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July 30, 1985

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the Matter of)
COMMONWEALTH EDISON COMPANY)
(Braidwood Nuclear Power Station,)
Units 1 and 2)

Docket Nos. 50-4560L
50-457

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OFFICE OF SECRETARY
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NRC STAFF OBJECTIONS TO INTERROGATORIES
AND MOTION FOR A PROTECTIVE ORDER

I. INTRODUCTION

On July 2, 1985, Bridget Little Rorem, et al. ("Intervenors") filed their "Rorem, et al., Quality Assurance Interrogatories and Requests to Produce, First Set) ("Intervenors' First Set of Interrogatories and Requests to Produce"), which requests that the NRC Staff ("Staff") and Applicant respond to interrogatories and requests to produce concerning Intervenor's quality assurance contention. Also filed with Intervenor's First Set of Interrogatories and Requests to Produce was "Intervenors' Motion to Require NRC Staff Answers to Interrogatories" (Intervenors' Motion"). Intervenor's Motion asks the Licensing Board to issue an order directing the Staff to respond to Intervenor's First Set of Interrogatories and Requests to Produce if the Staff should refuse to respond voluntarily to that discovery request. Intervenor's Motion states that the grounds for the order are that answers "are necessary to a proper decision in this proceeding and that answers. . . in part, are not reasonably obtainable from any other source. Intervenor's Motion, p. 1.

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However, no argument supporting these claims are presented in Intervenor's Motion, nor are there any affidavits attached to Intervenor's Motion which provide any factual basis for the claims regarding relevance and obtainability. The Staff hereby responds to Intervenor's First Set of Interrogatories and Requests to Produce, and Intervenor's Motion.

II. RESPONSE

Discovery against the Staff is not on the same footing as discovery against other parties. Pennsylvania Power and Light Co., et al. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC 317, 323 (1980). Interrogatories to the Staff are governed by 10 C.F.R. § 2.720(h)(2)(ii), which states in pertinent part:

... [a] party may file with the presiding officer written interrogatories to be answered by NRC personnel with knowledge of the facts designated by the Executive Director for Operations. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories.

Thus, the Commission's regulations do not require the Staff to respond to interrogatories unless the Licensing Board finds that the answers are both "necessary to a proper decision in the proceeding," and are "not reasonably obtainable from any other source." Intervenor has requested such a finding from the Licensing Board in this proceeding. Intervenor's Motion, p. 1. However, Intervenor's Motion fails to explain why the Staff answers to its interrogatories are "necessary to a proper decision in this proceeding." Nor does Intervenor explain why the requested information is "not reasonably obtainable from any other

source". Nevertheless, in order to expedite this proceeding and avoid time-consuming discovery disputes, the Staff will voluntarily provide, without the issuance of a Board order and without waiving any objection, responses to those interrogatories which it believes are necessary to a proper decision, and where the information sought is not reasonably obtainable from another source. As set out in Section III below, the Staff objects to certain interrogatories. Further, the Staff seeks a protective order in Section IV below to protect the Staff from further burdensome requests on the interrogatories objected to.

III. OBJECTIONS

The Staff objects to the interrogatories set forth below primarily on the ground that the information sought pertains to Applicants organizations and activities. Therefore, the information requested should be readily known to Applicant. These interrogatories were directed to both the Staff and the Applicants, but it is the Applicant who would be the appropriate source for the information requested in most of the interrogatories set forth below. In sum, the information sought by most of the following interrogatories is reasonably available from sources other than the Staff, namely the Applicant or publicly available NRC inspection reports, and the Staff objects to them on that basis.

INTERROGATORY 9

Please identify each deficiency in design and construction as defined in 10 CFR Section 50.55(e) and for each indicate: the classification of its significance (i.e., classified under which subsections, 50.55(e)(i)(i-iv); the 10 CFR Part 50 Appendix A, General Design Criteria, to which each relates and the respects in which it

reflects noncompliance; the report number, and date, if any; the names, titles, addresses, and telephone numbers of each person responsible for the deficiency, its discovery, its reporting, and its corrective action; a detailed description of the deficiency and its safety implications; a detailed description of its corrective action.

ANSWER

The Staff objects to this interrogatory since it requests information which is either publicly known (as reported in NRC inspection reports for Braidwood), or is directly known by Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 10

For each activity under license by NRC conducted by Commonwealth Edison, its contractors and subcontractors involving any nuclear facility or operation, including but not limited to Braidwood, please identify each deficiency, as defined in 10 CFR Section 50.55(e), which represents a significant breakdown in any portion of the Braidwood Quality Assurance Program conducted in accordance with the requirements of Appendix B to 10 CFR Part 50; identify the Appendix B criteria to which it relates; describe in detail the respects in which the deficiency reflects a noncompliance with the requirements of Appendix B criteria; the 10 CFR Part 50 Appendix A, General Design Criteria, to which each relates, if any, and the respects in which it reflects noncompliance; the report number and date, if any; the names, titles, addresses and telephone numbers of each person responsible for the deficiency, its discovery, its reporting, and its corrective action; a detailed description of the deficiency and its safety implications; and a detailed description of its corrective action.

ANSWER

The Staff objects to answering this interrogatory, since it requests information beyond the scope of the issues raised in Intervenors' quality assurance contention, and therefore is not necessary to a proper decision in this proceeding. The interrogatory requests information on Applicant's activities for "any nuclear facility or operation, including but not limited to Braidwood." Information about Applicant's activities

on nuclear plants other than Braidwood simply is not relevant to this proceeding, which focuses solely on Braidwood. Accordingly, the Staff need not provide an answer to this interrogatory.

As has been noted in Boston Edison Company, et al. (Pilgrim Nuclear Generating Station, Unit 2) LBP-75-30, 1 NRC 579, 584 (1975).

In general, it seems to be the weight of the holdings that, in the sound discretion of the court, a party may be protected against interrogatories where the answers would require an excessive or oppressive amount of research or compilation of data and at a great expense, although mere general objections that the interrogatories are onerous and burdensome are not sufficient. While a party must furnish in his answer to interrogatories whatever information is available to it, ordinarily it will not be required "to make research and compilation of data not readily known to him." (Footnote omitted). Further, the Staff objects to answering this interrogatory on the ground that it is overly broad and burdensome. Interrogatory 10 asks for identification of each deficiency, as defined in 10 CFR § 50.55(e) for each activity under license by NRC conducted by Commonwealth Edison, its contractors and subcontractors involving any nuclear facility or operation, including but not limited to Braidwood. Inasmuch as no attempt is made to limit this interrogatory to the admitted contention, much less the Braidwood facility, the subject of this proceeding, there is no discernible limit on the scope of the request, making compliance with it extremely burdensome.

INTERROGATORY 11

Please identify all audits conducted pursuant to 10 CFR Part.50 Appendix B Criterion XVIII or otherwise, including but not limited to the 1980 audit of Phillips-Getschow referred to in the June 29, 1984 letter from George Marcus of Commonwealth Edison to Mari Kaye Roth of Peterson & Co., and any audits by or under the guidance of the Institute for Nuclear Power Operation (INPO). For each reported observation, discrepancy, deficiency or weakness, indicate: the nature of the deficiency; the Appendix B criteria, if any, to which it relates and the respects in which noncompliance is reflected; the date and other identifying information of the audit documentation; the names, titles, addresses and telephone numbers of each person responsible for the deficiency, the performance of the audit, the management review of the results and its corrective action; a detailed description of the deficiency and its safety implications; a detailed description of its corrective action.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicants, who therefore are the appropriate source for the requested information.

INTERROGATORY 13

Please describe in detail the selection, training, testing and evaluation program for Quality Assurance personnel and Quality Control Inspectors for Edison and for each contractor responsible for any safety-related construction at Braidwood from the commencement of construction until the present.

ANSWER

The Staff objects to answering this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 14

Please describe the job qualifications required of persons who are responsible for training, testing, certifying and supervising Quality Control Inspectors.

ANSWER

The Staff objects to answering this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for this information.

INTERROGATORY 16

What prior nuclear experience is required of persons responsible for supervising Quality Control Inspectors for (a) Edison, and (b) for each contractor at Braidwood?

ANSWER

The Staff objects to answering this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 17

Please describe in detail the circumstances and procedures, if any, under which Quality Control inspection criteria may be waived.

ANSWER

The Staff objects to answering this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 19

Please provide the names, titles, addresses, telephone numbers and date of employment for all persons who have been employed in or responsible for the Quality Assurance and Quality Control Programs of Edison and of each contractor, including but not limited to all quality control inspectors and supervisors. For each such person no longer employed in Quality Assurance/Quality Control, indicate the reason for termination. For each such person involuntarily terminated, describe in detail the circumstances of termination.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 20

Please identify in detail all documents, including correspondence, reports, minutes of meetings or notes of oral conversations, reflecting disagreements, disputes or differences of opinion between Quality Control Inspectors and their supervisors or Commonwealth Edison or its contractors' management. Include the subject, date, names of persons involved and resolution for each instance so reflected.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 22

Please identify any complaints or suggestions by workers known to Commonwealth Edison or its contractors regarding substandard workmanship, quality assurance deficiencies, deficiencies in plant design and construction, pressure to perform or approve faulty workmanship, or harassment and intimidation. Include the date, name, title, address and telephone number of the source, subject and resolution or other action taken for each.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 30

Did Phillips-Getschow ever fail to implement effective corrective action to verify past installations of large bore piping components? If so, please describe in detail the circumstances and explain why this problem occurred and further corrective action taken. Please identify any documents which reflect these answers.

ANSWER

The Staff objects to this interrogatory on the ground that it requests information which is beyond the scope of the contention, and thus a response to the interrogatory is not necessary to a proper decision in this proceeding. The contention as stated does not mention Phillips-Getschow large bore piping activities in regard to Criterion XVI "corrective actions." Therefore, this subject is beyond the scope of the admitted Quality Assurance contention. As such, the information requested is not necessary to a proper decision.

INTERROGATORY 32

Has Sargent and Lundy ever approved deficient contractor programs at Braidwood? If so, please describe in detail each instance and any and all corrective action taken with respect to such instance. Identify any and all corrective action taken with respect to such instance. Identify any and all documents which reflect such instances and such corrective action. Has the NRC ever identified such instances? If so, please describe in detail and identify any documents which reflect such instances and any corrective action taken.

ANSWER

The Staff objects to answering the first three questions in this interrogatory, since the requested information is directly known to Applicants, who therefore is the appropriate source for this information.

INTERROGATORY 33

Has Commonwealth Edison management ever approved deficient contractor programs at Braidwood? If so, please describe in detail each

instance and any and all corrective action taken with respect to such instance. Identify any and all documents which reflect such instances and such corrective action. Has the NRC ever identified such instances? If so, please describe in detail and identify any documents which reflect such instances and any corrective action taken.

ANSWER

The Staff objects to answering the first three questions in this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for this information.

INTERROGATORY 34

Has Commonwealth Edison Quality Assurance ever approved deficient contractor programs at Braidwood? If so, please describe in detail each instance and any and all corrective action taken with respect to such instance. Identify any and all documents which reflect such instances and such corrective action. Has the NRC ever identified such instances? If so, please describe in detail and identify any documents which reflect such instances and all corrective action taken.

ANSWER

The Staff objects to answering the first three questions in this interrogatory since the requested information is directly known to Applicant, who therefore is the appropriate source for this information.

INTERROGATORY 35

Has Commonwealth Edison Quality Assurance ever failed to identify deficient contractor programs at Braidwood where such programs have been subject to Commonwealth Edison Quality Assurance auditing? If so, please describe each instance in detail and any and all corrective action taken with respect to such instance. Identify any and all documents which reflect such instances and such corrective action. Has the NRC ever identified such instances? If so, please describe in detail and identify any documents which reflect such instances and any corrective action taken.

ANSWER

The Staff objects to answering the first three questions in this interrogatory, since the requested information is directly known to Applicant, who therefore is the appropriate source for this information.

INTERROGATORY 40

In what manner, if any, did Commonwealth Edison apply lessons learned with regard to HVAC installation from its LaSalle nuclear plant to Braidwood? Please describe in detail. Has the NRC ever identified failure by Commonwealth Edison to apply such lessons learned? If so, describe such identification. Please identify any documents which reflect these answers.

ANSWER

The Staff objects to the first portion of Interrogatory 40 on the ground that the requested information is directly known to Applicant, who therefore is the appropriate source for this information.

INTERROGATORY 56

What involvement, if any, has senior Commonwealth Edison management had in organizing and implementing the quality assurance program at Braidwood? Please describe in detail any such involvement including specific names, dates, circumstances and actions taken. Identify any documents reflecting this answer.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicants, who therefore are the appropriate source for the requested information.

INTERROGATORY 57

In what respects are NRC requirements understood to be either minimum or maximum requirements with regard to the design and construction of Braidwood? Please explain in detail and identify any documents which reflect this answer.

ANSWER

The Staff objects to answering this interrogatory on the grounds that it is not necessary to a proper decision in this proceeding, it is irrelevant, and it is not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory appears to be seeking a legal opinion on the scope of NRC requirements without any showing as to the relevance of such legal opinion to the admitted contention.

INTERROGATORY 58

For each quality assurance violation or unresolved or open item referred to by Intervenor in their amended quality assurance contention (served upon all parties May 24, 1985), please describe in detail the circumstances involved, including the name and address of each person involved, the manner in which such deficiency was identified, the manner in which the deficiency was investigated and evaluated for significance, root cause and generic implications, the manner in which the deficiency was remedied and corrected, including any corrective action taken with regard to the existence of other related deficiencies. Set forth any facts upon which you rely to show that the deficiency and its root cause have been effectively corrected. Please identify any documents which reflect these answers.

ANSWER

The Staff objects to answering this interrogatory for two reasons. First, information on each of the violations, unresolved or open items referred to in Intervenor's QA Contention, is set forth in the NRC Inspection Reports listed in Intervenor's QA contention. These inspection reports are available in the NRC's PDR. Second, much of the detailed information on the violations on open and unresolved items is directly known to Applicant, who therefore is the appropriate source for that part of the requested information which is not reported in the NRC Inspection Reports.

INTERROGATORY 59

With respect to the deficiencies referred to in Interrogatory 58 above, identify in detail all documentation and hardware changes or rework undertaken in the course of remedial or corrective actions including numbers of items changed or reworked. Please identify any documents reflecting these answers.

ANSWER

The Staff objects to answering this interrogatory, since information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 61

Describe in detail the organization established to execute the quality assurance program at Braidwood, including any material changes made in such organization from the inception of construction until the present. Please identify the numbers of persons performing each QA function for Commonwealth Edison and each contractor over the life of the project. For each person, include a description of the duties assigned, the pay grade and benefits for each position as compared to non-QA positions, the opportunities for advancement both within and without the QA program for QA personnel, the length in months of the person's prior nuclear QA or QC experience, and comparative data on the relative turnover rate for QA personnel as compared to non-QA personnel. Explain in detail the pay scale for Edison Braidwood QA personnel, including all QA managers, and all other pay scales within the Company. Please identify any documents which reflect these answers.

ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicant, who therefore is the appropriate source for the requested information.

INTERROGATORY 62

For all intra-Company transfers into or out of Edison QA at Braidwood, please identify, as applicable, the previous department, position and pay of the employee immediately prior to his or her transfer to Braidwood QA; his or her position, pay and length of tenure in

Braidwood QA; and the department, position and pay of the employee immediately following transfer out of Braidwood QA.

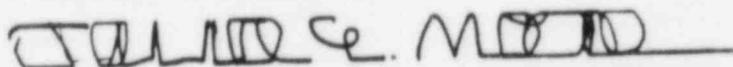
ANSWER

The Staff objects to answering this interrogatory, since this information is directly known to Applicant, who therefore is the appropriate source for the requested information.

IV. MOTION FOR A PROTECTIVE ORDER

On the basis of the above stated objections and for good cause shown, the Staff respectfully requests the Licensing Board to issue a protective order pursuant to 10 C.F.R. § 2.740(c) that further discovery on Interrogatories 9-11, 13, 14, 16, 17, 19, 20, 22, 32-35 (in part), 52, 53, 55-59, 61, and 62 of "Rorem, et al., Quality Assurance Interrogatories and Requests To Produce, First Set," to which the Staff has objected, not be had.

Respectfully submitted,



Janice E. Moore
Counsel for NRC Staff

Dated in Bethesda, Maryland
this 30th day of July, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the Matter of
COMMONWEALTH EDISON COMPANY
(Braidwood Nuclear Power Station,
Units 1 and 2)

Docket Nos. 50-456
50-457

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF OBJECTIONS TO INTERROGATORIES AND MOTION FOR A PROTECTIVE ORDER" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, by deposit in the Nuclear Regulatory Commission's internal mail system (*), or by express mail (**), this 30th day of July, 1985:

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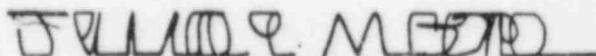
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