



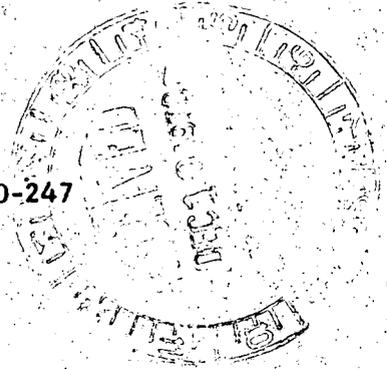
DOCKET NUMBER
RD. & UTIL, EAC. 50-247

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY OF)
NEW YORK, INC.)
)
(Indian Point Nuclear Generating)
Unit No. 2))

Docket No. 50-247

12-8-70



ANSWER OF AEC REGULATORY STAFF TO MOTION OF ENVIRONMENTAL
DEFENSE FUND, INC., FOR ORDER ADJOURNING THE PROCEEDING
OR WITHDRAWING THE NOTICE OF HEARING

On December 1, 1970, at the prehearing conference in this matter, the Environmental Defense Fund, Inc., ("EDF") moved for an "order adjourning the proceeding or withdrawing the notice of hearing until the applicant has complied with Appendix D of Part 50 of 10 CFR, until the AEC has complied with the requirements of the National Environmental Policy Act of 1969, until the notice of hearing has been reissued to indicate the full scope of environmental issues to be considered at this hearing as required by the National Environmental Policy Act of 1969." In addition the EDF asked for adjournment to afford reasonable time to prepare for hearings on issues raised by "the proper application of the National Environmental Policy Act."

The regulatory staff opposes this motion in all respects. The issues for this hearing have been established by the Commission in its Notice of Hearing. The atomic safety and licensing board is not empowered to enlarge the issues in this matter as sought by EDF.

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hearing

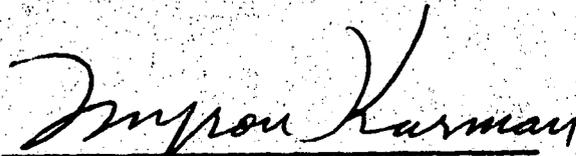
Moreover, it is clear from paragraphs 4 and 6 of Appendix D to 10 CFR Part 50 as published in the Federal Register on April 2, 1970, (35 FR 5463) as well as from paragraphs 9 and 11 of the proposed revised Appendix D published in the Federal Register on June 3, 1970, (35 FR 8594) that the Commission's implementation of the National Environmental Policy Act of 1969 ("NEPA") applicable to this proceeding does not enlarge the issues before the board ^{1/}, subject to an exception apparently not relevant here. ^{2/}

^{1/} The matter of whether or not non-radiological environmental issues are before the board in this proceeding has, in effect, been clarified by the revision of Appendix D to 10 CFR Part 50 of December 4, 1970, (35 FR 18469). Paragraph 10 of the new statement of general policy permits certain non-radiological environmental issues to be raised by a party but "only in proceedings in which the notice of hearing in the proceedings is published on or after March 4, 1971." (Emphasis added.)

^{2/} The exception (paragraph 6 of the April 2 statement and paragraph 11 of the June 3 statement) is to the effect that determinations made by cognizant Federal or State bodies that there is not reasonable assurance of compliance with standards and requirements encompassed by the license condition on environmental standards are, however, deemed proper for consideration in Commission licensing proceedings.

EDF also alleged that the applicant had not complied with AEC's implementation of NEPA and that the staff had not complied with NEPA, respectively. Without conceding the relevancy of these contentions to this proceeding, the staff considers them to be without merit.

The motion should be denied in all respects.



Myron Karman
Myron Karman
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 8th day of December, 1970.