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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

2/13/73

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

ANSWER OF AEC REGULATORY STAFF TO APPLICANT'S MOTION REGARDING
FURTHER CONSIDERATION OF RADIOLOGICAL HEALTH AND SAFETY ISSUES

On January 8, 1973, the Citizen's Committee for the Protection of the Environment (intervenors) filed a statement with the presiding Atomic Safety and Licensing Board (Board) with respect to what it considered to be "unresolved radiological safety issues" in subject proceeding. Essentially there are four matters which the intervenors claim must be dealt with in subsequent sessions of the hearing in Indian Point 2. They relate to: (a) Reactor Pressure Vessel Integrity; (b) fuel densification; (c) thin-walled valves; and (d) steam line and feedwater pipe rupture. On January 31, 1973, the applicant filed a motion responding to the intervenors' statement wherein, in essence, it contested the position of the intervenors on these four items. The intervenors responded on February 6, 1973, reiterating the position it took in the January 8 statement.

The regulatory staff's position on each of the four items cited by the intervenors is as follows:

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(a) Reactor Pressure Vessel Integrity.

The hearing with respect to the application of Consolidated Edison for an operating license for its Indian Point Unit No. 2 has been under way since December of 1970, with much testimony having been adduced on a variety of radiological health and safety and environmental considerations. There has been substantial testimony adduced in this hearing relative to pressure vessel integrity starting with testimony by the applicant in July of 1971 and extensive testimony by the applicant and staff in October, 1971. The matter was decided in part in the Board's Initial Decision on the partial power testing application in which the Board found "The evidence presented is sufficient for the Board to conclude that there is reasonable assurance that the reactor vessel will not fail during the testing and initial operation of Unit No. 2." The Board certified the following question to the Appeal Board:

"Isn't the position of the Commission that the measure taken to assure the integrity of the pressure vessels for light-water reactors have been demonstrated and documented sufficiently that protection against the consequences of failure of the reactor vessel need not be included in the design of the plant and evidence concerning the integrity of the pressure vessel should not be adduced in the hearing proceedings?"

Briefs were filed by all parties, including intervenors, on the certified question. Subsequently, the Commission determined in its Memorandum and Order of October 26, 1972, that:

"Where there are matters raised in a case that are of special safety significance supplementary measures in respect to the facility under review are an appropriate subject of hearing exploration. To warrant inquiry, the evidence must be directed to the existence of special considerations^{1/}, involving a particular facility in issue. Licensing Boards in their discretion are empowered to exclude contentions or challenges which have no substantial or prima facie basis, or which merely amount to generalized attacks upon the standards presently required by the regulations."

After all this, the intervenors now suggest that there are remaining unresolved issues relating to this area. Intervenors base their position on the need to await review of information which the Board has requested of the applicant. Under no circumstances does the regulatory staff desire to preclude the orderly introduction of evidence in accordance with the "Rules of Practice" of the Commission. However, the intent of proceeding in an orderly manner to eventual termination of a hearing must also be complied with. The pressure vessel integrity information which the intervenors claim is essential to the preparation of possible contentions does not appear to be new information and, as the applicant has stated, has been available to the intervenors for quite some time. It would appear that the intervenors have been tardy in their desire to raise contentions relating to this issue. Second, even without regard to the untimeliness of intervenors' attempt to re-raise the matter of pressure vessel integrity, intervenors' statement

^{1/} Emphasis added.

disregards or ignores the Commission's requirement of "special considerations." Intervenors have not made the slightest allegation which would warrant further evidentiary hearings on pressure vessel integrity as "special considerations."

(b) Fuel Densification.

The regulatory staff is in agreement with the intervenors and the applicant concerning the appropriateness for review in subject proceeding of fuel densification. The regulatory staff, on November 14, 1972, issued a generic report entitled "Technical Report on Densification of Light-Water Reactor Fuels." It is the intention of the staff, subsequent to the conclusion of the present evidentiary session of the Point Beach hearing related to fuel densification, to file with this Board some additional testimony for Indian Point, Unit No. 2, in regard to fuel densification and its effects.

(c) and (d) Thin-walled valves and steamline and feedwater pipe rupture.

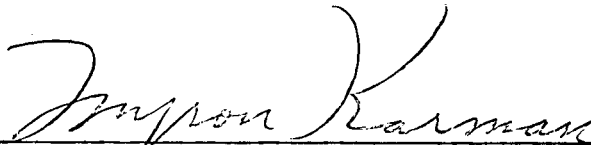
With respect to these matters, the regulatory staff is of the opinion that they are not outstanding items for subject hearing at this time. Again, it must be reiterated that the very fact that the regulatory staff communicates with an applicant regarding some experience at another reactor or requests certain information from the applicant does not, in

and of itself, automatically place these matters on the agenda of the hearing. In a hearing as protracted as Indian Point 2, there must arise during the course of such hearing certain matters which require staff questions and applicant answers and information. The intervenors have not presented substantial or prima facie basis for its contention related to the two items in subject category. It is true that the record is not closed, and it is also true that the regulatory staff will not urge the closing of the record with respect to radiological matters while there are still outstanding items which the Board has inquired into, or which the intervenors have furnished specified contentions of their position. The Board has indicated that it plans to complete the environmental hearing sometime in March, 1973, and the outstanding radiological matters shortly thereafter.

The staff's position with respect to intervenors' statement and applicant's motion is that fuel densification is a matter which will be taken up at a subsequent session of the hearing. Pressure vessel integrity data have been submitted to the Board, together with much testimony relating thereto, and the Board will determine if anything more is required. The intervenors have

not specified their contentions with respect to thin-walled valves or steam line ruptures and, absent those contentions, they are not outstanding hearing items.

Respectfully submitted,

A handwritten signature in cursive script, reading "Myron Karman", written over a horizontal line.

Myron Karman
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 13th day of February, 1973.

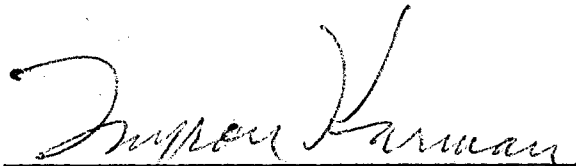
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A handwritten signature in dark ink, appearing to read "Myron Karman", written over a horizontal line.

Myron Karman
Counsel for AEC Regulatory Staff