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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
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BRANCH

In The Matter of)	
)	
)	
COMMONWEALTH EDISON COMPANY)	Docket Nos. 50-454 0L
)	50-455 0L
)	
(Byron Nuclear Power Station,)	
Units 1 & 2))	

MOTION FOR CLARIFICATION OF PORTIONS OF
THE BOARD'S "MEMORANDUM AND ORDER RULING
ON MOTIONS FOR SUMMARY DISPOSITION OF
DAARE/SAFE CONTENTIONS"

On September 10, 1982, this Board issued an Order granting, in part, Commonwealth Edison Company's (Edison) and the NRC Staff's Motions for Summary Disposition of DAARE/SAFE contentions. In its Order the Board discussed the presentations made by the parties during the course of the summary disposition process and gave reasons for its decision to deny the motions with respect to Contentions 9(a) and 9(c). In so doing, the Board identified the specific matters as to which there existed genuine contested issues of material fact. However, the Board's Order does not expressly limit the contentions to require evidentiary presentations, at the hearings, solely on these outstanding issues. Although we believe that this result is implicit

in the Board's Order, because of the obvious significance of these matters on the hearing preparation process, Edison respectfully requests that the Board issue a clarifying order restricting the scope of DAARE/SAFE's Contentions 9(a) and 9(c).

DISCUSSION

The Section 10 CFR § 2.749 summary disposition procedures provide an efficacious means of avoiding unnecessary and time-consuming hearings on demonstrably insubstantial issues. Houston Lighting and Power Co. (Allen Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 550 (1980). When a licensing board determines that it cannot summarily dispose of an entire contention, it is appropriate to specify that aspect of the contention which raises contested factual issues and which must be litigated at the hearings. Absent such specification, trial of the contention might require the parties to present evidence on many material facts as to which there are no genuine issues. Such litigation would defeat the purpose of the summary disposition procedure.

As discussed below, the Board's decision indicates that Contentions 9(a) and 9(c) raise limited contested issues not adequately resolved by the parties' summary disposition presentation.

Contention 9(a) refers broadly to the possibility of bubble collapse water hammer events in feed water lines,

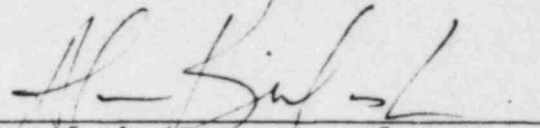
and specifically addresses events that occurred at Edison's Zion Station. In its discussion of Contention 9(a), the Board found that the differences between the Zion and Byron steam generators are such that the Byron plant is not susceptible to the type of water hammer events experienced at the Zion plant. The only question acknowledged by the Board as remaining open concerns the possibility of bubble collapse water hammer events in the feedwater bypass system similar to the type of event believed to have occurred at the KRSKO plant in Yugoslavia. Therefore, the only factual issue which presently remains unresolved is whether the design of and operating procedures associated with the feedwater bypass system at Byron provide adequate assurance of safety.

Contention 9(c) raises broad issues concerning steam generator tube degradation caused by corrosion, cracking, denting and fatigue cracks and the safety implications of such degradation during both routine operation and under accident conditions. In its Order, the Board determined that there was insufficient information concerning possible tube degradation resulting from the type of flow induced vibration recently observed at Westinghouse designed steam generators, and analyses of postulated tube failure concurrent with other design basis accidents to grant summary disposition of this Contention. Other aspects of the Contention were determined not to raise contested issues of material fact.

In light of these findings, it seems clear that the Board intended to limit the scope of the contentions to raise only the outstanding issues identified in its Order. Therefore, Edison respectfully requests that the Board issue a clarifying order reflecting this intent.

DATED: September 28, 1982

Respectfully submitted,



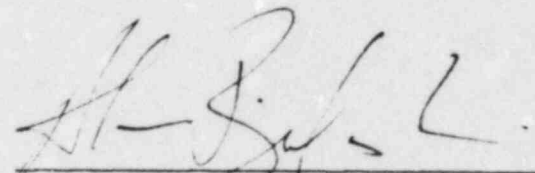
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CERTIFICATE OF SERVICE

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 the same on each of the persons at the addresses shown on the attached service list in the manner indicated.

Date: September 28, 1982



Alan P. Bielawski

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Docket Nos. 50-454 and 50-455

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