

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-454
(Byron Station, Units 1 and 2)) 50-455

AFFIDAVIT OF JAMES G. KEPPLER REGARDING
PUBLIC DISCLOSURE OF DETAILS OF ALLEGATIONS
CONCERNING HATFIELD ELECTRIC COMPANY AT BYRON
AND IDENTITY OF CONFIDENTIAL SOURCES

I, James G. Keppler, being duly sworn, state at follows:

1. I am employed by the U.S. Nuclear Regulatory Commission as Regional Administrator of Region III. A copy of my professional qualifications is attached.

2. The purpose of this affidavit is to present to the Board my reasons for concluding that detailed information, in the form of testimonial or documentary evidence, about allegations that are the subject of planned or ongoing Staff inspection(s) and investigation(s), and the names of persons who have given the NRC information in confidence, should not be provided in a public hearing session.

3. As stated in the Region III testimony on the record in the Byron proceeding (NRC Region testimony, ff. Tr. 3586, at 6), Region III has received allegations from several former employees concerning Hatfield Electric Company which generally fall into the areas of "records, QC inspector qualification and certification, hardware, design and drawing

control, corrective action, housekeeping and inspector independence." Based on briefing from the Region III Staff, it is my belief that public disclosure of detailed information regarding allegations which the NRC has not yet inspected or investigated could seriously compromise the inspection and investigation of the matters at Byron and, in generic terms, the Commission's ability to pursue future inspections and investigation of safety-related matters, thereby injuring the NRC's ability to protect public health and safety. NRC inspections and investigations play a crucial role in assuring safe construction and operation of licensed facilities. The quality and usefulness of our inspection efforts rely in large part on the Staff's ability to examine and pursue the merits of allegations without premature public dissemination of the details of allegations and disclosure of what and the manner in which, the Staff intends to inspect and investigate. Premature disclosure may compromise the Staff's ability to conduct effective inquiries into allegations, because it may make potential targets of our inquiries aware of our particular interest such that individuals may be able to prepare themselves to answer inspectors' questions with evasive, "canned", or untruthful answers, documents may be altered, removed or destroyed, and hardware defects can be corrected or disguised prior to examination by inspectors. If the information is made public, in this particular instance, there is a risk that Staff inquiries into the allegations could be compromised, because once disclosed publicly, individuals employed by Hatfield Electric, the target of the present inspection and investigation, would be apprised of the areas of concern and could take actions to disguise potential hardware defects or destroy documentation evidencing potential safety problems at the facility. Such actions could compromise

our ability to accurately assess the scope and depth of possible quality assurance problems involving Hatfield Electric and the Byron project. To avoid such consequences, we have used unannounced inspections and do not generally reveal the details of allegations under inspection or investigation. Even after inspection and investigation efforts are completed, the Staff is under instructions from the Executive Director for Operations not to release draft inspection or investigation reports without appropriate approval. This policy is grounded in part on the need to refrain from premature public disclosure of inspection and investigation findings which could compromise regulatory actions in the licensing or enforcement arena.

4. The Office of Investigations (OI) is concerned that disclosure of allegations which OI has under investigation would compromise its activities. The Region III Staff has information concerning allegations which have been referred to OI and at least one document related to the investigation. Because of this, Region III has been requested by OI not to divulge information or documents pertaining to allegations under investigation so as to not compromise the OI investigation. It is my understanding that OI's reasons for its position are based on considerations, similar to those described in Paragraph 3 of this affidavit, of not prematurely revealing information about Staff inspection efforts.

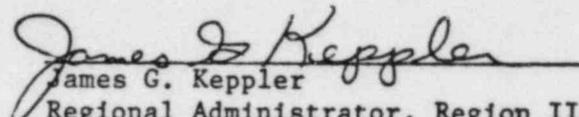
5. In conducting inspection and investigatory efforts in the past, confidentiality has been granted to persons who have information potentially bearing on safety concerns as when, for example, a person asks that his or her identity be kept confidential or when a person is reluctant to provide information to inspectors or investigators except in confidence. Persons

have expressed a desire for confidentiality for various reasons, such as avoiding possible harassment or intimidation by an employer, co-workers, or members of the community. NRC regulations in 10 CFR Part 19 expressly recognize the appropriateness of extending confidentiality to persons who may have provided important information of interest to the Commission. The Staff recognizes that confidentiality cannot be absolutely guaranteed, and our inspectors inform individuals that confidentiality can only be preserved to the extent permitted by law. Nonetheless, it is our practice to take all reasonable efforts to preserve our pledges of confidentiality and not to unnecessarily disclose the identity of individuals who have provided information in confidence. This practice is important, not only to honor our pledges to those who have provided information to NRC personnel, but also to encourage other persons to come forward to the NRC with safety information. If such pledges are not kept, routine public disclosure of the identity of sources may have a chilling effect on other persons who are reluctant to provide information except in confidence. In this particular instance, confidentiality had been extended to the persons who had provided the allegations at issue here.

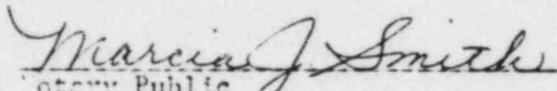
6. In summary, the public disclosure of detailed information regarding uninspected and uninvestigated allegations could severely compromise the NRC inquiries into the matters and ultimately result in possibly significant health and safety problems being undiscovered. Public disclosure or confirmation of the identity of confidential sources would be an unnecessary breach of the pledge of confidentiality offered to the persons involved in this particular instance and may have a

chilling effect on the Staff's ability to obtain information in the future from individuals who are reluctant to provide such information except in confidence.

The foregoing is true and correct to the best of my knowledge and belief.


James G. Keppler
Regional Administrator, Region III

Subscribed and sworn to before me
this 3rd day of August 1983


Notary Public

My commission expires: 2/8/86

JAMES G. KEPPLER
PROFESSIONAL QUALIFICATIONS

I have been Regional Administrator (formerly Regional Director) of the Nuclear Regulatory Commission's (formerly Atomic Energy Commission) Region III Office of Inspection and Enforcement since 1973.

The Region III Office in Glen Ellyn is responsible for inspection and enforcement activities at NRC licensed facilities in eight midwestern states. This encompasses 20 nuclear power plants now in operation, 21 plants licensed for construction or under licensing review, 12 operating research reactors, four fuel facilities and approximately 3700 byproduct materials licenses -- generally for medical, industrial, research or educational applications.

I joined the AEC in 1965 as a reactor inspector. Prior to my present post as Regional Administrator, I was Chief of the Reactor Testing and Operations Branch in the AEC Headquarters in Bethesda, Maryland.

I am a 1956 graduate of LeMoyne College in New York State. My experience in the nuclear field includes nine years with General Electric Company, first in its Aircraft Nuclear Propulsion Department and later in its Atomic Power Equipment Department.