

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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| In the Matter of | } | |
| CONSOLIDATED EDISON COMPANY OF | } | Docket No. 50-247 |
| NEW YORK, INC. | } | |
| (Indian Point Station, Unit No. 2) | } | |

AEC REGULATORY STAFF RESPONSE TO CITIZENS' COMMITTEE FOR THE
PROTECTION OF THE ENVIRONMENT EXCEPTIONS TO INITIAL DECISION
ISSUED ON JULY 15, 1972

On August 4, 1972, intervenor Citizens' Committee for the Protection of the Environment filed, before the Atomic Safety and Licensing Appeal Board, an exception to the Initial Decision issued in the captioned proceeding by the presiding Atomic Safety and Licensing Board, dated July 14, 1972.^{1/}

The last paragraph of such Exceptions requests the Appeal Board to stay the issuance of an operating license and to order the hearing re-opened. Intervenor bases its exception and requests on "recently discovered data" concerning the integrity of fuel rods in Westinghouse pressurized water reactors, citing and attaching an article from Science Magazine of July 28, 1972, concerning problems occurring during operation of Ginna facility of Rochester Gas and Electric Company (U. S. Atomic Energy Commission, Docket No. 50-244).

^{1/} The filing of intervenor is titled "Exceptions to Initial Decision Issued on July 15, 1972."

Although intervenor cites a portion of the staff's safety evaluation for the Indian Point Unit 2 facility as establishing a relationship between the staff's review of the Indian Point facility and the prior review and experience with the Ginna facility, nothing in the cited article from the Science Magazine (assuming for purposes of the motions that the contents thereof accurately reflect the facts) even suggests that the problem identified at the Ginna facility is of relevance to the safe operation of the Indian Point Unit 2 facility at up to 20% of full power for the purposes of testing as authorized by the Initial Decision dated July 14, 1972.

Neither does the cited article suggest that the problem identified at Ginna affects the safe operation of the Indian Point Unit No. 2 facility at power levels up to 50% for purposes of the proposed testing of the facility nor does such article affect the adequacy of the record submitted by the Licensing Board to the Commission with respect to applicant's motion for authority to operate the Indian Point Unit 2 facility at power levels up to 50% for purposes of the proposed testing of the facility.

Contrary to the implication intervenor attempts to derive from the Science Magazine article, there is no safety problem associated with fuel anomalies of the type identified at the Ginna facility with respect to operation of the Indian Point Unit No. 2 facility at power levels up to 50% of full power for purposes of the proposed testing of the facility.

For the foregoing reasons, intervenor's exceptions and requests should be denied.

Respectfully submitted,

Thomas F. Engelhardt

Thomas F. Engelhardt
Chief Hearing Counsel

Dated at Bethesda, Maryland,
this 17th day of August, 1972.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "AEC Regulatory Staff Response to Citizens' Committee for the Protection of the Environment Exceptions to Initial Decision Issued on July 15, 1972," dated August 17, 1972, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 17th day of August, 1972:

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