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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, D.C. 20510

BRUCE QUAIN, STAFF DIRECTOR
JOHN W. SAUNDERS, JR., MINORITY STAFF DIRECTOR

June 8, 1981

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

Dear Chairman Hendrie,

After having carefully considered the testimony submitted by the Nuclear Regulatory Commission and the Federal Emergency Management Agency at its April 27, 1981, hearing on emergency planning and preparedness, the Nuclear Regulation Subcommittee has concluded that it should be kept more currently informed of the scheduling and progress of the NRC-FEMA review and approval of State, local and utility emergency response plans.

Accordingly, the Subcommittee requests that NRC and FEMA provide a joint monthly report detailing the status of each agency's radiological emergency planning review and approval activities for nuclear power plants. Specifically, this report should include the following information:

1. For each currently operating nuclear power plant, the status of each necessary State, local or utility offsite emergency preparedness plan. This status report should indicate:

a. the dates on which such plans have been submitted to FEMA for review and approval;

b. the dates on which regional reviews of the individual plans are expected to begin, and to be completed and submitted to FEMA headquarters;

c. the dates on which public hearings on offsite emergency planning for each plant are expected to be conducted;

d. the dates on which joint exercises for each operating plant are expected to be conducted and on which the reviews of those exercises are expected to be completed;

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e. the dates on which FEMA expects to issue interim findings, if any, and final findings on the adequacy of offsite emergency planning for each operating reactor; and

f. the status of efforts to obtain delinquent plans and the estimated submittal dates for those plans.

2. For each currently operating nuclear power plant, the status of each utility onsite emergency plan, including the dates on which the plans were submitted to NRC, the status of NRC's reviews, and the dates by which NRC expects to issue interim findings, if any, and final findings on the adequacy of onsite emergency plans for each operating reactor.

3. For each nuclear plant operating license application, the status of each necessary State, local or utility offsite emergency preparedness plan. This status report should indicate:

a. the dates by which NRC must have FEMA's interim or final findings on the adequacy of offsite emergency planning for each application in order to proceed with issuance of the operating license without delay;

b. the dates on which such plans have been submitted or are expected to be submitted to FEMA for review and approval;

c. the dates on which regional reviews of the individual plans are expected to begin, and to be completed and submitted to FEMA headquarters;

d. the dates on which public hearings on offsite emergency planning for each license application are expected to be conducted;

e. the dates on which joint exercises for each license application are expected to be conducted and on which the reviews of those exercises are expected to be completed;

f. the dates on which FEMA expects to issue interim findings, if any, and final findings on the adequacy of offsite emergency planning for each license application; and

g. for those cases in which FEMA's projected date for issuing interim or final findings on the adequacy of emergency planning will result in a delay in the licensing process, the cause of the delay and measures that can and are being taken to reduce or eliminate the delay.

4. The numbers of NRC and FEMA staff positions at regional and headquarters locations assigned to review offsite and onsite emergency preparedness plans for nuclear power plants.

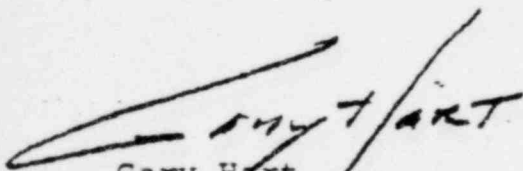
5. Any instances in which FEMA fails to receive the full requested assistance of any other Federal agency in a timely manner in conducting its reviews of offsite emergency preparedness plans for nuclear power plants.

6. Any instances in which a State or local government has refused, or threatened to refuse, to prepare or submit an offsite emergency preparedness plan for a nuclear power plant, thereby jeopardizing the operation of the plant.

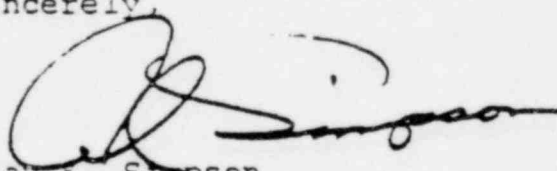
7. Any instances in which a State or local government has made its preparation or submittal of an offsite emergency preparedness plan for a nuclear powerplant contingent upon the fulfillment of any obligations by the operating utility, such as to finance the preparation or implementation of the plan, or to finance public works projects.

These status reports are to be submitted to the Subcommittee on a monthly basis, beginning June 30, 1981. The Subcommittee expects that these reports will also be made available in a timely manner to other interested Committees of the Congress and to the public. If you have any questions, please contact Jim Asselstine, 224-2991, on the Committee staff.

Sincerely,



Gary Hart
Ranking Minority Member
Nuclear Regulation
Subcommittee



Alan K. Simpson
Chairman
Nuclear Regulation Subcommittee



CHAIRMAN

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

June 29, 1981

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

Dear Mr. O'Connor:

I am pleased 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 decision delays, not only for the Byron Station, but for all plants that are potentially affected by delays in the licensing process. During 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. The Commission has just revised that rule so as to shorten this time by about two months. This savings will accrue to all cases where a hearing is held.

We also believe we can compress the average hearing schedule from 18 months to approximately 10 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. Final rule changes, and further proposed rule changes were published this month. In addition, we issued the enclosed policy statement providing guidance to the Licensing Boards for 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 Reactor Regulation; and (3) transfer of some scheduled projects from that Office to other NRC Offices.

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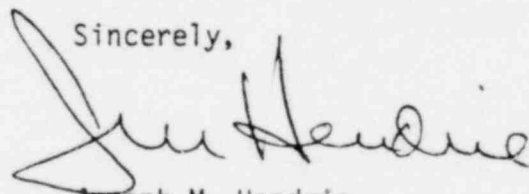
In our April 30, 1981 report to the House Appropriations Subcommittee on Energy and Water Development, the projected schedule for the Byron Station was based on your estimated construction completion date and a standard set of hearing assumptions. The current schedule for the Byron Station projects issuance of the final staff safety evaluation report supplement in May, 1982 and the final environmental statement in June, 1982. The hearing is scheduled to start in October, 1982, the Board initial decision is projected for March, 1983, and the Commission review of the initial decision should be completed in April, 1983, corresponding to your current construction completion date.

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 the current schedule may be optimistic. The staff reevaluation will help identify the resources available for reallocation to the Byron licensing review if that is judged necessary. We recognize that if the current schedule for Byron Station is found to be optimistic and if no additional resources can be found to accelerate the staff reviews, some delay in the licensing decision may result.

I should note that Commissioner Ahearne is convinced the current schedule is too optimistic and has serious doubts that the Commission will be able to complete its licensing process by April, 1983. In that event, interim licensing legislation now before the Congress may be the only alternative to delay. However, while the Commission has supported the concept of interim licensing for low-power operation, it cannot commit itself to authorize such action for any particular plant at this time.

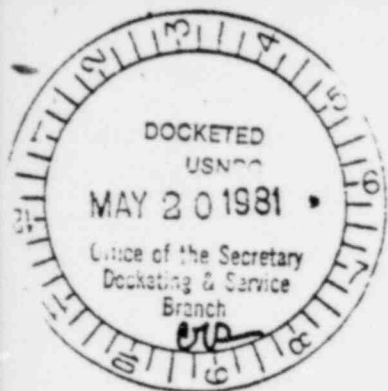
In conclusion, we believe that the actions we have taken and those we are considering will provide improvements in licensing schedules without compromising the regulatory requirements for safety. Consistent with available resources our goal is to render a decision on issuance of an operating license prior to the time the plant is completed and ready for fuel loading.

Sincerely,



Joseph M. Hendrie

Enclosure:
Policy Statement



U.S. NUCLEAR REGULATORY COMMISSION

STATEMENT OF POLICY ON CONDUCT OF LICENSING PROCEEDINGS

(CLI-81-8)

I. BACKGROUND

The Commission has reviewed the docket of the Atomic Safety and Licensing Board Panel (ASLBP) and the current status of proceedings before its individual boards. In a series of public meetings, the Commission has examined at length all major elements in its licensing procedure. It is clear that a number of difficult problems face the agency as it endeavors to meet its responsibilities in the licensing area. This is especially the case with regard to staff reviews and hearings, where requested, for applications for nuclear power plant operating licenses.

Historically, NRC operating licensing reviews have been completed and the license issued by the time the nuclear plant is ready to operate. Now, for the first time, the hearings on a number of operating license applications may not be concluded before construction is completed. This situation is a consequence of the Three Mile Island (TMI) accident, which required a reexamination of the entire regulatory structure. After TMI, for over a year and a half, the Commission's attention and resources were focused on plants which were already licensed to operate and on the preparation of an action plan which specified changes necessary for reactors as a result of the accident.

Although staff review of pending license applications was delayed during this period, utilities which had received construction permits continued to build the authorized plants. The staff is now expediting its review of the applications and an unprecedented number of hearings are scheduled in the next 24 months. Many of these proceedings concern applications for operating

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licenses. If these proceedings are not concluded prior to the completion of construction, the cost of such delay could reach billions of dollars. The Commission will seek to avoid or reduce such delays whenever measures are available that do not compromise the Commission's fundamental commitment to a fair and thorough hearing process.

Therefore, the Commission is issuing this policy statement on the need for the balanced and efficient conduct of all phases of the hearing process. The Commission appreciates the many difficulties faced by its boards in conducting these contentious and complex proceedings. By and large, the boards have performed very well. This document is intended to deal with problems not primarily of the boards' own making. However, the boards will play an important role in resolving such difficulties.

Individual adjudicatory boards are encouraged to expedite the hearing process by using those management methods already contained in Part 2 of the Commission's Rules and Regulations. The Commission wishes to emphasize though that, in expediting the hearings, the board should ensure that the hearings are fair, and produce a record which leads to high quality decisions that adequately protect the public health and safety and the environment.

Virtually all of the procedural devices discussed in this Statement are currently being employed by sitting boards to varying degrees. The Commission's reemphasis of the use of such tools is intended to reduce the time for completing licensing proceedings. The guidelines set forth below are not to be considered all inclusive, but rather are to be considered illustrative of the actions that can be taken by individual boards.

II GENERAL GUIDANCE

The Commission's Rules of Practice provide the board with substantial authority to regulate hearing procedures. In the final analysis, the actions, consistent with applicable rules, which may be taken to conduct an efficient hearing are limited primarily by the good sense, judgment, and managerial skills of a presiding board which is dedicated to seeing that the process moves along at an expeditious pace, consistent with the demands of fairness.

Fairness to all involved in NRC's adjudicatory procedures requires that every participant fulfill the obligations imposed by and in accordance with applicable law and Commission regulations. While a board should endeavor to conduct the proceeding in a manner that takes account of the special circumstances faced by any participant, the fact that a party may have personal or other obligations or possess fewer resources than others to devote to the proceeding does not relieve that party of its hearing obligations. When a participant fails to meet its obligations, a board should consider the imposition of sanctions against the offending party. A spectrum of sanctions from minor to severe is available to the boards to assist in the management of proceedings. For example, the boards could warn the offending party that such conduct will not be tolerated in the future, refuse to consider a filing by the offending party, deny the right to cross-examine or present evidence, dismiss one or more of the party's contentions, impose appropriate sanctions on counsel for a party, or, in severe cases, dismiss the party from the proceeding. In selecting a sanction, boards should consider the relative importance of the unmet obligation, its potential for harm to other parties or the orderly conduct of the proceeding, whether its occurrence is an isolated incident or a part of a pattern of behavior, the importance of the

safety or environmental concerns raised by the party, and all of the circumstances. Boards should attempt to tailor sanctions to mitigate the harm caused by the failure of a party to fulfill its obligations and bring about improved future compliance. At an early stage in the proceeding, a board should make all parties aware of the Commission's policies in this regard.

When the NRC staff is responsible for the delay of a proceeding the Chief Administrative Judge, Atomic Safety and Licensing Board Panel, should inform the Executive Director for Operations. The Executive Director for Operations will apprise the Commission in writing of significant delays and provide an explanation. This document will be served on all parties to a proceeding and the board.

III. SPECIFIC GUIDANCE

A. Time

The Commission expects licensing boards to set and adhere to reasonable schedules for proceedings. The Boards are advised to satisfy themselves that the 10 CFR 2.711 "good cause" standard for adjusting times fixed by the Board or prescribed by Part 2 has actually been met before granting an extension of time. Requests for an extension of time should generally be in writing and should be received by the Board well before the time specified expires.

B. Consolidated Intervenors

In accordance with 10 CFR 2.715a, intervenors should be consolidated and a lead intervenor designated who has "substantially the same interest that may be affected by the proceedings and who raise[s] substantially the same

questions" Obviously, no consolidation should be ordered that would prejudice the rights of any intervenor.

However, consonant with that condition, single, lead intervenors should be designated to present evidence, to conduct cross-examination, to submit briefs, and to propose findings of fact, conclusions of law, and argument. Where such consolidation has taken place, those functions should not be performed by other intervenors except upon a showing of prejudice to such other intervenors' interest or upon a showing to the satisfaction of the board that the record would otherwise be incomplete.

C. Negotiation

The parties should be encouraged to negotiate at all times prior to and during the hearing to resolve contentions, settle procedural disputes, and better define issues. Negotiations should be monitored by the board through written reports, prehearing conferences, and telephone conferences, but the boards should not become directly involved in the negotiations themselves.

D. Board Management of Discovery

The purpose of discovery is to expedite hearings by the disclosure of information in the possession of the parties which is relevant to the subject matter involved in the proceeding so that issues may be narrowed, stipulated, or eliminated and so that evidence to be presented at hearing can be stipulated or otherwise limited to that which is relevant. The Commission is concerned that the number of interrogatories served in some cases may place an undue burden on the parties, particularly the NRC staff, and may, as a consequence, delay the start of the hearing without reducing the scope or the length of the hearing.

The Commission believes that the benefits now obtained by the use of interrogatories could generally be obtained by using a smaller number of better focused interrogatories and is considering a proposed rule which would limit the number of interrogatories a party could file, absent a ruling by the Board that a greater number of interrogatories is justified. Pending a Commission decision on the proposed rule, the Boards are reminded that they may limit the number of interrogatories in accordance with the Commission's rules.

Accordingly, the boards should manage and supervise all discovery, including not only the initial discovery directly following admission of contentions, but also any discovery conducted thereafter. The Commission again endorses the policy of voluntary discovery, and encourages the boards, in consultation with the parties, to establish time frames for the completion of both voluntary and involuntary discovery. Each individual board shall determine the method by which it supervises the discovery process. Possible methods include, but are not limited to, written reports from the parties, telephone conference calls, and status report conferences on the record. In virtually all instances, individual boards should schedule an initial conference with the parties to set a general discovery schedule immediately after contentions have been admitted.

E. Settlement Conference

Licensing boards are encouraged to hold settlement conferences with the parties. Such conferences are to serve the purpose of resolving as many contentions as possible by negotiation. The conference is intended to: (a) have

the parties identify those contentions no longer considered valid or important by their sponsor as a result of information generated through discovery, so that such contentions can be eliminated from the proceeding; and (b) to have the parties negotiate a resolution, wherever possible, of all or part of any contention still held valid and important. The settlement conference is not intended to replace the prehearing conferences provided by 10 CFR 2.751a and 2.752.

F. Timely Rulings on Prehearing Matters

The licensing boards should issue timely rulings on all matters. In particular, rulings should be issued on crucial or potentially dispositive issues at the earliest practicable juncture in the proceeding. Such rulings may eliminate the need to adjudicate one or more subsidiary issues. Any ruling which would affect the scope of an evidentiary presentation should be rendered well before the presentation in question. Rulings on procedural matters to regulate the course of the hearing should also be rendered early.

If a significant legal or policy question is presented on which Commission guidance is needed, a board should promptly refer or certify the matter to the Atomic Safety and Licensing Appeal Board or the Commission. A board should exercise its best judgment to try to anticipate crucial issues which may require such guidance so that the reference or certification can be made and the response received without holding up the proceeding.

G. Summary Disposition

In exercising its authority to regulate the course of a hearing, the boards should encourage the parties to invoke the summary disposition procedure on

issues where there is no genuine issue of material fact so that evidentiary hearing time is not unnecessarily devoted to such issues.

H. Trial Briefs, Prefiled Testimony Outlines
and Cross-Examination Plans

All or any combination of these devices should be required at the discretion of the board to expedite the orderly presentation by each party of its case. The Commission believes that cross-examination plans, which are to be submitted to the board alone, would be of benefit in most proceedings. Each board must decide which device or devices would be most fruitful in managing or expediting its proceeding by limiting unnecessary direct oral testimony and cross-examination.

I. Combining Rebuttal and Surrebuttal Testimony

For particular, highly technical issues, boards are encouraged during rebuttal and surrebuttal to put opposing witnesses on the stand at the same time so that each witness will be able to comment immediately on an opposing witness' answer to a question. Appendix A to 10 CFR Part 2 explicitly recognizes that a board may find it helpful to take expert testimony from witnesses on a round-table basis after the receipt in evidence of prepared testimony.

J. Filing of Proposed Findings of Fact and Conclusions of Law

Parties should be expected to file proposed findings of fact and conclusions of law on issues which they have raised. The boards, in their discretion, may refuse to rule on an issue in their initial decision if the party raising the issue has not filed proposed findings of fact and conclusions of law.

K. Initial Decisions

Licensing proceedings vary greatly in the difficulty and complexity of issues to be decided, the number of such issues, and the size of the record compiled. These factors bear on the length of time it will take the boards to issue initial decisions. The Commission expects that decisions not only will continue to be fair and thorough, but also that decisions will issue as soon as practicable after the submission of proposed findings of fact and conclusions of law.

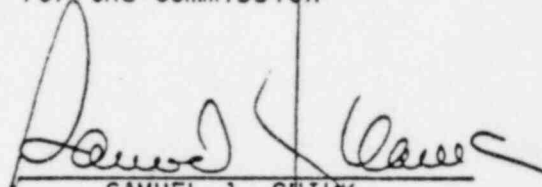
Accordingly, the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel should schedule all board assignments so that after the record has been completed individual Administrative Judges are free to write initial decisions on those applications where construction has been completed. Issuance of such decisions should take precedence over other responsibilities.

IV. CONCLUSION

This statement on adjudication is in support of the Commission's effort to complete operating license proceedings, conducted in a thorough and fair manner, before the end of construction. As we have noted, that process has not, in the past, extended beyond completion of plant construction. Because of the considerable time that the staff had to spend on developing and carrying out safety improvements at operating reactors during 1979-1980, in the wake of the Three Mile Island accident, this historical situation has been disrupted. To reestablish it on a reliable basis requires changes in the agency review and hearing process, some of which are the subject of this statement.

As a final matter, the Commission observes that in ideal circumstances operating license proceedings should not bear the burden of issues that ours do now. Improvement on this score depends on more complete agency review and decision at the construction permit stage. That in turn depends on a change in industrial practice: submittal of a more nearly complete design by the applicant at the construction permit stage. With this change operating license reviews and public proceedings could be limited essentially to whether the facility in question was constructed in accordance with the detailed design approved for construction and whether significant developments after the date of the construction permit required modifications in the plant.

For the Commission


SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 20th day of May, 1981.



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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- 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

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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

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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

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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