

8-31-73

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 MOTION FOR ISSUANCE OF A  
LICENSE AUTHORIZING FURTHER LIMITED OPERATION

Pursuant to 10 C.F.R. Sections 2.730, 50.57(c) and Part 50, Appendix D, Section A.12 Consolidated Edison Company of New York, Inc. ("Applicant") respectfully moves that the Atomic Safety and Licensing Board ("the Board") consider the evidence heretofore adduced in this proceeding together with the affidavits of Carl L. Newman, Bertram Schwartz and Harry G. Woodbury, Jr. attached hereto and the affidavits of Carl L. Newman, Bertram Schwartz and Harry G. Woodbury, Jr. accompanying Applicant's motion of July 27, 1973 and thereafter, in the alternative:

- (a) Authorize the Director of Regulation to issue a further amendment to Facility

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Operating License No. DPR-26, Amendment No. 3, dated August 9, 1973, permitting Applicant to operate the Indian Point No. 2 facility ("Indian Point 2") at steady-state reactor core power levels not in excess of 2730 megawatts thermal (99 percent of the rated power level of the facility); or

- (b) Authorize the Director of Regulation to issue a further amendment to Facility Operating License No. DPR-26, Amendment No. 3, dated August 9, 1973, extending Applicant's authorization to operate Indian Point 2 at steady-state reactor core power levels not in excess of 1379 megawatts thermal (50 percent of the rated power level of the facility) and permitting Applicant to operate Indian Point 2 for testing purposes at reactor core power levels not in excess of 2730 megawatts thermal (99 percent of the rated power level of the facility); or

(c) Authorize the Director of Regulation to issue a further amendment to Facility Operating License No. DPR-26, Amendment No. 3, dated August 9, 1973, extending Applicant's authorization to operate Indian Point 2 at steady-state reactor core power levels not in excess of 1379 megawatts thermal (50 percent of the rated power level of the facility); or

(d) Authorize the Director of Regulation to issue a further amendment to Facility Operating License No. DPR-26, Amendment No. 3, dated August 9, 1973, permitting Applicant to operate Indian Point 2 for testing purposes at reactor core power levels not in excess of 2730 megawatts thermal (99 percent of the rated power level of the facility).

Applicant requests that any such authorization to permit the further limited operation of Indian Point 2 as requested herein be granted for a term ending December 31, 1973 or upon the

earlier issuance of a subsequent amendment to Facility Operating License No. DPR-26 in accordance with an Initial Decision by the Board in this proceeding. In support of its motion Applicant states as follows:

1. On April 27, 1973 Applicant was authorized by Amendment No. 2 to Facility Operating License No. DPR-26 to operate Indian Point 2 for testing purposes at power levels not in excess of 50 percent of full power. On August 9, 1973 Applicant was authorized by Amendment No. 3 to Facility Operating License No. DPR-26 to operate Indian Point 2 at steady-state reactor core power levels not in excess of 50 percent of full power through September 30, 1973. The testing program has proceeded satisfactorily as heretofore reported to the Board and the parties. As shown in the affidavit of Carl L. Newman which accompanies this motion, the 50 percent testing program is expected to be completed in several days.

At that time Indian Point 2 will be operated at steady-state reactor core power levels not in excess of 50 percent of full power through September 30, 1973.

2. The evidentiary hearings on the application for an operating license for Indian Point 2, covering both radiological safety matters and environmental matters related to the Final Environmental Statement prepared by the Staff in September 1972, concluded on April 26, 1973. Applicant filed its proposed findings of fact and conclusions of law on May 17, 1973, and all proposed findings, conclusions and briefs have since been filed. Oral argument took place on July 2, 1973. Radiological and environmental technical specifications for operation up to full power have been issued as Appendices A and B to Amendment No. 3 to Facility Operating License No. DPR-26.
3. Several matters, however, have been raised

since the conclusion of the evidentiary hearings in this proceeding. In its letter of August 9, 1973 the Board stated that "it will delay the issuance of the initial decision on the full-term, full-power operating license until further consideration is given to the presentation of additional data and/or evidence related to the quality assurance program for the proposed operations." On August 13, 1973 the Attorney General filed a motion for reconsideration of the Board's August 9, 1973 Initial Decision on the basis of particular matters relating to water quality certifications. At this time the quality assurance and water quality certification matters have not been resolved. Although Applicant hopes that the Board will be able to issue its Initial Decision in this proceeding shortly and, in any event, prior to the expiration of Applicant's authorization to operate at steady-state reactor core power

levels not in excess of 50 percent of full power, it is not clear that this will occur. If an amendment to Facility Operating License No. DPR-26 authorizing further operation of Indian Point 2 is not issued expeditiously, Applicant's ability to satisfy the power needs of its service territory and other areas could be seriously and adversely affected. In addition, Applicant and consumers in its service area would be subjected to heavy, unnecessary financial costs, all as shown in the affidavits referenced herein. It is contrary to the public interest for Indian Point 2 to be unable to produce needed power after September 30, 1973 and to delay the testing and further operation of Indian Point 2 up to 99 percent of power. The affidavits attached hereto and those attached to Applicant's motion of July 27, 1973 present facts concerning the need for Indian Point 2 and related environmental effects for the period ending December 31,

1973. Applicant anticipates, however, that the Initial Decision in this proceeding will be issued long before this date, and hence a license authorizing limited operation pursuant to this motion would be superseded by a subsequent licensing action prior to December 31, 1973.

4. Applicant is relying on the entire record of this proceeding in support of this motion, in addition to the supplemental information contained in the accompanying affidavits. Applicant is further relying on the affidavits of Messrs. Newman, Schwartz and Woodbury, accompanying Applicant's motion of July 27, 1973, and Applicant incorporates such affidavits by reference herein. Although the relief which Applicant seeks in this motion is cast in the alternative, Applicant's preferred relief is an authorization for the issuance of an amendment permitting operation of Indian Point 2 at 99 percent

of full power. The evidence in the record and the information contained in the affidavits upon which this motion relies support such authorization and demonstrate the need for such authorization. Applicant has cast the relief which it seeks in the alternative, however, in order to facilitate the earliest possible consideration of and ruling on this motion. In view of the limited potential issues presented herein, Applicant requests the Board to order an expedited decisional schedule for action on this motion pursuant to 10 C.F.R. Section 2.730(c).

5. In its exception of August 16, 1973 to the Board's August 9, 1973 Initial Decision, Applicant requested the issuance of a supplemental Initial Decision authorizing the operation of Indian Point 2 for testing purposes at power levels up to 99 percent of full power. Applicant requested that such authorization be effective as of

August 9, 1973 so as not to impose a substantial and unwarranted financial penalty on Applicant due to the coincidence of the amendment to the licensing fee schedule in 10 C.F.R. Part 170. Accordingly, Applicant's request for relief in this motion does not supersede that relief requested in Applicant's exception.

6. A proposed amendment to Section 2.C(1) of Operating License No. DPR-26 is attached hereto as Appendix A. Except as shown in Appendix A it is proposed that the provisions of License No. DPR-26 remain in full force and effect.

Respectfully submitted,

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Company of New York, Inc.

By Arvin E. Upton  
Arvin E. Upton

Dated: August 31, 1973

APPENDIX A

Proposed Amendment to Section 2.C(1) of Operating License No. DPR-26

Delete the second paragraph in Section 2.C(1)  
and substitute the following:

"(1) Maximum Power Level  
\* \* \*

Effective September \_\_\_\_\_, 1973 the Licensee is further authorized to operate the facility at steady-state reactor core power levels not in excess of 2730 megawatts thermal (99 percent of the rated power level of the facility), provided that unless extended for good cause shown, this additional authority shall expire at midnight December 31, 1973 or upon the earlier issuance of a subsequent licensing action. "