

October 4, 1988

*Posted
Temporary
Exemption for
DPR-26*

Docket No. 50-247

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Mr. Stephen B. Bram
Vice President, Nuclear Power
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Dear Mr. Bram:

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NO. 2 - TEMPORARY EXEMPTION FROM THE SCHEDULAR REQUIREMENTS OF THE PROPERTY INSURANCE RULE EFFECTIVE OCTOBER 4, 1988 (10 CFR 50.54(w)(5)(i))

The Commission has issued the enclosed temporary exemption from the schedular requirements of the property insurance rule effective October 4, 1988 (10 CFR 50.54(w)(5)(i)) for the Indian Point Nuclear Generating Unit No. 2. This part of the rule requires licensees to obtain insurance policies that prioritize insurance proceeds for stabilization and decontamination after an accident and provide for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose.

The Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

The Commission, pursuant to 10 CFR 50.12(a), hereby grants a temporary exemption from the schedular requirements of 10 CFR 50.54(w)(5)(i). This temporary exemption is valid until April 1, 1989 or until such time as action on this rulemaking is completed.

In granting the exemption, the staff has determined that this action is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

A copy of this exemption is being filed with the Office of the Federal Register for publication.

Sincerely,

original signed by

David Langford, Acting Project Manager
Project Directorate I-1
Division of Reactor Projects, I/II

Enclosure:
As stated

cc w/enclosure:
See next page

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SV
BRP/DSRP
SVarga
10/4/88

Mr. Stephen B. Bram
Consolidated Edison Company
of New York, Inc.

Indian Point Nuclear Generating
Station 1/2

cc:

Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, New York 10511

Director, Technical Development
Programs
State of New York Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Ms. Donna Ross
New York State Energy Office
2 Empire State Plaza
16th Floor
Albany, New York 12223

Mr. Peter Kokolakis, Director
Nuclear Licensing
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Jude Del Percio
Manager of Regulatory Affairs
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Mr. Walter Stein
Secretary - NFSC
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
Post Office Box 38
Buchanan, New York 10511

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Mr. Brent L. Brandenburg
Assistant General Counsel
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Charlie Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, New York 10271

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

Docket No. 50-247

(Indian Point Nuclear
Generating Unit No. 2)

EXEMPTION

I.

Consolidated Edison Company of New York (the licensee) is the holder of Facility Operating License No. DPR-26, which authorizes operation of the Indian Point Nuclear Generating Unit No. 2 (the facility). The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of one pressurized water reactor at the licensee's site in Westchester County, New York.

II.

On August 5, 1987, the NRC published in the FEDERAL REGISTER a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking,

the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, because it is unlikely that this rulemaking action will be completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III.

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are ... Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, Section 50.12(a)(2) provides inter alia, "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever ... (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of Section 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry \$1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Consolidated Edison Company of New York, Inc. is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 38809).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 4th day of October, 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

ORIGINAL SIGNED BY:

Steven A. Varga, Division Director
Division of Reactor Projects, I/II
Office of Nuclear Reactor Regulation

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