

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket No. 50-247
3-11-71.

AEC REGULATORY STAFF ANSWER TO MOTION OF HUDSON
RIVER FISHERMEN'S ASSOCIATION FOR A DETERMINATION OF
NON-RADIOLOGICAL ENVIRONMENTAL ISSUES

Introduction

In a motion dated March 2, 1971, an intervenor in this proceeding, Hudson River Fishermen's Association (Association) requested the presiding atomic safety and licensing board (board) to rule that 1) the board will consider all aspects of the environmental impact of the operation of Indian Point Unit No. 2 prior to the issuance of a decision as allegedly required by the National Environmental Policy Act of 1969 (NEPA), and 2) the board, at its own initiative will explore and consider all aspects of such environmental impact, regardless of whether the Consolidated Edison Company of New York, Inc. (applicant) has submitted certificates of compliance with federal, state or regional environmental requirements, and regardless of whether or not intervenors raise any environmental issues. A memo-

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random in support of the motion was attached thereto.^{1/}

Discussion

The arguments presented by the Association in support of its motion are contained in the supporting memorandum. Our review of this memorandum indicates that the arguments made by the Association are essentially identical to those made by intervenor Environmental Defense Fund, Inc. (EDF) in its motion, dated February 26, 1971, and supporting memorandum for a determination of environmental issues. The Association contends that 1) NEPA requires the board to consider fully the total environmental impact of the facility before the issuance of a decision, 2) there is no legal justification for limiting such review to hearings noticed after March 7, 1971 and 3) the board has authority to disregard the Commission's regulations in Appendix D to 10 CFR Part 50 which they allege are unlawful.

We have rebutted essentially these same arguments in our Answer to the EDF motion which we filed on March 10, 1971.^{1/} No useful purpose will be served in repeating them in this Answer. Accordingly, we adopt as our response to this motion, our Answer to the EDF motion filed

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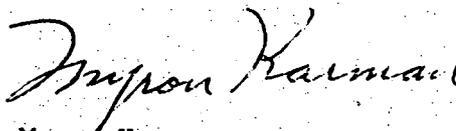
It should be noted that although the motion was dated March 2, 1971, the AEC regulatory staff has not, as of the date of this Answer, been served with a copy by the moving intervenor. It was only through chance that we were informed of the existence of the motion. We were subsequently provided with a copy of the motion by the Public Proceedings Branch of the Office of the Secretary of the Commission.

on March 10, 1971.

Conclusion

For the reasons stated above, and included in the Government's reply brief in the case of Calvert Cliffs Coordinating Committee v. AEC (CA D.C. No. 24,871) which will soon be provided to the board and parties, we are opposed to the Association's motion, and request that it be denied in all respects.

Respectfully submitted,



Myron Karman
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland
this 11th day of March, 1971