



May 18, 1995

U.S. Department of Energy  
c/o Lori Smith  
TRW Environmental Safety Systems  
2650 Park Tower Drive, Suite 800  
Vienna, VA 22180

ATTN.: Section 180(c) Comments

Dear Ms. Smith:

Commonwealth Edison Company (ComEd) appreciates the opportunity to comment on the Department of Energy's (DOE), Office of Civilian Radioactive Waste Management's Notice of Inquiry (NOI) on "Safe Transportation and Emergency Response Training; Technical Assistance and Funding," published in the Federal Register on January 3, 1995. ComEd is the largest nuclear utility in the United States, and has an obligation to provide about 10 percent of the total nuclear utility funding for the Nuclear Waste Fund. ComEd also provides significant funds annually to the Federal Emergency Management Agency (FEMA) and the Illinois Department of Nuclear Safety (IDNS) in support of emergency response training, technical assistance, etc. for its twelve operating nuclear reactors. Additionally, as shippers of hazardous materials, ComEd is also subject to the registration and fee programs established by the Department of Transportation in response to the Uniform Safety Act (HMTUSA) to assist localities in developing emergency response capabilities. Thus, ComEd believes that DOE needs to develop an integrated, judicious, equitable approach for the dispersal of Section 180(c) funds to ensure that ComEd's ratepayers are treated equitably. In so doing, DOE needs to take into account that the most probable routes are those that have already been selected for movement of hazardous material and, as such, significant emergency response training, technical assistance and funding are already in place, thus minimal supplemental funding may be all that is necessary regarding transport of High Level Radioactive Waste.

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ComEd endorses the comments provided by the Nuclear Energy Institute (NEI) which represents all the utilities that are holders of contracts with DOE for disposal of spent nuclear fuel under the Nuclear Waste Policy Act, as amended (NWPA). ComEd also supports the comments provided by the Midwestern High-Level Radioactive Waste Committee, in particular those addressing Route Selection, Distribution of Funds, Formulas for Allocating Funds, Timing, and Application of 180(c) Funding. Specific comments follow on each of these items.

#### Route Selection

ComEd agrees with the Midwestern High-Level Radioactive Waste Committee that route selection is the critical activity upon which the development and implementation of Section 180(c) rests. Unless DOE gives the states an indication of the probable shipment routes, it is impossible for the states to determine what they will need in terms of 180(c) assistance and when.

#### Distribution of Funds

ComEd concurs with NEI and the Midwestern High-Level Radioactive Waste Committee regarding distribution of funds, especially as regards minimizing the loss of funds to administration. To that end, use of established Federal agency programs appears to be the most efficient use of funds as opposed to having DOE develop programs to issue grants independently or provide technical assistance directly. In so doing, ComEd agrees with the Midwestern High-Level Radioactive Waste Committee that from a state perspective, the least administratively burdensome and most flexible option would be to offer several alternatives for distributing funds commensurate with the various state agencies policies regarding receipt of such funding.

With respect to eligibility, the criteria established by DOT for hazardous materials public sector training and planning grants are simply that the applicant be an Indian Tribe or a state. These eligibility criteria are in conformance with the language in the NWPA that directs DOE to grant funds to states and Indian Tribes. ComEd concurs with NEI's position in that a modification is needed to provide funding only to states or Indian Tribes through whose jurisdictions spent nuclear fuel would be shipped. States and Indian Tribes in turn should restrict disbursements only to those sectors within their jurisdictions directly affected by shipments routed through them.

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### Formulas for Allocating Funds

ComEd concurs with the Midwestern High-Level Radioactive Waste Committee that DOE develop allocation formulas in consultation with the states and that the amount of funding states receive should be based primarily upon the impact of shipments on each state.

With respect to restrictions on these funds, ComEd concurs with NEI that a good model for regulations for providing technical assistance and funding of states for emergency preparedness and response to spent nuclear fuel transportation incidents is DOT's regulations at 49 CFR Part 110. This would be a good starting point for DOE's model recognizing that it may be advisable in certain areas, e.g. equipment purchases, to deviate from the DOT program.

### Timing

With the current legislative proposals in Congress coupled with state and utility lawsuits in federal court, there is a chance that 1998 will be the starting date for shipments. ComEd agrees with the Midwestern High-Level Radioactive Waste Committee that DOE will have to follow through on the implementation of Section 180(c) at an unprecedented pace if DOE is to begin distributing Section 180(c) funds in time for states to prepare for shipments starting in 1998. To that end, ComEd strongly urges DOE to initiate immediately, relevant discussions with the states to actively address the issues associated with Section 180 (c) so that there is sufficient time to prepare for monitoring and response activities especially for the level of spent fuel shipments expected through the Midwest region.

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