

3/23/73

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) | ) |                   |

MOTION TO RECONSIDER OR ALTERNATIVELY  
 TO CLARIFY RULING ON ADMISSION OF EVIDENCE  
 CONCERNING BOWLINE AND ROSETON  
STEAM ELECTRIC PLANTS

Pursuant to 10 C.F.R. § 2.730 and the Board's order of March 8, 1973 (Tr. 10,022), Applicant hereby moves the Atomic Safety and Licensing Board to reconsider its ruling (Tr. 10,016, 10,020-21) that additional evidence shall be received in this proceeding on the environmental impact (i.e., entrainment and thermal discharges) of the Bowline and Roseton steam electric plants. Should the Board deny the motion to reconsider, Applicant moves in the alternative that the Board clarify its ruling as set forth herein.

In addition to the arguments set forth in Applicant's Answer dated October 30, 1972, and in oral argument before the

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Board on November 22, 1972 (Tr. 6141-69) Applicant points out that the Board's action fails to take adequate account of the developing regulatory framework under the Federal Water Pollution Control Act, as amended. Under this statute it is clearly the responsibility of the Environmental Protection Agency and the States to make the kind of comprehensive determination concerning the impact of power plants and other industrial activities on the Hudson River which is implicit in the Board's decision. Surely it is more consistent with the public interest to resolve this overall problem in the larger framework provided by that statutory regime rather than in the context of an individual nuclear facility licensing proceeding. Accordingly, the Board should reconsider its ruling and determine that additional evidence shall not be received on the environmental impact of the Bowline and Roseton plants.

Should the Board decide to adhere to its ruling, Applicant requests the Board to clarify its determination (Tr. 10,016) that the Staff shall state the "effect of [the data or calculations submitted by the Staff to the Board with the Staff's letter of February 14, 1973] upon the conclusions reflected in the Final Environmental Statement."

The Staff's February 14th submission is only part of the voluminous evidence submitted in this proceeding by the parties. Much of this evidence contradicts the conclusions expressed by the Staff as to the environmental impact of once-through cooling on the Hudson River ecosystem, as well as the overall benefit-cost balance drawn by the Staff in the Final Environmental Statement. Moreover, Applicant intends to submit additional evidence on the environmental impact of the Bowline and Roseton plants in view of the Board's March 8 ruling.

Therefore, any judgement expressed by Staff witnesses must necessarily be related to the entire body of evidence and not just to some limited aspect of it. While Staff witnesses should be subject to cross-examination with respect to the testimony received in evidence by the Board on March 8, 1973, the Staff's ultimate determination as to the effect of such evidence on the conclusions stated in the Final Environmental Statement should be stated in the findings and conclusions to be filed by the Staff in this proceeding.

Respectfully submitted,

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March 23, 1973