7590-01

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.	)	Docket Nos. 50-3
	)	50-247
POWER AUTHORITY OF THE STATE OF NEW YORK, INC.	)	50-286
	)	
(Indian Point Station, Units 1, 2 and 3)	)	

REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition received September 17, 1979 the Union of Concerned Scientists requested immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D. C. 20555 and in the local public document room at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

FOR THE NUCLEAR REGULATORY COMMISSION

Harold R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 15th day of November, 1979

7911280 539

FROM:
Robert D. Pollard
Union of Concerned Scientists

TO:
The Commission

ACTION CONTROL	DATES
COMPL DEADLINE	10/15/79
ACKNOWLEDGMENT	
INTERIM REPLY	
FINAL REPLY	
FILE LOCATION	

CONTROL NO. 07381

DATE OF DOCUMENT 9/13/79

PREPARE FOR SIGNATURE OF:
☐ CHAIRMAN
☐ EXECUTIVE DIRECTOR
OTHER: Denton

DESCRIPTION ☐ LETTER ☐ MEMO ☐ REPORT ☐ OTHER

Petition for decommissioning of Indian Point 1 and suspension of operation of Indian Point 2 & 3 pursuant to 2.206

SPECIAL INSTRUCTIONS OR REMARKS

CLASSIFIED DATA

DOCUMENT/COPY NO.		CLASSIFICATION	
NUMBER OF PAGES		CATEGORY	
POSTAL REGISTRY NO.		☐ NSI ☐ RD ☐ FRD	

ASSIGNED TO:	DATE
Shapar	9/18/79

INFORMATION ROUTING
Denton

LEGAL REVIEW ☐ FINAL ☐ COPY

ASSIGNED TO:	DATE

NO LEGAL OBJECTIONS
NOTIFY:
☐ EDO ADMIN & CORRES BR
EXT.
COMMENTS, NOTIFY:
EXT.

JCAE NOTIFICATION RECOMMENDED: ☐ YES ☐ NO

NRC FORM 232 (11-75)

EXECUTIVE DIRECTOR FOR OPERATIONS

DO NOT REMOVE THIS COPY

PRINCIPAL CORRESPONDENCE CONTROL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
SECRETARY

733 81

October 26, 1979

MEMORANDUM FOR: Harold Denton, NRR

FROM: Samuel J. Chilk, Secretary

SUBJECT: UCS PETITION ON INDIAN POINT

The Commission has determined that the September 17 petition of the Union of Concerned Scientists, requesting the decommissioning of Indian Point Unit 1 and the suspension of Units 2 and 3, should be treated as a 2.206 petition. The Commission requests that the staff response to the petition be issued within 90 days.

cc:
Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Exec Dir for Operations
Commission Staff Offices

10-2-79

Millie:

Here's a copy of the transmittal letter for Pollard's 2.206 petition on Indian Point. We just received it today and I thought you might want to put it with the Control (EDO 7381). This is the one you are holding until we hear what the Commission wants us to do. I understand that we will be getting it for action by a Chilk memo, but so far we have not received anything.

Margo

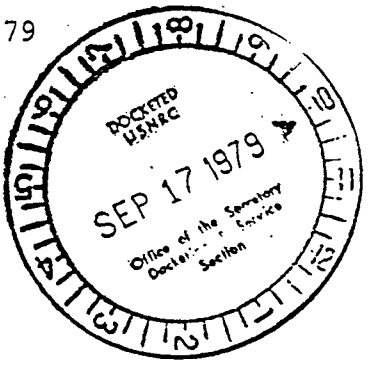
SHELDON, HARMON, ROISMAN & WEISS

1725 I STREET, N. W.
SUITE 506
WASHINGTON, D. C. 20006

TELEPHONE
(202) 833-9070

KARIN P. SHELDON
GAIL M. HARMON
ANTHONY Z. ROISMAN
ELLYN R. WEISS
WILLIAM S. JORDAN, III*
*ADMITTED IN MICHIGAN ONLY

September 17, 1979



Joseph Hendrie, Chairman
Victor Gilinsky, Commissioner
Richard Kennedy, Commissioner
Peter Bradford, Commissioner
John Ahearne, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gentlemen:

Enclosed is the Union of Concerned Scientists' Petition for Decommissioning of Indian Point Unit 1 and Suspension of Operations of Units 2 and 3.

The bases for this petition are as follows:

(1) Indian Point Unit operated from 1962-1974 with a "provisional" operating license. It lacks basic safety features, such as adequate emergency core cooling and has therefore not operated since 1974. Its license should be immediately revoked and the plant decommissioned according to NRC rules.

(2) There are grave questions about the suitability of the site for nuclear power generation.

(3) Serious safety problems exist at both Units 2 and 3.

The petition demonstrates that the continued operation of Indian Point Units 2 and 3 present a clear and present danger to the millions of persons who live in the areas surrounding the site. This danger arises both from the fact that the site may be inherently unsuitable and because of specific safety and design problems which affect the plants.

Despite their relative youth, Indian Point Units 2 and 3 are relics of the regulatory past. This is vastly compounded by the fact that they are sited at the edge of an enormous and vulnerable urban area.

In the past, petitions disclosing safety problems at operating plants have been accorded a low priority by the Commission. Now, the accident at Three Mile Island has graphically demonstrated that serious accidents can happen. UCS believes that the time has come for the Commission to face up to the implications of this event. There can be no better starting place than Indian Point.

Very truly yours,

Ellyn R. Weiss

ERW/dmw
Enclosures

cc: Leonard Bickwit, Esquire
William J. Cahill, Jr., Vice President
George T. Barry, Executive Director

9-21-79

Millie:

Tom Combs told me this morning that the Commission has put a hold on any staff action on this petition until they decide if they will handle it themselves. I understand Jim Lieberman, ELD and Mr. Denton are aware of this.

Margo

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

September 20, 1979

MEMORANDUM FOR: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

FROM: James P. Murray
Office of Executive Legal Director

SUBJECT: UNION OF CONCERNED SCIENTISTS' PETITION FOR DECOMMISSIONING OF INDIAN POINT UNIT 1 AND SUSPENSION OF OPERATION OF UNITS 2 & 3

By petition received September 17, 1979, Ellyn R. Weiss, on behalf of Union of Concerned Scientists, requested under 10 CFR 2.206 that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. While this petition was directed to the Commission, the Secretary has directed that it be treated as a 2.206 petition by the Staff. The Secretary has also assigned a response date of October 15, 1979.

This office will work with your Staff to develop an appropriate response to the petition under 10 CFR 2.206. Enclosed for your use are drafts of:

1. A letter of acknowledgment to Ellyn R. Weiss with copies to the licensees; and

2. A notice of receipt of request for publication in the Federal Register.

If these drafts are not changed, they need not be returned to this office for concurrence. However, please provide us with a copy of the outgoing letter and notice and refer other correspondence related to this matter to this office for concurrence. Also, please inform us who your staff contact on this matter will be.

James P. Murray
Director and Chief Counsel
Rulemaking and Enforcement Division

Enclosures:
As Stated Above
Petition

cc: Darrell Eisenhutt, AD/S&P
Leonard Olshan, ORB-1

CONTACT: Stephen Burns
x28064

DRAFT

Docket Nos. 50-3, 247, 286

Ellyn R. Weiss
Sheldon, Harmon, Roisman & Weiss
1725 I Street, N.W., Suite 506
Washington, D.C. 20006

Dear Ms. Weiss:

This letter is sent to acknowledge receipt of your petition on behalf of Union of Concerned Scientists requesting that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. Your petition has been referred by the Secretary of the Commission to the staff for action.

Your petition is being treated under 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken on your petition within a reasonable time. I enclose for your information a copy of the notice that is being filed for publication with the Office of the Federal Register.

Sincerely,

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure:
As stated above

cc:
Consolidated Edison Company
Power Authority of the State of New York

DRAFT

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. and POWER AUTHORITY OF THE STATE OF NEW YORK	)	Docket Nos. 50-3 50-247 50-286
(Indian Point Station, Units 1, 2 and 3)	)	

REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition received September 17, 1979 the Union of Concerned Scientists requested that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at _____

_____.

FOR THE NUCLEAR REGULATORY COMMISSION

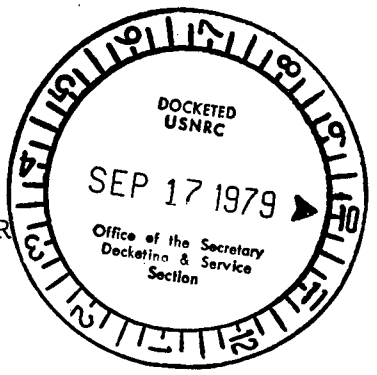
_____

Dated at Bethesda, Maryland
this ____ day of _____, 1979.

UNITED STATES OF AMERICA

BEFORE THE NUCLEAR REGULATORY COMMISSION

UNION OF CONCERNED SCIENTISTS' PETITION FOR DECOMMISSIONING OF INDIAN POINT UNIT 1 AND SUSPENSION OF OPERATION OF UNITS 2 & 3



I. INTRODUCTION

1. This petition to the Nuclear Regulatory Commission (NRC) is brought by the Union of Concerned Scientists (UCS). The petition seeks immediate action to relieve the undue risk to public health and safety posed by the Indian Point nuclear power plants. It is brought before the Commission rather than the staff for the reasons discussed below.

2. The Indian Point nuclear power plants are located in the most densely-populated metropolitan area of the Eastern United States. The site in Buchanan, New York, is located less than 30 miles north of New York City. The site was chosen in the 1950's when there were essentially no criteria governing the acceptability of sites and designs for nuclear power plants.

3. Indian Point Unit 1, a pressurized water reactor manufactured by Babcock & Wilcox, was announced in February 1955 and its construction permit application was filed in March 1955. The construction permit was issued in May 1956. However, Unit 1 never received a full-term operating license. It operated on the basis of a provisional operating license from March 1962 until it was ordered shut down in October 1974. All fuel has been unloaded and the licensee, Consolidated Edison Company of New York, claims that no decision on future operation has been made.

4. Indian Point Units 2 and 3 were originally conceived of as twins. They are also pressurized water reactors, but were manufactured by Westinghouse. Unit 2 was announced in November 1965, received its construction permit in October 1966 and its operating license in October 1971, but did not begin commercial operation until August 1973. Unit 3 was announced in April 1967, received its construction permit in August 1969 and its operating license in December 1975, and began commercial operation in August 1976.

5. The NRC has never determined what the consequences would be of a so-called Class 9 accident - especially a core meltdown with breach of containment - at the Indian Point site. Conformance with NRC regulations does not guarantee that such an accident will not occur; it is an attempt only to reduce the probability of having one. However, NRC does not presently have either an estimate of the probability of a catastrophic accident or an estimate of the consequences of such an accident at this site. There are two separate sets of circumstances which make this particularly significant for Indian Point. First, neither Unit 2 or 3 meets current NRC regulations. They could not receive operating licenses if their applications were being reviewed today. Second, the location of the Indian Point plants in metropolitan New York presents the potential for enormous consequences to the densely-settled population.

6. This petition requests action by the Nuclear Regulatory Commission in three general areas. First, the provisional operating license for Indian Point Unit 1 should be revoked and the plant decontaminated and decommissioned.

7. Second, operation of Indian Point Units 2 and 3 should be immediately suspended because their known safety deficiencies preclude operation without undue risk to the health and safety of the public. These include a number of safety problems in Unit 2 which were identified and corrected in Unit 3 during the review of that plant but were never corrected for the earlier plant at the same site. They also include safety deficiencies common to both units.

8. Third, the Commission should determine the potential consequences of a Class 9 accident, especially a core meltdown with breach of containment, at the Indian Point site. The Commission should then decide whether those potential consequences are so severe as to render the Indian Point site an unsuitable location for a nuclear power plant.

9. Units 2 and 3 should not resume operation unless and until there is a favorable determination on the site suitability question discussed above and unless and until:

a) Unit 2 is backfitted to incorporate all safety-related changes incorporated in Unit 3 prior to licensing of that plant;

b) the known safety deficiencies described below are remedied;

c) it is demonstrated that specific design features in each plant provide a rational basis for continued operation in the face of each applicable unresolved safety problem listed by the staff in NUREG-0410, the 1978 NRC report to Congress; and

d) it is demonstrated that specific design features in each plant provide a degree of protection equivalent to that which

No. 79-2620 Logging Date 9/17/79

NRC SECRETARIAT

TO:
- ☐ Commissioner _____ Date _____
- XXX Exec. Dir./Oper.
- ☐ Cong. Liaison
- ☐ Public Affairs
- ☐ Gen. Counsel
- ☐ Solicitor
- ☐ Secretary
- ☐ _____

Incoming: Robert D. Pollard

From: _____

To: Cmr NRC Date 9/17/79

Subject: Union of Concerned Scientists Petition for Decommissioning of Indian of Indian Pt #1 & Suspension of Operation of Units 2 & 3 (Pursuant to 2.206)

☐ Prepare reply for signature of:
- ☐ Chairman
- ☐ Commissioner _____
- ☐ EDO, GC, CL, SOL, PA, SECY
- ☐ Signature block omitted
- ☐ _____
- ☐ Return original of incoming with response

XXX ☒ For direct reply* Date due: Oct 15

☐ For appropriate action

☐ For information

☐ For recommendation

Rec'd Off EDO
Date 9/18/79
Time 11:15

Remarks: Cpys to: Chm, Cmrs, PE, GC, OCA, OPA
SECY NOTE: treat as 2/206 petition

For the Commission: Billie

*Send three (3) copies of reply to Secy Mail Facility

NRC-62 ACTION SLIP

would be provided by conformance with each Regulatory Guide currently applicable to new pressurized water reactors.

10. Some of the safety issues raised by this petition are not unique to the Indian Point nuclear power plants. However, the magnitude of the consequences that could result from an accident at this site are believed to be unique. This petition will demonstrate that the Indian Point plants represent a clear and present danger to public health and safety. UCS believes that it is urgent that the NRC give this petition a priority at least as high as that accorded license applications for new plants.

II. DESCRIPTION OF THE PETITIONER

11. The Union of Concerned Scientists is a non-profit, public corporation which conducts scientific and technical research concerning advanced technologies. The organization grew out of an informal faculty group at the Massachusetts Institute of Technology in the late 1960's. It has grown into a coalition of scientists, engineers and other professionals concerned about the health, safety, environmental and national security problems posed by this country and abroad. UCS has published many technical reports on various aspects of nuclear technology. UCS maintains professional staff in Cambridge, Massachusetts, and Washington, D. C., and has a current public membership of over 85,000 sponsors who have made financial contributions to its work. Over 10,000 of these sponsors reside within 60 miles of the Indian Point nuclear power plants.

III. JURISDICTION

12. This petition is brought before the Commission pursuant

to the authority granted to it in 42 USC §2233(d), 2236(a), 2237 and 10 CFR §§2.204, 2.206(c)(1), 50.54, 50.100 and 50.109. Furthermore, this petition invokes the inherent supervisory authority of the Commission to oversee all aspects of the regulatory and licensing process and its "overriding responsibility for assuring public health and safety in the operation of nuclear power facilities." In the Matter of Consolidated Edison Co. of N. Y., Inc. (Indian Point, Units 1, 2 and 3). CLI-75-8, NRCI 7518, 173, 1975.

13. The inherent authority of the Commission has been exercised on a number of occasions, despite the absence of express procedural authorization for Commission oversight or review in the regulations. Petition for Emergency and Remedial Action, CLI-78-6, 7 NRC 400 (1978); see also, U. S. Energy Research and Development Administration (Clinch River Breeder Reactor Project), CLI-76-13, NRCI, 76/8, 67, 75-76; Consumers Power Co. (Midland Units 1 and 2), CLI-78-38, RAI-73-12, 1084. This authority is necessary for the Commission to carry out its mission to see that "public safety is the first, last, and a permanent consideration in any decision on the issuance of a construction permit or license to operate a nuclear facility." Power Reactor Development Corp. v. International Union, 367 U.S. 396,402(1961).

14. The Commission's inherent authority is explicitly recognized in 10 CFR §2.206(c)(1). 10 CFR §2.206(a) and §2.206(b) provide a mechanism for petitions requesting show cause orders to be filed with the Director of Nuclear Reactor Regulation or the Director of Inspection and Enforcement, as appropriate, and reviewed

sua sponte by the Commission. However, §2.206(c)(1) states:

> This reviewing power does not limit in any way either the Commission's supervisory power over delegated Staff actions or the Commission's power to consult with the Staff on a formal or informal basis regarding the institution of proceedings under this section.

15. In this case, it is clearly necessary for the Commission itself to take action. The facts relied on are part of long-standing staff policies and practices to (1) allow plants to hold provisional licenses, and in some cases to operate on them for many years, when those plants could not meet the requirements for a full-term license; (2) fail to determine the consequences of Class 9 accidents; (3) permit plants to go into operation and continue to operate despite the existence of known safety defects and unresolved safety issues; and (4) require one plant to change its design in order to meet minimum safety requirements while ignoring similar or identical plants with the very same defects, and in this case, even on the same site.

16. It would be futile to refer this petition back to the staff for action because it is, regrettably, the staff's failure to take action that is directly responsible for the conditions alleged.

IV. STATEMENT OF THE CASE

A. The Potential Consequences of a Serious Reactor Accident at Indian Point Could Be Enormous

17. Nearly ten percent of the population of the United States lives within 60 miles of the Indian Point plant. Despite the magnitude of the population at risk, the NRC has never determined what the consequences could be of a serious accident at this site.

18. A nuclear power plant contains several tons of radioactive material, much of which is gaseous and, if released, could be borne

away by the wind. The consequences of this kind of accident have been detailed by the Nuclear Regulatory Commission. The Reactor Safety Study, WASH-1400, also known as the "Rasmussen Report," was published by the NRC in October 1975.

19. The NRC has since repudiated the probability estimates contained in WASH-1400. We wish to make it clear that UCS does not endorse the WASH-1400 consequences model. To the contrary, later discussion will indicate why WASH-1400 seriously underestimated the maximum potential consequences at Indian Point. However, for present purposes, we use Rasmussen's figures to yield an estimate of the possible consequences of a core meltdown with breach of containment.

20. The consequences of the most serious accident analyzed in WASH-1400 were as follows:*

Fatalities (from acute radiation sickness)	3,300
Fatalities (from radiation-induced cancers)	45,000
Non-fatal Illnesses	285,000
Genetic Defects (in first generation born after the accident)	5,100**
Property Damage	$14 billion
Land Area Requiring Decontamination	3,200 square miles
Area Requiring Relocation of Population	290 square miles

---

* Prepared from results in Reactor Safety Study, Tables 5-7 and 5-8, Main Report, pp. 84-85.

** This number assumes continuing appearances of genetic defects for 30 years. In fact, genetic defects would continue to appear for 4 to 5 generations.

21. The Reactor Safety Study also described some of the procedures that would be needed in order to decontaminate areas affected by an accident. Removal of radioactive material from hard surfaces could require replacement of roofing materials, sand-blasting of walls and pavements or resurfacing of pavements. Decontamination of land areas could require removal and disposal (probably burial) of vegetation and surface soil or deep plowing.* It is inconceivable that such measures would be feasible for a significant portion of the metropolitan New York area.

22. As serious as these predicted consequences are, there are a number of reasons why the actual consequences could be far worse in the case of the Indian Point plants.** One of the most significant is that the number of casualties described above assumes that a massive evacuation has taken place within hours of the accident. The Reactor Safety Study calculations are based on the assumption that all people within five miles of the reactor could be evacuated in a few hours along with most of the people downwind for a distance of 25 miles within a 45-degree sector. This evacuation model is clearly not applicable to the Indian Point plants. In fact, a high NRC official acknowledged that the Reactor Safety Study's evacuation model "does not, and was not intended, and does not today, reflect NRC's recommendation to State and local governments for emergency planning."*** Moreover, the Reactor Safety Study itself

---

* Reactor Safety Study, Appendix VI, p. 11-19.

** See, The Risks of Nuclear Power Reactors, Union of Concerned Scientists, 1977.

*** Ben Rusche, former Director of the NRC Office of Nuclear Reactor Regulation, Testimony before the California State Energy Resources Conservation and Development Commission, August 23, 1976, p. 25.

stated that for New York and other major metropolitan areas, "there is no presumption that the population...could be moved in less than 1 week."* Therefore, the consequences of a catastrophic accident at Indian Point would be significantly worse than the consequences reported in the Reactor Safety Study.

23. Chairman Hendrie has recently conceded that in the light of the inability to evacuate the vicinity of the plant, "special provisions" may have to be taken for Indian Point. (See Nucleonics Week, May 17, 1979). However, no specification of what these provisions might be and when they might be implemented has been forthcoming.

24. The Commission can no longer hide behind the fiction that an accident resulting in releases of radiation to the public can never occur. To the extent that the Reactor Safety Study could ever have been relied on to support such an assertion, it can no longer be so used. On January 18, 1979, in its policy statement repudiating WASH-1400, the NRC stated:

> "The Commission does not regard as reliable the Reactor Safety Study's numerical estimates of the overall risk of reactor accident."

25. The Commission acted none too soon in disclaiming reliance on the Reactor Safety Study. The accident at Three Mile Island less than three months later proved baseless the claim that all significant accident sequences had been identified and protected against.

26. The Indian Point reactors represent a clear and present danger to the health, safety and well being of millions of people. Under these circumstances, it is necessary for the Commission to

---

* Reactor Safety Study, Appendix VI, p. 11-6

address itself to the question of whether the Indian Point site is suitable as a location for nuclear power plants.

B. The Unit 1 "Provisional" Operating License Makes a Mockery of Law and Basic Safety Requirements

27. In 1962, Indian Point Unit 1 received a provisional operating license pursuant to a since-repealed regulation, 10 CFR 50.57. This regulation stated on its face that it provided an "intermediate procedure" prior to issuance of a full-term operating license in a case where all of the safety findings required for a full-term license could not be made. A provisional license was limited to 18 months, although "upon good cause shown," this could be extended.

28. The Federal Register notice of February 11, 1960, accompanying the proposal of this version of 10 CFR 50.57 clarified further that the intention of the regulation was to permit temporary operation pending complete approval of the full-term license application because of certain "practical problems" and the need in some cases to obtain actual operating experience prior to issuing the license. This was, after all, just the beginning of the civilian reactor program. But the notice clearly reflects the understanding that the licensee will be actively pursuing its full-term license:

> "Under the proposed amendment, after the completion of construction or the conclusion of preliminary testing under the provisional operating license or both, the applicant would move for issuance of a final operating license for the full term of years requested." (25 Fed. Reg. 1225, Feb. 11, 1960).

29. Contrary to the clear intention of the regulations and of the Atomic Energy Act, the provisional operating license for

Indian Point 1 was simply routinely extended by the staff in September 1963, August 1964, October 1965, May 1967, and November 1968. Nothing approaching "good cause" was ever shown. Nor, during all these years, had the licensee even applied for a full-term license.

30. Finally, by a letter dated September 22, 1969, Peter Morris, then Director of the AEC Division of Reactor Licensing informed the licensee, Consolidated Edison, of a provision in the regulations, 10 CFR §2.109, which would free them of the necessity of applying for further extensions of the provisional operating license. All the licensee had to do was formally apply for a full-term license, and "the existing license will not be deemed to have expired until the application has been finally determined." (A copy of Morris's letter is attached.) Thus, with the active help of the AEC staff, Consolidated Edison had found a gaping loophole in the Commission's regulations.

31. A decade later, Indian Point 1 still has a provisional operating license. The plant has not operated since 1974 because Con Ed has been unwilling to install an adequate emergency core cooling system and undertake the other modifications ordered by the Commission. Con Ed is neither actively pursuing a license for Unit 1 nor pursuing a plan for decommissioning the facility.

32. It should be noted that the only time Congress has explicitly granted the AEC or NRC the authority to issue provisional or temporary operation in advance of the definitive safety findings necessary for a full-term license, it did so in a very limited and circumscribed way. During the Arab oil embargo, Congress

passed an amendment to the Atomic Energy Act, 42 USC §2242, to last only 18 months. This provision, which expired on October 30, 1973, allowed temporary licenses to be granted upon a series of detailed findings, including the finding that the power was "essential" for "the adequacy and reliability of the power supply..." The section goes on:

> "(c) The hearing on the application for the final operating license...shall be concluded as promptly as possible. The Commission shall vacate the temporary operating license if it finds that the applicant is not prosecuting the application for a final operating license with due diligence." 42 USC §2242(c) (emphasis added).

33. Although 42 USC §2242, quoted above, does not apply directly to Indian Point 1, the interpretation of the Atomic Energy Act which underlies it clearly does apply. Central to the Congressional language in the section is the principle that operation without a full-term license is to be strictly limited, and must be contingent on the diligent pursuing of a full-term license. Otherwise, the strict safety provisions of the Act and regulations could be circumvented and frustrated, in precisely the way they have been circumvented in the case of Indian Point 1.

34. Indian Point 1 cannot avoid the force of this logic simply because it received a provisional operating license not specifically authorized by any act of Congress. On the contrary, by the very nature of its limited scope, 42 USC §2242 indicated the clear intention of Congress to preclude the automatic renewal of provisional licenses for plants such as Indian Point Unit 1.

35. Nor can the issue be avoided on the ground that Indian Point 1 is not operating. The appropriate way to deal with a plant

which has outlived its useful life is to decontaminate and decommission it. The Commission's regulations recognize this. (See 10 CFR §50.82). The irradiated facility cannot simply be permitted to remain in regulatory limbo. The Commission should revoke the provisional operating license for Indian Point 1 and order Con Ed to present a plan for decontaminating and decommissioning the plant.

C. Safety Deficiencies Identified During the Review of Unit 3 Were Never Corrected for Unit 2

36. As noted above, Indian Point Units 2 and 3 were originally conceived of as twins. However, the designs of Units 2 and 3 differ in ways that have a significant effect on the risk to public health and safety created by operation of each unit. Some of the design changes that were made to Unit 3 appear to have been made voluntarily by Consolidated Edison or its vendors. Others were ordered by the staff during its review of the operating license application for Unit 3. The basis for each design change ordered by the staff was a determination that, absent the changes, operation of Unit 3 would pose undue risk to public health and safety.

37. There were no changes to the regulations in 10 CFR between issuance of the operating licenses October 1971 and December 1975 that could account for the staff's determinations that features of the Unit 2 design were unacceptable for Unit 3. One possible explanation is that the staff pursued enforcement of the Commission's regulations more vigorously on Unit 3 than was its custom four years earlier during the operating license review for Unit 2. Whatever the reasons, the fact remains that in its review of Indian Point

Unit 3, the staff determined that the original proposal was unacceptable.

38. At a minimum, Indian Point Unit 2 requires immediate backfitting to incorporate the changes made to Unit 3 as a result of the staff review of that Unit. In the language of 10 CFR 50.109, such modification will provide substantial, additional protection which is required for the public health and safety. There is no rational basis for this disparate treatment of two plants at the same site. Nor is there justification for further delay; the NRC knows what has to be done now. Indian Point Unit 2 should be ordered to cease operation pending the required modifications.

39. Since not all of the design changes made to Unit 3 were the result of staff orders the Commission should, in addition, assess whether other design changes made voluntarily to Unit 3 should also be backfit on Unit 2. The staff should identify for the Commission all the safety-related design differences between Units 2 and 3, and, for those which were not ordered by the staff, discuss whether the Commission should require Unit 2 to be backfit with those design features.

40. The following three examples of safety-related design differences between Indian Points 2 and 3 do not represent a complete list of such differences.

Diesel Generator Buildings

41. General Design Criterion 17 of 10 CFR Part 50, Appendix A, requires an onsite emergency power system which meets the single failure criterion. The purpose of the requirement is to provide a backup source of electric power to the safety systems which must

operate to prevent a meltdown. The backup electrical source is needed in the case of a loss of offsite power which is a fairly common occurrence.

42. At Unit 3, the three emergency diesel generators are housed in a reinforced concrete building designed to withstand earthquakes and tornado missiles. In addition, each diesel generator is housed in its own separate concrete room. This design is intended to provide protection against earthquakes, external missiles, internal explosions and fires. This is an example of an aspect of the design of Indian Point Unit 3 that apparently was not the result of specific order by the staff.

43. By way of contrast, the diesel generators for Unit 2, at the very same site, are housed in a sheet-metal structure which does not meet seismic criteria and could not withstand the missiles generated by the design basis tornado. Furthermore, the Unit 2 diesels are housed in a common room without adequate separation between the emergency generators so that such accidents as a crankcase explosion or fire could damage redundant generators.

44. There can be little question that the diesel generators in Unit 2 do not meet GDC 17. The vital onsite power supply for Unit 2 is vulnerable to disabling damage. This condition poses a threat to public health and safety.

Battery System

45. In order to provide an acceptable degree of independence for redundant safety power supplies, the staff prohibits any automatic transfer switching between redundant safety systems. (See

Regulatory Guide 1.6). The review of Indian Point Unit 3 identified such unacceptable interconnections and the staff accordingly required Unit 3 to eliminate the automatic switching between redundant d-c power supplies. The Safety Evaluation Report for Unit 3 states:

> "We concluded that such a design could unduly compromise the independence of redundant safety systems."

Therefore, a third battery was provided at Unit 3 to allow elimination of automatic switching between redundant batteries.

46. Despite this, no effort was made to correct the same deficiency at Unit 2. Unit 2 has only two batteries to supply control power for the three diesel generators and the three sets of safety equipment; two sets of safety equipment must function to cope with reactor accidents. Unit 2 is susceptible to a failure that could lead to a meltdown accident.

Auxiliary Feedwater System

47. By the time Indian Point 3 was licensed, the staff was beginning to recognize that the auxiliary feedwater system is extremely important to safety and it was classified as an engineered safety feature, in the same category as the emergency core cooling system. Auxiliary feedwater is the only way to remove decay heat from the reactor during the initial phase of cooling following either a normal shutdown or an accident other than a large loss of coolant accident.

48. At the time Unit 2 was licensed for operation, auxiliary feedwater was not even being reviewed by the staff. The Safety Evaluation Report for Unit 2 contains no discussion of this system.

By way of contrast, Unit 3 was required to meet the single failure criterion and modifications had to be made to ensure that a break in the steam pipe to the turbine-driven auxiliary feedwater pump would not result in total loss of auxiliary feedwater due to failure of the two redundant motor-driven pumps which are located in the same room as the turbine-driven pump. The failure to require the auxiliary feedwater system in Unit 2 to meet criteria applicable to safety systems poses a threat to public health and safety.

D. Safety Deficiencies Common to Both Units 2 and 3 Must Be Corrected

Fire Could Render Redundant Safety Systems Inoperable

49. Electrical control, instrumentation, and power systems are a basic element of nuclear plant design. The thousands of electrical cables running through the plant are the central nervous system that controls the operation of all equipment, including the safety systems which must operate to mitigate the consequences of accidents.

50. Fire is a clear threat to these cables, as the accident at Browns Ferry graphically demonstrated. A fire which damages cables can render safety systems inoperable. Therefore, the electrical cables in a nuclear plant must be designed, installed, and protected so that a single fire cannot destroy the cables controlling redundant safety systems, wiping out all primary and backup systems at once. This is required by General Design Criterion 3 of 10 CFR Part 50 and 10 CFR 50.55a(h). In short, safety systems are only as reliable as the electrical systems which control them.

51. Following the fire at the Browns Ferry plant in March 1975, NRC undertook a re-evaluation of fire protection provisions in nuclear plants. The NRC staff has required improvements in such areas as administrative controls and control of ignition sources. However, tests conducted as part of the post-Browns Ferry Fire Protection Research Program have disclosed that the five-foot physical separation requirement of Regulatory Guide 1.75 is inadequate to prevent the spread of fire from one set of cables to the other. In addition, tests on mineral wool blankets proposed for fire retardants have shown them to act as wicks in some cases, sprinkler systems have failed, and at least some "fire-retardant" cable coatings have burned.

52. Four and a half years after the Browns Ferry accident, the NRC still permits plants to operate which it knows remain vulnerable to a destructive fire. Indian Point Units 2 and 3 are among these.

53. The NRC staff has concluded that fire protection at both units is inadequate. At Unit 3, the staff concludes that modification of the fire protection systems may be sufficient to preclude fire damage to redundant safety systems. However, for Unit 2, changes to the safety systems themselves are needed to assure that a fire will not lead to a meltdown accident. The staff has determined that these changes involve the installation of an alternate shutdown cooling method, which is required "because of a few specific plant locations where the staff does not have reasonable assurance that postulated fire will not damage both redundant divisions of shutdown (cooling) systems." (SECY-79-112, page 11).

54. In summary, a fire which the NRC concedes to be possible could disable the redundant safety systems for both Indian Point Units. This constitutes a present threat to public health and safety.

Serious Unresolved Safety Problems
Exist at Both Units 2 and 3

55. For many years, the NRC staff followed the practice of categorizing its most serious unresolved safety problems as "generic" and, having done so, simply ignoring them in the context of the proceedings to license individual power plants. This practice was finally unequivocally rejected by the NRC Appeal Board in two cases. Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760 (1977) (Construction permit); Virginia Electric and Power Co. (North Anna Nuclear Power Station, Units 1 and 2) ALAB-491, 8 NRC 245 (1978) (Operating license).

56. Now, before a plant is permitted to begin operation, the NRC staff is required to identify all unresolved generic safety problems which apply to the plant, and to show either how they have been satisfactorily resolved on a plant-specific basis or, if they have not, to provide the specific justification for permitting the plant to operate. Despite this rigorous test for new operating licenses, the NRC has failed to formally face up to the existence of numerous of these safety problems in currently operating plants.

57. In its report to Congress (NUREG-0410, January 1, 1978), the NRC identified 133 unresolved safety issues affecting reactor safety or the licensing process. The staff subsequently

identified* more than half of the 133 unresolved safety issues as directly applicable to the type of nuclear plants used at Indian Point Units 2 and 3.

58. No evaluation has ever been performed specifically for the designs of Indian Point Units 2 and 3 to demonstrate why operation should be permitted in the face of such serious unresolved safety issues. As noted above, if the plants were not yet licensed, precisely such an evaluation would be required before licenses could be issued.

59. In addition, in the years since the applications for the Indian Point Units were filed, the staff's knowledge of nuclear plant designs improved and many unacceptable designs and operating practices were discovered. Operating experience also provided information indicating the need for design changes and operating restrictions. As a result, the staff developed and promulgated many technical positions and Regulatory Guides. However, the staff's general practice was to apply these new requirements only to plants that had not received construction permits or, in a few instances, to plants that did not hold an operating license. Again, there has been no systematic evaluation of the need to upgrade Indian Point to account for important safety lessons learned.

60. The following examples are selected from the list of NRC-acknowledged unresolved safety problems. All apply to Indian Point Units 2 and 3. They are offered not as an exhaustive list

---

* See Appendix A to "Testimony of Michael B. Aycock, Lawrence P. Crocker and Cecil O. Thomas, Jr., relating to the Status of NRC Staff Activities Regarding Generic Safety Issues, September 27, 1978 submitted to ASLB in Dockets 50-556 and 50-557.

but only to illustrate the seriousness of the problems involved.

a) Post-Accident Monitoring

Indian Point Units 2 and 3 do not have adequate, reliable instrumentation to monitor variables and systems affecting the integrity of the reactor core, the pressure boundary or the containment after an accident.

The accident at Three Mile Island (TMI) demonstrated graphically the inadequacy of post-accident monitoring, in terms of the parameters monitored, the range and accuracy of the instrumentation, and the ability of the instrumentation to survive the accident and post-accident environment. For example, there is no way to directly measure the water level or temperature in the core after an accident. The only temperature measurements at TMI were from non-safety grade equipment, some of which "luckily" survived the accident. The accident demonstrated that without adequate reliable instrumentation, reactor operators cannot be expected to take proper corrective action in the plant or to give timely notice of the need to activate offsite emergency procedures.

b) Aging of Equipment

Structures, systems and components important to safety must be qualified to demonstrate their ability to withstand natural forces such as earthquakes and the accident environment and still perform their safety functions. In analyzing the ability of equipment to survive, insufficient account was taken of the effect of aging, which is known to progressively weaken components. Brand new equipment may have been tested, but no systematic effort was made to determine for how long the results would be valid. Thus,

although Units 2 and 3 were essentially certified to be safe for their lifetimes when they received operating licenses, the Commission cannot say with reasonable assurance that sufficient margin exists to maintain equipment qualification for several decades.

c) Asymmetric Loads on Reactor

The designer of Indian Point Units 2 and 3 did not adequately account for the effect of asymmetric loading resulting from a pipe break in the area between the reactor vessel and the shield wall.

A pipe break in certain locations between the vessel and the shield wall would cause instantaneous extreme pressure differentials, causing forces which could tip the vessel, shearing the pipes and preventing cooling. In addition, these forces could damage the fuel spacer grids and distort the fuel geometry. The end result could be that all emergency core cooling systems would be rendered incapable of preventing core meltdown.

V. RELIEF REQUESTED

61. The NRC's obligation to ensure the safety of the public does not stop when a license is issued. To the contrary, the United States Supreme Court has held, and UCS fully agrees, that "public safety is first, last and a permanent consideration in any decision on the issuance of a construction permit or a license to operate a nuclear facility." Power Reactor Development Corp. v. International Union of Electrical Radio and Machine Workers, 367 U.S. 396, 402, 81 S.Ct. 1529, 1532 (1961).

62. Moreover, in the Power Reactor case, supra, the Supreme Court emphasized that, even after operation of a reactor is licensed,

the Commission will retain jurisdiction "to ensure that the highest safety standards are maintained." (367 U.S. 402, 81 S.Ct. 1532). Indeed, it is precisely this assurance of continued vigilance after licensing on the part of the Commission, combined with the fact that permittees proceed at their own risk, which is the alleged justification for issuing permits and licenses pending final resolution of outstanding safety issues. If, after licensing, a grave safety problem is disclosed, the explicit promise of the Commission to continually assure the safety of operating reactors cannot be avoided.

63. The facts outlined above demonstrate that despite their relative youth, Indian Point Units 2 and 3 are relics of the past. They were licensed when less was known about safety problems and when regulatory requirements were much less strict than today. This is seriously compounded by the fact that it is highly unlikely that the site would be approved today because of the proximity of extremely large numbers of people. Despite this, the NRC has marched resolutely "eyes front", not applying the lessons learned about safety to Indian Point.

64. We have shown, in addition, that the problem is far from an abstract or theoretical one. To the contrary, the concrete examples given provide clear evidence that Indian Point presents a serious threat to public health and safety.

65. Therefore, the following relief is requested:

a) The provisional operating license for Unit 1 should be immediately revoked.

b) Consolidated Edison should be ordered to submit a plan within 90 days for decontaminating and decommissioning Unit 1.

c) The Commission should order operation suspended at Units 2 and 3. These units should not be permitted to resume operation unless and until the Commission determines that 1) the site is suitable for nuclear power generation; 2) each applicable unresolved safety problem is addressed, and 3) the requirements of each Regulatory Guide are addressed.

d) In order to make these determinations, the Commission should establish a special Atomic Safety and Licensing Board to compile a record after adjudication hearings addressing the following questions:

1) What would the consequences be of a Class 9 accident at Indian Point?

2) What specific offsite emergency procedures could feasibly be taken to protect the public in the event of such an accident and to what extent would these measures mitigate the consequences of a Class 9 accident?

3) With respect to each applicable unresolved safety problem in NUREG-0410, what are the specific design features of Units 2 and 3 which compensate for the current absence of a solution to that problem and what is the current status of the generic study of the problem?

4) With respect to each Regulatory Guide applicable to pressurized water reactors, what are the specific design features which constitute conformance or provide an equivalent level of protection?

5) What are the safety-related design differences between Units 2 and 3, distinguishing between those changes ordered by the staff and those made voluntarily?

e) Based upon the record compiled by the Atomic Safety and Licensing Board, the Commission should then decide whether the Indian Point site is suitable and, if so, which specific added safety features and off-site emergency measures are necessary to protect public health and safety. These should be implemented before operation is permitted to resume. In addition, resumption of operation should in no case be permitted until:

1) all design changes ordered by the staff to Unit 3 are backfit to Unit 2;

2) the Unit 2 diesel generators are housed in separate rooms in a building which can withstand earthquakes, missiles, explosions, and fires;

3) there is an acceptable degree of independence for redundant safety power supplies by the addition of a battery at Unit 2;

4) the auxiliary feedwater system for Unit 2 has been reviewed to determine its conformance with the requirements for a safety system and all necessary changes are made; and

5) the measures which the staff concedes are necessary to provide adequate protection in the event of a fire are implemented for both units.

VI. CONSIDERATION OF FACTORS OTHER THAN HEALTH AND SAFETY

66. UCS recognizes that past commissions, when faced with the discovery of previously undisclosed safety problems, have

balked at the prospect of shutting down operating reactors to correct those problems immediately. In doing so, the Commission and its staff appeared on occasion to accept the proposition that its mandate to protect public health and safety could be balanced against certain extrinsic economic factors. UCS believes that balancing of purely economic factors against public safety is outside of the jurisdiction of NRC and would compromise its mandate.

67. However, if the Commission determines that such matters as potential power supply deficiencies are legally relevant and can provide a reason for permitting operation in the face of the safety problems discussed in this petition, it must require the affected utility to provide evidence constituting a definitive showing on each of the following criteria:

a) that the utility is using all alternative sources of power available to it, including purchase power and deferral of routine maintenance shutdown of other capacity on its system;

b) that the utility is using all means available to cut load, including load shedding techniques;

c) that the risk to health and safety from loss-of-load is greater than the risk to public health and safety from a major nuclear accident; and

d) that loss-of-load after all compensating measures have been adopted would, in fact, create health and safety problems of significant importance.

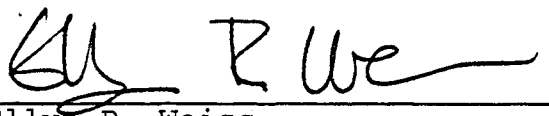
68. In addition, if the affected utility meets all of the above-listed criteria, operation of the reactor in question should only be permitted during those periods of peak demand.

VII. REQUEST FOR DISQUALIFICATION

69. Chairman Hendrie served as Deputy Director for the Division of Technical Review from 1972-1974. In that position, he was at least partially responsible for the staff policy and practices which form the basis of this petition. In such circumstances, it would not seem appropriate for the Chairman to rule on the question's raised herein.

By the Union of Concerned Scientists

By their Attorney,



Ellyn R. Weiss
Sheldon, Harmon, Roisman & Weiss
1725 I Street, N.W., Suite 506
Washington, D. C. 20006
Telephone: (202) 833-9070

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
SECRETARY

October 26, 1979

MEMORANDUM FOR: Harold Denton, NRR

FROM: Samuel J. Chilk, Secretary

SUBJECT: UCS PETITION ON INDIAN POINT

The Commission has determined that the September 17 petition of the Union of Concerned Scientists, requesting the decommissioning of Indian Point Unit 1 and the suspension of Units 2 and 3, should be treated as a 2.206 petition. The Commission requests that the staff response to the petition be issued within 90 days.

cc:
Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Exec Dir for Operations
Commission Staff Offices

10-2-79

Millie:

Here's a copy of the transmittal letter for Pollard's 2.206 petition on Indian Point. We just received it today and I thought you might want to put it with the Control (EDO 7381). This is the one you are holding until we hear what the Commission wants us to do. I understand that we will be getting it for action by a Chilk memo, but so far we have not received anything.

Margo

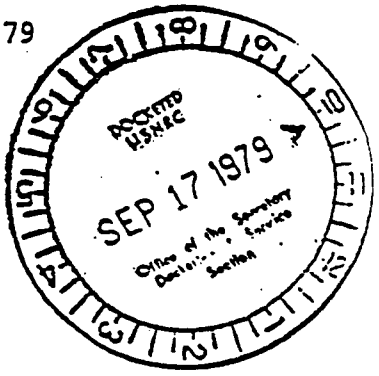
SHELDON, HARMON, ROISMAN & WEISS

1725 I STREET, N.W.
SUITE 506
WASHINGTON, D.C. 20006

TELEPHONE
(202) 833-9070

KARIN P. SHELDON
GAIL M. HARMON
ANTHONY Z. ROISMAN
ELLYN R. WEISS
WILLIAM S. JORDAN, III*
*ADMITTED IN MICHIGAN ONLY

September 17, 1979



Joseph Hendrie, Chairman
Victor Gilinsky, Commissioner
Richard Kennedy, Commissioner
Peter Bradford, Commissioner
John Ahearne, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gentlemen:

Enclosed is the Union of Concerned Scientists' Petition for Decommissioning of Indian Point Unit 1 and Suspension of Operations of Units 2 and 3.

The bases for this petition are as follows:

(1) Indian Point Unit operated from 1962-1974 with a "provisional" operating license. It lacks basic safety features, such as adequate emergency core cooling and has therefore not operated since 1974. Its license should be immediately revoked and the plant decommissioned according to NRC rules.

(2) There are grave questions about the suitability of the site for nuclear power generation.

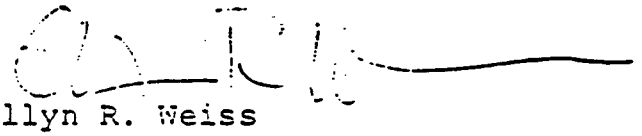
(3) Serious safety problems exist at both Units 2 and 3.

The petition demonstrates that the continued operation of Indian Point Units 2 and 3 present a clear and present danger to the millions of persons who live in the areas surrounding the site. This danger arises both from the fact that the site may be inherently unsuitable and because of specific safety and design problems which affect the plants.

Despite their relative youth, Indian Point Units 2 and 3 are relics of the regulatory past. This is vastly compounded by the fact that they are sited at the edge of an enormous and vulnerable urban area.

In the past, petitions disclosing safety problems at operating plants have been accorded a low priority by the Commission. Now, the accident at Three Mile Island has graphically demonstrated that serious accidents can happen. UCS believes that the time has come for the Commission to face up to the implications of this event. There can be no better starting place than Indian Point.

Very truly yours,



Ellyn R. Weiss

ERW/dmw
Enclosures

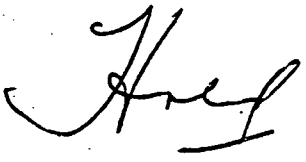
cc: Leonard Bickwit, Esquire
William J. Cahill, Jr., Vice President
George T. Barry, Executive Director

9-21-79

Millie:

Tom Combs told me this morning that the Commission has put a hold on any staff action on this petition until they decide if they will handle it themselves. I understand Jim Lieberman, ELD and Mr. Denton are aware of this.

Margo



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

September 20, 1979

MEMORANDUM FOR: Harold R. Denton, Director
Office of Nuclear Reactor Regulation

FROM: James P. Murray
Office of Executive Legal Director

SUBJECT: UNION OF CONCERNED SCIENTISTS' PETITION FOR DECOMMISSIONING OF INDIAN POINT UNIT 1 AND SUSPENSION OF OPERATION OF UNITS 2 & 3

By petition received September 17, 1979, Ellyn R. Weiss, on behalf of Union of Concerned Scientists, requested under 10 CFR 2.206 that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. While this petition was directed to the Commission, the Secretary has directed that it be treated as a 2.206 petition by the Staff. The Secretary has also assigned a response date of October 15, 1979.

This office will work with your Staff to develop an appropriate response to the petition under 10 CFR 2.206. Enclosed for your use are drafts of:

1. A letter of acknowledgment to Ellyn R. Weiss with copies to the licensees; and

2. A notice of receipt of request for publication in the Federal Register.

If these drafts are not changed, they need not be returned to this office for concurrence. However, please provide us with a copy of the outgoing letter and notice and refer other correspondence related to this matter to this office for concurrence. Also, please inform us who your staff contact on this matter will be.

James P. Murray
Director and Chief Counsel
Rulemaking and Enforcement Division

Enclosures:
As Stated Above
Petition

cc: Darrell Eisenhutt, AD/S&P
Leonard Olshan, ORB-1

CONTACT: Stephen Burns
x28064

DRAFT

Docket Nos. 50-3, 247, 286

Ellyn R. Weiss
Sheldon, Harmon, Roisman & Weiss
1725 I Street, N.W., Suite 506
Washington, D.C. 20006

Dear Ms. Weiss:

This letter is sent to acknowledge receipt of your petition on behalf of Union of Concerned Scientists requesting that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. Your petition has been referred by the Secretary of the Commission to the staff for action.

Your petition is being treated under 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken on your petition within a reasonable time. I enclose for your information a copy of the notice that is being filed for publication with the Office of the Federal Register.

Sincerely,

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosure:
As stated above

cc:
Consolidated Edison Company
Power Authority of the State of New York

25B19

DRAFT

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. and	)	
POWER AUTHORITY OF THE STATE OF NEW YORK	)	Docket Nos. 50-3
	)	50-247
	)	50-286
(Indian Point Station, Units 1, 2 and 3)	)	

REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition received September 17, 1979 the Union of Concerned Scientists requested that immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at _____

_____.

FOR THE NUCLEAR REGULATORY COMMISSION

_____

Dated at Bethesda, Maryland
this ____ day of _____, 1979.

UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

SEP 22 1969

Docket No. 50-3

Mr. William J. Cahill, Jr.
Vice President
Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, New York 10003

Dear Mr. Cahill:

Your letter of September 2, 1969, forwarding proposed technical specifications for Indian Point Unit No. 1, indicated that you expect to submit the remaining reports in support of your application for a full-term operating license by October 1, 1969. You also stated your hope that a meeting could be arranged very soon to discuss the information already submitted.

As noted in your letter of May 22, 1968, you plan to submit your formal application for a permanent operating license, superseding the material submitted informally, following discussions with us. We have not completed our review of the documents you already have submitted, but would be pleased to meet with you for discussions sometime within the next few weeks. Nevertheless, it appears unlikely that all of the actions, including review by the Advisory Committee on Reactor Safeguards, required to convert your provisional operating license to a full-term operating license can be completed by December 16, 1969.

Because it is unlikely that the basic technical matters can be resolved on the schedule you originally proposed, we note that Section 2.109, 10 CFR Part 2, provides that the existing license will not expire if an application for renewal or for a new license is filed at least 30 days prior to the expiration date, i.e., prior to December 16, 1969.

Sincerely,

Original Signed by
Peter A. Morris

Peter A. Morris, Director
Division of Reactor Licensing

cc: Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae

UNITED STATES OF AMERICA

BEFORE THE NUCLEAR REGULATORY COMMISSION

AFFIDAVIT OF ROBERT D. POLLARD IN SUPPORT OF THE
UNION OF CONCERNED SCIENTISTS' PETITION FOR
DECOMMISSIONING OF INDIAN POINT UNIT 1
AND SUSPENSION OF OPERATION OF
UNITS 2 AND 3

I, Robert D. Pollard, hereby make my affidavit as follows:

I am the staff nuclear safety engineer in the Washington, D. C. office of the Union of Concerned Scientists (UCS).

My formal education in nuclear design began in May, 1959, when I was selected to serve as an electronics technician in the nuclear power program of the United States Navy. After completing the required training, I became an instructor responsible for teaching naval personnel both the theoretical and practical aspects of operation, maintenance and repair for nuclear propulsion plants. From February, 1964, to April, 1965, I served as the senior reactor operator, supervising the reactor control division aboard the U.S.S. Sargo, a nuclear-powered submarine. In 1965, I was honorably discharged from the U. S. Navy, and attended Syracuse University, where I received the degree of Bachelor of Science magna cum laude in Electrical Engineering in June, 1969.

In July, 1969, I was hired by the United States Atomic Energy Commission (AEC) and continued as a technical expert with the AEC and its successor, the United States Nuclear Regulatory Commission (NRC), until February, 1976. After joining the AEC, I studied advanced electrical and nuclear engineering at the Graduate School of the University of New Mexico in Albuquerque. I subsequently advanced to the positions of Reactor Engineer (Instrumentation) and Project Manager with AEC/NRC. As a Reactor Engineer, I was primarily responsible for performing detailed technical reviews analyzing and evaluating

the adequacy of the design of reactor protection systems, control systems and emergency electrical power systems in proposed nuclear facilities. In September 1974, I was promoted to the position of Project Manager and became responsible for planning and coordinating all aspects of the design and safety reviews of applications for licenses to construct and operate several commercial nuclear power plants.

As a member of the AEC/NRC Staff, I was assigned to the operating license reviews for all three Indian Point plants. Later, I was assigned as the NRC Project Manager for Indian Point Unit 3. I am familiar with the designs of the three Indian Point plants and the licensing process connected with them.

During the review of the full-term license application for Unit 1, Consolidated Edison was extremely slow in responding to requests for additional information. In at least one instance, more than a year passed without any response to the Staff's written requests for information. In discussions with the Project Manager concerning methods available to the Staff to make Consolidated Edison reply, I was informed that consideration was being given to imposing a civil penalty. Later, I was informed that no civil penalty would be imposed. The reason given by the Project Manager was that, in order to impose a fine for failure to respond to requests for information, a finding would have to be made that Consolidated Edison was not pursuing its application for a full-term license with due diligence. However, Staff attorneys had also advised that such a finding would also require revoking the provisional operating license, an action that management officials of the Staff refused to take.

During my assignment as the NRC's Project Manager for Indian Point Unit 3, I attempted to have action taken on Unit 2. I was aware that the operating license for Unit 3 was being withheld pending analyses and modifications needed

to assure compliance with the Commission's regulations. I was also aware, from my previous review of the design of Unit 2, that features found unacceptable for operation of Unit 3 were incorporated in Unit 2 which was operating. The only response I received was a reminder that I was assigned to Unit 3, not Unit 2, and a statement that decisions concerning modification of Unit 2 would not be made until after Unit 3 was licensed.

The facts in UCS' Petition for Decommissioning of Indian Point Unit 1 and Suspension of Operation of Units 2 and 3 are true and accurate to the best of my knowledge and belief.

By

Robert D. Pollard

Robert D. Pollard
Nuclear Safety Engineer
Union of Concerned Scientists

I hereby affirm that the foregoing is true and correct to the best of my knowledge and belief.

Robert D. Pollard

Washington, Dist. of Col.
Subscribed and sworn to
before me on 13th
September , 1979
at Washington, D. C.

Notary Public

My commission expires My Commission Expires February 28, 1983