

August 14, 1989

Docket No. 50-247

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 UNIT 2 SPENT FUEL POOL RERACK
(TAC NO. 72962)

The Commission has requested the Office of the Federal Register to publish the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing." The notice relates to your application dated June 20, 1989, regarding the expansion of the capacity of the spent fuel pool from 980 to 1376 fuel assemblies.

Sincerely,

Original signed by

Donald S. Brinkman, Senior Project Manager
Project Directorate I-1
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc w/enclosure:
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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

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UNITED STATES NUCLEAR REGULATORY COMMISSION
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

DOCKET NO. 50-247

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE AND OPPORTUNITY FOR HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York, Inc. (the licensee), for operation of Indian Point Nuclear Generating Unit No. 2, located in Westchester County, New York. The application for amendment is dated June 20, 1989.

The proposed amendment would authorize expansion of the spent fuel pool storage capacity from its current 980 storage locations to 1376 storage locations. The increase in storage capacity would be accomplished by replacing the existing free-standing and self supporting fuel storage racks with new high density, free-standing and self supporting fuel storage racks that incorporate a neutron absorber material. The licensee's proposal does not include plans for fuel assembly consolidation. This expansion of the spent fuel pool storage capacity will provide full core off load capability until approximately 2007.

The proposed amendment would revise Technical Specification (TS) 3.8.B.4 to prohibit movement of fuel out of the reactor core until the reactor has been subcritical for at least 174 hours (a longer delay would be required by proposed TS Figure 3.8-1 if the Hudson River water temperature was above 70°F); add TS 3.8.C.2, which specifies a maximum spent fuel storage pit bulk

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temperature; modify TS 3.8.D.1 to reflect the analysis for the expanded spent fuel storage capacity; add TS 3.8.D.2, which specifies a minimum spent fuel storage pit boron concentration; relocate the refueling boron concentration requirements for the spent fuel storage pit from TS 5.4.3 to TS 3.8.D.3 with the other requirements for spent fuel storage pit boron concentration; add TS 3.8.E; revise the basis for TS 3.8 to reflect the above; revise TS Table 4.1-2 to reflect the above by requiring a monthly boron concentration sampling frequency for the spent fuel storage pit; and revise TS 5.4.2.B to include the increase in fuel initial enrichment to be stored in the spent fuel storage pit.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 15, 1989 , the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWP), 42 U.S.C. §10154. Under section 134 of the NWP, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWP are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662, October 15, 1985) 10 CFR §2.1101 et seq. Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an

order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and §2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions). The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated June 20, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D. C. 20555, and at the Local Public Document Room, White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 16th day of August 1989.

FOR THE NUCLEAR REGULATORY COMMISSION

Robert A. Capra

Robert A. Capra, Director
Project Directorate I-1
Division of Reactor Projects I/II
Office of Nuclear Reactor Regulation