

June 27, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter Of:)	
)	
COMMONWEALTH EDISON COMPANY)	
)	Docket Nos. 50-456
(Braidwood Nuclear Power)	50-457
Station, Units 1 and 2))	

COMMONWEALTH EDISON COMPANY'S
STATUS REPORT AND MOTION TO
ESTABLISH A HEARING SCHEDULE

By order dated June 8, 1984, the Atomic Safety and Licensing Board ("Licensing Board") requested all parties to submit information concerning the status of contentions and to submit recommendations regarding a proposed schedule. Commonwealth Edison Company ("Applicant") hereby provides the following updated information concerning the status of contentions and moves the Licensing Board to establish a schedule for the conduct of hearings.

Status Of Contentions

At a special prehearing conference on August 23, 1979, the Licensing Board admitted two contentions proposed by Intervenor Bridget Little Rorem, et al. and seven contentions proposed by Intervenor Bob Neiner Farms, Inc., et

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al. The Licensing Board, at that time, deferred ruling on two other Neiner Farms contentions, Contention 4 (transportation of hazardous material near the site) and Contention 8 (necessity for including the transient population from a site recreational center for evaluation under 10 C.F.R. Part 100). The Board has not yet ruled on the admissibility of either of these two contentions.

Applicant urges the Board to rule at this time on the admissibility of Contention 4. The issue of the admissibility of Contention 4 has been briefed and argued by the parties and is ripe for decision.^{*/}

Contention 8, as written, should be withdrawn or dismissed and the concern raised therein should be consolidated as a part of admitted Neiner Farm Contention 3 on emergency planning issues. At the time Contention 8 was proposed, 10 C.F.R. Part 100 controlled the emergency planning requirements for population centers outside the low population zone. 10 C.F.R. §100.11(a)(3). Contention 8 attempts to place into issue a recreational area located approximately 8 miles from the plant. Subsequently, in the aftermath of the TMI-2 incident, the NRC developed the

^{*/} See Answer of Commonwealth Edison Company to the Contentions of Bob Neiner Farms, dated August 22, 1979; Special Prehearing Conference at Tr. 32-37 (August 23, 1979); Letter from Myron Karman to ASLB, dated September 12, 1979; Applicant's Supplemental Brief on Contention 4, dated September 13, 1979.

emergency planning requirements of 10 C.F.R. §50.47. These requirements, inter alia, define generally a 10 mile plume exposure pathway emergency planning zone that necessarily encompasses the recreational center at issue in Contention 8. Therefore, the original concern raised in Contention 8 that the recreational facility be subject to emergency planning procedures is addressed by the more recent requirements of 10 C.F.R. §50.47. The question of whether or not adequate protective action is being planned for the transient population at the recreational center under 10 C.F.R. §50.47 is a proper basis for a contention. Consequently, this issue should be consolidated with the existing Neiner Farm emergency planning contention 3.

Applicant, Staff, and Intervenors met in the last few months for the purpose of considering revisions or amendments to contentions and the question of schedule. Counsel for Intervenor Rorem submitted revised contentions to Applicant, but no agreement was reached with regard to the proposed revisions on schedule. Intervenor Neiner Farms did not participate in these meetings and discussions.

Motion Requesting The Establishment
Of A Hearing Schedule

Almost five years have passed since the special prehearing conference in this proceeding was held. Both the

Safety Evaluation Report and the Draft Environmental Statement were docketed in December 1983. Likewise, the Final Environmental Statement is scheduled to be issued in June 1984. These developments, together with the number and complexity of the issues to be litigated in this proceeding, indicate the advisability of proceeding expeditiously with issue resolution and hearing preparation.

The first step in this process should be to define the contentions which are to be litigated and to establish a schedule for hearing and resolution of these contentions. To these ends, Applicant proposes the following schedule:

Intervenors would have 14 days after issuance of the Board's rulings on this Motion and on the admissibility of Contentions 4 and 8 in which to propose, if they so desire, revisions to their contentions.

Applicant would have 10 days and Staff would have 15 days to file answers to any proposed revisions to contentions.

Discovery on all issues would close 45 days after the Board's ruling on the proposed revisions to contentions. For environmental issues, discovery would remain open at least until 15 days after the receipt of the FES. Responses to discovery requests would be due 15 days after the discovery is initiated.

Motions for summary disposition would be filed within 25 days after the close of discovery.

Replies to motions for summary disposition would be due 20 days after the filing of such motions.

Hearings would commence 45 days after the Board's ruling on motions for summary disposition with testimony being prefiled 14 days prior to hearing.

Applicant believes that a schedule such as the one proposed above is both a reasonable and a necessary way to proceed. This proceeding was commenced five years ago and has been essentially dormant for the past two years. The time has come to actively engage in the prehearing and hearing processes. Efforts by the parties to informally agree on the contentions have not resolved the issues to be set for hearing, and it is now time for the Board to act to define the issues to be heard and to get the case underway. Therefore, Applicant respectfully requests that the Board rule on the admissibility of Neiner Farms Contentions 4 and 8 and adopt the schedule proposed by Applicant.

Respectfully submitted,

Joseph Gallo /vc
Joseph Gallo

Rebecca J. Lauer/vc
Rebecca J. Lauer

Attorneys For
COMMONWEALTH EDISON COMPANY

ISHAM, LINCOLN & BEALE
1120 Connecticut Avenue, N.W.
Suite 840
Washington, DC 20036
(202) 833-9730

Three First National Plaza
Suite 5200
Chicago, Illinois 60602
(312) 558-7500

DATED: June 27, 1984


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CERTIFICATE OF SERVICE

I, Bertha Castro, certify that copies of Commonwealth Edison Company's Status Report And Motion To Establish A Hearing Schedule have been served in the above-captioned matter on those persons listed on the attached Service List and served as indicated on that Service List, this 27th day of June, 1984.



Bertha Castro

ISHAM, LINCOLN & BEALE
Three First National Plaza
Suite 5200
Chicago, Illinois 60602
(312) 558-7500

DATED: June 27, 1984

SERVICE LIST

*Marshall E. Miller, Esq.
Chairman
Administrative Law Judge
Atomic Safety and Licensing
Board
United States Nuclear Regulatory
Commission
Washington, DC 20555

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

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

*Myron Karman, Esq.
Office of the Executive Legal
Director
United States Nuclear Regulatory
Commission
Washington, DC 20555

***Atomic Safety and Licensing
Board Panel
United States Nuclear Regulatory
Commission
Washington, DC 20555

***Atomic Safety and Licensing
Appeal Board Panel
United States Nuclear Regulatory
Commission
Washington, DC 20555

***Mr. Scott W. Stucky
Chief, Docketing and Services
United States Nuclear Regulatory
Commission
Office of the Secretary
Washington, DC 20555

***C. Allen Bock, Esq.
P.O. Box 342
Urbana, IL 61801

*Thomas J. Gordon, Esq.
Waalder, Evans & Gordon
2503 South Neil
Champaign, IL 61820

***Ms. Bridget Little Rorem
117 North Linden Street
Essex, IL 60935

**Jane M. Whicher, Esq.
BPI
109 North Dearborn Street
Suite 1300
Chicago, IL 60602

***Ms. Lorraine Creek
Route 1
Box 182
Manteno, IL 60950

***Erie Jones, Director
Illinois Emergency Services
and Disaster Agency
110 East Adams
Springfield, IL 62705

* Sent by Federal Express on June 27, 1984 for delivery on June 28, 1984.

** To be hand delivered on June 27, 1984.

*** Sent by first class mail on June 27, 1984.