

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-454-OL
) 50-455-OL
(Byron Nuclear Power Station,)
 Units 1 and 2)
)
State of Illinois)
County of Cook) SS

AFFIDAVIT OF JAMES T. WESTERMEIER

James T. Westermeier, being first duly sworn on oath
deposes and states as follows:

- 1) My name is James T. Westermeier. I am employed by Commonwealth Edison Company as the Project Engineer for the Byron Nuclear Power Station now under construction near Byron, Illinois.
- 2) As part of my responsibilities for the Byron project, I assist in the supervision of NRC licensing activities. In an effort to keep abreast of developments, I requested to attend a meeting scheduled for September 10, 1981 at which representatives of Commonwealth Edison were to discuss discovery matters with representatives of the Rockford League of Women Voter.

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3) On September 10, 1981, I met in a conference room in the offices of Isham, Lincoln & Beale in Chicago, Illinois with Tom Tramm, Leslie Bowen, Ken Ainger, Jack Lavin, all of whom are employed by Commonwealth Edison Company, and Paul Murphy and Alan Bielawski, attorneys with Isham, Lincoln & Beale. Mr. Myron Cherry was scheduled to meet us in the early afternoon.

4) Mr. Cherry arrived at the meeting approximately one and one-half hours late. One of the first items brought up at the meeting concerned a written proposal by Commonwealth Edison Company to consolidate various of the contentions filed by the League with the Licensing Board assigned to conduct hearings on Edison's application for an operating license for the Byron Station. This proposal was entitled "Commonwealth Edison's Proposal on Consolidated Contentions", and I was informed that the proposal had previously been forwarded to Mr. Cherry's office. Mr. Cherry stated that he would not consider any effort to consolidate contentions or eliminate any issues. He stated, that as far as he was concerned, his contentions had been admitted by the Licensing Board and he did not see any reason to modify them. When Mr. Cherry left the meeting, he did not even take the proposal with him. I was left with a clear impression that Mr. Cherry had terminated all discussions on the potential consolidation of issues.

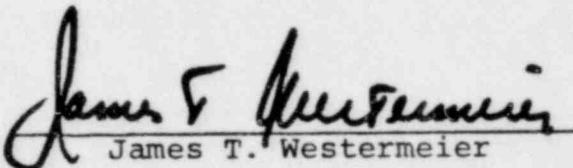
5) At another point during the course of the meeting, Mr. Murphy insisted that the question of the League's responses to Commonwealth Edison Company's discovery filed in the Byron NRC operating license proceeding be resolved before any discussions take place with respect to discovery initiated by the League in a parallel proceeding before the Illinois Commerce Commission. Mr. Cherry stated that he could not answer the interrogatories in a meaningful fashion until he had obtained the information requested from Edison in the ICC interrogatories. Mr. Murphy said that he would not tolerate any effort to intermingle discovery pending before the ICC and the NRC Licensing Board, and insisted that Mr. Cherry state whether he would provide Edison with responses to its discovery in the NRC licensing case. Mr. Murphy also stated that if the League was refusing to respond to discovery initiated by Edison in the NRC proceeding, Mr. Cherry should so state and the discussion of the discovery pending before the ICC would go forward. At this point, Mr. Cherry stated that he would answer the interrogatories in the NRC case and also stated that he would provide a date by which he would respond to the interrogatories on the following Monday, September 14, 1981.

6) Thereafter, a discussion of Edison's response to discovery initiated by the League in the ICC proceeding followed. At no time was there any agreement on the part of

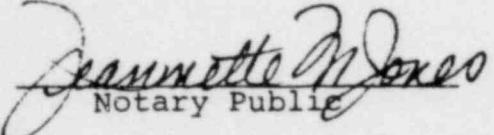
Commonwealth Edison Company that any discovery pending in the NRC operating license proceeding would be in any way dependent upon or await discovery pending before the ICC.

The foregoing affidavit is based on my own personal knowledge and is true in fact and in substance.

Dated: November 20, 1981


James T. Westermeier

SIGNED and SWORN
to before me this 20th
day of November, 1981


Jeannette M. Jones
Notary Public