

BEFORE THE UNITED STATES  
ATOMIC ENERGY COMMISSION

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

4-7-72

Docket No. 50-247

MOTION FOR ORDER TO TAKE  
TESTIMONY BY DEPOSITION AND  
APPLICATION FOR ISSUANCE  
OF SUBPOENAS

Consolidated Edison Company of New York, Inc. ("Con Edison") moves the Atomic Safety and Licensing Board in the above-captioned proceeding for an order directing that the testimony of H. K. Brill, President, Pennsylvania Engineering Corporation, Pecor Division, 526 South Jefferson Street, P. O. Box 311, New Castle, Pennsylvania 16101, be taken by deposition on oral examination before a person authorized to administer oaths by the laws of the United States at a conference room in the Flying Carpet Motor Lodge, Beers School Road (Moon Township), Coraopolis, Pennsylvania, on the 19th of April 1972, beginning at 10:00 a.m., and to continue thereafter from day to day until concluded.

Con Edison by this application also requests the Chairman of the Atomic Safety and Licensing Board in the above-captioned proceeding to issue a subpoena requiring the attendance of H. K. Brill, President, Pennsylvania Engineering Corporation, Pecor Division, 526 South Jefferson Street, P. O. Box 311, New Castle, Pennsylvania 16101, at the place and times designated above for the purpose of taking testimony by deposition on oral examination concerning the subject matter of the letter of H. K. Brill dated March 14, 1972 to L. Manning Muntzing, United States Atomic Energy Commission.

Con Edison by this application further requests that the Chairman of the Atomic Safety and Licensing Board in the above-captioned proceeding issue a subpoena requiring H. K. Brill, individually and as President, Pennsylvania Engineering Corporation, Pecor Division, 526 South Jefferson Street, P. O. Box 311, New Castle, Pennsylvania 16101, to produce, at the office of H. K. Brill and Pennsylvania Engineering Corporation, on the 14th of April 1972 at 10:00 a.m. any and all documents, books and papers in the possession or control of H. K. Brill or Pennsylvania Engineering Corporation

relating to the subject matter of the letter of H. K. Brill dated March 14, 1972 to L. Manning Muntzing, United States Atomic Energy Commission, Washington, D. C., for inspection and copying by Con Edison. The documents to be produced are further identified in Appendix A to this motion and it is requested that said Appendix A be incorporated in or annexed to the subpoena.

In support of this Motion and Application Con Edison states the following. H. K. Brill, on March 14, 1972, transmitted a letter to L. Manning Muntzing, United States Atomic Energy Commission, setting forth allegations concerning the safety of the Indian Point Station, Unit No. 2 facility. Con Edison, as applicant for licenses in the above-captioned proceeding, has undertaken a full review of the allegations set forth in that letter. Clarification of the matters asserted in the letter of H. K. Brill is mandatory in order for such inquiry to be completed as expeditiously as possible and any nuclear safety questions raised by this letter resolved. Therefore, Con Edison desires to examine H. K. Brill concerning these allegations and any other matter which is relevant to the subject matter as set forth above.

WHEREFORE, Con Edison having demonstrated good cause for such order to take testimony by deposition to be issued, moves this Board to order the aforementioned deposition, to issue the requested subpoenas and to deliver the executed subpoenas to the undersigned Counsel for Con Edison.

Respectfully submitted,

LEBOEUF, LAMB, LEIBY & MACRAE  
Attorneys for Consolidated  
Edison Company of New  
York, Inc.  
1821 Jefferson Place, N. W.  
Washington, D. C. 20036

By Leonard M. Trosten  
Leonard M. Trosten  
Partner

Dated: April 7, 1972

DISTRICT OF )  
                  ) SS.  
COLUMBIA      )

LEONARD M. TROSTEN, being duly sworn, deposes and says that he has read the document entitled "Motion for Order to Take Testimony by Deposition and Application for Issuance

of Subpoenas", knows the contents thereof, and that the same are true as stated.

Harold M. Timpton

Subscribed and sworn to before me this 7th day of April 1972.

Doris E. Day  
Notary Public

My Commission expires June 30, 1972.

APPENDIX A

In accordance with the "Motion for Order to Take Testimony By Deposition and Application for Issuance of Subpoenas" Consolidated Edison Company of New York, Inc. requests that H. K. Brill, President, Pennsylvania Engineering Corporation, Pecor Division, produce for inspection and copying any and all books, records and documents related to the subject matter of the letter of H. K. Brill dated March 14, 1972 to L. Manning Muntzing, United States Atomic Energy Commission, Washington, D. C. This request includes but is not limited to the following:

1. All memoranda of telephone calls placed or received by H. K. Brill and/or other representatives of the Pennsylvania Engineering Corporation related to the subject matter of the letter of H. K. Brill dated March 14, 1972;
2. All memoranda of meetings attended by H. K. Brill and/or other representatives of the Pennsylvania Engineering Corporation related to the subject matter of the letter of H. K. Brill dated March 14, 1972;

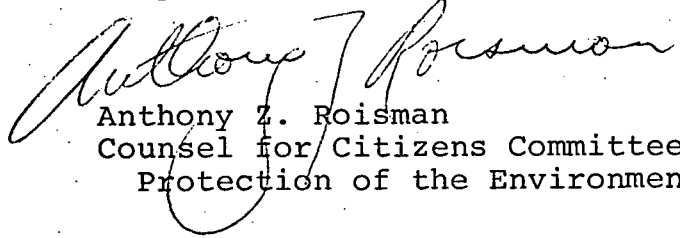
3. All drawings, sketches, and technical correspondence received or transmitted by H. K. Brill or representatives of the Pennsylvania Engineering Corporation, individually or otherwise, related to the subject matter of the letter of H. K. Brill dated March 14, 1972;
4. All proposals, contracts, correspondence and related documents received or transmitted by H. K. Brill or representatives of the Pennsylvania Engineering Corporation, individually or otherwise, concerning the subject matter of the letter of H. K. Brill dated March 14, 1972; and
5. All reports resulting from inspections and/or site visits conducted by H. K. Brill or Pennsylvania Engineering Corporation or representatives thereof related to the subject matter of the letter of H. K. Brill dated March 14, 1972.

Staff, has the duty to bring forth the data relevant to the safety review being conducted. Too often in these proceedings the attitude of the Applicant and the Staff has been that neither the Board or the other parties really have any right or reason to question the internal judgments of the Staff and the Applicant. That attitude is legally incorrect.

CONCLUSION

For the reasons stated above, the Board should grant the Motion.

Respectfully submitted,



Anthony Z. Roisman  
Counsel for Citizens Committee for  
Protection of the Environment

April 10, 1972