

February 6, 1984

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 FEB -9 A10:48

ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF SECRETARY
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In the Matter of

COMMONWEALTH EDISON COMPANY

(Byron Nuclear Power Station,
Units 1 and 2)

) Docket Nos. STN 50-454 OL
) STN 50-455 OL
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)

APPELLANT'S MOTION FOR AN INCREASE
IN PAGE LIMITATION

Pursuant to 10 CFR §2.762(e), Commonwealth Edison Company ("Appellant") respectfully requests permission to file a brief of up to 120 pages in length in this case. Appellant emphasizes that it will make every effort to keep the brief shorter than 120 pages, and indeed as short as possible.

The need for the increase in the usual 70 page limit has become apparent as Appellant's counsel has begun drafting the brief. At the present time Appellant expects its brief to include the following, in addition to various required tables which do not count towards the 70 page limit:

- (1) A statement of the case, with relevant procedural history. See Public Service Company of Oklahoma (Black Fox Station, Units 1 and 2), ALAB-388, 5 NRC 640 (1977).

D503

- (2) An argument that the Licensing Board ignored the weight of the evidence in finding that Intervenor had prevailed on League Contention 1A and that Appellant's quality assurance oversight of various contractors was inadequate. See Initial Decision ("ID"), ¶s D-429 to D-449 and pp. 4-7, 409.
- (3) An argument that the Licensing Board erred in concluding that completion of Appellant's reinspection program was a matter which could not be left to the Staff for post-hearing verification. See ID, ¶s D-418 to D-428.
- (4) An argument that the Licensing Board violated Appellant's rights, including its right to due process, in holding an ex parte, in camera hearing, with representatives of the Office of Inspection and Enforcement, Region III and the Office of Investigations to learn the status of pending inspections and investigations. See ID, ¶D-440, and footnote 75. Notwithstanding the Licensing Board's statement that it did not use this secret information in its decision, Appellant will argue that the Board was improperly influenced by it.
- (5) An argument that even if the Licensing Board was correct in concluding that the record was insufficient to support issuance of operating licenses, it erred in denying Appellant's application rather than reopening the record for further evidence. See ID, p. 410.
- (6) A motion to reopen the record to permit Appellant to provide further evidence on its reinspection program and any other matter as to which the Appeal Board should find the record is inadequate.

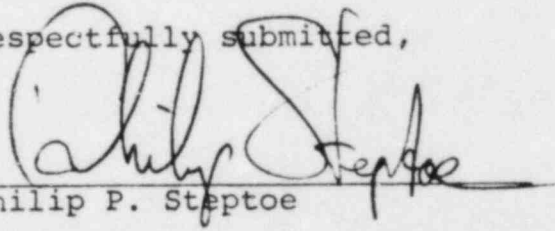
As Appellant drafts its brief, it is finding that the weight of the evidence argument, in particular, (Item 2 above) is inherently lengthy. To effectively present Appellant's position, as well as to be of any use to the Appeal Board, this portion of Appellant's brief must contain a painstaking and detailed analysis of the record. The Appeal Board has of course already indicated in the January 27 telephone conference

its desire that the briefing in this case be thorough.

Intervenors' counsel and NRC Staff counsel have both stated to Appellant's counsel that they have no objection to the requested increase in page limit. The NRC Staff notes that it may find it necessary to request a commensurate expansion of the page limitation for its brief after reviewing the briefs filed by Commonwealth Edison and Intervenors. Intervenors' counsel expressed a similar reservation.

There is one other matter, not directly related to this motion, which Appellant would like to bring to the Appeal Board's attention. In connection with the fourth matter listed above, Applicant will object in its brief to the Appeal Board's reviewing the unexpurgated transcript of the Licensing Board's in camera, ex parte session on August 9 and 10. At least until such time as the Appeal Board has the opportunity to consider the arguments in Appellant's brief, Appellant respectfully requests the Appeal Board not to look at that transcript.^{*/}

Respectfully submitted,


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Dated: February 6, 1984

*There is a version of that transcript which has been "sanitized" with numerous deletions. Appellant has no objection to the Appeal Board's looking at the "sanitized" transcript.


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ATOMIC SAFETY AND LICENSING APPEAL BOARD

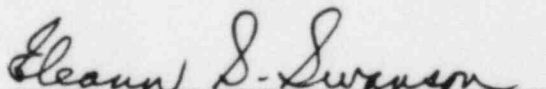
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CERTIFICATE OF SERVICE

I, Philip P. Steptoe, one of the attorneys for Commonwealth Edison Company, hereby certify that a copy of "Appellant's Motion For an Increase in page Limitation" was served upon all persons shown in the attached service list by deposit in the United States mail, first class, this 6th day of February, 1984. Expedited means were used where indicated.


Philip P. Steptoe

SUBSCRIBED AND SWORN TO
before me this 6th day of
February, 1984.


Notary Public

My Commission Expires January 14, 1982

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