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RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

In the Matter of: )  
COMMONWEALTH EDISON COMPANY ) Docket Nos. 50-456 6L  
(Braidwood Nuclear Station, ) 50-457  
Units 1 and 2) )

INTERVENORS ROREM ET. AL. MOTION  
TO EXCLUDE AND SEQUESTER FACT WITNESSES

Intervenors Bridget Little Rorem, et. al., by their undersigned counsel, submit herewith their motion to exclude and sequester fact witnesses so that they cannot hear the testimony of other witnesses.

Introduction

The hearing on Intervenors QC inspector harassment conten- tion will not largely be of the type where there is a technical discussion of engineering analysis by impartial experts. Rather, at least 36 of the proposed witnesses are fact witnesses.

Issues will often involve who said what to whom, and when, and the clash of conflicting recollections and renditions. The Board's evaluation of the testimony may turn very largely on issues of credibility of witnesses. In such a case, the pursuit of truth demands unrehearsed candor, not collusion among witnesses. While, we make no suggestion that anyone would tell

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anything other than the truth, "[t]he efficacy of excluding or sequester witnesses has long been recognized as a means of discouraging and exposing fabrication, inaccuracy, and collusion" 6 Wigmore §§1837-1838.

#### The Law

Intervenors Rorem et. al. base their Motion on the Federal Rules of Evidence, recognizing that the Commission's hearing procedures have been analogized to the Federal Rules of Evidence. Pursuant to Rule 615 of the Federal Rules of Evidence, the court may order witnesses excluded from hearing testimony. F.R.E. §615 states:

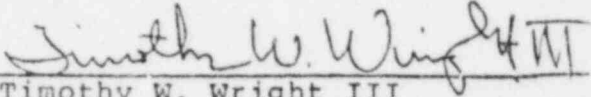
At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

See, Dunlap v. Reading Co. (Ed. Pa. 1962) 30 FRD 129; See, also, Taylor v. United States (CA 9th, 1967) 388 F.2d 786, 788, (where factual witnesses were excluded from hearing the testimony." The exclusion of witnesses from the courtroom during trial is a time-honored practice designed to prevent the shaping of testimony by hearing what other witnesses say.")

Conclusion

For the foregoing reasons, Intervenors respectfully request that all factual witnesses be excluded and sequestered from the hearing of testimony.

Respectfully submitted,

  
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May 1, 1986

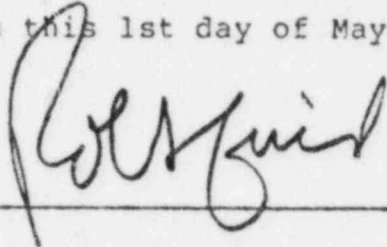
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CERTIFICATE OF SERVICE

I hereby certify that I have served copies of Intervenor's  
Rorem et. al. Motion to Exclude and Sequester Fact Witnesses  
on the Licensing Board and NRC Staff Counsel Mr. Treby via  
Federal Express overnight delivery on this 1st day of May, 1986.

  
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