

BEFORE THE UNITED STATES

ATOMIC ENERGY COMMISSION

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

4-11-72.

MOTION FOR RULING
ON PETITION TO INTERVENE
BY CLEAN, INC.

Consolidated Edison Company of New York, Inc.,
Applicant in the above-captioned proceeding, hereby moves the
Atomic Safety and Licensing Board ("Board") to deny forthwith
the request to intervene filed herein by Citizen's League for
Education About Nuclear Energy, Inc. ("CLEAN"). In support
of this motion Applicant states as follows:

1. On December 14, 1971 Applicant's counsel
was handed a copy of a document in which
CLEAN asked leave to "intervene generally"
in this proceeding. Applicant and the
Regulatory Staff filed answers in opposi-
tion to this request on December 21, 1971
and December 23, 1971, respectively.

2. On December 28, 1971 the Board issued an order denying the affidavit filed by George C. Arcaro as a petition to intervene for failure to comply with applicable requirements and allowing CLEAN to file within twenty (20) days thereafter a petition related solely to environmental issues and in accordance with applicable requirements.
3. On January 13, 1972 CLEAN filed a supplement to its attempted petition to intervene. Applicant continues to oppose CLEAN's request for the reasons stated in Applicant's answer dated January 24, 1972. The Staff also opposed CLEAN's request in an answer dated January 24, 1972. No ruling has been issued by the Board to date with regard to CLEAN's January 13, 1972 supplement.
4. At the hearing in this proceeding on April 5, 1972, the Board afforded counsel for CLEAN an additional opportunity to file

a statement in support of CLEAN's request to intervene. Applicant's counsel opposed this action by the Board (Tr. 4928-4929).

5. The Commission's November 29, 1971 Supplemental Notice of Hearing herein stated that petitions to intervene, pursuant to 10 CFR 2.714, must be received not later than January 3, 1972, over three months ago. CLEAN has already been afforded one opportunity by the Board to perfect its petition and presumably will seize upon the Board's statement at the April 5 hearing in order to try again.
6. There is nothing in the Commission's regulations on intervention or the Supplemental Notice of Hearing that authorizes the Board to grant successive opportunities to would-be intervenors to file valid petitions to intervene. Applicant vigorously objects to the filing of any statement by CLEAN which is considered by the Board as an additional basis for granting

CLEAN's request to become a party to
this proceeding.

Accordingly, Applicant reiterates its request to
the Board to deny CLEAN's attempted petition to intervene on
the basis of the papers filed to date.

Very truly yours,

LEBOEUF, LAMB, LEIBY & MACRAE
1821 Jefferson Place, N. W.
Washington, D. C. 20036
Attorneys for Applicant

By Leonard M. Trosten
Leonard M. Trosten
Partner

Dated: April 11, 1972