

8-9-73

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

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| 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 99% TESTING OPERATIONS

Consolidated Edison Company of New York, Inc.

("Applicant") respectfully moves that, in accordance with 10 CFR 2.730, 50.57(c) and Part 50, Appendix D, section A.12, the Atomic Safety and Licensing Board ("Board") authorize the Director of Regulation to issue a further amendment to Facility Operating License No. DPR-26 which would permit Applicant to operate the Indian Point No. 2 facility for testing purposes at reactor core power levels not in excess of 2730 megawatts thermal (99% of the rated power level of the facility) for the same period authorized by the Board's Initial Decision dated August 9, 1973.

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In support of this motion Applicant states:

1. The Board's August 9 Initial Decision states that 10 CFR 50.57(c) "...does not authorize testing operations up to full power." No other reason for denying Applicant's July 27, 1973 motion for 100% testing authorization is given.
2. Since the Board's decision appears to be based solely on its interpretation of the language of 10 CFR 50.57(c), Applicant requests the Board to treat Applicant's July 27, 1973 motion as amended nunc pro tunc and to supplement the Board's August 9, 1973 decision, such supplement and the accompanying license amendment to be effective the same date as said decision, so as to authorize the requested testing operations to commence immediately.
3. Should the Board consider that authorization of 99% testing operations is not legally permissible under 10 CFR

50.57(c), Applicant respectfully requests that the Board certify the question to the Atomic Safety and Licensing Appeal Board and that the Board authorize, effective August 9, 1973, such testing operations at greater than 50% of full power as the Appeal Board shall deem legally permissible under 10 CFR 50.57(c).

A form of order is attached.

Respectfully submitted,

LEBOEUF, LAMB, LEIBY & MACRAE
Attorneys for Applicant

By Leonard M. Trosten
Leonard M. Trosten
Partner

Dated: August 9, 1973

Attachment A

Add to the present language of section 3A of
Operating License No. DPR-26:

"Effective August 9, 1973 the licensee is further authorized to operate the facility for testing purposes at reactor core power levels not in excess of 2730 megawatts thermal (99% of the rated power level of the facility), provided that unless extended for good cause shown, this additional authority shall expire at midnight September 30, 1973 or upon the earlier issuance of a subsequent licensing action."