

December 6, 2000

The Honorable Sue W. Kelly
United States House of Representatives
Washington, D.C. 20515

Dear Congresswoman Kelly:

I am responding to your letters of November 16, 2000, and December 4, 2000, in which you expressed concerns about the restart in the near future of Indian Point Nuclear Generating Unit No. 2 (IP2) without formal approval from the U.S. Nuclear Regulatory Commission (NRC). In particular, you asked me to explain why the NRC would allow the plant to restart just weeks prior to a scheduled inspection and why the NRC, and the Commission in particular, has to this point chosen not to take a more active role in approving restart of plant operations for IP2.

In my November 14, 2000 letter to you, I described a number of actions that the NRC is taking to provide heightened managerial and inspection oversight of IP2. The specific nature and level of these planned oversight activities are governed by the guidance in the new Reactor Oversight Process. In particular, the NRC's actions include oversight of the Consolidated Edison of New York, Inc. (Con Edison) performance improvement plan and conduct of a significant supplemental inspection.

As you point out, the NRC has scheduled a significant inspection to be accomplished in January 2001, which is shortly after the currently scheduled restart of IP2. Preparations are underway for performing this large team inspection (approximately 13 inspectors performing 3 weeks of onsite inspection). This supplemental inspection is intended to provide additional insights into Con Edison's corrective actions for the root causes and contributing conditions that led to the performance deficiencies at IP2. As with any inspection of this size and scope, a significant level of preparation is needed to plan the inspection and to assign appropriate NRC personnel (including contractors) to the team.

Even though the supplemental inspection has not begun, the NRC has already conducted a number of inspections at IP2. These inspections, including the Augmented Inspection Teams and follow-up inspections conducted following operational events in 1999 and 2000, have not identified issues that would warrant delaying restart. In particular, our regional office recently inspected aspects of Con Edison's problem identification and resolution (corrective action) and licensed operator requalification programs. Although the reports for these inspections have not been completed, the NRC inspectors reported in a public meeting on October 16, 2000, that they identified no significant problems that would affect the restart of the facility. The findings from the inspections completed to date do not suggest the need for the NRC to alter its current schedule for the supplemental inspection. In any event, the NRC is closely monitoring Con Edison's walkdowns and reviews of safety significant systems before restart. These walkdowns and reviews will help Con Edison determine its readiness for restart and correct any potential equipment issues.

In your November 16 letter, you suggest that the Commission should not allow IP2 to resume operation absent the Commission's formal approval. Like all licensed power reactors, IP2 is subject to the terms and conditions of its license and the Commission's regulations that specify the technical requirements for, and the restrictions on, plant operation. The licensee is authorized, under its license, to operate its facility within these strictures absent a Commission order that bars further operation. No such order has been issued to Con Edison for IP2, and the Commission has found it inappropriate to issue such an extraordinary order in light of the results of inspections to date and the ongoing oversight of the licensee's actions to prepare for eventual restart of the plant. As long as the licensee proposes to operate in conformance with the license conditions and requirements, the licensee has a right to operate the plant and no formal Commission approval of restart is necessary. In fact, an NRC order to prevent restart might be viewed as arbitrary and capricious in these circumstances.

I want to assure you that should the NRC find in the future that the licensee is not complying with NRC requirements or not maintaining safe operations, the NRC will take appropriate action.

I have enclosed a copy of the staff's action plan developed in response to the Lessons Learned report developed following the IP2 tube rupture. If you have any further questions, please contact me.

Sincerely,

/RA/

Richard A. Meserve

Enclosures: As stated