

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of )

COMMONWEALTH EDISON COMPANY )

(Byron Station, Units 1 and 2) )

Docket Nos. 50-454  
50-455

Commonwealth Edison Company's  
Reply to Motion For Leave  
To File Amicus Curiae Brief

On July 21, 1983, counsel to Commonwealth Edison Company ("Applicant") received a copy of the motion for leave to file a brief amicus curiae ("Motion") and accompanying brief filed by Government Accountability Project ("GAP"). GAP seeks to file a brief amicus curiae with respect to the issues raised by the motion for directed certification filed by the NRC Staff on July 8, 1983.

A person who is not a party may, in the discretion of the Appeal Board, be permitted to file a brief amicus curiae provided said party supports its request with an adequate showing of interest. 10 C.F.R. § 2.715(d). GAP asserts an interest in supporting and protecting the rights of "whistleblowers" and in the elimination of government misconduct and inaction, particularly with respect to the quality assurance responsibilities of the U.S. Nuclear Regulatory Commission. Neither of those interests are at issue in the above-captioned proceeding.

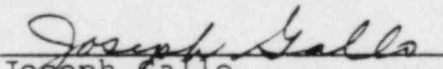
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No issue before the Appeal Board concerns a matter involving the rights of "whistleblowers". The issues solely relate to reconciling competing policy interests within the Commission concerning ongoing investigations and their interaction with the public hearing process. Moreover, to the extent that the term "whistleblower" is appropriate to characterize the role of Mr. Hughes and other similar witnesses, their rights are being ably represented by Ms. Jane Whicher.

There is no allegation of or inference to be drawn from the record in the Byron proceeding that the Commission, including the NRC Staff, is guilty of either misconduct or inaction. Thus, the second basis for GAP's interest in the pending appeal is not well-founded. Moreover, the lack of a discernible interest is apparent from the brief amicus curiae itself, which generally contains arguments immaterial to the issues in this case. For example, the unwarranted and unsupported attack on Region III (Brief Amicus Curiae, p. 6) does not advance any issue before the Appeal Board.

For the foregoing reasons, GAP's motion should be denied and the accompanying brief stricken from the record.

Respectfully submitted,

  
Joseph Gallo

One of the Attorneys for  
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July 22, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of )

COMMONWEALTH EDISON COMPANY )

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)

CERTIFICATE OF SERVICE

I hereby certify that copies of "COMMONWEALTH EDISON COMPANY'S REPLY TO MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF" in the above-captioned docket have been served on the following by deposit in the United States mail, first class, or as otherwise indicated by hand delivery, this 22nd day of July 1983.

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U.S. Nuclear Regulatory  
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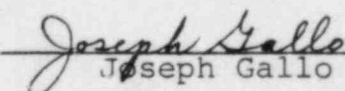
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