

BEFORE THE UNITED STATES
ATOMIC ENERGY COMMISSION

In the Matter of) *11-20-71*
Consolidated Edison Company) Docket No. 50-247
of New York, Inc.)
(Indian Point Station, Unit No. 2))

APPLICANT'S MOTION TO
CLOSE HEARING RECORD ON
RADIOLOGICAL SAFETY ISSUES

Pursuant to 10 CFR 2.730 and 2.754, Sections III and VI of 10 CFR 50, Appendix A, and section D.1 of 10 CFR 50, Appendix D, Consolidated Edison Company of New York, Inc. ("Applicant") respectfully moves that the Board issue an order directing that, effective as of the time the hearing was recessed at the close of the session on November 17, 1971, the hearing record in this proceeding be closed with respect to the issues to be considered by the Board under 10 CFR 50.57(a) (hereinafter referred to as the "radiological safety issues") except for such further hearings as may be necessary for the following purposes:

- (a) In order to introduce into evidence responses to questions on the radiological safety issues which have heretofore been asked by the Board and which were not answered at the hearing sessions on November 16-17, 1971;

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- (b) In order to introduce evidence with respect to the security plan for the Indian Point Station, consistent with the in camera hearings on November 12, 1971 (Tr. pp. 48-57);
- (c) In order to introduce evidence to respond to such questions as the Board may raise, if any, because of additional information required for the technical presentation or uncertainties with respect to matters in controversy, consistent with sections III.(g) and VI.(f) of 10 CFR 50, Appendix A;
- (d) In order to deal with the matter of the documents of which the Citizens Committee for the Protection of the Environment has requested the Board to take official notice, as discussed at the hearing on November 12, 1971 (Tr. pp. 3839-3840); and
- (e) In order to introduce evidence with respect to the fire which occurred in the Primary Auxiliary Building on November 4, 1971.

In support of this motion Applicant states as follows:

1. The Commission's regulations require that pending the completion of the environmental review for the Indian Point 2 plant, the Board

and the parties will proceed expeditiously with the hearing on radiological safety matters. Pursuant to the Board's order dated September 17, 1971, an evidentiary hearing was convened on November 1, 1971 and was continued with brief recesses until November 17, 1971. As required by the Board's order, the purpose of said sessions was "to conclude the hearing in this proceeding in all respects possible".

2. In accordance with the Stipulation dated November 2, 1971, the Citizens Committee for the Protection of the Environment ("CCPE"), the only party opposing the issuance of a license for Indian Point 2 on the basis of radiological safety considerations, completed its evidentiary presentation as of November 17, 1971, subject to the hearings being continued with respect to the matters listed above.
3. The expeditious and orderly conduct of this hearing requires that schedules be established for presentation of evidence and other matters, including interrogation by the Board, and be adhered to wherever possible. Applicant and other parties have attempted to follow this

principle by executing the Stipulation dated November 2, 1971. Applicant will continue to attempt to reach agreement with other parties to the proceeding in order to facilitate its conduct, as indicated by Applicant's letter to the Board dated November 29, 1971.

4. It is necessary for the Board to establish by order the extent to which the hearing has been completed with regard to all matters in controversy and to limit further inquiry on radiological safety matters to those items, listed above, with respect to which there has not already been an adequate opportunity for an evidentiary presentation to be made. The issuance of the requested order by the Board would clearly delineate those subjects with respect to which further evidentiary presentations could be made. This would serve to put all parties on notice as to the nature of any further hearings on radiological safety issues, as well as those matters which could not be reopened. Such an order would also facilitate the efforts of the parties to conclude post-hearing activities, such as preparation of findings, conclusions and briefs. The items listed above adequately protect the rights of all parties and

further recognize the proper role of the Board in evaluating the evidence introduced to date.

6. It is particularly important that the Board issue the requested order because of the necessity that this hearing be continued in order to deal with environmental issues pursuant to 10 CFR 50, Appendix D. The Board should make it clear by its order that the duration of the hearing on environmental issues in no way opens the door to a prolongation of the hearing on radiological safety issues.

Respectfully submitted,

LEBOEUF, LAMB, LEIBY & MACRAE
Attorneys for Applicant

By

Leonard M. Trosten
Leonard M. Trosten
Partner

Dated: November 30, 1971

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CERTIFICATE OF SERVICE

I hereby certify that I have served a document entitled "Applicant's Motion to Close Hearing Record on Radiological Safety Issues" by mailing copies thereof first class and postage prepaid, to each of the following persons this 30th day of November, 1971:

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