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May 7, 1990

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)
ROBERT L. DICKHERBER)
(Order Suspending License; Order)
To Show Cause Why License)
Should Not Be Revoked)
EA 90-031))

Docket No. 55-5043-SC

License No. SOP-2365-8

ASLBP No. 90-610-01-SC

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
COMMONWEALTH EDISON COMPANY)
(Quad Cities Nuclear Power)
Station))
(Order Modifying License)
EA 90-032))

Docket Nos. 50-254
50-265-OM

License Nos. DPR-29
DPR-30

ASLBP No. 90-609-02-OM

JOINT MOTION TO DEFER WRITTEN FILING DUE JUNE 1, 1990
AND TO DEFER FURTHER ACTION BEFORE
THIS BOARD IN THE ABOVE CAPTIONED PROCEEDINGS

INTRODUCTION

This Atomic Safety and Licensing Board (Board) was established¹ to preside over the hearing requested by Mr. Robert L. Dickherber in response to an Order Suspending License and an Order to Show Cause Why License Should Not Be Revoked (Show Cause Order) issued to Mr. Dickherber, and an Order Modifying License to Commonwealth Edison Co., the licensee of the Quad Cities Nuclear Power Station, Units 1 and 2, which added the condition that Mr. Dickherber shall not participate in any licensed activity under License Nos. DPR-29 and DPR-30 without prior written approval of the Regional Administrator, Region III; all dated February 23, 1990 (55 Fed. Reg. 7797-98, March 5, 1990). By Memorandum and

¹Establishment of Atomic Safety and Licensing Board, April 30, 1990 (unpublished).

Order dated May 4, 1990, the Board required a written filing from the NRC Staff by June 1, 1990, concerning any comments the Staff may have regarding Mr. Dickherber's answer. The Board also invited Commonwealth Edison Co. to file by June 1, 1990, any comments Commonwealth Edison Co. may have regarding this matter.²

DISCUSSION

The Staff's Order Suspending License, Show Cause Order, and Order Modifying License were published in the Federal Register on March 5, 1990, and provided an opportunity for Mr. Dickherber, Commonwealth Edison, or any other person adversely affected by the orders, to submit an answer within 20 days of the date of the orders. On March 15, 1990, Mr. Dickherber requested an extension of time from the Staff to file an answer to the orders until April 13, 1990, citing availability of counsel and time needed to consult with Commonwealth Edison as the reasons for the extension request. The Staff agreed to Mr. Dickherber's request and he subsequently timely filed an answer in response to the orders. Answer of Robert L. Dickherber, April 13, 1990.³ The Staff is still evaluating this response in which Mr. Dickherber provides information heretofore unavailable to the Staff regarding this matter.⁴ Counsel for the Staff has conferred with

²In a letter to Commonwealth Edison Company dated May 1, 1990, the Staff requested Commonwealth's views on the statements made by Mr. Dickherber in his answer and regarding Mr. Dickherber's performance. The Staff requested Commonwealth's comments within 30 days of the date of the letter. (See exhibit 1).

³No other person has requested a hearing regarding this matter.

⁴Mr. Dickherber at first declined to be interviewed by the NRC Staff. His April 13, 1990 Answer explains his reason for that decision and contains an explanation for his conduct not available to the Staff prior to issuing the orders. See Answer of Robert L. Dickherber at 9-11. Additionally, the Staff expects to receive comments from Commonwealth Edison by May 31, 1990, regarding Mr. Dickherber's performance. See Note 2 supra.

counsel for Mr. Dickherber and the parties believe that it may be fruitful to enter into discussions to explore whether the matter may be resolved, in whole or in part, without resort to litigation. To this end, the Staff suggests that 60 days from the filing of this Motion would be reasonable for the Staff to finish its evaluation of Mr. Dickherber's Answer and any discussions with Mr. Dickherber that may flow from that evaluation. Mr. Dickherber agrees to this suggestion.

MOTION

Accordingly, for the reasons set forth above, the parties request an extension to and including at least July 9, 1990, within which the parties may make a written filing regarding the need for further proceedings before this Board concerning this matter.

Respectfully submitted,

Stuart R. Lefstein By E.H.
Stuart R. Lefstein,
 Attorney for Licensee

Eugene Holler
Eugene Holler
 Counsel for NRC Staff

Dated at Rockville, Maryland
 this 7th day of May, 1990



Exhibit 1
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 01 1990

Commonwealth Edison Company
ATTN: Mr. Cordell Reed
Senior Vice President
Post Office Box 767
Chicago, Illinois 60690

Dear Mr. Reed:

Re: In the Matter of R. L. Dickherber, License No. SOP-2365-8, Docket No. 55-5043, EA 90-031 and In the Matter of Commonwealth Edison Company, Quad Cities Nuclear Power Station, Docket Nos. 50-254 and 50-256, License Nos. DPR-29 and DPR-30 and EA 90-032

On April 13, 1990, Mr. R. L. Dickherber submitted his answer to the above orders issued to Commonwealth Edison Company and to Mr. Dickherber. The staff is in the process of considering his answer. As part of our review it would be helpful to obtain Commonwealth Edison Company's views on the statements made by him in his response and views on Mr. Dickherber's performance in the past and why we should have confidence in his performance in the future.

As a separate matter, please provide to the Regional Administrator, Region III, your views concerning the adequacy of the company's controls for work hours in view of the information provided by Mr. Dickherber at page 13 of his answer.

We would appreciate it if Commonwealth, as a company, would provide this response within the next 30 days so that we can promptly resolve this matter. We intend to schedule an enforcement conference with Mr. Dickherber and Commonwealth Edison Company following the completion of our review of his response and your additional submittal.

Sincerely,

James Lieberman
James Lieberman, Director
Office of Enforcement

cc: Stuart Lefstein, Esq.
Sheldon Trubatch, Esq.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

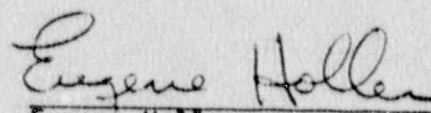
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|----------------------------------|---|------------------------|
| In the Matter of |) | Docket No. 55-5043 |
| ROBERT L. DICKHERBER |) | License No. SOP-2365-8 |
| (Order Suspending License; Order |) | ASLBP No. 90-610-01-SC |
| To Show Cause Why License |) | |
| Should Not Be Revoked |) | |
| EA-90-031) |) | |
| In the Matter of |) | Docket No. 50-254 |
| COMMONWEALTH EDISON COMPANY |) | 50-265 |
| (Quad Cities Nuclear Power |) | License No. DPR-29 |
| Station) |) | DPR-30 |
| (Order Modifying Licenses |) | ASLBP No. 90-610-02-OM |
| EA-90-032) |) | |

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2,713(b), 10 C.F.R., Part 2, the following information is provided:

| | |
|-------------------|---|
| Name: | Eugene Holler |
| Address: | U.S. Nuclear Regulatory Commission Office of the General Counsel Washington, DC 20555 |
| Telephone Number: | 301-492-1520 |
| Admissions: | Court of Appeals of Maryland |
| Name of Party: | NRC Staff |

Respectfully submitted,


Eugene Holler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 7th day of May, 1990.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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| In the Matter of |) | Docket No. 55-5043 |
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| Station) |) | DPR-30 |
| Order Modifying Licenses |) | ASLBP No. 90-609-02-OM |
| EA 90-032) |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of "JOINT MOTION TO DEFER WRITTEN FILING DUE JUNE 1, 1990 AND TO DETER ACTION BEFORE THIS BOARD IN THE ABOVE CAPTIONED PROCEEDINGS" and "NOTICE OF APPEARANCE" in the above captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in Nuclear Regulatory Commission's internal mail system, this 7th day of May, 1990:

Charles Bechhoefer, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Gustave A. Linenberger, Jr.*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Appeal
Board Panel (5)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Jerry R. Kline*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

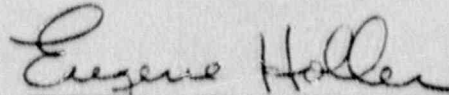
Office of the Secretary*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing
Board Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Stuart R. Lefstein, Esq.
Katz, McAndrews, Balch,
Lefstein and Fieweger
1705 Second Avenue
Suite 200
Rock Island, Illinois 61201

Sheldon L. Trubatch
Sidley & Austin
Attorneys for Commonwealth Edison Co.
1722 I(eye) Street, N.W.
Washington, DC 20006

A handwritten signature in cursive script that reads "Eugene Holler". The signature is written in dark ink and is positioned above a horizontal line.

Eugene Holler
Counsel for NRC Staff