

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) )

12-21-71

ANSWER OF APPLICANT TO REQUEST  
FOR LEAVE TO INTERVENE BY CITIZEN'S  
LEAGUE FOR EDUCATION ABOUT NUCLEAR ENERGY, INC.

At the hearing session on December 14, 1971 Applicant's counsel was handed a copy of a document in which Citizen's League for Education About Nuclear Energy, Inc. ("CLEAN") asks leave to "intervene generally" in this proceeding. Applicant understands that this document was subsequently mailed to the Commission on December 14 and received by the Office of the Secretary on December 17. Applicant opposes this request for the following reasons:

1. The document was not accompanied by the requisite number of copies required by 10 CFR §2.708(d).
2. The document was not accompanied by proof of service as required by 10 CFR §2.712(e).
3. It is not clear whether it is an organization or a number of individuals seeking to intervene. Nor has it been shown that the persons or organization have authorized intervention.

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4. The document was not signed under oath or affirmation by the person or persons seeking to intervene as required by 10 CFR §2.714(a) but rather by their attorney.
  
5. CLEAN has not stated an interest in the proceeding which would qualify it for intervention under the Supplementary Notice of Hearing.<sup>1/</sup> The sole basis given for intervention is that "all the petitioners live within twenty-five miles of Indian Point Plant No. 2 and well within the radius of damage considered likely as set forth in the AEC document known as Wash-740." The Supplementary Notice of Hearing dated November 29 clearly states that it does not " ... provide an additional opportunity to any person to intervene on the basis of ... the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior ... Notice of Hearing." The request is therefore over a year late and good cause has not been shown for late intervention. In fact, the record shows that CLEAN, represented by the same

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<sup>1/</sup>Even if CLEAN had stated an interest in the proceeding, such interest would undoubtedly already be adequately represented by existing intervenors.

attorney who signed the request for intervention, was present at the prehearing conference on December 1, 1970, where the Chairman explained the concept of intervention, and subsequently decided not to intervene.<sup>2/</sup>

6. The contentions of CLEAN, both as expressed in its request and in the limited appearances and other expressions already appearing in the record, relate almost exclusively to issues specified in the original Notice of Hearing. Hearings on these issues have been held over an entire year and are almost complete. The Supplementary Notice provides no new rights in this area to prospective intervenors, and CLEAN has shown no good cause as to why it did not attempt to litigate these matters in a timely fashion.
7. To the extent that CLEAN's contentions cover matters other than those specified in the original Notice of Hearing they are an afterthought and CLEAN has not shown a serious interest in them. The petition merely states "radiation and thermal pollution, environmental effects of the plant, etc." This statement of con-

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<sup>2/</sup>CLEAN had expressed an interest in intervention and at the December 1, 1970 prehearing conference was given until December 8 to file a late petition to intervene. On December 7, 1970 CLEAN sent a letter to the Commission Staff notifying it of its decision not to intervene.

tentions does not even approach compliance with the requirement of 10 CFR 2.714 that contentions be stated in reasonably specific detail.

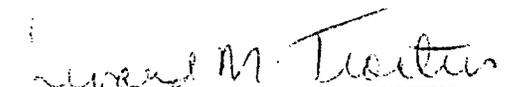
8. CLEAN, by its conduct thus far related to this proceeding, has demonstrated that if it is permitted to intervene it will have nothing of use to offer to the decisional process. The only likely effect of permitting CLEAN to intervene will be to delay the proceeding unnecessarily.

Applicant therefore requests that CLEAN's request to intervene be denied for failure to comply with the Rules of Practice of the Commission.

Respectfully submitted,

LEBOEUF, LAMB, LEIBY & MACRAE  
Attorneys for Applicant

By

  
Leonard M. Trosten  
Partner

Dated: December 21, 1971

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CERTIFICATE OF SERVICE

I hereby certify that I have served a document entitled "Answer of Applicant to Request for Leave to Intervene by Citizen's League for Education About Nuclear Energy, Inc." by mailing copies thereof first class and postage prepaid, to each of the following persons this 21st day of December, 1971:

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