

March 18, 1999

Mr. Oliver D. Kingsley
President, Nuclear Generation Group
Commonwealth Edison Company
ATTN: Regulatory Services
Executive Towers West III
1400 Opus Place, Suite 500
Downers Grove, IL 60515

SUBJECT: BYRON CHILLING EFFECT CONCERNS

Dear Mr. Kingsley:

In letters dated August 5, and 26, 1998, the NRC informed you of multiple examples of actions alleged to have caused a chilling effect (i.e., an environment which is not conducive to raising nuclear safety concerns) on Byron Station personnel. These allegations were of particular concern to us because the majority of the examples concerned the Operations Department and because one of the concerns related to your station contact forms on which station personnel recorded any contact with the NRC. This contact form could hinder the willingness of personnel to raise concerns to the NRC. The letters requested that you review the concerns and provide us with the results of your evaluation.

The results of your evaluation were provided in a letter from Byron Site Vice President K. L. Graesser to H. Brent Clayton of our staff, dated November 20, 1998. Your evaluation report responded to the specific examples described in our letters. Your report indicated that certain examples of chilling effect were substantiated, but that the issues were of only personal perception and that there was no pattern that management intentionally attempted to discourage employees from raising safety concerns. Although your staff's overall conclusion stated that the working environment at Byron was conducive to raising nuclear safety issues, the evaluation also indicated that areas of conflict exists among the workforce and management, including the free flow of safety information.

Subsequently, our review of your evaluation identified a number of questions regarding your findings and corrective actions. A chilling effect is by its nature a perception that raising safety concerns may result in retribution. Therefore, it is unclear why your response concluded that the originators of PIFs being either rebuked or ignored was "only a personal perception." Also, it is unclear why your response distinguished between intentional and unintentional management actions, as that may be irrelevant in individuals' perceptions of those events. Finally, while your response indicated that relatively few specifics were substantiated, it should be recognized that a small number of examples can have a widespread effect.

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Per our telephone conference with Mr. William Levis on March 17, 1999, we request a further evaluation of the chilling effect at Byron be conducted. During this forthcoming evaluation, we request that you respond to the attached more specific questions concerning the alleged chilling effect at Byron. Upon completion, we would request that your staff present the results of the evaluations and the responses to the attached questions in a public meeting with us. Please contact Mr. David Hills of my staff at (630) 829-9733 to schedule this meeting.

Sincerely,

Original /s/ John A. Grobe

John A. Grobe, Director
Division of Reactor Safety

Docket Nos.: 50-454; 50-455
License Nos.: NPF-37; NPF-66

Enclosure: Questions Regarding Alleged Chilling Effect

cc w/encl: D. Helwig, Senior Vice President
H. Stanley, PWR Vice President
C. Crane, BWR Vice President
R. Krich, Vice President, Regulatory Services
DCD - Licensing
K. Graesser, Site Vice President
W. Levis, Station Manager
B. Adams, Regulatory Assurance Manager
M. Aguilar, Assistant Attorney General
State Liaison Officer
State Liaison Officer, Wisconsin
Chairman, Illinois Commerce Commission

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Questions Regarding Alleged Chilling Effect

1. Explain the basis for the sample size and conclusion that the scope of the problem has been identified. Please include a description of your investigation. For example, the discussion for most examples indicates that the data was gathered through interviews; however, the discussion of some examples could imply the use of some type of survey. Also, identify the number of individuals questioned or surveyed by department.
2. The "Depth of Scope of Evaluation" section stated that the evaluation inquired into individuals' knowledge of the experience of others but the resulting information was not discussed in the response because it tended to be "somewhat speculative, not consistently reliable, and partially redundant." Did this information include any common themes or insights related to the issue of safety conscious work environment?
3. The evaluation of Example No. 1 states that about 20 percent of the 90 personnel questioned stated they would hesitate to raise non-safety issues, including those critical of management decisions. Twelve of the individuals said they were apprehensive of management's reaction and half of them felt their career would be negatively impacted. One instance was identified when an individual did not write a Problem Identification Form (PIF) for fear of retaliation. Yet the conclusion is that Example No.1 could not be validated. Explain the basis for this conclusion.
4. The discussion of example No. 2 states that nearly 85% responded that draft PIFs are not required to be submitted to supervisors. This would appear to indicate that more than 15% of those surveyed believe that PIFs must be submitted for supervisory review. Yet the conclusion is that Example No.2 could not be validated. Please explain the basis for this conclusion.
5. Given the substantial number of individuals (20 percent of the 90 personnel questioned regarding Example No. 1) who stated they would hesitate to raise non-safety issues, is ComEd concerned that individuals may not raise what they believe to be non-safety issues which really do have a nexus to safety?
6. The response to Example No. 3 stated approximately 80 personnel were questioned and 43 responded that they would not hesitate to raise a dissenting view. What did the lack of a response from the other individuals indicate?
7. Please explain the basis for the conclusion that Example No. 3 was not validated when 10 percent of the individuals questioned disagreed that management was tolerant of dissenting views and five issues in this area were substantiated.
8. The discussion of Example No. 5 concluded that it could not be validated. Please explain the basis for this conclusion in light of the statement that seven issues were substantiated or partially substantiated. In particular, there was one instance where a management individual did dissuade an individual from writing a PIF.

9. The response to Example No. 6 indicated that six individuals "declined to or could not" provide details regarding instances when managers had confronted individuals for raising concerns to the NRC. Did the individuals performing the investigation explore the reasons why some individuals declined to provide more information (i.e., was this an indication of fear of retribution?).
10. The corrective actions discussed in the attachment are described in a general manner (e.g., "tailoring corrective actions for each, which may include," and "taking appropriate corrective actions, such as"). In addition, the response to Example No. 1 said steps are being taken to reinforce management expectations regarding individuals' responsibility to write PIFs. Please discuss in detail the corrective actions being taken and the schedule for those actions.
11. The corrective action section of the response states that actions may include removal of derogatory information from personnel files. Was disciplinary action taken against any individual(s) for raising safety concerns?
12. We note that the response paragraph titled "Work Environment" says the majority view was that the negative environment was not widespread but existed in a limited number of discrete areas. Please identify those areas and describe the corrective actions being taken to address the environment in them.