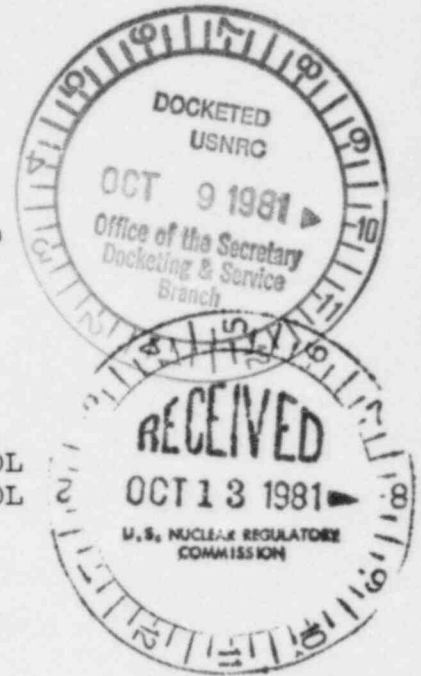


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD



IN THE MATTER OF)
COMMONWEALTH EDISON COMPANY) Docket Nos.
(Byron Station,) STN 50-454-OL
Units 1 and 2) STN 50-455-OL

COMMONWEALTH EDISON COMPANY'S
APPLICATION FOR SUBPOENAS

Pursuant to 10 CFR §2.720 Commonwealth Edison Company ("Applicant"), hereby applies to Licensing Board to issue subpoenas duces tecum directing Messrs. Gregory C. Minor, Richard B. Hubbard and Dale G. Bridenbaugh, all of MHB Technical Associates, Inc. to appear to give their depositions before a certified court reporter at the offices of MHB Technical Associates, 1723 Hamilton Avenue, Suite K, San Jose, California 95125, beginning at 9:30 AM local time, October 27, 1981, and thereafter until said deposition have been completed, and to bring with them the documents described in attachment A hereto. The purpose of such depositions is to inquire of each deponent into his knowledge regarding the design, construction and future operation of the Byron Nuclear Power Station and into such other matters which are directly relevant to issues now before the Licensing Board designated by the Nuclear Regulatory

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Commission to conduct the operating license hearings for the Byron Station. As grounds for the application, applicant states as follows:

1. According to two affidavits prepared by Messrs. Hubbard and Minor, both dated November 12, 1980, one filed with the Illinois Commerce Commission, and one filed with the NRC's Director of Nuclear Reactor Regulation, MHB Technical Associates, Inc has been retained by the Rockford League of Women Voters (the "League"), a party intervenor in this proceeding, to evaluate the applicability to the Byron Station of certain unresolved safety issues, NRC Regulatory Guides, General Design Criteria and the contents of various NUREG's and other documents setting forth safety criteria or standards.

2. On July 8, 1981, Applicant served on the League, Interrogatories requesting the identity of witnesses who would appear on behalf of the League in the proceedings. To date, the League has failed or refused to answer said Interrogatories in spite of an Order from the Board that the League do so. This Board has also ordered that discovery terminate on November 1, 1981. The League's dilatory tactics to date have virtually precluded any possibility that discovery of relevant information known to the League's witness can be completed prior to November 1, 1981, if Applicant waits for the League to identify its witnesses.

3. Applicant believes that there is a substantial probability that Messrs. Minor, Hubbard and/or Bridenbaugh

have consulted with representatives of the League for the purpose of offering testimony in the proceeding, or for the purpose of providing technical advice to the League in connection with the League's participation in this proceeding. In any event, the above referenced affidavits indicate that Messrs. Minor, Hubbard and Bridenbaugh, doing business as MHB Technical Associates, Inc. purport to have information directly relevant to issues now pending before this Board.

4. This Board is authorized to issue a subpoena duces tecum in aid of discovery directed to third parties. Pacific Gas & Electric Co. (Stanislaus Nuclear Project, Unit 1), ALAB-550, 9 NRC 683 (1979). If this application is granted, Applicant will pay Messrs. Minor, Hubbard and Bridenbaugh their customary and usual professional fees for such time as they are subjected to questioning by Applicant's attorneys. In the event that the League subsequently identifies Messrs. Minor, Hubbard and/or Bridenbaugh as witnesses a testify on the League's behalf in the proceeding, Applicant intends to seek a ruling from the Board as to whether parties must produce their own witnesses for depositions at the parties own expense, and if so, will seek reimbursement from the League.

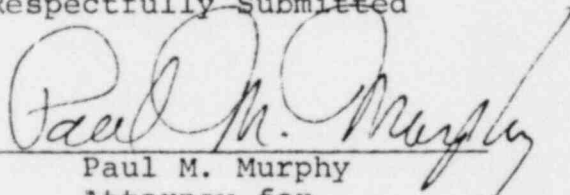
5. In view of the tight discovery schedule in this proceeding, Applicant respectfully requests an expedited ruling on this Application. If the Board determines that it is appropriate to issue the subpoenas requested herein, Applicant respectfully request that the secretary

or other appropriate person in the office of the Presiding Officer notify Mr. Paul Murphy, one of the attorneys for Applicant, by telephone at 312-558-7537 in order that he may arrange for prompt pick up and service of the subpoenas.

WHEREFORE, Applicant, Commonwealth Edison Company respectfully requests the Board to issue subpoenas duces tecum to Mr. Gregory C. Minor, to appear at the offices at 9:30 A.M. on October 27, 1981, to Mr. Richard B. Hubbard to appear at 9:30 A.M. on October 28, 1981 and to Mr. Dale G. Gridenbaugh, to appear at 9:30 A.M. on October 29, 1981 at the offices of MHB Technical Associates, Suite K, 1723 Hamilton Avenue, San Jose, California, 95125 for the purpose of the taking of their deposition upon oral examination before a court reporter, certified in the State of California, and to provide on October 26, 1981 for inspection and/or copying the documents described on Attachment A hereto.

Dated: October 6, 1981

Respectfully Submitted


Paul M. Murphy
Attorney for
Commonwealth Edison Company

Michael I. Miller, Esq.
Paul M. Murphy, Esq.
Alan P. Bielawski, Esq.
ISHAM, LINCOLN & BEALE
One First National Plaza
Suite 4200
Chicago, Illinois 60603
(312) 558-7500

ATTACHMENT A TO SUBPOENA DUCES TECUM

You are hereby directed to make available, segregated by category, on October 26, 1981, in the offices of MHB Technical Associates, Inc. for inspection and/or copying by Isham, Lincoln & Beale, counsel of record for Applicant, Commonwealth Edison Company, the following documents:

Category 1

All documents provided to you by the Rockford League of Women Voters ("League") in connection with any review or analysis performed by you or any member of your firm of Commonwealth Edison Company's Byron Nuclear Power Station ("Byron Station").

Category 2

All documents consulted or reviewed by you or any member of your firm in connection with any review or analysis performed by you or any member of your firm of the Byron Station and which you believe to contain information directly relevant to the safety of the design, construction or operation of the Byron Station.

Category 3

All documents written, dictated, authored, co-authored, or to which you contributed information or ideas of any kind which directly relate or refer

to the Byron Station, or which discuss, analyze or refer to safety-related considerations which you believe are applicable to the Byron Station.

Category 4

All documents provided by you or any member of your firm to the League in connection with any consultation you have engaged in with the League which in any way relate to the Byron Station.

For purposes of this subpoena, the term document shall include any information recorded in any permanent or semi-permanent form. This subpoena requires you to produce the original, or a copy if the original is not in your possession or under your control; together with any and all non-identical copies. A non-identical copy is any copy which differs from the original by way of addition or deletion, including without limit handwritten or other notations added to the document before or after copying.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Commonwealth Edison Company, certifies that on this date he filed two copies (plus the original) of the attached pleading with the Secretary of the Nuclear Regulatory Commission and served a copy of same on each of the persons at the addresses shown on the attached service list by United States mail, postage prepaid, without the exception of Mr. Myron Cherry, Esq., who was served by Messenger.

DATE: October 6, 1981

Paul M. Murphy

COMMONWEALTH EDISON COMPANY - Byron Station
Docket Nos. 50-454 and 50-455

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. A. Dixon Callihan
Union Carbide Corporation
P.O. Box Y
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole
Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Steven C. Goldberg
Ms. Mitzi A. Young
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Myron M. Cherry, Esq.
Cherry, Flynn & Kanter
One IBM Plaza
Room 4501
Chicago, Illinois 60611

Atomic Safety and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Secretary
Attn: Chief, Docketing and
Service Section
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Chief Hearing Counsel
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Ms. Betty Johnson
1907 Stratford Lane
Rockford, Illinois 61107

Dr. Axel Meyer
Department of Physics
Northern Illinois University
DeKalb, Illinois 60115

Dr. Bruce von Zellen
Department of Biological Sciences
Northern Illinois University
DeKalb, Illinois 60115