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

APPEAL BOARD

Re: Consolidated Edison Company
of New York, Inc.
Indian Point No. 2
AEC Docket No. 50-247

Dear Mr. Chairman:

We have received a copy of a document entitled "Citizens Committee for the Protection of the Environment Supplement to Reply Brief", relating to the questions certified to the Appeal Board in this proceeding. The document appears to have been served after the deadline of January 21 for such a brief, and in any event its substance has no proper place in a reply brief. In it the Citizens Committee argues on the basis of Criterion 35 of 10 CFR Part 50, Appendix A* that the Licensing Board is required to consider "rod swelling and bursting and flow blockage."

*Criterion 35 provides in part that:

"A system to provide abundant emergency core cooling shall be provided. The system safety function shall be to transfer heat from the reactor core following any loss of coolant accident at a rate such that (1) fuel and clad damage that could interfere with continued effective core cooling is prevented, and (2) clad metal-water reaction is limited to negligible amounts...."

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Applicant has designed the ECCS for Unit No. 2 in accordance with Criterion 35. However, contrary to the Citizens Committee's assertions, Criterion 35 does not require case-by-case treatment of the above-mentioned matters by the Licensing Board in this situation. In fact, the General Design Criteria are expressly subject to further specification and amplification, which is exactly what the Commission did in promulgating the ECCS interim acceptance criteria. For example, Criterion 35 provides that clad metal-water reaction be limited to "negligible amounts". The interim criteria place a number on this - one percent - and this further specification is controlling and not subject to review in individual licensing proceedings. Similarly, the Commission's consideration of the matters of fuel clad rupture and flow channel blockage in the rulemaking proceeding which led to the interim acceptance criteria is controlling and case-by-case consideration of these matters in individual licensing proceedings, for reasons given in our prior briefs, is neither necessary nor proper.

Very truly yours,

LeBoeuf, Lamb, Leiby & MacRae
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- The Honorable Louis J. Lefkowitz