

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
) Docket Nos. 50-456OL
COMMONWEALTH EDISON COMPANY) 50-457
)
(Braidwood Nuclear Power)
Station, Units 1 and 2))

DOCKETED
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APPLICANT'S STATEMENT OF POSITION
REGARDING A PROPOSED LICENSE CONDITION

Commonwealth Edison Company ("Applicant") and Intervenor Bob Neiner Farms, acting through their respective counsel, have engaged in several discussions for the purpose of reaching agreement on a license condition in connection with the 765 kV transmission line issue. Despite these efforts, it is now clear that no agreement is possible. The parties must therefore stand on their respective legal positions.

The Applicant believes that the Licensing Board lacks jurisdiction to impose a condition on the Braidwood Station operating license limiting construction of a 765 kV transmission line in the vicinity of Braidwood. As explained more fully in Applicant's Motion for Summary Disposition, the environmental impacts of a future transmission line that may be constructed to transmit power from additional units at Braidwood or elsewhere are not foreseeable impacts of the federal action under the Licensing Board's review, which is the operation of Braidwood Units 1 and 2. Such potential environmental impacts are therefore not within the Board's NEPA jurisdiction.

Mr. Bock, on behalf of his client, proposes the following condition:

1. The electricity generated by Braidwood Nuclear Power Station Units 1 and 2 will be transmitted over 345 kV transmission lines.

2. No electricity will be transmitted from Units 1 and 2 by 765 kV transmission lines, and no 765 kV line will be constructed on the Braidwood to Wilton Center Transmission Substation right-of-way unless and until other units are constructed at Braidwood Station or at other locations on the licensee's system. The construction of those future units, if it occurs at all, will not occur sooner than 18.5 years.

3. Applicant will give personal notice to Intervenor at the time of applying for a construction permit for any additional units, nuclear or nonnuclear, on the licensee's system.

In addition to the jurisdictional objection noted above, this proposal is objectionable because it imposes a burdensome restriction on Applicant's future construction program for electric generating capacity that is not supported by the record before the Board. The testimony does not support the imposition of a license condition for any period of time, let alone the time period advocated by Mr. Bock's client.

The second sentence of Condition 2 would impose a prohibition on the construction of future generating capacity on Applicant's system for a period of 18.5 years. In fact the sentence would impose a longer construction moratorium, since construction could not commence prior to the expiration of 18.5 year period. Thus, given the 7 or 8 year lead time for fossil plants and the 12 to 15 year lead time for nuclear plants, the moratorium would actually last between 25 to 33 years. Such a provision is unreasonable. Moreover, the record does not support such a condition. Mr. Getty testified only that (1) presently Applicant did not intend to install any additional capacity at Braidwood Station or the associated 765 kV transmission lines for about 25 years; and (2) that based on the most likely long-range scenarios, installation of 765 kV in the vicinity of Braidwood due to other future generating units would not occur before this time.

Condition 1 and the first sentence of Condition 2, standing alone, are mere surplusage and any operating license that may issue for the Braidwood Station should not be freighted with this excess baggage. This leaves the notice provision of Mr. Bock's Condition 3. As stated, the condition goes too far. The Applicant would be required to give notice to Intervenor at any time in the future of any generating unit anywhere on its system. The condition on its face has

no connection with this contention or this proceeding. Applicant would, however, accede to the imposition of a more limited notice provision. Such a condition would provide:

Licensee will give personal notice to Bob Neiner Farms, Inc. at the time of applying for any construction permit for the addition of one or more nuclear units at the Braidwood Station.

Although Applicant believes that even this provision goes beyond the scope of the Licensing Board's jurisdiction in this proceeding, Applicant would not object to its imposition as a condition to an operating license for Braidwood Units 1 and 2. Any further restriction, even assuming the Board had jurisdiction to impose it, would be unreasonable and should be rejected by the Board.

Respectfully submitted,

ISHAM, LINCOLN & BEALE

BY Joseph Gallo / jg
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COMMONWEALTH EDISON COMPANY

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Dated: August 7, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

COMMONWEALTH EDISON COMPANY)

(Braidwood Nuclear Power)
Station, Units 1 and 2))

Docket Nos. 50-4560L
50-457

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CERTIFICATE OF SERVICE

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I, Linda J. Nosal, a non-attorney, do hereby swear on oath that copies of MOTION FOR LEAVE TO FILE OUT-OF-TIME and APPLICANT'S STATEMENT OF POSITION REGARDING A PROPOSED LICENSE CONDITION were served on the persons listed below and identified with one asterisk by Federal Express/Zap Mail; the persons identified with two asterisks by Federal Express and the remaining persons listed below by depositing the same in the United States mail, first-class postage prepaid, this 7th day of August, 1985.

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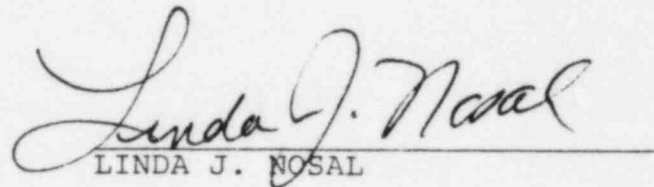
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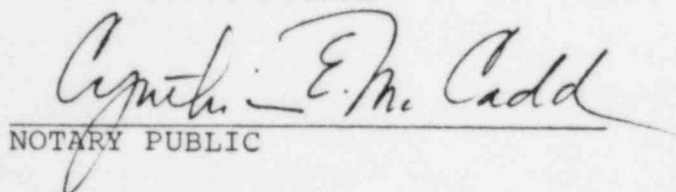
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LINDA J. NOSAL

SUBSCRIBED and SWORN to
before me this 7th
day of August, 1985.


NOTARY PUBLIC

My Commission Expires December 23, 1986