

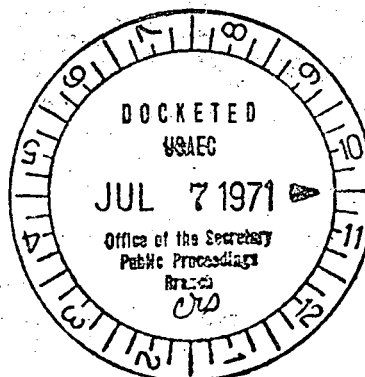
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July 6, 1971

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Samuel W. Jensch, Esq.
Chairman
Atomic Safety and Licensing Board
U.S. Atomic Energy Commission
Washington, D. C. 20545

Re: Consolidated Edison Company
of New York, Inc.
AEC Docket No. 50-247

Dear Mr. Chairman:

On June 25, 1971 counsel for Hudson River Fishermen's Association wrote to you concerning the National Environmental Policy Act issues which are before the Board. The letter indicates that intervenors no longer intend to make any kind of evidentiary presentation as a part of their challenge of 10 CFR 50 Appendix D. While Applicant agrees that the record is ripe for a decision on these issues, it does not agree with the assertion that there is no rational basis for the March 4 transition date in Appendix D. Applicant reiterates its position that the Commission has complied with all requirements of administrative law that the reasons for the regulation be stated. It is not a requirement that each phrase of the stated reasons be in turn supported by findings, data, and documents.

Nor does Applicant agree that the injection of non-radiological environmental issues into this proceeding at this stage would cause no delay. While the amount of time required for resolution of issues in this proceeding related to the emergency core cooling system cannot be estimated with

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certainty, there is no basis for assuming that non-radiological environmental issues could be resolved within that period. In any event, as Applicant has stated previously, the March 4 date by its terms applies to this proceeding, and it is not necessary to demonstrate that all the factors leading to the promulgation of a regulation of general applicability be present in each individual case to which the regulation applies.

Applicant regards the record in this proceeding on the National Environmental Policy Act issues as complete and sufficient to support a determination by the Board that it will regard itself as bound by a valid regulation. In the event, however, that the Board considers that intervenors have raised a substantial legal question as to the validity of the regulation, the Board should immediately certify the question to the Atomic Safety and Licensing Appeal Board for determination.

Very truly yours,

LEBOEUF, LAMB, LEIBY & MACRAE
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- Hon. Louis J. Lefkowitz
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