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July 21, 1982

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

APPEAL OF INITIAL FOIA DECISION
82-A-15E(82-248)
Rec'd 7-26-82

Re: Appeal From An Initial FOIA Decision
FOIA -82-248

Dear Sir:

On May 12, 1982 on behalf of Commonwealth Edison Company, I requested, pursuant to the Freedom of Information Act, four affidavits which referred to allegations of improper construction practices at Commonwealth Edison's LaSalle Plant. These affidavits had been referred to in a petition filed by the Illinois Attorney General pursuant to 10 CFR §2.206, seeking to delay startup of the LaSalle Plant.

In my letter I specifically suggested that the NRC could make whatever deletions necessary to protect the confidentiality of its informants.

On June 23, 1982, Mr. Felton, Director of the NRC's Division of Rules & Records, Office of Administration wrote me denying my request. The stated grounds were that disclosure would interfere with an ongoing enforcement action.

This is an appeal from that initial FOIA decision. There are two bases for this appeal. First, I am informed that NRC has completed its investigation of alleged improper construction activities at LaSalle. Therefore, there is no longer any question of interference with an ongoing investigation.

Second, I was surprised to receive recently a letter dated July 12, 1982 from Mr. Felton to Mr. Abel of Commonwealth Edison, informing him that on May 11, 1982, the NRC had provided to Jan Kodner (an attorney associated with an anti-nuclear citizens group in Illinois) extensive documentation relating to the same allegations which were

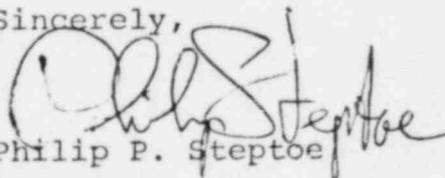
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the subject of my request six days later, on May 17. (See attached correspondence relating to FOIA-82-168). I do not understand how the NRC can apparently "play favorites" in responding to FOIA requests on the same issues. While I recognize, of course, that Commonwealth Edison was the subject of the NRC's investigation at that time, it is difficult to understand why information sensitive enough to interfere with an ongoing investigation could be given to the general public. How could the NRC be sure that Mr. Kodner's use of such information would not interfere with the investigation? For example, he could have transmitted it to Edison, either directly or by publishing it in the paper.

In view of the above, I request the following relief:

- (1) I would like to receive the four affidavits originally requested on May 17, 1982.
- (2) I hereby broaden my FOIA request to include all documents relating to the NRC's 1982 investigation of allegations of improper construction practices at LaSalle Plant, including, but not limited to, those allegations submitted to the NRC by the Government Accountability Project of the Institute For Policy Studies, the Illinois Attorney General's Office, and Illinois Friends of the Earth (Mrs. Bridget Little Rorem). Documents already identified in response to Mr. Kodner's FOIA-82-168 request need not be provided.
- (3) Because this situation seems capable of repeating itself (infact, GAP has filed allegations with respect to another utility client of mine), I would like a clear explanation of why the NRC responded favorably to Mr. Kodner's FOIA request and unfavorably to mine.

Sincerely,


Philip P. Steptoe

PPS:es

Enc.

cc James Keppler, Region III
J. M. Felton, U.S. N.R.C.

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-82-328

Rec'd 7-26-82