

PDR

May 14, 1997

EA 96-364

Mr. H. G. Stanley
Site Vice President
Braidwood Nuclear Power Station
Commonwealth Edison Company
R.R. #1, Box 84
Braceville, IL 60407

SUBJECT: APPARENT VIOLATION OF EMPLOYEE PROTECTION REQUIREMENTS (NRC OFFICE OF INVESTIGATIONS REPORTS NO. 3-94-045 AND 3-94-045S)

PUBLIC DOCUMENT REPORT

Dear Mr. Stanley:

This is in reference to an apparent violation of NRC requirements pertaining to 10 CFR 50.7, "Employee Protection," prohibiting discrimination against employees who engage in protected activities. The apparent violation involves discrimination by Commonwealth Edison Company (ComEd) against two contract Burns Security Services (BSS) supervisors at the Braidwood Station because they raised security concerns to NRC security inspectors during an inspection of Braidwood in June 1994.

NRC holds ComEd and its employees responsible for ensuring full compliance with NRC requirements including contractors working at its facilities. The NRC Office of Investigations (OI) conducted investigations of this matter. In reports dated August 30, 1996 and March 14, 1997, OI concluded that ComEd and BSS discriminated against two security supervisors when their employment was terminated for engaging in protected activities. A copy of the Synopsis and Details of Investigation for each of those reports are enclosed.

Region III and the NRC's Office of Enforcement have reviewed the OI findings and have determined that the actions to threaten permanent revocation of site access and their subsequent resignations in August 1994 may constitute a violation of 10 CFR 50.7. Therefore, this apparent violation is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG 1600. The NRC is not issuing a Notice of Violation at this time. ComEd will be notified by separate correspondence of the results of our deliberations on this matter.

No written response regarding the apparent violation is required at this time.

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A public, transcribed, predecisional enforcement conference with ComEd, to discuss the apparent violation has been scheduled for May 29, 1997 at 10:00 a.m. in the Region III Office, 801 Warrenville Road, Lisle, IL. You are requested to attend this predecisional enforcement conference to present any information that you feel is relevant to this case. ComEd should be prepared to discuss ComEd's involvement in the termination of site access and subsequently the employment for the two security supervisors in August 1994.

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The NRC's Enforcement Policy, as amended by, Policy and Procedure for Enforcement Actions: Policy Statement, 62 FR 13906 (March 24, 1997), permits the employee or former employee who was the subject of the alleged discrimination the opportunity to participate in the conference. Therefore the former security supervisors will be given an opportunity to participate in the conference. They may participate by observing the conference and if desired, following ComEd's presentation, make a presentation to address their view on why they believe discrimination occurred and their views on ComEd's presentation. We requested their presentations to be no more than one hour each. In no case will the NRC staff permit you or the invited individuals to cross-examine or question each other. ComEd will then be afforded an opportunity to respond, and the NRC staff may ask some clarifying questions.

The decision to hold a predecisional enforcement conference does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is being held to obtain information to enable the NRC to make an enforcement decision. Consequently, you should be prepared to discuss your understanding of the facts, root causes, and significance of the issues and the need for corrective action.

In addition to this enforcement conference, the NRC will conduct separate, predecisional, and transcribed enforcement conferences with two employees of ComEd at 1:00 p.m. and 3:00 p.m. on May 28, 1997. These individual conferences will be closed to public observation.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be placed in the NRC Public Document Room (PDR). However, the NRC will delay placing a copy of the Enclosure 1 in the NRC Public Document Room until an enforcement decision has been made.

Sincerely,

Original signed by A. Bill Beach
 A. Bill Beach
 Regional Administrator

Docket Nos. 50-456; 50-457
 Licenses No. NPF-72; NPR-77

Enclosures: NRC OI Report No. 3-94-045 and 3-94-045S

See Attached Distribution

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A. Bill Beach
Regional Administrator

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A. Bill Beach
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*as modified,
via Lieberman
e-mail/BC*

cc w/o encls: T. J. Maiman, Senior Vice President,
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D. A. Sager, Vice President,
Generation Support
H. W. Keiser, Chief Nuclear
Operating Officer
T. Tulon, Station Manager
T. Simpken, Regulatory Assurance
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