

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'82 NOV 17 P1:47

In the Matter of

COMMONWEALTH EDISON COMPANY

(Byron Nuclear Power Station,
Units 1 and 2)

Docket Nos. 50-454
50-455

**MOTION OF ROCKFORD LEAGUE OF WOMEN VOTERS FOR
TEN-DAY EXTENSION OF DISCOVERY INITIATION PERIOD
BEYOND DATE OF COMPLETION OF ALL CURRENTLY
OUTSTANDING DISCOVERY OPERATIONS OR ALTERNATIVELY,
A TEN-DAY EXTENSION BEYOND DATE OF RULING
OF BOARD ON ANY DISPUTES REGARDING
CURRENTLY OUTSTANDING DISCOVERY OPERATIONS**

The Rockford League of Women Voters ("League") moves the Presiding Officer pursuant to 10 C.F.R., Sections 2.718(h) and 2.711(a) for the entry of an Order extending the period allowed for the initiation of discovery in the above captioned matter by ten days beyond the completion of all currently outstanding discovery operations or, in the alternative, for a ten-day extension beyond the date of the Board's ruling on all disputes regarding all currently outstanding discovery operations. The League's request is necessary because of the accumulated losses of time inherent in all litigation.

1. In its August 30, 1982 Memorandum and Order, this Board set November 15, 1982 as the termination date for the initiation of all discovery related to these proceeding. The November 15 date was one which had been negotiated during the pre-hearing conference of August 18-19, 1982 and was based on the expectation of a smooth and expeditious initiation and completion of all discovery procedures.

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2. Since the issuance of the Board's August 30 Order, discovery has been proceeding with a special emphasis upon the voluminous document production by Commonwealth Edison Company ("CECO"). Unfortunately, this document production process encountered a number of delays which were unforeseen at the time the discovery termination date was negotiated. By this statement, the League does not mean to impute fault for the delays to CECO or CECO's counsel, but is merely informing the Board that such previously unforeseeable delays did, in fact, occur. These delays then resulted in the delay of submission of Interrogatories by the League to CECO and to the NRC Staff ("Staff") with the additional result that these Interrogatories have still not been answered. In fact, the Staff has informed the League that the Interrogatories which were submitted by the League to the Staff on an informal basis will be responded to only in part (see Exhibits "A" and "B" attached hereto).¹ Without the information which the League expects to be contained in the answers to its Interrogatories, it will be unable to completely determine who it needs to subpoena for depositions. It is not expected that the League's Interrogatories will be answered by CECO or the Staff until at least November 15, 1982, and most probably not until some date later than November 15, 1982.

3. Michael I. Miller, Esq. of Isham, Lincoln & Beale, counsel for CECO, wrote a letter on November 1, 1982 (a copy of which is attached hereto as Exhibit "C") to counsel for the League concerning the establishing of deposition schedules. However, Mr. Miller did not offer in his letter to expedite the deposition schedule; so presumably, even counsel for CECO has been unable to set deposition schedules until very near the end of the discovery initiation period.

1. Contemporaneously with the filing of this Motion, the League is also filing a Motion with the Board to compel the Staff to answer all of the League's Interrogatories.

A ten-day extension of the discovery initiation period will not result in any prejudice to the parties or to the hearing process because the League is not at this time seeking any extension of the hearing date. It should also be noted that CECO has requested and has been granted an extension of time of the fuel loading date. It was indicated in a letter to the League (attached as Exhibit "D" hereto) from Alan P. Bielawski, one of CECO's attorneys, that the fuel-loading date extension was sought merely for purposes of giving CECO a "cushion" to allow for unforeseen delays. Since CECO has been granted an extension based on the mere possibility of unanticipated delays, the League believes that, correspondingly, a minimal and necessary extension of ten days, as requested herein, which is vital to the League in its preparation of this case, should also be granted.

Furthermore, the League is currently involved in evaluating proprietary agreements for the disclosure of material by Westinghouse and Sargent & Lundy and expects to be discussing these matters with counsel for CECO during the week of November 15, 1982. The disclosure of this information may also necessitate the initiation of new discovery operations.

CECO has indicated an understanding of the League's position regarding the need for further discovery and has stated that it would not file any objections to an extension of time covering depositions only, and restricted to five days following the filing of CECO's answers to the League's Interrogatories. If possible, the League will limit any post-November 15th discovery initiation to depositions and will move forward within five days after receiving CECO's and the Staff's Interrogatory answers. However, just as CECO attempts to guard against unforeseen contingencies (see Exhibit "D" hereto), so must the League. Because of the current situation regarding the completion dates of

outstanding discovery and any rulings by this Board on any disputes which have arisen or may arise regarding those outstanding discovery operations, the League's request cannot be so limited; and the League believes that its request for ten days rather than five, and for an extension covering all discovery methods rather than merely depositions, is both reasonable and necessary under the circumstances.

WHEREFORE, the League respectfully requests the entry of an Order as first set out above.

Respectfully submitted,

Rockford League of Women Voters

By: Bruce Rose
One of Its Attorneys

Myron M. Cherry, p.c.
Peter Flynn, p.c.
Bruce Rose
CHERRY & FLYNN
Three First National Plaza
Suite 3700
Chicago, Illinois 60602
(312) 372-2100



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 2, 1982

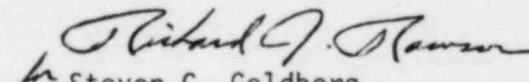
Bruce Rose, Esq.
Cherry and Flynn
Suite 3700
Three First National Plaza
Chicago, IL 60602

In the Matter of
COMMONWEALTH EDISON COMPANY
(Byron Station, Units 1 and 2)
Docket Nos. 50-454 and 50-455

Dear Mr. Rose:

Pursuant to my October 28, 1982 letter and our telephone conversations on the subject, the Staff has agreed to voluntarily respond to most of the proposed League interrogatories of October 22, 1982, unless otherwise objectionable, without invoking the objections provided under 10 C.F.R. § 2.720(h)(2)(ii). The Staff intends to supply its voluntary interrogatory answers by November 22, 1982, thirty days from the interrogatory service date, in accordance with the procedural schedule established in the Licensing Board's August 30, 1982 Memorandum and Order and the parties' August 18, 1982 scheduling stipulation. The Staff will not voluntarily respond to interrogatories 1(a) (DD-81-5 documents), (b), 4(c); 5(e); 7(e), (g); 8(d); 9(a); 10(a); 11(b); 13(a), (b), (c), (d); and 17.

Sincerely,


for Steven C. Goldberg
Counsel for NRC Staff

cc: Service List

EXHIBIT A



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 5, 1982

Bruce Rose, Esq.
Cherry and Flynn
Suite 3700
Three First National Plaza
Chicago, IL 60602

In the Matter of
COMMONWEALTH EDISON COMPANY
(Byron Station, Units 1 and 2)
Docket Nos. 50-454 and 50-455

Dear Mr. Rose:

This is to confirm our telephone conversation yesterday in which I informed you that interrogatory 14(a) had been inadvertently omitted from the list contained in the Staff's November 2, 1982 letter of interrogatories to which the Staff will not voluntarily respond.

Sincerely,

A handwritten signature in cursive script, reading "Richard J. Rawson", is positioned above the typed name.

Richard J. Rawson
Counsel for NRC Staff

cc: Service List

EXHIBIT B

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA
CHICAGO, ILLINOIS 60602
TELEPHONE 312 558-7500
TELEX: 2-5288

EDWARD S. ISHAM, 1872-1902
ROBERT T. LINCOLN, 1872-1889
WILLIAM G. BEALE, 1885-1923

WASHINGTON OFFICE
1120 CONNECTICUT AVENUE, N. W.
SUITE 840
WASHINGTON, D. C. 20036
202 833-9730

November 1, 1982

Myron M. Cherry, Esq.
Cherry & Flynn
Suite 3700
Three First National Plaza
Chicago, Illinois 60602

Dear Mike:

On Thursday, October 28, I called Peter Flynn to discuss the scheduling of depositions in the Byron NRC operating licensing proceeding. Peter told me that you were responsible for such matters and said that he would ask you to call me back. Please contact me at your earliest convenience so that we may discuss this matter.

Sincerely,



Michael I. Miller

MIM:es

cc Steven Goldberg, NRC

EXHIBIT C

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

EDWARD S. ISHAM, 1872-1902
ROBERT T. LINCOLN, 1872-1889
WILLIAM G. BEALE, 1885-1923

THREE FIRST NATIONAL PLAZA
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TELEPHONE 312 558-7500
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WASHINGTON OFFICE
1120 CONNECTICUT AVENUE, N. W.
SUITE 840
WASHINGTON, D. C. 20036
202 833-9730

October 25, 1982

BY MESSENGER

Mr. Bruce Rose, Esq.
Cherry & Flynn
Suite 3700
Three First National Plaza
Chicago, IL 60602

Re: In The Matter of Commonwealth Edison
Company, Byron Station, Units 1 & 2
Docket Nos. 50-454 and 50-455

Dear Bruce:

This letter is in response to the recent requests and inquiries contained in your letters dated October 20 and 21, 1982.

We will produce an "uncontrolled copy" of the Byron radiation protection procedures which you requested. We have asked that this office be placed on the Byron Station mailing list so that we will receive updates, if any, to the procedures. Upon our receipt and review of these updates, we will make them available for your inspection.

We are discussing with Sargent and Lundy and Westinghouse your request for systems interaction, PRA and Class 9 documents. If relevant documents exist, we will attempt to make them available for your inspection as soon as possible. Of course, certain of these documents may be deemed proprietary to Westinghouse and Sargent and Lundy; these organizations may consequently request that the League enter into protective agreements prior to producing any such documents.

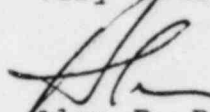
Finally, as I explained on the phone, Edison's request for extensions with respect to the final dates for completing construction at Byron does not represent a slip in the current fuel load date forecasts. The attached copy of Edison's application for end of construction date extensions makes this clear and provides the reasons for the request.

EXHIBIT D

Mr. Bruce Rose, Esq.
October 25, 1982
Page Two

Please feel free to contact me should you have
any further questions regarding these matters.

Very truly yours,

A handwritten signature in dark ink, appearing to be 'A. Bielawski', written over the typed name.

Alan P. Bielawski
One of the Attorneys for
Commonwealth Edison Company

APB:ldj
Enclosure



April 19, 1982

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Byron Station Units 1 and 2
Construction Permit Extension
NRC Docket Nos. 50-454 and 50-455

References (a): December 31, 1975 letter from
D. B. Vassallo to Byron Lee, Jr.

Dear Mr. Denton:

Pursuant to the provisions of 10 CFR 50.55(b), Commonwealth Edison hereby requests amendment of the Byron Station Construction Permits CPPR-130 and CPPR-131 issued by reference (a). For the reasons delineated below, we request that the "latest completion date" be revised from June 1, 1982 to October 1, 1984 for Byron Unit 1 and from November 1, 1983 to April 1, 1986 for Byron Unit 2. This amendment involves only a change to construction completion dates. In our opinion it does not involve a significant hazard consideration.

The need for an extension of time beyond the present construction permit completion dates is a result of an extended construction period, despite the fact that construction has continued without interruption since its inception. The longer period has resulted principally from the need to install larger quantities of material and equipment than originally contemplated as well as changes in NRC regulatory requirements, some of which resulted from the NRC's response to the Three Mile Island incident. The need for extension is also based upon improvements in the manner in which we are implementing NRC requirements. These changes have increased the amount of design work and installation labor required to complete the installation of each component, pipe, cable, and structural member. These additional measures have been and are being implemented at a pace consistent with the Company's need to spread financing requirements more evenly throughout the construction period in order to keep annual financing requirements within the Company's capabilities.

Although the requested revised completion dates extend beyond the dates by which Edison currently expects to load fuel at Byron Units 1 and 2, this letter does not represent a change to the current fuel load schedules. The revised completion dates reflect a conservative estimate of actual completion of the units. This has been done to avoid the necessity of having to request another construction completion date extension at some future time should any unanticipated delays in construction actually occur.

April 19, 1982

Attached is a proposed "Finding of No Significant Impact" prepared by Commonwealth Edison to address the environmental impact of the extension of these construction permits.

Three (3) signed originals and thirty-seven (37) copies of this submittal are provided for your review and approval.

Enclosed is a check in the amount of \$1600, submitted in accordance with the fee schedule defined in 10 CFR 170.22.

Very truly yours,

L. O. DelGeorge

L. O. DelGeorge
Director of Nuclear Licensing

lm

SUBSCRIBED and SWORN to
before me this 20th day
of April, 1982

Rosalie A. Puente
Notary Public

3412N

ENVIRONMENTAL IMPACT APPRAISAL
SUPPORTING THE REQUEST FOR EXTENSION OF
THE DATES FOR COMPLETION OF CONSTRUCTION OF BYRON
STATION, UNITS 1 AND 2. COMMONWEALTH EDISON. UNIT 1,
CPPR-130 - UNIT 2, CPPR-131, DOCKET NOS. 50-454, 50-455

1. Description or Proposed Action

The action requested is the issuance of an ORDER pertaining to Byron Station Units 1 and 2. The ORDER would extend the latest completion date of Unit 1 by 28 months and the latest completion date of Unit 2 by 28 months.

2. Summary Description of the Probable Impacts of the Proposed Action

The environmental impacts associated with construction of Byron have been previously addressed in the NRC staff's final environmental statement, construction permit stage (FES-CP) issued February, 1974, and determined by the Atomic Safety and Licensing Board in their partial initial decision-Environmental and Site Suitability Matters dated December 6, 1974.

The Atomic Safety and Licensing Board identified in the Initial Decision the following major effects due to construction:

- A. Station related construction will disturb 300 acres of the site. Of this, 150 acres would serve as an improved habitat for small mammals, deer and birds, owing to the exclusion of farmers and hunters.
- B. Construction activities of the intake and discharge structures will have a temporary effect upon the Rock River due to siltation caused by dredging.
- C. Construction of the station and development on the 300 acre site will generate noise and dust.
- D. Dewatering of the construction site will have an effect on groundwater.
- E. Short-term traffic problems may occur due to construction activities.
- F. Transmission line construction associated with station development will create minor impacts.
- G. Impacts may occur to eight acres on the pipeline corridor due to construction which were tentatively identified to contain possible archeological artifacts. It was recommended that these areas be tested for archeological significance prior to pipeline corridor construction.
- H. Area surface runoff from the construction site may have an impact upon streams of the area.

with respect to Item A, the extension of construction activities on the site would delay the return of the 150 acres not used for station facilities back to agriculture productiveness or restoration to a natural state.

Construction related effects identified in Items B and D noted above have already occurred, were monitored and the effects were found to be localized. Therefore, the construction permit extensions would not add impacts in these areas.

In relation to construction effect C noted above: major excavations and structures, the make-up and blowdown pipelines, and ancillary structures are completed and additional noise and dust would not be generated as a result of extending the construction permit. The granting of the required construction permit extension would extend noise and dust from other sources such as parking lots for construction workers and construction roads. These sources are, however, continually treated for dust control.

With respect to Item E, listed above, the construction work force has already reached a maximum and is now declining.

With respect to Item F, three transmission lines are to be constructed for Byron Station. The Byron East transmission line is partially completed (the 6.5 mile portion extending east from the station to the Nelson-Cherry Valley transmission line is complete and the remaining 15.3 miles to the Cherry Valley Transmission Substation is scheduled to be constructed in 1983). The Byron South transmission line is under construction and will be completed in 1982. The Byron Wempleton transmission line construction has started and will be completed in 1983. The extension of the construction schedule will delay the minor impacts of construction discussed in the Atomic Safety and Licensing Initial Decision. Less land will be committed due to the selection and use of single shaft structures for tangent and light angles (up to 130°) rather than the wide based lattice steel towers specified in the original environmental report, thus reducing the impact on farming activities.

Item G recommended testing of the eight identified archeological sites on the pipeline corridor. Further investigations of the sites showed that three were of archeological importance. These sites have been, and will continue to be, protected from construction impacts. The remaining five were found to consist of only scattered surface finds and the archeological consultant and the State Historic Preservation officer determined that protection from construction impact was not required. An extension of the construction permit will not result in additional impacts to archeological resources.

With respect to Item H, area surface runoff due in part to construction is circulated through an oil separator to the wastewater collection basin where suspended solids settle out prior to discharge. A construction permit extension would extend the period that construction related runoff would be treated and released. Frequent discharges of water into the Woodland Creek have affected two landowners downstream from the plant. These effects have been mitigated by installation of culverts in the motocross raceway area and a bridge over the creek in a subdivision. The quantity of water from precipitation discharged is no longer a function of construction activities.

3. Conclusion and Basis for Finding of No Significant Impact

On the basis of the above, it is our opinion that there will be no significant impacts attributable to the requested action.

3412N