

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

STIPULATION

The parties to this proceeding, Commonwealth Edison Company ("Edison"), the Rockford League of Women Voters ("League"), the DeKalb Area Alliance for Responsible Energy and the Sinnissippi Alliance for the Environment ("DAARE/SAFE"), and the United States Nuclear Regulatory Commission Staff ("Staff") hereby agree and stipulate as follows:

1. The League withdraws the following contentions contained in "Revised Contentions of Intervenor Rockford League of Women Voters", dated March 10, 1980, which were retained by the Board in its August 30, 1982 Memorandum and Order: Contention Nos. 28, 32, 34, 41, 47, 53, 54, 61, 63, 71, 77, and all portions of 111 except for those portions which pertain to Edison's in-plant monitoring of radioactivity at Byron.

2. The parties agree to litigate League contentions 1A (revised as stated in attached Appendix A), 8, 19,

22, 39, 42, 62, 106, 108, 109, 112, and those portions of 111 which pertain to Edison's in-plant monitoring of radioactivity from Byron and DAARE/SAFE Contention 2a, 3, 9(a) and 9(c) during the evidentiary hearings scheduled to begin March 1, 1983, subject to:

(a) Edison's right to invoke the Atomic Safety and Licensing Appeal Board's directive contained in ALAB-678 that the League's litigation of contentions in the evidentiary hearing not unjustifiably delay operation of the Byron facility, provided that in no event shall Edison's right to invoke such directive be construed to limit DAARE/SAFE's right to litigate its contentions, including but not limited to all consolidated contentions listed in paragraph 5 below;

(b) the limitation that DAARE/SAFE and the League may provide direct testimony only on their respective contentions (as opposed to other parties' contentions), except that DAARE/SAFE may join in the litigation of League Contention 1A, as to which DAARE/SAFE will be the lead intervenor, and

(c) any further agreement or stipulation between the parties.

3. In its responses to earlier discovery requests, the League asserted that certain of its contentions presented the issue of whether certain components and equipment should be classified as "safety-related" or "important

to safety." It is further agreed that the above-described issue of classification is not raised in any of the contentions listed in paragraph 2 above, and will not be litigated at the hearing. The parties agree to litigate all other issues raised by the contentions listed in paragraph 2 above, including but not limited to the potential effects of failures or inadequacies of components and equipment irrespective of their classification. However, in no event shall an issue of safety be litigated based on the ground that a component or a piece of equipment has not been classified as "safety related" or "important to safety."

4. The agreement to litigate the contentions listed in paragraph 2 is not intended to preclude Edison or the Staff, at or after the hearing, from arguing that discrete aspects of contentions constitute a challenge to NRC regulations. The parties agree that no motions for summary disposition shall be filed with respect to any of the contentions listed in paragraph 2 above.

5. The League and DAARE/SAFE recognize that certain of their respective contentions listed in paragraph 2 raise similar issues, and agree to consolidate their presentation of evidence, briefs, proposed findings of fact, and conclusions of law and argument, as follows:

(a) DAARE/SAFE shall be lead intervenor with respect to League Contention 19, 108 and DAARE/SAFE Contention 3;

(b) DAARE/SAFE shall be lead intervenor with respect to League Contention 1A (revised as attached hereto);

(c) the League shall be lead intervenor with respect to DAARE/SAFE contention 9(c) and League Contention 22; and

(d) the League shall be lead intervenor with respect to DAARE/SAFE contention 2a and League Contentions 8 and 62.

The parties agree that with respect to these consolidated contentions, the non-lead intervenor shall have the right to non-duplicative presentation of evidence (other than direct testimony), examination and cross-examination, briefs, proposed findings of fact and conclusions of law, objections and argument.

6. DAARE/SAFE agrees to withdraw as moot its Motion To Reconsider Summary Disposition of Contention 1 With Respect To Quality Assurance and Quality Control, and Edison and the Staff agree to withdraw their opposition to that motion. The parties further agree that for purposes of notice to other parties exhibits filed in support of DAARE/SAFE's Motion to Reconsider shall be deemed to have been filed on the date they were originally filed. The parties further agree that no prior findings by the Licensing Board concerning summary disposition of DAARE/SAFE contentions bar litigation of the contentions listed in paragraph 2 above, including, but not limited to League contentions 1A, 22, and DAARE/SAFE Contention 9(c) or of the issues they

raise. The question of the scope of DAARE/SAFE contention 9(a) remains before the Board, as stated in paragraph 7 below.

7. Edison agrees to withdraw as moot that portion of its Motion for Clarification of Portions of the Board's "Memorandum and Order Ruling on Motions for Summary Disposition of DAARE/SAFE Contentions" which relates to DAARE/SAFE Contention 9(c). The portion of Edison's Motion for Clarification regarding DAARE/SAFE Contention 9(a), and the Staff's and DAARE/SAFE's Responses thereto, are not withdrawn.

8. Edison agrees to withdraw as moot its Motion for Summary Disposition of the League Contentions 1A and 111.

9. The League agrees to withdraw as moot those portions of its Motion to Compel Discovery from the Staff which relate to Interrogatory Numbers 5(e), 11(b), and that part of Interrogatory Number 17 which relates to the withdrawn contentions listed in Paragraph 1 above. The Staff agrees to withdraw as moot the single interrogatory in its Second Set of Interrogatories to the League pertaining to withdrawn Contention 63.

10. The League agrees to provide Edison, by December 8, 1982, or as soon as possible thereafter, the names of witnesses it anticipates calling at the hearing, including the League's seismology expert, MHB Technical Associates' personnel, and any former or current employees

or workers of Edison or its contractors. The League also agrees to make available to Edison each of these witnesses for the purposes of deposition prior to the December 15, 1982 discovery cutoff date or as soon as possible thereafter. Edison and the Staff agree to provide the same information by the same dates.

11. The League agrees to identify, by December 8, 1982, or as soon as possible thereafter, those individuals it wishes to have Edison make available for deposition. Edison and the Staff agree to provide the same information by the same dates.

12. This Stipulation does not address the question of DAARE/SAFE's possible submission of contentions relating to Haywood-Tyler pumps or turbine missile analyses consistent with the Board's May 26, 1982 ruling.

13. This Stipulation will become binding on the parties upon its approval by the Atomic Safety and Licensing Board. Pending such approval, the parties shall proceed in good faith in accordance with the terms of this stipulation.

Agreed to on December 6, 1982.

COMMONWEALTH EDISON COMPANY

U.S. NRC REGULATORY STAFF

By *Al Biles L.*

By *Ken Adley*

ROCKFORD LEAGUE OF WOMEN VOTERS

INTERVENOR DAARE/SAFE

By *Douglas W. Long*

By *Douglas W. Long*

APPENDIX A

Intervenors contend that Edison does not have the ability or the willingness to comply with 10 CFR Part 50, Appendix B, to maintain a quality assurance and quality control program, and to observe on a continuing and adequate basis the applicable quality control and quality assurance criteria and plans adopted pursuant thereto, as is evidenced by Edison's and its architect-engineers' and its contractors' past history of noncompliance at all Edison plants (whether or not now operating). In addition, Applicant's quality assurance program does not require complete independence of the quality assurance functions from other departments within the Company.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
COMMONWEALTH EDISON COMPANY) Docket Nos. 50-454
(Byron Station, Units 1 and 2)) 50-455

CERTIFICATE OF SERVICE

I hereby certify that copies of "MOTION FOR ENTRY OF STIPULATION" 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, by deposit in the Nuclear Regulatory Commission's internal mail system, or, as indicated by double asterisks, by hand-delivery, this 7th day of December, 1982:

**Ivan W. Smith, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Region III
U.S. Nuclear Regulatory Commission
Office of Inspection & Enforcement
799 Roosevelt Road
Glen Ellyn, IL 60137

Dr. A. Dixon Callihan
Administrative Judge
Union Carbide Corporation
P. O. Box Y
Oak Ridge, TN 37830

Mrs. Phillip B. Johnson
1907 Stratford Lane
Rockford, IL 61107

*Dr. Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ms. Diane Chavez
326 N. Avon Street
Rockford, IL 61103

Dr. Bruce von Zellen
c/o DAARE
P. O. Box 261
DeKalb, IL 60015

Paul M. Murphy, Esq. (1 original)
Isham, Lincoln & Beale
Three First National Plaza
Chicago, IL 60602

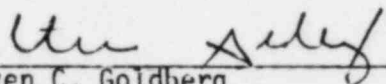
Doug Cassel, Esq. (2 originals)
Jane Whicher, Esq.
109 N. Dearborn Street
Chicago, IL 60602

Joseph Gallo, Esq. (1 original)
Isham, Lincoln & Beale
Suite 840
1120 Connecticut Avenue, NW
Washington, DC 20036

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

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

*Docketing & Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555



Steven C. Goldberg
Counsel for NRC Staff