

BEFORE THE UNITED STATES  
ATOMIC ENERGY COMMISSION

9-1-73

In the Matter of )  
)  
)  
Consolidated Edison Company of ) Docket No. 50-247  
New York, Inc. )  
(Indian Point Station, Unit No. 2) )

ANSWER OF INTERVENORS HUDSON RIVER  
FISHERMEN'S ASSOCIATION AND ENVIRONMENTAL  
DEFENSE FUND TO APPLICANT'S MOTION FOR  
LICENSE AUTHORIZING FURTHER LIMITED  
OPERATION.

By motion dated August 31, 1973, Applicant, Con Edison, moved the Board to authorize the Director of Regulation to issue a further amendment to the Indian Point 2 operating license allowing operation in any one of four modes: (a) steady-state operation at 99% of full power; or (b) steady-state operation at 50% of full power with testing to 99% of full power; or (c) steady-state operation at 50% of full power; or (d) testing to 99% of full power. Con Edison requests that any license granted be for a term ending December 31, 1973 or until earlier issuance of a subsequent amendment in accordance

with an Initial Decision by the Board.

The principal concern of the Fishermen and EDF on this motion is that once again Con Edison is asking for permission to operate the plant with no strict schedule for the long term or short term protection of the Hudson's fisheries and its other aquatic biota. This situation underscores the crucial necessity for early and continuous control of the plant's operation. The whole environmental record of this proceeding, starting with the Intervenors statement of December 1, 1971 in which the outline of the immense long term damage which will be done by the operation of Indian Point 1 & 2 to the Hudson fisheries, including the 40% reduction of the annual production of striped bass, was first set forth to the last day of testimony in April of 1973, makes it emphatically clear that if we are to have both power and fish, then action to control the plant's operation must begin immediately. Three or four months should not go by after the completion of the 50% testing program without concrete indication that Con Edison is moving forward with the utmost speed to install the closed cycle cooling system which must be built at Indian Point.

It would be easy to pick at the silences and the inconsistencies of Con Edison's supporting affidavits on this motion - for instance, why does Mr. Schwartz tell us nothing about the retirement plans on the Con Edison system nor about outages in years other than 1972 nor discuss the likelihood of the company

being able to deliver the power it generates, a question of great concern to the people of Jackson Heights this summer, just as it was to the people of Bay Ridge last summer. But it will probably remain that the company's performance over the last several years has been sufficiently shoddy and inept so that the plea can be made that relief is needed so that, at least according to the company's figures, there will not be an electrical shortage in the Con Edison customer area.

In these circumstances, it is essential that any interim operational authority for Indian Point 2 be fashioned to provide the maximum amount of both short term and long term protection for the Hudson's aquatic biota. Intervenors therefore urge the Board to authorize any amendment to the operating license only upon certain conditions. First, the AEC Staff requested as its second condition in the full-term license that an evaluation of the economic and environmental impacts of an alternative closed-cycle cooling system be made by Con Edison in order to determine a preferred system for installation. (Staff's Proposed Findings, App. A at 5.) The submission of this evaluation is one step in moving to the installation of a closed-cycle system. The testimony in the proceeding shows that Con Edison has been working on this problem at least since October 1, 1971, when it commissioned the Burns and Roe Report. A deadline with a date certain should now be set for the submission of this report to the Staff, the Board and the parties

to this proceeding. That date should be no later than November 1, 1973.

Second, the Intervenors in this proceeding urged, in their Proposed Findings (June 11, 1973 at 10), that Con Edison be required to file with the AEC and serve on the parties by December 31, 1973 a listing of the permits and approvals necessary for the construction of its selected closed-cycle cooling system, the data on the basis of which the application for the permit or approval is to be made, and a description of whatever collection of data necessarily postpones such application beyond January 1, 1974. This proposed condition should be made a condition to any further amendment to the operating license.

Third, in terms of short range fish protection, it is clear that the rate of impingement is generally greater as river temperatures fall. Therefore, the minimal operation should be scheduled for the latter half of the period from October 1st to December 31st and minimal pumping should be permitted. Only Con Edison's request for 50% operation should be granted after November 15, 1973, and it should be allowed only with three pumps in operation and maximum recirculation.

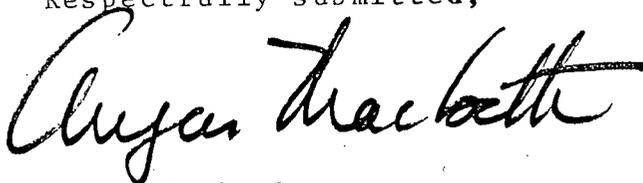
The entire record of this proceeding supports the inclusion of these conditions in any amendment to the operating license.

Intervenors thus take the position that any further amendment to the operating license for Indian Point 2 must

balance power production against long term and short term protection of the Hudson's aquatic biota and that to that end the operating authorization contain the three conditions set out above.

Anthony Z. Roisman authorizes me to state that he joins me in this answer on behalf of the Environmental Defense Fund.

Respectfully submitted,

A handwritten signature in cursive script that reads "Angus Macbeth". The signature is written in dark ink and is positioned above the printed name.

Angus Macbeth

Attorney for Hudson River  
Fishermen's Association

Dated: September 7, 1973  
New York, New York