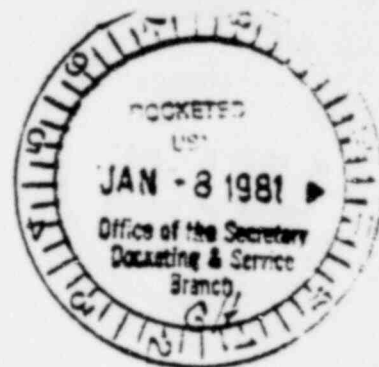


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Marshall E. Miller, Chairman
Dr. Richard F. Cole
Dr. Dixon Callihan



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

Docket Nos. 50-454
50-455

December 19, 1980

MEMORANDUM AND ORDER
(Concerning Supplemented Statement of
Contentions of Intervenors DAARE and SAFE)

Timely petitions for leave to intervene in this proceeding were filed by the DeKalb Area Alliance for Responsible Energy (DAARE) and the Sinnissippi Alliance for the Environment (SAFE). Following a special prehearing conference, these Intervenors were held to have the requisite interest in the subject matter to be admitted as parties (Tr. 103). The parties were directed to meet and negotiate with the Staff and the Applicant in order to draft and phrase properly their contentions to assist in the further conduct of the proceedings. Representatives of the parties met on several occasions to discuss the issues.

On May 9, 1980, DAARE and SAFE filed their supplemental statement of contentions. The Applicant filed an answer on May 27, 1980. The Staff answered on May 29, 1980. The legal principles fol:

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by the Licensing Board in ruling on contentions were described in our Order Regarding Admissibility of Revised Contentions Of Intervenor League of Women Voters, entered December 19, 1980, pages 2-6, and are incorporated herein by reference.

The following contentions are admitted because they are deemed adequately to frame litigable issues in this proceeding with reasonable concreteness and specificity:

- Contention 1 (technical and financial qualifications of Applicant)
- Contention 2 (cumulative doses and health effects)
- Contention 2a (proximity to other reactors)
- Contention 3 (emergency planning)
- Contention 4 (multiple failure accidents)
- Contention 6 (zirconium cladding failure)
- Contention 7 (safeguards against hydrogen explosions)
- Contention 8 (midlife chemical decontamination)
- Contention 9 (unresolved safety issues)

Contention 5 seeks to plead a need for power issue. At this operating license stage the ultimate issue is whether the Byron facility should be operated, not whether it should be built. All load forecasting involves a substantial margin of uncertainty, and is as much art as science.^{1/} There is no sufficient pleading of a

^{1/} Carolina Power and Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4), CLI-79-5, 9 NRC 607 (1979).

requirement to relitigate the need for power, and accordingly Contention 5 is denied.

ORDER

For all the foregoing reasons and based upon a consideration of the entire record in this matter, it is, this 19th day of December 1980

ORDERED

1. That Contention 1, 2, 2a, 3, 4, 6, 7, 8 and 9 of DAARE and SAFE are admitted.
2. That Contention 5 is denied.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


ADMINISTRATIVE JUDGE