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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE COMMISSION



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

9-20-71
Docket No. 50-247

SUPPLEMENT TO ANSWER OF AEC REGULATORY STAFF TO APPLICANT'S
MOTION FOR AN ORDER ESTABLISHING FURTHER PROCEDURAL REQUIREMENTS
TO IMPLEMENT THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

On August 17, 1971, the applicant, Consolidated Edison Company of New York, Inc. filed with the Commission a Motion For An Order Establishing Further Procedural Requirements To Implement The National Environmental Policy Act of 1969 (NEPA). The applicant moved the Commission for an order a) establishing further procedural requirements for subject proceeding, including a specific time schedule therefor, that shall be followed in order to implement the decision of the United States Court of Appeals for the District of Columbia Circuit in the Calvert Cliffs case;^{1/} b) directing the Atomic Safety and Licensing Board (ASLB) to proceed promptly with the subject hearing on the issues specified in the Notice of Hearing as published on November 17, 1970 and to issue its Initial Decision notwithstanding any pendency of proceedings required by NEPA; and c) requiring that

1/ Calvert Cliffs' Coordinating Committee, Inc. et al. v. U.S. AEC et al. (Nos. 24,839 and 24,871) (D. C. Cir., decided July 23, 1971)

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any operating license issued for the facility shall be subject to continuance, suspension, modification or revocation in accordance with proceedings required by NEPA.

On August 25, 1971, the AEC regulatory staff (staff) filed a partial answer to the motion in which it supported that portion of the applicant's motion which requested that the presiding Atomic Safety and Licensing Board (Board) be directed to proceed promptly with the subject hearing on the issues specified in the notice of hearing which are pending. We also requested additional time within which to respond to the balance of the matters in the motion dealing with the application of the Calvert Cliffs^{2/} decision to this proceeding in view of the anticipated issuance of revised Commission regulations implementing NEPA in light of that decision.

On September 9, 1971, the Commission published such implementing regulations in the Federal Register (36 F.R. 8071) in the form of a revision of Appendix D of 10 CFR Part 50. These revised regulations provide specific procedures to be followed in proceedings such as this one for dealing with NEPA matters. Section D, paragraph 2, of Appendix D, which is applicable to this proceeding, permits the applicant, in a proceeding such as this one where the NEPA environmental review has not been completed, to move pursuant to 10 CFR § 50.57(c) for the issuance of a license authorizing limited operation

2/ supra pg. 1.

of the Indian Point Unit 2 facility within the scope of 10 CFR § 50.57(c) and authorizes the presiding Board to grant such a motion after making specified determinations.

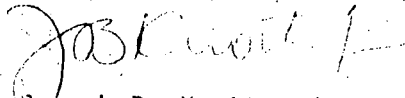
The procedure proposed by the applicant in its motion for dealing with NEPA matters in this proceeding is not provided for in revised Appendix D of 10 CFR Part 50. Since Appendix D provides procedures to accomplish the basic objective sought in the applicant's proposal, i.e., to expedite the consideration of a license, as well as to protect the interests of the other parties to the proceeding, we believe that the established procedures set forth in Appendix D should be followed rather than an ad hoc procedure.

Revised Appendix D of 10 CFR Part 50 also provides guidance to presiding Boards that they proceed expeditiously with the aspects of the application pending before them related to the Commission's licensing requirements under the Atomic Energy Act of 1954, as amended, pending the completion of the ongoing NEPA environmental review. This guidance, which is applicable to this proceeding, provides, in our view, the direction to the presiding Board in this proceeding which the applicant has requested in its motion with respect to expediting consideration in this proceeding of those matters not subject to revised Appendix D. In this regard, it should be noted that the presiding Board in this proceeding has scheduled resumption of the

hearing for October 5 on those matters, other than NIPA matters,
which have not been completed.

For the reasons stated above, we believe that the applicant's
motion should be denied.

Respectfully submitted,



Joseph B. Knotts, Jr.
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 20th day of September, 1971.