

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

SUPPLEMENTARY NOTICE OF HEARING ON
FACILITY OPERATING LICENSE APPLICATION

On November 17, 1970, a Notice of Hearing on an Operating License was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (35 F.R. 17679) in the captioned proceeding. That Notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such Notice to persons whose interests may be affected by the proceeding, and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969," (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969

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(NEPA)^{1/} The revised regulations require the consideration of additional matters in applicants' Environmental Reports and in Detailed Statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will consider and determine, in addition to the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the Notice of Hearing in this proceeding published November 17, 1970, and pursuant to the National Environmental Policy Act of 1969, any matter in controversy with respect to whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the operating license should be issued as proposed.

If matters covered by Appendix D of 10 CFR Part 50 are in issue, the Board will, in accordance with section A.11 of Appendix D of

^{1/} The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to Section D thereof which were published in the FEDERAL REGISTER on November 11, 1971 (36 F.R. 21579).

10 CFR Part 50, in addition to deciding any matters in controversy among the parties with respect to these matters: (1) determine whether the requirements of section 102(2)(C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; and (2) independently consider the final balance among conflicting factors covered by Appendix D of 10 CFR Part 50 and contained in the record of the proceeding with a view toward determining the appropriate action to be taken. On the basis of the foregoing, a determination will be made whether the operating license should be granted, denied, or appropriately conditioned to protect environmental values. This notice supersedes the Notice of Hearing published on November 17, 1970, with respect to matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced Notice of Hearing.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to §50.57(c) of 10 CFR Part 50 for an operating license authorizing low

power testing (operation at not more than one per cent of full power for the purpose of testing the facility), and further operations short of full power operation. The Board may grant the motion upon finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of §50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to §50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

- (a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.
- (b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.
- (c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs

on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty per cent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that an emergency situation or other situation requiring such operation in the public interest exists.

Prior to taking any action on a motion pursuant to §50.57(c) of 10 CFR Part 50, which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the issues specified in the Notice of Hearing published on November 17, 1970, and will determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified above, as appropriate, in the form of an initial decision. If the license is one which requires the specific approval of the Commission the Board will certify directly to the Commission, for determination, without ruling thereon, the matter of whether operation beyond twenty per cent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility and will be conditioned to that effect.

As they become available, any new or supplemental Environmental Report, and any new or supplemental Detailed Statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street, N. W., Washington, D. C., where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Hendrik Hudson High School (Library), Albany Post Road, Montrose, New York, for inspection by members of the public between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, and 7:00 p.m. to 9:00 p.m. on Monday evenings. A copy of any new or Supplemental Detailed Statement prepared and, to the extent of supply, a copy of any new or Supplemental Environmental Report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, United States Atomic Energy Commission, Washington, D. C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this Notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR §2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited

appearance are required to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, not later than thirty (30) days from the date of publication of this Notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice, must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR §2.714 of the Commission's "Rules of Practice," must be received in the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this Notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR §2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this Notice, or an amended answer with respect to the issues specified in this Notice, must be filed by the applicant, pursuant to the provisions of 10 CFR §2.705 of the Commission's "Rules of Practice," not later than twenty (20) days from the date of publication of this Notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the Notice of Hearing dated November 17, 1970, must also file an answer with respect to the issues specified in this Notice not later than twenty (20) days from the date of publication of this Notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR §2.705 of the Commission's "Rules of Practice."

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this Notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

FOR THE ATOMIC ENERGY COMMISSION



W. B. McCool
Secretary of the Commission

Dated at Germantown, Maryland
this 29th day of November 1971.

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ATOMIC ENERGY COMMISSION

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

11-29-71
Docket No. 50-247

CERTIFICATE OF SERVICE

I hereby certify that copies of SUPPLEMENTARY NOTICE OF HEARING ON FACILITY OPERATING LICENSE APPLICATION dated November 29, 1971 in the captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 30th day of November 1971:

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