# Union of Concerned Scientists

November 29, 2000

Mr. Hubert J. Miller, Regional Administrator
United States Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406-1415

**SUBJECT: CONSOLIDATED EDISON'S NON-COMPLIANCE WITH TERMS OF OPERATING LICENSE AT INDIAN POINT UNIT 2**

Dear Mr. Miller:

I reviewed your letter of November 20, 2000, to Mr. Groth of Consolidated Edison transmitting the RED finding related to the February 15, 2000, event at Indian Point 2. I had been unable to attend the September 26, 2000, regulatory enforcement conference between the NRC staff and the plant owner, but was fortunate enough to watch videotapes of it provided by a colleague at WESPAC. During that meeting, the staff explained why the finding was RED. I was concerned that the staff would give in to pressure by the plant owner to downgrade the finding's significance level. I was encouraged by the staff's conviction in this matter.

What continues to trouble UCS is the plant owner's inability to accept that they violated federal safety regulations. On page 2 of your November 20th letter, you stated the staff's position:

> The NRC has determined that your failure to identify and adjust or modify the inspection methods and analysis to account for significant conditions that affected the quality of the 1997 steam generator inspection is a violation of 10 CFR 50, Appendix B, Criterion XVI, Corrective Actions, as cited in the enclosed Notice of Violation (Notice).

During the September 26, 2000, regulatory enforcement conference, the plant owner stated:

> We will also -- as discussed in our 20 July inspection debrief and in the inspection report, we remain convinced that the 1997 inspection met the requirements of then current industry guidelines.[1]

In the media accounts that I've seen since your letter was released, Con Ed's spokespeople have consistently maintained that the company did nothing wrong.

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[1] NRC Transcript of September 26, 2000, Regulatory Enforcement Conference, page 26. (available in ADAMS under accession no. ML003763579)

**Washington Office: 1707 H Street NW Suite 600 • Washington DC 20006-3919 • 202-223-6133 • FAX: 202-223-6162**
Cambridge Headquarters: Two Brattle Square • Cambridge MA 02238-9105 • 617-547-5552 • FAX: 617-864-9405
California Office: 2397 Shattuck Avenue Suite 203 • Berkeley CA 94704-1567 • 510-843-1872 • FAX: 510-843-3785

The NRC originally granted an operating license for Indian Point 2 after reaching two findings: (1) that the design of the plant met all applicable regulatory requirements, and (2) that the staff had reasonable assurance that the plant would be operated and maintained in accordance with all applicable regulatory requirements. If the plant owner cannot see the error of his ways — in this specific case, the violation cited in your letter — then the NRC cannot possibly have reasonable assurance that Indian Point 2 will be operated and maintained in accordance with all applicable regulatory requirements. If the plant owner still cannot see the violation after all of the interactions with the NRC staff preceding your letter, there's no reason to believe that the plant owner will be able to prevent future violations. After all, the plant owner has implicitly conceded that he doesn't know right from wrong.

Therefore, UCS urges you not to allow Indian Point 2 to restart until the current owner accepts accountability for the violation or until the plant is transferred to a new owner.

Sincerely,

David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists