

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
BOSTON EDISON COMPANY . . al.)
)
(Pilgrim Nuclear Generating)
Station, Unit 2))
)
)

Docket No. 50-471

COMMONWEALTH'S MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS BY APPLICANTS

On July 1, 1981, the Commonwealth served on the Applicants its First Set of Requests for the Production of Documents Relative to Emergency Planning. On August 4, 1981, the Applicants served their Response to said request, which Response incorporated all of their objections to the Commonwealth's First Set of Interrogatories Relative to Emergency Planning, in particular their refusal to provide information or documents relating to evacuation of any area outside their proposed plume exposure EP2* or to any accident consequence analyses performed by or for the Applicants relative to the Pilgrim site.

* The language of the Response is itself not entirely clear in this regard. However, the Commonwealth has been informed by Counsel for the Applicants that their reference in the Response to files relating to "matters concerning 10 C.F.R. App. E." means matters concerning that rule as interpreted by the Applicants -- i.e., as "fixing" the plume exposure EP2 for Pilgrim II at 10 miles.



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Without restating its arguments as outlined in its Motion to Compel Answers to its First Set of Interrogatories and its Answer to the Applicants' Motion for a Protective Order, the Commonwealth notes that the Applicants' Response is entirely inconsistent with the proper purposes and scope of discovery. While Applicants are free to argue their interpretation of 10 C.F.R. 50, Appendix E at the hearing, they are not entitled to use that interpretation to foreclose discovery. Any information or documents which the Applicants may have relating to evacuation of persons within 10 and 30 miles of the Pilgrim site or to accident consequence studies for that site are clearly relevant to the Commonwealth's claims in this proceeding and, hence, permissible objects of discovery under 10 C.F.R. §2.740(b). Furthermore, evacuation studies of areas outside the Applicants' proposed EP2 boundaries may well lead to admissible evidence, even under the Applicants' interpretation of 10 C.F.R. 50, Appendix E, since they may provide evidence of the effect on evacuation times for the population within ten miles of the traffic bottlenecks at the Sagamore and Bourne Interchanges and spontaneous or ordered evacuation off of Cape Cod.

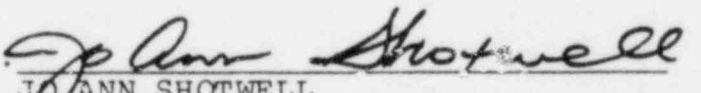
The Applicants' Response to the Commonwealth's Request for the Production of Documents is also defective on its face, for it fails to identify those documents responsive to requests 2-4

which Applicants claim to be privileged, confidential or classified or to constitute work product, as required by 10 C.F.R. §2.740(d). In the absence of such identification, the Commonwealth and this Board are unable to determine whether, in fact, those privileges have been properly claimed.

The Commonwealth believes that its document requests are sufficiently particularized and descriptive of the materials requested. The fact that Applicants have been able to identify Boston Edison employees and consultants whose files contain or may contain materials responsive to those requests is certainly evidence of this fact. Any burden imposed is not undue, given the grave significance of the issues in this case, and can be relieved by provision that the Commonwealth, rather than the Applicants, will conduct the search of relevant files.

For the reasons stated herein and in the Commonwealth's prior discovery pleadings, the Commonwealth hereby moves for an order compelling the Applicants to produce documents pursuant to the Commonwealth's request.

Respectfully submitted,

By: 
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Dated: August 14, 1981

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CERTIFICATE OF SERVICE

I hereby certify that the within Motion has been served on the following by deposit of copies thereof in the United States Mail, first class mail, postage prepaid this 14th day of August, 1981:

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