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February 17, 2000

VIA FACSIMILE

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

Re: Notice of Violation - IA 99-052

Dear Sirs:

Enclosed is the Affidavit of Timothy J. O'Connor, which is referenced in my Reply to the Notice of Violation filed today. The Affidavit includes information related to the performance of named individuals. Accordingly, I request that it be withheld from public disclosure pursuant to 10 C.F.R. § 2.790. This information is of a type that we normally maintain confidential, and its disclosure would constitute an unwarranted invasion of personal privacy. In accordance with the NRC's request in the Notice of Violation, I will forward bracketed and redacted versions of the Affidavit under separate cover. I will also forward the hard-copy original of the Affidavit.

If you have any questions, please contact me at (847) 746-2084 ext. 3714.

Very truly yours,

[] ~~7~~ 7C

Enclosure

cc: J. E. Dyer, Regional Administrator, Region III
Bill Borchardt, Director, Office of Enforcement

** REDACTED VERSION **

Privileged and Confidential

**United States
Nuclear Regulatory Commission**

**Re: Commonwealth Edison Company (ComEd)
Zion Nuclear Power Station
NRC Docket Nos. 50-295 and 50-304**

**State of New Jersey)
)
County of Salem) ss:**

Affidavit of Timothy J. O'Connor

I, Timothy J. O'Connor, being duly sworn, state as follows:

1. I am employed by Public Service Electric and Gas Company as Vice President - Plant Support at the Salem nuclear power station, located near Hancocks Bridge, New Jersey. I have been in this position since July 5, 1999. Prior to the change in company's, I held the position of Plant Manager at the LaSalle Nuclear Power Plant from January 1998 to June 25, 1999. Previous to that, I held the position of Operations Manager with Commonwealth Edison Company ("ComEd") at the Zion Station. I was in that position from August 1997 until January 1998. I also held the position of Restart Manager at Zion Station from March 1997 until August 1997. Prior to that time, I was Operations Manager at ComEd's Dresden Station for two years (March 1995 to March 1997).
2. I presented information to the Nuclear Regulatory Commission ("NRC") on behalf of ComEd at the July 7, 1999, predecisional enforcement conference concerning alleged discrimination by ComEd and [REDACTED] Shift Operations Supervisor ("SOS") at Zion, against [REDACTED], a Senior Reactor Operator ("SRO")

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at Zion Station, for raising safety concerns. I also previously submitted an affidavit to the NRC in connection with the same matter on July 22, 1999.

3. The purpose of this affidavit is to provide additional factual information in support of [REDACTED]. After reviewing the NRC's Notice of Violation ("NOV") issued to ComEd as well as the individual NOV issued to [REDACTED] (which concluded that [REDACTED] deliberately discriminated against [REDACTED] for raising safety concerns), I would like to provide some additional information relevant to whether [REDACTED] exhibited any deliberate intent to discriminate against [REDACTED]. The additional information I am providing relates to [REDACTED] performance rating and the delay of his start in the Shift Manager qualification program.

4. Regarding [REDACTED] performance rating, I would like to discuss a meeting of the Zion Station management team in late October 1997 to review the recommended performance ratings for Operations personnel, as well as the role of the management team in rating [REDACTED]. I believe this additional information is relevant to showing that [REDACTED] had no intent to discriminate against [REDACTED].

5. As Operations Manager at Zion Station in October 1997, all Operations Department personnel at Zion, management and bargaining unit, reported ultimately to me. I, in turn, reported to Rob Starkey, the Plant Manager, and, through Mr. Starkey to Jack Brons, the Zion Site Vice President.

6. During October 1997, I had a number of informal meetings with [REDACTED] where we discussed some of the performance ratings being assigned to Operations personnel by their immediate supervisors. I was using this as a gauge of the progress on completing these reviews as well as a check of adherence to the standards set under the ComEd Commit for Results ("CFR") program. Specifically during one of these meeting, I recall that [REDACTED] mentioned that [REDACTED] a Shift Manager

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supervising [REDACTED], had rated [REDACTED] as an Outstanding performer. I recall questioning this rating, based on my own observations of [REDACTED] in the control room. I had reservations about [REDACTED] leadership skills. Leadership skills were a critical concern at this time because of the need for Operations to take the lead on the Zion Station improvement plan. I reminded [REDACTED] that I would not accept a performance rating that was not justified by objective evidence and that he should hold each of his supervisors to the same standards. [REDACTED] indicated that he would meet with each of his Shift Managers to review the basis for ratings of the employees under their supervision.

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7. During the last week of October 1997, I convened a meeting of certain senior Operations Department managers at Zion Station to review the recommended performance evaluations for the management personnel in the Operations Department at Zion. This meeting was held off-site at a state park facility near the plant. The purpose of the meeting was to review the proposed evaluations to ensure that the ratings were justifiable, adequately supported, and reflected a consistent application of the new standards under CFR program.

8. Since the CFR performance evaluation process was new in 1997, ComEd's Nuclear Generation Group (NGG) Human Resources Department issued extensive guidelines for implementation of the CFR process. These guidance documents made clear that each performance rating had to be supported with objective evidence, focusing on results achieved and not just effort. In light of the poor performance of the Operations Department at Zion Station in 1997, measurable results were an essential element of the rating of Operations Department management personnel. This included an additional review of leadership behaviors with evidence that the

employee was clearly influencing improvement at the site by his/her interactions with other employees, managers and peers.

9. In meeting with the senior Operations Department managers, I wanted to be sure that they applied the new standards and expectations properly and consistently, particularly in the context of the extended shutdown and difficult restart effort that was underway at Zion Station. I wanted to be sure, moreover, that my managers had adequate justification for positive ratings and were not unduly critical or unfair in any of their evaluations. In other words, I wanted to be careful that there was no favoritism or bias in the ratings. Prior to the meeting, the managers had developed recommended ratings, but these were not final until completion of management review and approval.

10. The managers present at the meeting, as I recall, were my direct reports, including [REDACTED] John Brandes, Operations Work Control Center Supervisor, Mark Bittman, the Assistant Shift Operations Supervisor, Mike Mason, Operations Assistant Superintendent, and my assistant Chuck Stiles. During this meeting, we focused primarily on the performance of those personnel with a recommended rating of "A" (exceeds results) or "C" (marginal results) – that is, the top performers and low performers. Again, my main concern at this time was to ensure that the ratings of personnel in these categories were fair and adequately justified. In addition, the management team did discuss several of the individuals with proposed ratings in the "B" category (achieves results).

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11. Because of the poor performance of the Zion Operations Department in 1997, I was challenging my management team to justify all ratings that were inconsistent with the results we were then achieving. This is the objective of the CFR process by the company for all employees. During this meeting, I personally challenged the

recommended ratings for many of the personnel and pressed their supervisors to provide factual support for the ratings they recommended. In particular, I recall discussing the recommended rating for [REDACTED] had recommended that [REDACTED] receive a "B" rating (achieves results). I challenged [REDACTED]

It was through this discussion that his teamwork skills to motivate people and ownership of our corrective actions for operations improvements at the site were brought forward as key focus areas in continuing development. It also became clear these areas must be addressed before being promoted higher. I, too, believed [REDACTED] needed improvement in these key leadership behaviors.

12. In response to my questioning, [REDACTED] defended [REDACTED] expressed his belief that a "B" rating was justified in light of the contribution [REDACTED] had been making to the Station, including restart tasks. [REDACTED] explained that he did good crew briefs, maintained good oversight in the control of evolutions and that he kept focus on plant configuration. He assured procedure compliance with the administrative processes and helped the plant workers do work in the plant. [REDACTED] noted that he could not say that [REDACTED] was failing to meet all expectations under the new CFR standards. [REDACTED] said he would be grading him unfairly because the issues I was raising were shift manager leadership standards, not control room supervisor expectations. [REDACTED] therefore

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maintained that a B rating was appropriate. In my view, if [REDACTED] had intended to discriminate or retaliate against [REDACTED] he easily could have done so in response to my challenge of the recommended performance rating. Instead, [REDACTED] defended the recommended rating for [REDACTED]. Based on my observations during this meeting in late October 1997 (which occurred after the two examples of "protected activity" cited by [REDACTED]). I do not believe that [REDACTED] exhibited any personal animosity toward [REDACTED] or demonstrated any deliberate intent to discriminate against him.

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EX. 7C

EX. 7C

13. A final point regarding [REDACTED] recommended rating - this rating, prior to becoming final, was challenged by me, by the Plant Manager, by a group of peers, and by the Site Vice President. It was the final consensus of the Zion Management team, within and outside the Operations Department, that [REDACTED] documented performance under the CFR process in 1997 was at the "B" - meets expectations -- level. This was not a decision that was unfairly imposed by a disgruntle supervisor, but rather the rating deserved by [REDACTED] as an Operations supervisor at Zion in 1997, and supported by the objective evidence in his performance appraisal.

[REDACTED] performance did not merit an "A" rating, and it would have been unfair to other Operations management personnel to have given him such a rating.

14. With respect to the deferral of [REDACTED] qualification process for Shift Manager, I would also like to be sure that the NRC fully appreciates the process that we were going through at Zion in 1997 to evaluate personnel for the Shift Manager position. It appears that the NRC might be assuming that [REDACTED] was singled out when we made the decision to defer his qualification process for Shift Manager. This was not the case.

15. As a result of the poor performance of the Operations Department during the Operations assessment in the summer of 1997, selection of Shift Managers and leaders within the Operations Department was a focus area for Zion senior management and one of my personal accountabilities to the plant manager and site vice president. The Shift Manager is not only the lead manager for the control room, the Shift Manager is often the senior management representative on site during back-shifts. Therefore, Shift Managers at Zion Station at that phase of the restart had to reflect the highest in standards and leadership skills because we had viewed them as "Plant Managers" on shift.

16. Since Zion Station management was selecting Operations leadership essentially from scratch, without regard to the Shift Managers currently holding positions, the candidate pool for the Shift Manager position in October 1997 included 21 individuals. In fact, at the time, the entire pool of the existing Shift Managers or personnel potentially eligible to be Shift Managers were subject to review and/or re-evaluation.

17. Among the 18 people holding Operations supervisor positions at Zion in 1996 and 1997, according to the ComEd presentation at the July 7, 1999 predecisional enforcement conference, seven had lower ratings in 1997 than they had in 1996. Three Shift Managers even received "C" ratings, even though they were previously rated "meets expectations" or "exceeds expectations" in 1996. In fact, two of those shift managers were taken off shift to get personal attention from [REDACTED] and myself. This intervention was my responsibility and action to assist their long-term development. Six members of Operations management, including [REDACTED], moved from a rating of "excellent" in 1996 to "meets expectations" in 1997. I raised the bar across the entire operations department causing change to occur. This degree of

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change was certainly to be expected in light of the performance decline at Zion Station 1996 to 1997.

18. As a group, a higher percentage of the Shift Managers were actually given "C" ratings than any other single group within Operations (three of the Shift Managers were rated as "C" performers, the remaining four shift managers were rated "B," and none were given "A" ratings). The reason for this was that to raise standards of leadership behaviors within Operations, we needed to start with the leaders, i.e., the Shift Managers. As a result of the performance evaluations, some of the existing Shift Managers were removed from their positions for leadership development.

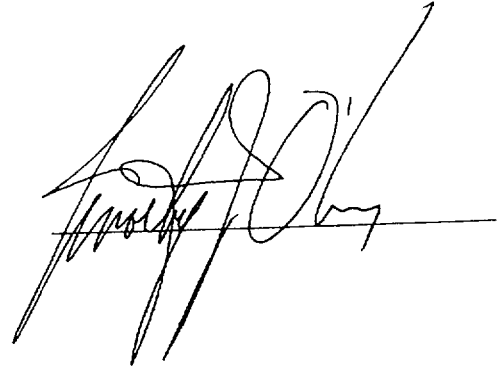
19. The decision whether to promote anyone to Shift Manager was based on a conclusion by senior station management that the person possessed the necessary leadership qualities. This was not [REDACTED] decision alone. Thus the mere fact that [REDACTED] was told to obtain a qualifications book for Shift Manager by the previous Shift Operations Supervisor was in no way an entitlement to be selected for the position. EX A 71

20. In order to maintain a talent pool of Shift Manager-eligible personnel, we had the expectation that all control room supervisors, such as [REDACTED], would be *potentially* qualified to become Shift Manager and that they should take steps through the qualifications process to become eligible. However, even for persons who had completed the qualifications process, we selected only those that had demonstrated the leadership qualities to become Shift Manager, and those decisions, in turn, had to be approved by senior Station management with the first step being from me, the operations manager.

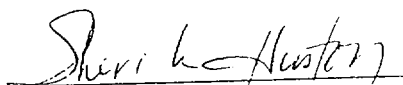
21. Finally, I want to make clear that our decision was to delay qualifications, not to declare him ineligible to be a Shift Manager and he was told that

by me personally. Based on my observations, and those of Mr. Starkey and [REDACTED] EX 1/7C
[REDACTED] needed development in certain areas, such as teamwork,
ownership of department improvement corrective actions, decision-making and
consensus-building skills. As we had done with others, my plan with [REDACTED] EX 1/7C
was to provide leadership development, through a special assignment and
the coaching necessary to develop those skills so that he would then be ready to
become a Shift Manager. This was also explained to [REDACTED] in person by me.
Unfortunately, Zion Station was permanently closed and consequently the plan did
not get implemented.

FURTHER AFFIANT SAYETH NOT.



Subscribed and sworn to
Before me this 17 day
Of February 2000.



Notary Public
My Commission Expires: 12/8/2003