

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Gary L. Milhollin, Chairman
Elizabeth B. Johnson
Quentin J. Stober



SERVED DEC 6 1982

In the Matter of

COMMONWEALTH EDISON COMPANY

(Dresden Station, Units 2 & 3;
Quad Cities Station, Units 2 & 2)

Docket Nos. 50-237
50-249
50-254
50-265

(Transshipment
of Spent Fuel)

December 3, 1982

MEMORANDUM AND ORDER

On July 28, 1982 we ordered the NRC Staff and the Licensee to inform us why this proceeding, which is an application to amend an operating license, should not be removed from our docket. We did so because there had been no action in the proceeding since May 16, 1979 when we granted a motion to rewrite Contention 6. The inaction has been due to the inability of the Staff to review simultaneously this application and other applications filed by the same Licensee. Because of this inability, the Staff required the Licensee to assign priorities to its several applications. This application was given a low priority. Neither the Staff's safety evaluation report, nor its environmental impact appraisal (or statement) has been published.

On August 18, 1982 the Licensee responded to our order. The Licensee requested that the proceeding be dismissed, without prejudice. The NRC Staff responded to the Licensee's request by stating that the Staff had no objection to it. The Intervenors, Natural Resources Defense Council and Citizens for a Better Environment, made no response to the Licensee's request.

The Licensee originally filed this application because of a shortage of storage capacity for spent reactor fuel. Due to the lack of progress in establishing a nuclear waste repository, and the lack of other storage facilities, utilities such as the Licensee have been forced to retain increasing quantities of spent fuel at reactor sites. This has produced a shortage of storage capacity at the sites. Under the authority sought in this application, the Licensee would be permitted to store, in the spent fuel storage pools of Units 2 and 3 of its Dresden Nuclear Power Station and Units 1 and 2 of its Quad Cities Nuclear Power Station, spent fuel generated at either its Dresden Station or its Quad Cities Station. In order to accomplish this storage, the Licensee would ship spent fuel from one Station to the other. By shipping one reactor's spent fuel to the spent fuel storage pool of another, the Licensee could avoid--at least for a time--shutting down a reactor because of lack of space in its spent fuel storage pool.

The Licensee's other applications--not part of this proceeding--are for authority to increase the storage capacity of the spent fuel storage pools at each of its reactors. This would be done

by installing high-density storage racks in each pool. The increased storage made possible by these racks would make it unnecessary--at least for the present--to ship spent fuel from one reactor to another. With the new racks, each reactor's storage pool could accommodate that reactor's spent fuel.

On August 17, 1982 the Licensee finally received the authority it sought for the full increase in storage capacity for its several spent fuel pools. That authority makes the application before us unnecessary, and explains the Licensee's request that it be dismissed.

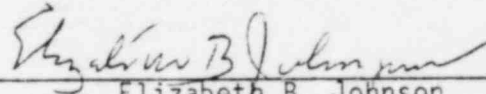
The only question for us to decide is whether the application should be withdrawn without prejudice. To allow withdrawal "without prejudice" means that the Licensee is free to file this same application again in the future. We see no reason why the Licensee's request should not be granted. The slow progress of the application was not the Licensee's fault; the NRC Staff apparently has not devoted extensive time to its review; the Licensee's decision to file the application was reasonable in light of the risk that the applications for increased storage might be denied (making this application to transship necessary); there is no evidence that the public interest or the other parties would be harmed by allowing withdrawal without prejudice; and the fact that the Intervenor's did not respond to the Licensee's request indicates that they do not oppose it.

For the reasons stated above, the Licensee's request is granted, and it is hereby

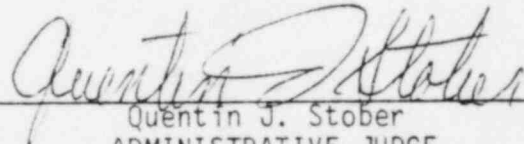
ORDERED

That this proceeding is dismissed, without prejudice.

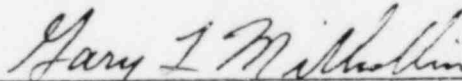
THE ATOMIC SAFETY AND LICENSING BOARD



Elizabeth B. Johnson
ADMINISTRATIVE JUDGE



Quentin J. Stober
ADMINISTRATIVE JUDGE



Gary L. Milhollin, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland,
this 3rd day of December, 1982.