

3/30/73

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) )

APPLICANT'S ANSWER TO CCPE'S  
MOTION TO REQUIRE APPLICANT AND  
STAFF TO PROVIDE SPECIFIC RESPONSE TO THE  
CCPE RADIOLOGICAL CONTENTIONS AND  
CCPE'S STATEMENT OF CONTENTIONS

In response to CCPE's "Motion to Require Applicant and Staff to Provide Specific Response to the CCPE Radiological Contentions," dated March 22, 1973, Applicant sets forth herein a statement of its position with respect to the three contentions (thin walled valves, rupture of water and steam lines outside the containment, and pressure vessel rupture) identified by CCPE in its accompanying document entitled "CCPE Statement of Contention with Respect to Further Radiological Issues," and dated March 22, 1973. In order to facilitate the identification and clarification of factual radiological issues, if any, to be considered at the

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evidentiary hearing commencing on April 9, 1973, the identification of evidence to be adduced and the topics of any cross-examination to be conducted, Applicant requests the Board to convene a prehearing conference on the day of the Indian Point site tour (April 6, 1973) or earlier. With respect to fuel densification matters, Applicant will endeavor to state its position with respect to CCPE's contentions as soon as possible.

With respect to CCPE's contentions as specified in its March 22, 1973 submissions it is, of course, of fundamental importance that these factual contentions relate solely to the issuance of a full-term, full-power operating license and not to the issuance of a 20 percent or 50 percent testing license for Indian Point 2. It is also essential to bear in mind the basic purpose of requiring that a party specify the factual matters in controversy. Such specificity permits the hearing to be focused on the factual matters to be determined through introduction of evidence and cross-examination and to define permissible discovery. Argumentative assertions having no prima facie factual basis should not be permitted.

Applicant's position regarding the alleged issues identified by CCPE with respect to the full-term, full-power operating license for Indian Point 2 is set forth below. Applicant requests the Board to rule that CCPE's contentions will be treated in accordance with the modifications and statements contained herein.

A. Thin Walled Valves

CCPE's contentions relating to the wall thickness of valves at Indian Point 2 remain too general to be accepted by the Board as radiological issues in this proceeding. Neither the letter from the Directorate of Regulatory Operations of June 22, 1972 nor Applicant's response thereto of July 21, 1972 provides a basis for assuming that all "valves which are important to nuclear safety" installed at Indian Point 2 are inadequate. By letter dated March 22, 1973 Applicant has responded to the request contained in the letter from Regulatory Operations and has supplied underlying documents to CCPE for its review. In light of Applicant's actions, if CCPE still has contentions relating to the wall thickness of valves, CCPE should be required to specify with respect to contentions 1 through 3 those particular valves as to which CCPE alleges there is a specific reason to believe

that applicable requirements have not been met, what those requirements are, and why they have not been met.

Applicant objects to CCPE's contentions 4 and 5 relating to wall thickness of valves and requests the Board to rule them improper for an evidentiary hearing in this proceeding. CCPE's contentions 4 and 5 are not factual contentions for determination in an evidentiary hearing but rather constitute speculation and arguments which should be reserved for CCPE's brief. Nothing in the letter of the Staff nor the response of the Applicant suggests that a factual issue relating to CCPE's contentions 4 or 5 is presented for determination in this hearing.

B. Rupture of Water and Steam Lines Outside the Containment

As stated, CCPE's contention 1 pertaining to this subject is obviously too broad. As indicated by CCPE design criterion No. 4 of 10 C.F.R. Part 50, Appendix A covers far more than the rupture of the main steam and feedwater lines outside the containment. Based on CCPE's discussion and the Staff's letter of December 19, 1972 it appears that CCPE's contention must in any event be modified to read that reasonable assurance has not been provided that due to the location of the main steam and feedwater lines

a pipe rupture of either of those lines cannot damage by specified means the auxiliary feedwater system so as to create a health and safety hazard.

Applicant intends to provide a supplemental response to the Staff's letter of December 19, 1972 prior to the hearing on April 9. If the Board accepts a revised contention as an issue in this proceeding, Applicant intends to offer its supplemental response in evidence.

C. Pressure Vessel Rupture

CCPE reiterates its oft-stated conclusion that "special considerations" involving the Indian Point 2 facility warrant additional exploration of reactor vessel integrity in this proceeding. Plainly CCPE has not met the requisite test established by the Commission. Consolidated Edison Co. (Indian Point Station, Unit No. 2), Dkt. No. 50-247, Commission Memorandum and Order (Oct. 26, 1972). CCPE has not attempted to show that the reactor vessel for Indian Point 2 is more likely to fail than other reactor vessels for other reactors. CCPE simply argues that the size and proximity of Indian Point 2 to "the largest city in the United States" requires some undefined additional attention in this proceeding. Had the Commission intended that a simple test of distance to

population centers or size of nuclear facility be applied in this proceeding it clearly would have enunciated that test in its decision. Moreover, if this test were utilized it would not be practicable to distinguish this facility from others which are located near large numbers of people. CCPE's theory would make a mockery of the Commission's decision and would allow attacks on the Commission's regulatory standards concerning reactor vessel integrity to be conducted in a multitude of reactor licensing proceedings. Contrary to CCPE's allegations the "prior history" of this facility does not present any type of a special consideration here. Indeed, CCPE would require exploration of particular areas of alleged uncertainty even when "special considerations" were not shown to be present notwithstanding the fact that a reactor vessel "meets presently applicable codes and standards." CCPE's Statement of Contentions at 13.

Even if there were the requisite showing of "special considerations," CCPE's contention is utterly untimely. The issue of possible rupture of the reactor vessel has been exhaustively explored in this hearing. There is extensive evidence in the record showing that the applicable codes and standards have not only been satisfied but exceeded. This

evidence includes testimony to the effect that the wall thickness of the Indian Point 2 reactor vessel is less than that of reactor vessels in other operating plants. (Follows Tr. 728.) CCPE cites a draft report prepared by Dr. Wechsler dated March 1970 as justifying further consideration of this subject in this proceeding. Plainly the information which CCPE is touting was available long ago, and CCPE has had ample opportunity to raise relevant questions on this subject. CCPE's remedy is to petition the Commission for rulemaking to amend 10 C.F.R. § 50.55a or other regulations of the Commission if it considers that the safety standards applicable to reactor vessels should be amended.

The standards which the Staff has applied are contained in the Staff's Safety Evaluation, and the Staff has concluded that the probability of failure of the Indian Point 2 reactor vessel is sufficiently low that such failure need not be considered in the design of the facility. Moreover, CCPE's attempt to postulate a probability of failure based upon the generality contained in the draft of WASH-1250 is obviously speculative and forms no basis for an evidentiary hearing on the Indian Point 2 facility. In sum, CCPE has not made the prima facie evidentiary showing required by the

Commission's decision.

Applicant requests the Board to rule that CCPE's contentions relating to reactor vessel integrity are untimely and improper. Should the Board disagree, Applicant requests the Board to refer its ruling promptly to the Commission under Section 2.730(f) of the Commission's Rules of Practice since the consequence of the Board's ruling will be extreme expense and uncertainty.

Respectfully submitted,

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