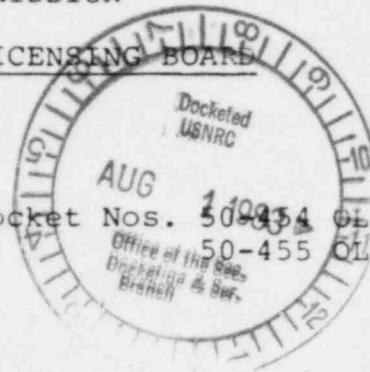


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
COMMONWEALTH EDISON COMPANY )  
(Byron Nuclear Power Station, )  
Units 1 & 2 )

Docket Nos. 50-455 01  
50-455 02



MOTION TO STRIKE INTERVENOR'S  
FINDINGS OF FACT AND OPINION  
REGARDING STEAM GENERATOR TUBE INTEGRITY

Commonwealth Edison Company (Applicant) moves to strike the "REVISED LEAGUE OF WOMEN VOTERS OF ROCKFORD, ILLINOIS (League) AND DAARE/SAFE FINDINGS OF FACT AND OPINION ON LEAGUE CONTENTION NO. 22 and DAARE/SAFE CONTENTION 9(c)." In support of this motion, Applicant states as follows:

1. The League filed its Proposed Findings of Fact and Conclusions of Law Regarding Steam Generator Tube Integrity on July 1, 1983, pursuant to a stipulation among the parties that extended the filing deadline to that date.

2. That stipulation, attached hereto, also provided in paragraph 7:

All parties have agreed also that the filing of any proposed findings of fact and conclusions of law after the July 1, 1983 date will be disregarded by the Board, and that the late-filing party will have defaulted on that particular issue(s), if it be one of the 3 above mentioned issues.

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3. Intervenor, without Board permission, subsequently filed a set of "Revised League of Women Voters of Rockford, Illinois and DAARE/SAFE Findings of Fact and Opinion on League Contention No. 22 and DAARE/SAFE Contention 9(c)" on Thursday, July 21, 1983, just five days before the July 26th date on which Applicant's Reply Findings were due.<sup>\*</sup>

4. The League's Revised Findings were in the form of a full opinion and full set of findings. The revised documents, totaling 91 pages, contained no indications whatsoever which parts were from the original filing, which parts constituted additions or corrections, and where deletions occurred.

5. By the time this new document was filed on July 21, 1983, Applicant had already completed the major portion of its reply findings addressed to the League's original, timely filing.

6. Applicant should not bear the burden of comparing over 180 pages of the original and new documents line by line to discover where changes are made to determine if additional reply is necessary.

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\* Counsel for Applicant, in response to a phone inquiry from Ms. Amy Seiderbaum on behalf of the League, stated that Applicant had no objection to the League filing a list of corrections to the original findings assuming the filing consisted simply of such a list, with no substantive changes.

7. Although the League maintained in its accompanying letter that the revised document incorporated "correctional additions and deletions to the original document which the Rockford League believes will facilitate understanding of the information on this issue," a brief review of the revised documents reveals there is a net total of 47 fewer findings, that many new findings have been added, that many old findings have been deleted, and that substantive changes have been made to existing findings. In this circumstance, the document represents a pleading on the merits of Intervenor's position which was filed well beyond the July 1 deadline. The pleading should be disregarded in accordance with the attached stipulation among the parties.

8. If the instant motion is not granted, Applicant requests to be given ten days from the date of the Board's order denying such motion to reply to Intervenor's revised findings.

WHEREFORE, for the above-stated reasons, Applicant's motion should be granted.

Respectfully submitted,

Commonwealth Edison Company

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