

DOCKETED
Dated: January 7, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

COMMONWEALTH EDISON COMPANY'S
APPLICATION FOR SUBPOENA

Pursuant to 10 CFR § 2.720, Commonwealth Edison Company (Edison) hereby requests that the Licensing Board issue a subpoena duces tecum directing Peter Stomfay-Stitz to appear and give his deposition before a certified court reporter at the offices of Isham, Lincoln & Beale, Three First National Plaza, Chicago, Illinois 60602, at 10:00 A.M. local time, January 19, 1983, and to make available for inspection and/or copying the documents described in Attachment A hereto.

The purpose of the deposition is to inquire of Mr. Stomfay-Stitz as to his knowledge regarding the design, construction and future operation of the Byron Nuclear Power Station and into such other matters which are directly relevant to issues now before the Licensing Board in this proceeding.

As grounds for its application, Edison states the following:

1. DAARE/SAFE submitted the affidavit of Mr. Stomfay-Stitz in support of its Motion to Reconsider Summary Disposition of Contention 1 With Respect to Quality Assurance and Quality Control, dated September 23, 1982.

2. Counsel for DAARE/SAFE has informed counsel for Edison that DAARE/SAFE intends to call Mr. Stomfay-Stitz as a witness during the hearing in this proceeding in support of contention 1 relating to Quality Assurance and Quality Control.

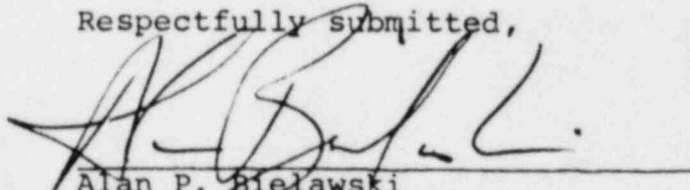
3. This Board is authorized to issue a subpoena duces tecum in aid of discovery directed to third parties. Pacific Gas & Electric Co. (Stanislaus Nuclear Project, Unit 1), ALAB-550, 9 NRC 683 (1979).

WHEREFORE, Commonwealth Edison Company respectfully requests that this Board issue a subpoena duces tecum to Mr. Peter Stomfay-Stitz, directing him to appear at 10:00 A.M. on January 19, 1983, at the offices of Isham, Lincoln & Beale, Three First National Plaza, Chicago, Illinois 60602, for the purpose of taking his deposition upon oral examination before a court reporter, certified in the State of Illinois, and to provide by January 18, 1983, for inspection and/or copying by Edison the documents described in Attachment A hereto.

Dated: January 7, 1983

Michael I. Miller
Alan P. Bielawski
ISHAM, LINCOLN & BEALE
Three First National Plaza
Chicago, Illinois 60602
(312) 558-7500

Respectfully submitted,


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

United States of America

NUCLEAR REGULATORY COMMISSION

In the matter of:

COMMONWEALTH EDISON COMPANY

(Byron Station, Units 1 and 2)

TO Peter Stomfay-Stitz
c/o Jane M. Whicher
BPI
109 North Dearborn, Suite 1300
Chicago, IL 60602

DOCKET NOS. STN-454-OL
STN-455-OL

YOU ARE HEREBY COMMANDED to appear at the offices of Isham, Lincoln and Beale, Three First National Plaza
in the city of Chicago, IL 60602
on the 19th day of January 1983 at 10:00 o'clock A.M.
to testify on behalf of Commonwealth Edison Company
make available
in the above entitled action and bring with you the document(s) or object(s) described
in the attached schedule.

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY _____

ATTORNEY FOR Commonwealth
Edison Company
Alan P. Bielawski, Esq.

TELEPHONE (312) 558-7445

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10 C.F.R. 2.720 (f)

On motion made promptly, and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena is directed, and on notice to the party at whose instance the subpoena was issued, the

pending officer or, if he is unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion on just and reasonable terms.

ATTACHMENT A TO SUBPOENA DUCES TECUM

You are hereby directed to make available, segregated by category, on January 18, 1983, in the offices of Isham, Lincoln & Beale for inspection and/or copying by same, counsel of record for Applicant, Commonwealth Edison Company, the following documents:

Category 1

All documents provided to you by either the Rockford League of Women Voters ("League") or DAARE/SAFE in connection with any review or analysis performed by you of Commonwealth Edison Company's Byron Nuclear Power Station ("Byron Station").

Category 2

All documents consulted or reviewed by you in connection with any review or analysis performed by you of the Byron Station and which you believe to contain information directly relevant to the safety of the design, construction or operation of the Byron Station.

Category 3

All documents written, dictated, authored, co-authored, or to which you contributed information or ideas of any kind which directly relate or refer to the Byron Station, or which discuss, analyze or refer to safety-related considerations which you believe are applicable to the Byron Station.

Category 4

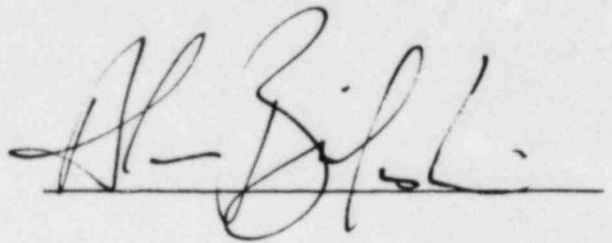
All documents provided by you to the League or DAARE/SAFE in connection with any consultation you have engaged in with the League or DAARE/SAFE which in any way relate to the Byron Station.

For purposes of this subpoena, the term document shall include any information recorded in any permanent or semi-permanent form. This subpoena requires you to produce the original, or a copy if the original is not in your possession or under your control; together with any and all non-identical copies. A non-identical copy is any copy which differs from the original by way of addition or deletion, including without limit handwritten or other notations added to the document before or after copying.

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Commonwealth Edison Company, certifies that on this date he filed two copies (plus the original) of the attached pleading with the Secretary of the Nuclear Regulatory Commission and served a copy of the same on each of the persons at the addresses shown on the attached service list in the manner indicated.

Date: January 7, 1982

A handwritten signature in cursive script, appearing to read "Al. B. L.", is written over a horizontal line.

SERVICE LIST

COMMONWEALTH EDISON COMPANY -- Byron Station
Docket Nos. 50-454 and 50-455

** Mr. Ivan W. Smith
Administrative Judge and Chairman
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

** Dr. Richard F. Cole
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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* Chief Hearing Counsel
Office of the Executive
Legal Director
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** Mr. Steven C. Goldberg

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* Atomic Safety and Licensing
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* Secretary

Attn: Chief, Docketing and
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** Via Express Mail

*** Via Messenger