BEFORE THE UNITED STATES

ATOMIC ENERGY COMMISSION

In the Matter of	)	5-15-72.
	)	
Consolidated Edison Company of New York, Inc. (Indian Point Station, Unit No. 2)	)	Docket No. 50-247

REPLY OF APPLICANT TO INTERVENORS' REPLY ON APPLICANT'S MOTION FOR ISSUANCE OF A LICENSE FOR LIMITED OPERATION

Consolidated Edison Company of New York, Inc. ("Applicant") submits this reply to the submission of intervenors Hudson River Fishermen's Association ("HRFA") and Environmental Defense Fund ("EDF") dated May 5, 1972 concerning Applicant's motion for issuance of a license for limited operation.

Intervenors continue to make the basic error of asking the Board to make findings required by the Commission's regulations (10 CFR Part 50 Appendix D, Section D.2) on the basis of assertions in documents and correspondence of counsel rather than evidence submitted on the record. Intervenors allege that Con Edison no longer needs the power that can be generated from Indian Point Unit No. 2 during the period of

the ongoing NEPA review. Intervenors are free to cross-examine Applicant's witnesses in order to attempt to establish this point on the record. Instead, the intervenors have requested the Board to make a finding on this point on the basis of unsworn statements of counsel. This is improper and illegal.

Intervenors accuse Applicant of a failure to provide a candid account of the power supply situation. The testimony of Applicant in January 1972 was accurate to the best of its knowledge at the time it was presented to the Board. Con Edison intends to offer additional testimony at the forthcoming hearing session updating the January testimony. There would have been no point in using valuable hearing time to furnish interim reports, and Con Edison was never requested to do so by the Board or any party.

Intervenors imply that the testimony of Mr. Bertram Schwartz submitted to the Power Authority of the State of New York on May 3, 1972 is somehow inconsistent with Applicant's position in this case. The Board's attention is directed to page 5 of that statement attached to intervenors' reply where Mr. Schwartz states that Applicant's reserves will be undesirably low for the duration of the summer of 1972.

Intervenors assert that the power supply situation is satisfied because Applicant has a reserve of more than 20%. Intervenors are free to cross-examine in an effort to demonstrate that a 20% reserve is adequate. As the evidence submitted to the Board shows, Applicant does not believe that a reserve of 20% is adequate for its present system. Although this might be a subject for debate in the case of other utilities, Applicant has unfortunately established by experience (as reported in the Environmental Report Supplement) that a 20% reserve is not adequate for its system at this time.

Intervenors assume that the Board will not close the hearing on the motion to operate at up to 90% of power until after the Staff's Final Detailed Statement is published. There is no proper basis for such an assumption. Such an act by the Board would be inconsistent with 10 CFR Part 50 Appendix D, Section D.2, which provides that a motion such as Applicant's is acted upon pending completion of the full environmental review. The Final Detailed Statement is part of the full environmental review. To withhold action on a motion for limited operation until that statement is published is inconsistent with the concept that limited operation should be allowed upon a proper showing pending that full environmental review.

As indicated in our letter to the Board dated May 10, 1972, there is no merit in intervenors' argument that proceeding with consideration of Applicant's motion will lead to duplication or delay. The issues to be considered by the Board on Applicant's motion and in the full NEPA hearing are different and there is no reason to cover the same ground twice.

Applicant intends to submit evidence to the Board on the effect of delay of facility operation upon the public interest. Unit No. 2 is needed during the summer of 1972 and thereafter. A delay in licensing the plant will also lead to substantial additional cost to the Applicant and its customers. Con Edison is entitled to the right to present this evidence. Intervenors may cross-examine on the record; they may not attempt to make their case by unsworn assertions of counsel.

Respectfully submitted,

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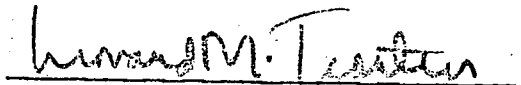
By 
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Dated: May 15, 1972