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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
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BEFORE 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 & 2))	

ROCKFORD LEAGUE OF WOMEN VOTERS'
RESPONSE TO MOTION OF COMMONWEALTH EDISON COMPANY
TO STRIKE CERTAIN CONTENTIONS OF THE
ROCKFORD LEAGUE OF WOMEN VOTERS AND FOR OTHER RELIEF

Intervenor Rockford League of Women Voters ("League"), by its attorneys, submits this response to the Motion of Commonwealth Edison Company ("Edison") to strike certain contentions of the League and for other relief. We respond to each lettered portion of Edison's Motion as follows:

A. It is correct that the League has not answered Edison's first set of interrogatories with respect to the contentions enumerated in paragraph A of Edison's Motion. As stated in the League's answers, the League does not believe that it is fair to strike the League's contentions on that basis, given the extraordinary time limitations and difficult circumstances imposed upon the League by the Appeal Board in ALAB-678 with regard to preparing interrogatory answers and given the extremely limited time within which the League had access to its technical consultants. As stated in the League's interrogatory answers, the League does not waive its position that ALAB-678 was erroneous, a deprivation of the League's rights, and a denial of due process in that regard.

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B. With regard to contention 114, Edison's point is not well taken. A reading of contention 114 will show that the economic and environmental costs of the cleanup of radioactive contamination buildup at Byron -- which is the subject matter of that contention -- are directly pertinent both to the question of Edison's financial ability properly to maintain and operate the Byron plant (the subject of the League's "FQ" Petition now pending before the Board) and to the question of whether, on a proper cost-benefit analysis, alternatives to the Byron plant are economically and environmentally preferable (addressed in the League's "NFP" Petition now pending before the Board). With respect to contention 132, Edison equally wrongly asserts that that contention "does not in fact pertain" to the need-for-power issue. A reading of that contention discloses that it goes directly to the cost-benefit analysis of alternative forms of power generation and to the comparison of nuclear generation with coal generation, among other things; the matters addressed in contention 132 are responsively dealt with in the League's answer relating to (inter alia) contention 132 and the documents referred to in that answer. Therefore contentions 114 and 132 should not be stricken.

C. Edison's attack on the League's response to its interrogatories concerning contentions 34 and 39 is both inaccurate and inappropriate. It is Edison's attack, not the League's interrogatory answers, which consists of "unsupported arguments." A reading of the answers makes that clear. A reading of the answers also makes it clear that the League provided the best information available to the League at the time, in light of (among other things) the extremely severe constraints imposed upon the League by ALAB-678, the very limited access of the League to its technical consultants, and the fact that the League had obtained no discovery information whatever from Edison in this proceeding. In addition, the interrogatory answers make it clear that the League's investigation is continuing and that the interrogatory

answers will be supplemented as further information becomes available to the League. Nothing in the Appeal Board's instructions to the League concerning interrogatory answers requires -- or could require -- that the League provide information not available to the League at the time the answers were required to be filed. To strike contentions 34 and 39 on the ground that the League's investigation is not yet complete would be manifestly unfair and inappropriate under the circumstances of this case.

D. The reference to contention 29 in the League's interrogatory answer concerning contention 109 is a typographical error; the reference should have been to contention 39. This disposes of the first part of Edison's argument concerning contention 109. The balance of Edison's argument concerning contention 109 is not well taken. The League provided such information as was available to the League -- in light of, we repeat, the extreme and severe constraints imposed by ALAB-678 and the very limited access of the League to its technical consultants -- at the time the interrogatory answers were required to be filed. Again, it would be singularly unfair and inappropriate to strike any part of contention 109 merely because, as stated in the League's responses concerning contentions 8, 39, 62, 47, 71 and 106 (incorporated in its response concerning contention 109), the League's investigation is still continuing. Further, Edison's interrogatory called for a "concise statement" of the basis for contention 109. In addition to the material contained in the League's response concerning the other contentions just mentioned -- incorporated by reference into its response concerning contention 109 -- the League specifically and concisely pointed out that the Byron FES reveals on its face that the deficiencies referred to in subparts (f), (g), and (h) of contention 109 continue to exist.

E. The League notes that the August 31, 1983 fuel loading date stated by Edison is hedged, by terming it Edison's "present estimate." The League notes that Edison has made numerous other estimates in the past, all of which have subsequently proved inaccurate and have been postponed for reasons having nothing to do with the League. Further, the League notes its concern that to condition the litigability of valid contentions raised by the League upon not interfering with the Byron fuel loading date is seriously to prejudice the adjudicative process and the proper examination of safety issues. The proper course is to condition the Byron fuel loading date upon the prior resolution of all applicable safety issues -- not to sweep safety issues under the rug or refuse to deal with them because they might interfere with the utility's plans.

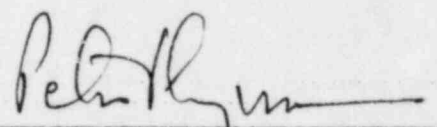
F. Under the compulsion of ALAB-678 (and as previously stated herein and in its answers to interrogatories, without waiving its objections to the procedure established by that decision), the League has, in essence, already "prioritized" its contentions by submitting interrogatory answers concerning less than all of the contentions. Particularly under present circumstances, the League does not interpret ALAB-678 as requiring the League to go further (or, in particular, to attempt the virtually impossible task of assigning a meaningful numerical ranking to its remaining contentions or issues), at least at this juncture. At present the League is still hampered by the absence of meaningful discovery from Edison, by the presence in the FES of manifold unresolved issues the ultimate resolution of which may or may not have a bearing on the ultimate importance of given contentions or issues, and by the incomplete nature of the League's own investigation (including the extremely limited access which the League has had to its

technical research personnel). Under those circumstances, to require the League to assign a numerical ranking to its remaining issues or contentions -- a ranking which would of necessity be at least partially arbitrary, given the factors just noted -- would in effect require the League to play a guessing game with safety issues. We do not interpret either ALAB-678 or the Commission's rules as requiring such a procedure. Nor are we aware of any reason, in law or in common sense, why the League should assign a low (or any other) priority to any given issue on the sole basis of whether or not that issue has also been raised by some other party. (To the extent that anything at all can be gleaned from the mere fact that more than one party raises the same issue, that fact would seem to suggest the importance of the issue rather than the reverse.) If the Board chooses to require the League to assign a numerical ranking to its remaining issues -- which, we repeat, the League believes would be both premature and unhelpful at this point, as well as not fairly required by ALAB-678 -- the League will do so to the best of its ability promptly after being notified of the imposition of that requirement. Similarly, it may be that at a later stage -- e.g., after significant discovery has been had and the status of unresolved FES issues is better known, and after the League has had an opportunity to consult at greater length with its technical consultants -- some meaningful ranking of the League's remaining issues can be undertaken. However, for the reasons stated above the League strongly believes that such an

exercise at this stage would be neither productive nor appropriate (though, the League reiterates, it will promptly comply with any order requiring it to attempt a further ranking at this stage).

Respectfully submitted,

Rockford League of Women Voters

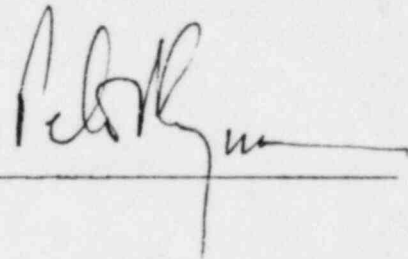
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I certify that a copy of the foregoing document was served upon all the parties of record herein, by first class mail postage prepaid and properly addressed, this 26th day of July, 1982. Additionally, the original and two copies of the attached pleading were filed with the Secretary of the Nuclear Regulatory Commission, and copies were forwarded to the members of the Atomic Safety and Licensing Board.

A handwritten signature in dark ink, appearing to be 'A. B. K.', is written over a horizontal line. The signature is stylized and cursive.