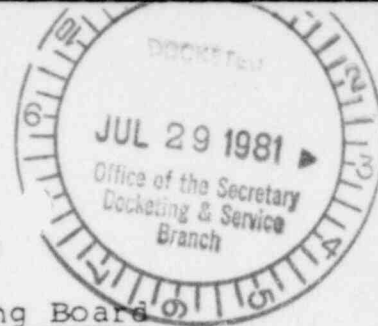


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board



7/24/81

In the Matter of:

BOSTON EDISON COMPANY, et al.  
(Pilgrim Nuclear Generating  
Station, Unit 2),



Docket No. 50-471

MOTION OF THE COMMONWEALTH OF MASSACHUSETTS TO  
COMPEL ANSWERS TO ITS FIRST SET OF INTERROGATORIES  
TO BOSTON EDISON COMPANY RELATIVE TO EMERGENCY  
PLANNING

At the prehearing conference on July 1, 1981, the Commonwealth filed its First Set of Interrogatories to Boston Edison Company Relative to Emergency Planning. Boston Edison Co. [hereinafter, "the Applicant"], after obtaining by agreement of the Commonwealth an extension of its response period, served its Response to these interrogatories on July 21, 1981.

While the Applicant has provided reasonably complete and responsive answers to most of the Commonwealth's interrogatories, it has objected to a few of those interrogatories on the grounds of irrelevancy. The questions to which the Applicant has objected are probably the most relevant questions asked. For that reason, and for the reasons

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outlined below with respect to particular interrogatories, the Commonwealth hereby moves pursuant to 10 C.F.R. §2.740(f) that the Applicant be compelled to answer those interrogatories to which it has objected and those interrogatories to which it has provided incomplete or evasive responses.

The Commonwealth notes that, as of the date of this writing, the Applicant has not to its knowledge filed a Motion for a Protective Order pursuant to 10 C.F.R. §2.740(c) with respect to those interrogatories which it found objectionable. If the Board has not received such a Motion by the time it acts hereon it must grant this Motion to Compel in its entirety. As 10 C.F.R. §2.740(f)(1) states, "[f]ailure to answer or respond [to an interrogatory] shall not be excused on the ground that the discovery sought is objectionable unless the person or party failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section.

Interrogatories No. 3 and No. 4

The Commonwealth asks in these interrogatories whether the Applicant has conducted any accident consequence analyses for, or having relevance to, the Pilgrim site and, if so, what the results were of any such analyses. The Applicant has refused to answer on the grounds of irrelevancy.

The Commonwealth could not have asked a question which is more relevant to this proceeding on emergency planning at Pilgrim II. The Commonwealth's contention places into issue

both the feasibility of emergency measures at the Pilgrim site and the adequacy of the Applicant's preliminary plans therefor. If the Applicant has conducted any accident consequence analyses, the results of said analyses are relevant to both the area within which emergency measures must be planned and the feasibility of effectuating evacuation or other emergency actions within that area. If the Applicant has not conducted such an analysis, that fact is relevant to the manner in which it has arrived at its proposed boundaries for emergency planning zones at Pilgrim.

These issues are directly raised by the Commonwealth's contention and by the Commission's own rules on emergency planning, which provide that the size and configuration of emergency planning zones and the feasibility of taking protective action therein must be determined at the construction permit stage and on a site-specific basis. Thus, 10 C.F.R., Appendix E provides that "[t]he size of the EPZs for a nuclear power plant shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries." And, with respect to the standard of review to be applied to PSAR's, it states

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans for both onsite areas and the EPZs, with facility design features, site layout,

and site location with respect to such considerations as access routes, surrounding population distributions, land use, and local jurisdictional boundaries for the EP2s . . ."

Through its Interrogatories No. 3 and 4 the Commonwealth seeks to learn whether the Applicant has considered these site-specific features in arriving at its proposed EP2s, as required by the Commission's rules and, if so, whether the results of its analyses support its proposed boundaries. The Commonwealth is at a loss to understand the Applicant's rationale for withholding any such information from public view.

Finally, the Commonwealth notes that the Staff has answered the Commonwealth's Interrogatories No. 6 and 7 to it, which ask whether the Staff has conducted any accident consequence analyses for the Pilgrim site and, if so, with what results. Were the subject matter of these questions irrelevant to this proceeding, the Staff would assuredly have objected thereto.

Interrogatory No. 5

The Applicant has answered this question and stated no objections thereto. However, it has failed to disclose, as requested in the interrogatory, assumptions made with respect to an acceptable level of risk to the evacuating population. This request goes to the very heart of the Commonwealth's contention with respect to feasibility, since any judgment that evacuation can be safely accomplished necessarily entails a judgment as to the level of safety required, or the meaning of

the word "safely" in this context. It is this underlying judgment which the Commonwealth seeks to discover and asks this Board to compel.

Interrogatory No. 6

Again, the Applicant has provided an incomplete answer to this interrogatory, despite its lack of objection thereto. The Applicant's answer indicates a belief that protective action(s) could be required outside the plume exposure pathway EP2 drawn in the PSAR, although in the Applicant's opinion such a need is unlikely. And yet the Applicant has failed to indicate, as requested, those areas and circumstances in which protective action(s) might be required, the amount of time which would be available from the initiation of the event(s) necessitating the protective action(s) before the particular action(s) would have to commence and be fully implemented, or its assumptions as to an acceptable level of risk to the public.

The Commonwealth asks this Board to compel a complete and responsive answer to this question so that it may fully understand the Applicant's position with respect to the area within which emergency planning must take place. As the recent decision of the Atomic Safety and Licensing Appeal Board confirms, the Commonwealth is entitled to liberal discovery of the position of the Applicant on any issue which is so fundamental to its emergency planning contention as the proper area within which such planning need occur. South Carolina

Electric and Gas Company, et al. (Virgil C. Summer Nuclear Station, Unit 1) [1981] 2 NUCLEAR REGULATION REPORTER (CCH) ¶30,591, at 29, 793.

Interrogatory No. 26

The Applicant has objected to providing the results of its analyses of evacuation times at Pilgrim to the extent those results involve areas outside the Applicant's proposed plume exposure pathway EP2. It has provided no bases for its objection. Any such results are clearly relevant to the Commonwealth's contention, since they reflect on the feasibility of evacuating the population surrounding the Pilgrim site. While the Applicant may feel that evacuation need not be planned or its feasibility studied in an area greater than its proposed plume exposure pathway EP2, that question remains to be settled, at least in the first instance, by this Board. As we discussed above, the Commission's regulations require that the Board determine the appropriate area within which planning must take place and feasibility must be determined for any particular plant in the course of the construction permit proceeding and on the basis of site-specific factors. The complete results of the Applicant's study of evacuation at the Pilgrim site are clearly relevant to whether the Applicant and Staff have correctly determined the appropriate planning zone and correctly assessed the feasibility of taking protective actions within that zone.

Interrogatory No. 30

The Applicant indicates, in its answer to this interrogatory, that it is attaching to the response a copy of a letter from the NRC Staff dated July 2, 1980. That letter has, in fact, not been attached to the response. The Commonwealth asks that it be provided.

Interrogatory No. 35

The Commonwealth moves to compel a response to this interrogatory, relating to the means for notification of the public which currently exist at the Pilgrim site. Contrary to the Applicant's assertion, the means which exist for notifying the public are relevant at the construction permit stage, for 10 C.F.R. 50, Appendix E, Section II specifically provides that the means by which "the public is to be notified and instructed" of the need for protective action be outlined in the Applicant's PSAR.

Interrogatory No. 43

The Applicant has not objected to this interrogatory, but has nonetheless provided an incomplete and evasive answer. It has failed to identify, as requested, the particular localities and agencies thereof which reviewed its evacuation study as required by NUREG-0654 or to describe the nature of the comments received from state and local officials. The Commonwealth asks the Board to compel a complete response so that it may be advised as to the extent of review which has

taken place and the extent to which responsible officials agree with the results of the study.

Interrogatory No. 58

The Applicant has made no objection to this interrogatory, but has nonetheless given an unresponsive answer. The Commonwealth asked to know every individual who helped prepare Amendments 40 and 41 to the PSAR and the Applicant has expressly named only the "principal authors" thereof. While the Commonwealth is not seeking the names of clerical personnel who assisted in the preparation of the Amendments, it does wish to know every author thereof and every officer, director or employee of the Applicant or HMM Associates, Inc., who contributed to the substance of these Amendments regarding emergency planning. Accordingly, the Commonwealth asks the Board to compel a more complete answer to this interrogatory.

Respectfully submitted,



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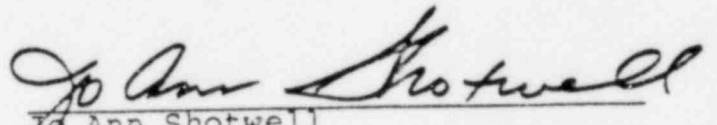
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