. This eleven month schedule incorporates the time-saving measures under consideration by the Commission.

Byron is expected to be a heavily contested case, with ninety contentions pending before the licensing board.

RECOMMENDATION: The Commission review and approve the draft response prepared by staff.

(Signed) William J. Dircks
 William J. Dircks
 Executive Director for Operations

Enclosure:
 Proposed Letter to Mr. O'Connor

Contact:
 Jack Roe, NRR
 492-9606

REWRITE: SEE PREVIOUS YELLOW FOR CONCURRENCES

OFFICE ▶	NRR:DIR	EDO					
SURNAME ▶	H.Denlon:dm	W.J.Dircks					
DATE ▶	5/11/81	5/13/81					

FOR: The Commissioners

FROM: William J. Dircks, Executive Director for Operations

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Byron is ^{expected to be} potentially a heavily contested case with ninety contentions pending before the licensing board. ~~The schedule for Byron may be significantly impacted due to decisions on the time-saving measures under consideration by the Commission.~~

RECOMMENDATION: The Commission review and approve the draft response prepared by staff.

William J. Dircks
Executive Director for Operations

Enclosure:
Proposed letter to Mr. O'Conner
cc: OGC
OPE
SECY

Contact: *SEE PREVIOUS CONCURRENCE

Jack Roe, NRR

OFFICE	492-9606	DL	DL*	AD:L*	OELD*	ONRR	EDO
SURNAME	JROE:mj	DGEISENHUT	RLTEDESCO	ECASE/HRDENTON	WJDIRCKS		
DATE	5/ /81					5/ /81	5/ /81

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RECOMMENDATION: The Commission review and approve the draft response prepared by staff.

William J. Dircks
Executive Director for Operations

Attachment:
Proposed letter to Mr. O'Conner

cc: OGC
OPE
SECY

Contact:
Jack Roe, NRR
492-9606

AD: *[Signature]*
RTedesco
4/22/81

*OELD
M. G. [Signature]
4/22/81*

OFFICE ▶	D'	ONRR	ONRR	EDO	
SURNAME ▶	JR:mj	EGCase	HRDenton	WJDircks	
DATE ▶	4/22 /81	5/5 /81	5/ /81	5/ /81	

DRAFT

Mr. James J. O'Connor, Chairman
Commonwealth Edison Company
Post Office Box 767
Chicago, Illinois 60690

Dear Mr. O'Connor:

I am pleased to have this opportunity to respond to your letter of March 27, 1981 concerning the licensing schedule for the Byron Nuclear Station. The Commission shares your concerns about licensing delays, not only for the Byron Station, but for all plants that are potentially affected by delays in the licensing process. During the past month, the Commission and its staff have spent considerable time in reviewing the licensing schedules for these plants and have undertaken various approaches to shorten them wherever possible.

For those plants nearing completion, the primary problem is the projected length of the hearing process and subsequent Commission review. Under our current rules, an operating license is not issued until the Appeal Board and the Commission review the Licensing Board decision. This review process takes about three months. We have published proposed changes to our rules for public comment which will shorten this time at least two months. This projected savings has been applied to all plants.

We also believe we can compress the hearing schedule from an average of 18 months to approximately 11 months by reducing the time allowed for each part of the process and providing firmer time management. In March, the Commission published for comment proposed rule changes which would help to accomplish this. In addition, we intend to issue a policy statement providing guidance to the Licensing Boards on conducting proceedings so as to expedite the process.

For plants due to be completed in 1983 and beyond, the major action which would eliminate potential delay is early completion of staff reviews. Staff proposals to expedite staff reviews include resumed hiring, mandatory overtime, reallocation of existing resources and transfer of some scheduled projects from the licensing office, Nuclear Reactor Regulation, to other NRC offices. We are currently implementing many of these proposals.

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SURNAME ▶							
DATE ▶							

On March 18, 1981, the Commission submitted proposed legislation to Congress which would allow it to authorize interim reactor operation for fuel loading and low-power operating and testing before the completion of a hearing. Such interim operation would save several months and, where the low power testing revealed a need for repairs or modifications, could save substantially more time. This proposed authority would expire at the end of 1983 thereby assuring that this adjustment to our licensing requirements would be temporary and confined to those plants which have been most directly affected by the Commission's post-TMI action.

In our April 30, 1981 report to the House Appropriations Subcommittee on Energy and Water Development, the projected schedule for the Byron Station was based on your estimated construction completion date and a standard set of hearing assumptions. It is our goal to be prepared to issue the operating license for the Byron Station upon construction completion.

The schedule for the Byron Station is based on a standard eleven month time period from the issuance of the final Supplement to the Safety Evaluation Report (SSER) to the NRC Decision Date. The eleven month time period incorporates the efficiency measures projected to be in place in the near future. The eleven month time period is based on five months from issuance of the SSER to the start of hearing, five months from start of hearing to the initial decision by the Atomic Safety Licensing Board, and one month from the initial decision to the Commission's decision date.

In conclusion, we believe that the actions we have taken and those we are considering will provide improvements in licensing schedules without compromising the regulatory requirements for safety, and that there will be no delay to the operation of the Byron Station.

Sincerely,

Joseph M. Hendrie
Chairman

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5/5/81

OFFICE	DL	DL	ONRR	ONRR	EDO	
SURNAME	JRoe:mj	BGEisenhut	EGCase	HRDe	WJDircks	
DATE	5/ /81	5/ /81	5/ /81	5/ /81	5/ /81	

FROM: James J. O'Connor Commonwealth Edison Co.		ACTION CONTROL	DATES	CONTROL NO.
TO: Chairman Hendrie		COMPL DEADLINE	4-20-81	10366
		ACKNOWLEDGMENT		DATE OF DOCUMENT
DESCRIPTION <input checked="" type="checkbox"/> LETTER <input type="checkbox"/> MEMO <input type="checkbox"/> REPORT <input type="checkbox"/> OTHER		INTERIM REPLY		1-27-81
		FINAL REPLY	5/7/81	PREPARE FOR SIGNATURE
Expresses concern over delays in licensing Byron		FILE LOCATION	6/27/81	<input checked="" type="checkbox"/> CHAIRMAN <input type="checkbox"/> EXECUTIVE DIRECTOR OTHER
		SPECIAL INSTRUCTIONS OR REMARKS		
		ES ELD provide input to BR.		
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Denton, BR	4-7-81	Circles Case Cornell Denton Rehn 1. PPAS Sheper 2. Hanauer Haller 3// Ross	4. Murley P. Fine 5. Snyder WThompson 6. Vollmer	NO LEGAL OBJECTIONS NOTIFY: <input type="checkbox"/> EDO ADMIN & CORRES BR EXT. _____ COMMENTS, NOTIFY: EXT. _____
Hisenhut	4/8/81			JCAE NOTIFICATION RECOMMENDED: <input type="checkbox"/> YES <input type="checkbox"/> NO

NRC FORM 232
(11-75)

EXECUTIVE DIRECTOR FOR OPERATIONS
PRINCIPAL CORRESPONDENCE CONTROL

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81-0487

No. ~~80-XXXXXX~~ Logging Date 4/3/81

NRC SECRETARIAT

TO: Commissioner _____ Date _____
 Exec. Dir./Oper. Gen. Counsel
 Cong. Liaison Solicitor
 Public Affairs Secretary
 _____ Inspector & Auditor
 Policy Evaluation

Incoming: James J. O'Connor, Chairman
From: ~~XXXXXXXX~~ Commonwealth Edison Co.

To: Chairman Hendrie Date 3/27/81

Subject: Expresses concern over delays in licensing Byron

Prepare reply for signature of: Commission review and

Chairman Date due Comm: April 20

Commissioner _____
 EDO, GC, CL, SOL, PA, SECY, IA, PE
 Signature block omitted

Return original of incoming with response

- For direct reply*
- For appropriate action
- For information

Remarks: Cpys to: RF, Docket

For the Commission: Combs

*Send three (3) copies of reply to Secy Correspondence and Records Branch



Commonwealth Edison

One First National Plaza, Chicago, Illinois

Address Reply to: Post Office Box 767

Chicago, Illinois 60690

March 27, 1981

The Honorable Joseph Hendrie, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Hendrie:

We have reviewed the monthly NRC status reports to Congressman Bevill, submitted pursuant to House Report 96-1093, reporting the status of the NRC's efforts to carry out its licensing and regulatory duties. We believe that the NRC's projections with respect to the licensing schedule of Edison's Byron Station are unrealistic and, unless substantially improved, will result in significant licensing delays. Indeed, as we explain below, the present schedule may delay the licensing of the Byron facility by as much as 16 months.

Delays in the projected in-service date for the Byron Units will have severe impacts on the Company and its ratepayers. Recently, the Illinois Commerce Commission, the state agency charged with the general regulation of public utilities in the State of Illinois, completed an extensive investigation into the Company's construction program. The Commission concluded that Edison has a duty to its ratepayers to complete the Byron and Braidwood Stations in as timely and economic a manner as possible. In quantitative terms, the costs of licensing delays for Byron Unit 1 amounts to approximately \$18 million per month. Increase to the cost of providing electric services must ultimately be borne by Edison's customers. To avoid these severe impacts the Company is fully prepared to commit the resources necessary to complete the licensing and construction of the Byron facility by its present schedule for fuel loading; April, 1983 for Unit 1 and April, 1984 for Unit 2. However, we are seriously concerned that unless significant effort is made to step up the NRC licensing review, the licensing process will not be completed until well after the completion of construction of the facility.

The Status Report submitted on January 30, 1981 projects the following schedule:

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Commonwealth Edison

The Honorable Joseph Hendrie
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- 1 - SER issuance - 6/82
- 2 - SSER issuance - 9/82
- 3 - DES issuance - 5/82
- 4 - Commencement of hearings - 7/82
- 5 - Licensing Board decision - 2/83
- 6 - Licensing Completed - 4/83
- 7 - Completion of Construction - 4/83

Thus, the schedule provides for one month of discovery and other preliminary activities (e.g. motions for summary disposition, preparing prefiled testimony) between the issuance of the SER and the commencement of the hearings. There is no time provided for prehearing matters between the issuance of the supplement to the SER and the commencement of hearings, since the hearings would start two months prior to the issuance of that document. In addition, the schedule provides for 8 months between the issuance of the SER and the licensing board initial decision, and only 5 months between the issuance of the SSER and the initial decision. Finally, a two month period is allowed for the Appeal Board and Commission review concerning the immediate effectiveness of the licensing board decision.

The most troublesome aspect of this schedule concerns the period of time allocated for the hearing process. The Byron proceeding is heavily contested. The licensing board recently accepted in excess of 120 contentions filed by two groups of intervenors as issues in controversy. It is almost a certainty that the period of time required to conduct an evidentiary hearing, file proposed findings, and issue an initial decision will substantially exceed the 8 months currently allotted by the NRC. Moreover, for planning purposes, it is only prudent to assume that Intervenors will resist commencement of the evidentiary hearing until after ACRS consideration of the SER and issuance of the SSER. Present practice before licensing boards provides for limited discovery on issues addressed in the SSER. In short, it is totally unrealistic to put forth a schedule in which contested hearings and issuance of an SSER overlap.

The Commission itself has recognized that SSER issuance is a pacing item for commencement of the hearing process. Recent experience with the Staff licensing review for Edison's LaSalle Station indicates that until the issuance

Commonwealth Edison

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of the SER and SSER, items constantly remain open for additional re-evaluation due to apparent changes in position within the Staff. Accordingly, it is extremely difficult for an applicant or other parties to a licensing proceeding to anticipate the Staff position on many items prior to the issuance of the SER and SSER. Of course, since the Staff position is important in terms of the resolution of issues to be considered at a hearing, the value of commencing hearings prior to the submittal of the SSER is highly questionable.

In the January, 1981 Status Report, the Commission states that the span between the issuance of the SSER and the start of hearing date for 9 of the 11 near term operating license proceedings "should be increased from the previously assumed 1-2 months to 2-6 months." Clearly, if similar assumptions were made with respect to the Byron proceeding the projected date for completion of licensing would be extended by as much as 9 months.

In view of these matters, we believe that the current NRC projection of 8 months between the commencement of the hearings and completion of the licensing process cannot possibly be justified. A more realistic, but nonetheless optimistic, assessment should allow a minimum of 23 months between the issuance of the SSER and the completion of licensing. This projection is based upon the following time intervals:

- SSER - Start hearing - 4 months
- Start hearing - Complete hearing - 10 months
- Complete hearing - Proposed findings - 2 months
- Proposed findings - Initial decision - 4 months
- Initial decision - ASLAB and NRC review on immediate effectiveness - 3 months

Using this projection, under the current September, 1982 date for the issuance of the SSER, licensing would not be completed until August, 1984; 16 months later than the date projected in the Status Report for completion of licensing and Edison's scheduled date for the completion of construction.

Accordingly, we submit that the Byron Station should have been identified in the Status Report, as a plant which will be impacted by delays in NRC licensing. In order

Commonwealth Edison

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Page Four

to mitigate this impact we believe the Staff SER and SSER must be completed, at the latest, by the summer of 1981. This date is attainable, but only if substantial additional NRC manpower is assigned to the Byron licensing review.

We recognize that there presently exists a shortage of qualified NRC personnel assigned to licensing functions. This shortage could be significantly reduced by allocating NRC personnel to the Byron project who are currently assigned to non-licensing functions. In particular, we are concerned that the NRC's current proposed program to implement Section 110 of Public Law 96-295, which calls for a 7-10 year program which will require several hundred manyears of NRC manpower, will unnecessarily divert substantial Staff resources at the expense of licensing. We believe that it is essential that the NRC re-evaluate this proposal, as well as other similar proposals related to low priority matters, and reallocate much needed NRC personnel to high priority licensing tasks.

It is regretable that the present state of affairs forces us to plan for a minimum of 23 months between the issuance of the SSER and the completion of licensing. We believe that, with the adoption of certain reforms to the NRC adjudicatory process, this extended period of time could be significantly reduced without, in any way, compromising the NRC's regulatory responsibilities.

In particular, the Commission should reinstitute 10 CFR §2.764, which provides for immediate effectiveness of licensing board decisions. The suspension of this rule was clearly not warranted. In the typical case, there is no reason whatever to call into question the licensing board decision and delay its immediate effectiveness. The Commission's authority to stay initial decisions, under 10 CFR §2.788, is a more than adequate mechanism to deal with the infrequent situation where an initial decision may raise serious safety or environmental concerns.

In addition, we believe that the hearing process could be considerably shortened if licensing boards were instructed to require that contentions to be litigated in the hearing are specific, focused and raise issues which are

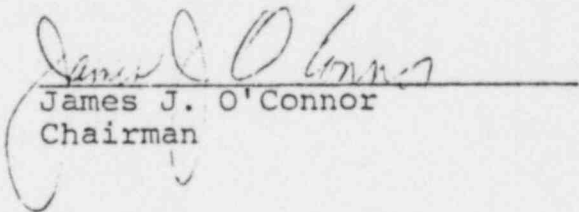
Commonwealth Edison

The Honorable Joseph Hendrie
March 27, 1981
Page Five

directly related to the facility under review, as provided in the Commission's regulations. This practice has not been followed by many licensing boards, and has resulted in unnecessarily protracting the hearing process.

In conclusion, we urge the Commission to adopt a more realistic approach in establishing licensing schedules and evaluating the impacts of licensing delays. We also urge the Commission to take steps necessary to minimize the delays in licensing of the Byron facility which will certainly result from the NRC's current schedule. Such action is in the best interest of the customers and stockholders of Commonwealth Edison as well as the national energy program, for delays in Byron operation will be replaced, to a large extent, by energy generated by oil.

Very respectfully yours,


James J. O'Connor
Chairman

cc: Governor Thompson
Chairman Hasten