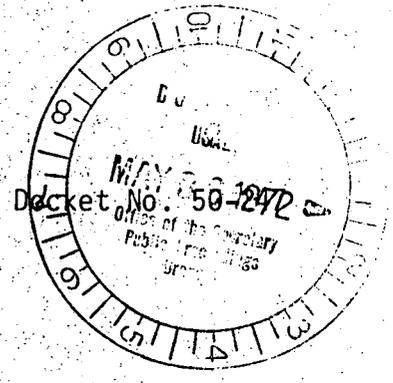


UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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



RESPONSE OF AEC REGULATORY STAFF TO APPLICANT'S
MOTION FOR RECONSIDERATION OF BOARD'S RULING
ON MOTION FOR 90% POWER OPERATING LICENSE

At the last hearing session in subject proceeding, held on May 18, 1972, the presiding Atomic Safety and Licensing Board (Board) ruled that "It is our present intention not to take up the 90 per cent license....It is our present plan to proceed solely with reference to the 100 per cent operating license" (Tr. p. 5309). On May 19, 1972, the applicant filed a motion for reconsideration of the Board's ruling, and requested that the applicant's motion of September 24, 1971, for a license to operate the facility at 90 per cent of full power be considered at the next hearing session scheduled for June 19, 1972. The applicant also requested that in the event the Board did not grant the motion to reconsider, the matter should be certified to the Atomic Safety and Licensing Appeal Board for its ruling.

On October 19, 1972, the applicant filed a motion, supplementing its September 24, 1971 motion, which requested that the Board

"Consider first and on an expedited basis the evidence as it relates to the issuance of a license for limited operation of Unit No. 2 for testing purposes at a power level up to 1379 Mwt (50% of full power)".

At the January, 1972 session of the hearing the Board received evidence presented by the staff on the factors specified in Section D.2, Appendix D, 10 CFR Part 50 with respect to environmental considerations for steady state operation of the facility at 50 per cent of full power. The staff witnesses were questioned by the Board. The Board accepted the staff testimony as being properly applicable to the applicant's pending supplemental motion (Tr. 4412).

Because the staff efforts during the pendency of the applicant's motion for authority to operate the facility at 90 per cent of full power were directed to preparing the draft environmental statement for full power operation of the facility, it undertook to prepare testimony only on the applicant's supplemental motion for authority to operate the facility at 50 per cent of full power.

On April 13, 1972, the staff issued its Draft Environmental Statement for the Indian Point Station, Unit No. 2. It is anticipated that the Final Environmental Statement will be issued by July 19, 1972.

After consideration of the applicant's motion for reconsideration of the Board's ruling not to proceed with an evidentiary hearing on the applicant's motion for authority to operate the facility at 90 per cent of full power, we believe that the motion should be granted. In our view the applicant is entitled to present appropriate evidence in support of this motion. The provisions of Section D.2, Appendix D 10 CFR Part 50 provide him with this opportunity.

On our part, we are prepared at an appropriate time to present testimony relating to the factors specified in Section D.2, Appendix D, 10 CFR Part 50 for operation of the facility up to 90 per cent of full power. Such testimony will take into account information contained in the draft environmental statement and, as appropriate, comments received on that statement and such other information as is available regarding the power needs of the area to be served by the facility.

In the event that the Board elects not to reconsider its ruling regarding the 90 per cent of full power authorization then we would support the applicant's request that the Board's ruling be certified to Atomic Safety and Licensing Appeal Board.

Respectfully submitted,


Myron Karman
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland
this 26th day of May, 1972

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 Nuclear Generating)
Unit No. 2))

Docket No. 50-247

CERTIFICATE OF SERVICE

I hereby certify that copies of "Response of AEC Regulatory Staff to Applicant's Motion for Reconsideration of Board's Ruling on Motion for 90% Power Operating License," dated May 26, 1972, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 26th day of May, 1972:

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

Anthony Z. Roisman, Esq.
Berlin, Roisman and Kessler
1712 N Street, Northwest
Washington, D. C. 20036

Dr. John C. Geyer, Chairman
Department of Geography and
Environmental Engineering
The Johns Hopkins University
Baltimore, Maryland 21218

Honorable William J. Burke
Mayor of the Village of
Buchanan
Buchanan, New York 10511

Mr. R. B. Briggs, Director
Molten-Salt Reactor Program
Oak Ridge National Laboratory
P. O. Box Y
Oak Ridge, Tennessee 37830

Paul S. Shemin, Esq.
New York State Attorney
General's Office
80 Centre Street
New York, New York 10013

J. Bruce MacDonald, Esq.
New York State Atomic Energy
Council
112 State Street
Albany, New York 12207

Leonard M. Trosten, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1821 Jefferson Place, N. W.
Washington, D. C. 20036

Angus Macbeth, Esq.
Natural Resources Defense
Council, Inc.
36 West 44th Street
New York, New York 10036

Nathaniel H. Goodrich, Esq.
Chairman, Atomic Safety and Licensing
Board Panel
U. S. Atomic Energy Commission
Washington, D. C. 20545

Algie A. Wells, Esq., Chairman
Atomic Safety and Licensing Appeal
Board
U. S. Atomic Energy Commission
Washington, D. C. 20545

Mr. Stanley T. Robinson, Jr.
Chief, Public Proceedings Branch
Office of the Secretary of the
Commission
U. S. Atomic Energy Commission
Washington, D. C. 20545



Myron Karman
Counsel for AEC Regulatory Staff

AEC DISTRIBUTION FOR PART 50 DOCKET MATERIAL
(TEMPORARY FORM)

CONTROL NO: 2908

FROM: Secretary, AEC	DATE OF DOC:	DATE REC'D 5-30-72	LTR	MEMO	RPT	OTHER X
TO: DL	ORIG	CC	OTHER	SENT AEC PDR SENT LOCAL PDR		
CLASS: U PROP INFO	INPUT	NO CYS REC'D	DOCKET NO: 50-247			
DESCRIPTION: No trans ltr rec'd w/Hearing transcripts.	ENCLOSURES: Hearing Transcripts for Indian Point Station, Unit # 2: PAGES: 5577 thru 5757, dtd 5-19-72					
PLANT NAMES:	(3 cys rec'd)					

FOR ACTION/INFORMATION 5-30-72 fod

BUTLER(L) W/ Copies	KNIEL(L) W/ Copies	VASSALLO(L) W/ Copies	ZIEMANN(L) W/ Copies	KNIGHTON(ENV) W/ Copies
CLARK(L) W/ Copies	SCHWENCER (L) W/ Copies	H. DENTON W/ Copies	CHITWOOD(FM) W/ Copies	Skovholt W/ 2 Copies
GOLLER(L) W/ Copies	STOLZ(L) W/ Copies	SCHEMEL(L) W/ Copies	DICKER(ENVIRO) W/ Copies	W/ Copies

INTERNAL DISTRIBUTION

REG FILES AEC PDR REG OPER OGC ^{RM} P-506 MUNTZING & STAFF GIAMBUSSO-L BOYD-L-BWR DEYOUNG-L-PWR MULLER-L-ENVIRO SKOVHOLT-L-OPER KNUTH-L MACCARY-L	STELLO-L MOORE-L LANGE-L PAWLICKI-L THOMPSON-L TEDESCO-L LONG-L LAINAS-L SHAO-L BENAROYA-L MORRIS-RO DUBE-L E.CASE	VOLLMER-L DENTON-L GRIMES-L GAMMILL-L KNIGHTON-ENVIRO DICKER-ENVIRO PROJ LDR ENVIRO BRAITMAN-A/T SALTZMAN-IND. McDONALD-PLANS NUSSBAUMER-FM SMILEY-FM	KARAS-L- L/A PWR MASON-L- L/A BWR BROWN-L- L/A PWR WILSON-L- L/A PWR KARI-L- L/A BWR SMITH-L- L/A BWR GEARIN-L- L/A BWR DIGGS-L- L/A TEETS-L- L/A WADE-L- L/A ENVIRO
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

EXTERNAL DISTRIBUTION

1-LOCAL PDR	9-NATIONAL LAB'S ANL/ORNL/BNWL	1-SAN/LA/NY--PDR
1-DTIE-(LAUGHLIN)	1-R. CARROLL-OC, GT	1-CHIEF WATER REACTORS
1-NSIC-(BUCHANAN)	1-R. CATLIN, A-170, GT	
1-ASLB-YORE/SARYE WOODWARD/H. ST	1-CONSULTANT'S NEWMARK/BLUME/AGBABIAN	
1-C. MILES-C-459, GT		
16 CYS ACRS-HOLDING		

DO NOT REMOVE

Hearing