

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

COMMONWEALTH EDISON COMPANY

(Byron Station, Units 1 and 2)

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Docket Nos. 50-454
50-455

NRC STAFF REPLY TO JOINT INTERVENORS'
PARTIAL PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW ON
QUALITY ASSURANCE/QUALITY CONTROL

Mitzi A. Young
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October 17, 1983

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NUCLEAR REGULATORY COMMISSION

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I. INTRODUCTION

The NRC Staff hereby submits the following reply to the Joint Intervenor's Partial Proposed Findings of Fact and Conclusions of Law on Quality Assurance/Quality Control, dated September 30, 1983.

II. REPLY FINDINGS^{*/}

H. Quality Assurance/Quality Control

RH-1. (Reply to Intervenor's QA/QC Finding 23).

Contrary to Intervenor's implication that Applicant witness Koca's testimony established that Mr. Hughes was not certified in accordance

^{*/} As in earlier filings, these reply findings are distinguished from the Staff's initial findings on the reopened proceeding by the designation "RH." For each reply finding, the Intervenor's finding to which the reply is directed is identified in parentheses. Mindful of the Board's admonition concerning reply findings (Tr. 7002-03), the Staff has not addressed Intervenor's findings where the particular issues have been addressed in the Staff's September 16, 1983 proposed supplemental findings of fact and conclusions of law on QA/QC. These reply findings should be read in conjunction with Staff's September 16 proposed findings.

with HEC0 Procedure 17 (Koca Exhibit B), Mr. Koca did testify that Mr. Hughes possessed the minimum requirements set forth in paragraph 5.5.1.1. prior to certification. (Koca, Tr. 7437-38).

RH-2. (Reply to Intervenor QA/QC Findings 27-29, 136, 142-144).

In these findings, Intervenor asserts that HEC0's on-the-job training records are unreliable and that the Staff did not adequately verify the hours of training during its inspection.

Contrary to Intervenor's assertion that the two hours per on-the-job training session contained in Koca Exhibit G is unreliable, there is other evidence on record that the two hour estimate is reasonable. Staff witness Hayes testified that he was told by the Level II inspector that trained Mr. Hughes that two hours was the average length of time it took to conduct the training inspections. In addition, Mr. Hughes determined that these hours included the time Mr. Hughes reached the hanger location until he returned to analyze the data at his desk. (Tr. 7947-48, 7944, 7899).

RH-3. (Reply to Intervenor QA/QC Finding 33).

There is no evidence on record nor any reason to conclude that HEC0's documentation system is incomplete or misleading because there is no notation on three HEC0 discrepancy reports (Joint Intervenor Exhibit 26) indicating that Mr. Hughes was not a certified inspector. Mr. Koca unequivocally testified that no certification is required to complete a discrepancy report. (Koca, Tr. 7478-80, 7502).

RH-4. (Reply to Intervenor QA/QC Finding 67).

Intervenor's conclusion that the delay incurred in the development of a program which Region III considered acceptable to address inspection

findings 82-05-19 and 82-04-19 is indicative of CECo "recalcitrance toward proper QA practices" is not supported by the record. Staff witness Forney testified that CECo's initial failure to propose corrective action which reflected a broad view towards the noncompliance was the result CECo's differing professional judgment with Region III and was not indicative of poor corporate attitude. (Tr. 7860-7868).

RH-5. (Reply to Intervenor's QA/QC Finding 93).

Contrary to Intervenor's assertion, past failures of the Applicant to assure that contractor inspectors are certified in accordance with the Applicant's commitments to the ANSI Standard does not provide a basis for denying Applicant an operating license. The Applicant has taken appropriate corrective action with respect to training and certification and has implemented a sampling reinspection program to determine the quality of work by potentially unqualified or improperly certified inspectors. (Stanish testimony, ff. Tr. 7459; Tuetken testimony, ff. Tr. 7760; Region III testimony, ff. Tr. 7801, at 4-8, 21-22).

RH-6. (Reply to Intervenor's QA/QC Finding 102).

Contrary to Intervenor's assertion, the identification of weld defects during the sampling reinspection program is not evidence that either the Applicant or Region III has "abdicated" quality assurance responsibilities. Region III assumed that unqualified inspectors worked at Byron when it required CECo to implement the reinspection program to determine whether any hardware problems exist. The Staff has reserved its final determination as to whether the program successfully alleviates problems concerning QC inspector qualification until it can evaluate the results of the program and it will not authorize licensing of Byron

until deficiencies identified during the reinspection program have been resolved to the satisfaction of the NRC. (Region III testimony, ff. Tr. 7801, at 4-8, 21-22; see Staff Findings H-317, H-318).

RH-7. (Reply to Intervenor's QA/QC Findings 104, 105-107).

Contrary to Intervenor's assertion, Staff witness Forney's testimony regarding the review of certification files was consistent. Intervenor has confused the files Mr. Forney reviewed to issue 82-05-19 and the files reviewed under the recertification program. By evaluating files of inspectors on site during the 82-05 inspection (Applicant Exhibit 8), Mr. Forney determined that the Applicant had not complied with its commitment to the ANSI standard. (Region III testimony, ff. Tr. 3586, at 5; Stanish, Tr. 7558). Mr. Forney testified that the Applicant, as part of its recertification program, reviewed certification files dating both before and after the date it committed to the ANSI standard. (Tr. 7836-37). Mr. Forney also testified that work done by inspectors certified before March 1981 is encompassed by the reinspection program because the sample selection is taken from a chronological listing of all the safety-related inspectors certified at Byron. (Tr. 7864-65). Region III will determine the adequacy of the reinspection program after the results are submitted by the Applicant and will determine whether any further actions are necessary to resolve inspection finding 82-05-19. (Region III testimony, ff. Tr. 7801, at 7, 21-22).

RH-8. (Reply to Intervenor's QA/QC Finding 108).

Contrary to Intervenor's assertion, the inspection that led to the issuance of noncompliance 82-05-19 was not defective. Mr. Forney properly reviewed inspector certification packages to determine that the

necessary documentation was present, including verification of education and past employment. (Tr. 7838-39). Mr. Forney also determined that the testing practices followed by Powers-Azco-Pope and Johnson Control were inappropriate. (Tr. 7839-41).

EE-9. (Reply to Joint Intervenor's QA/QC Finding 115).

The Intervenor's correctly state that the Region III panel admitted that investigation of all the allegations concerning HECO has not been expeditious, however, Intervenor's omitted the Staff's explanation that allegations which are a greater priority, based on the seriousness of the allegations and whether they involve completed or ongoing work, are investigated first. (Hayes, Tr. 7870, 7961; Forney, Tr. 7961, 7877-78).

RH-10. (Reply to Intervenor's QA/QC Finding 117).

Contrary to Intervenor's assertion, the Region panel sufficiently described what information it believed was required to substantiate an allegation. (Tr. 7875-7877).

RH-11. (Reply to Intervenor's QA/QC Findings 119, 120).

As Mr. Forney testified, four of the 31 unique allegations which were received in August 1982, have not been inspected based upon an analysis of the urgency of the matter raised by the allegation and whether the alleged defect may be hidden by additional installations. Manpower constraints may also delay inspection of matters which can await routine inspection. (Forney, Tr. 7877-78). The Board finds there is no evidence in the record to support the conclusion that delay in inspecting the HECO allegations has undermined Region III inspections.

RH-12. (Reply to Intervenor's QA/QC Finding 122).

The Intervenor's statement concerning the Staff's reliance on the results of the reinspection to resolve allegations is incomplete.

Region III witnesses testified that the Region will analyze the relationship between results of the reinspection program and the HECOs' allegations, but stated that if the results of the program do not encompass an allegation, additional inspections would be performed to resolve the allegations. (Forney, Tr. 7892; Staff Finding H-357).

RH-13. (Reply to Intervenor's QA/QC Finding 123).

Contrary to Intervenor's assertion, there is no evidence in the record to support the conclusion that Region III's inspection of allegations concerning HECOs has been inadequate. Investigation of two allegations which were received after Inspection Report 82-05 resulted in the issuance of noncompliances against a Level II inspector and a QA manager. These allegations were investigated after the NRC issued inspection findings 82-05-19 and 82-04-19 and before the NRC had determined the acceptability of the Applicant's revised training and certification program, and its implementation. (Staff Findings H-353, H-354, H-323).

RH-14. (Reply to Intervenor's QA/QC Finding 127).

Intervenor does not accurately describe the NRC's inspection of an allegation concerning a HECO QA manager. The inspector found that neither HECO nor the Applicant had verified the manager's education level. The inspector also found that the manager had been improperly certified based on a misapplication of the experience required under the ANSI standard. (Forney, Tr. 7918-21; Staff Finding H-352).

RH-15. (Reply to Intervenor's QA/QC Finding 131).

It is not clear which "allegation" this finding addresses.

Intervenor is incorrect to suggest that the inspector who investigated

the allegation concerning the QA manager was not present at the hearing. (Forney, Tr. 7918-21). Assuming Intervenors are referring to an allegation inspected by Mr. Love, the Board finds that Intervenors should have attempted to develop information concerning the inspection from the Region III panel. Absent such an attempt or a showing regarding the probative value of any evidence elicited, the Board does not believe that Intervenors were prejudiced by Mr. Love's absence nor does the Board consider the Staff to be in violation of any Board order.

RH-16. (Reply to Intervenors QA/QC Finding 132).

Intervenors have mischaracterized Region III's testimony about an allegation regarding HEC0 discrepancy reports. Staff testified that improper voiding or destruction of discrepancy reports, as alleged, could not be substantiated and because use of a looseleaf discrepancy log did not constitute a violation of NRC requirements, no noncompliance was issued. (Tr. 7894-96).

RH-17. (Reply to Intervenors QA/QC Finding 133).

Contrary to Intervenors' assertion, the Board does not consider improper Region III's failure to issue a noncompliance after inspecting an allegation concerning a weld traveler. The Panel explained that a discrepancy between the date and name on the weld traveler cards could have been the result of the welds being reinspected after the original cards were lost. The new travelers were not improper, but in accordance with required contractor procedures. (Tr. 7902-04).

RH-18. (Reply to Intervenors QA/QC Finding 138).

Contrary to Intervenors' assertion, Region III did not "ignore" an allegation concerning Byron, but properly documented and evaluated the allegation to determine if investigative actions were warranted.

(Tr. 7910-13). The Board observed that the allegation that Sargent and Lundy was a "poor excuse for an engineering firm" was more rhetorical than substantive. (Smith, Tr. 7911).

RH-19. (Reply to Intervenor's QA/QC Finding 139).

Intervenor's assert that documentation in certification files is "meaningless." The Board finds there is no evidence in the record to support this assertion.

RH-20. (Reply to Intervenor's QA/QC Finding 140).

Contrary to Intervenor's assertion, some of the allegations received in January 1983 have been inspected. Allegations made by Mr. Hughes in January 1983, with the exception of those which have been referred to the Office of Investigations, have been documented in an NRC inspection report. (Hayes, Tr. 7935).

RH-21. (Reply to Intervenor's QA/QC Finding 141).

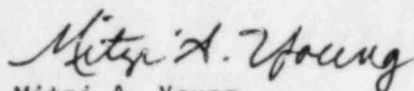
Contrary to Intervenor's assertion, there is no evidence that Region III's inspection of the Hughes allegations has been inadequate. Region III witnesses testified that due to a division of responsibilities between Region III and the Office of Investigations, it did not become aware that Mr. Hughes claimed he had the answers before him when he was retested until the May deposition. (Forney, Tr. 7936-37). In addition, Region III witnesses never saw a copy of the alleged test paper until it was produced during discovery. (Forney, Tr. 7972-74).

III. CONCLUSION

The reply findings contained herein supplement and further support the Staff September 30, 1983 proposed supplemental findings of fact and conclusions of law on Quality Assurance/Quality Control. The Joint

Intervenors' proposed partial findings of fact and conclusions of law should be rejected by this Board to the extent discussed in Staff's principal and reply findings.

Respectfully submitted,

A handwritten signature in cursive script, reading "Mitzi A. Young".

Mitzi A. Young
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 17th day of October, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF REPLY TO JOINT INTERVENORS' PARTIAL PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ON QUALITY ASSURANCE/QUALITY CONTROL" 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, this 17th day of October, 1983:

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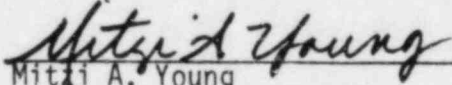
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