

BEFORE THE
UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
CONSOLIDATED EDISON COMPANY) Docket No. 50-247
OF NEW YORK [Indian Point,)
Unit No. 2])

ANSWER OF INTERVENOR STATE
OF NEW YORK TO APPLICANT'S
MOTION FOR ISSUANCE OF A
LICENSE AUTHORIZING LIMITED
OPERATION

By papers served July 30, 1973, the Applicant,
Con Edison has moved the Board for an amendment to its license
for Indian Point Unit No. 2 permitting operation of the plant
at 50% of full power and testing at 100% of full power.

The State of New York has several observations to
make with respect to this application. It agrees with
Intervenor Hudson River Fishermen's Association that the motion
is improperly made in that it attempts to circumvent 42 U.S.C.
§ 2242, the procedure authorized by Congress for the granting
of temporary operating licenses for nuclear power plants.

The State of New York concurs in HRFA's statement that Con Edison has insufficiently verified the information in its supporting affidavits with respect to fish kills. Con Edison has based its impingement estimates on the operation of Indian Point Unit No. 1. Under the Section 401(a) FWPCA certificate provided to Con Edison by the State of New York on April 24, 1973 as a prerequisite to the testing it has been conducting over the last several months, Con Edison was required to "establish and conduct during the term of the testing licenses . . . a continuous monitoring program in order that sufficient data may be assembled concerning the environmental effect" of Unit No. 2. Yet Con Edison persists in requesting a continuation of the operation of its plant at 50% capacity, and on testing at 100% of full power, without presenting the Board with the data it was supposed to have gathered during its present testing operation. Any license granted by this Board should expressly require Con Edison to monitor impingement at Unit No. 2 and to report the results of such monitoring to the Board and to the State of New York.

Finally, it must be noted that the §401(a)(1) certificate issued by the State of New York was granted "for the sole and exclusive purpose of enabling the Company to obtain a limited Federal license to operate Unit No. 2 at 551 megawatts thermal for testing purposes (20% of the rated power level of the facility), and it shall not be applicable to

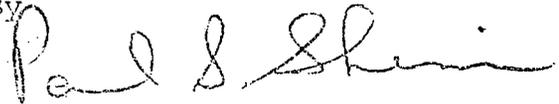
Unit No. 1 or Unit No. 2 for the issuance of any other Federal license or approval" except, in certain circumstances, testing up to 50% of the rated power level of the facility. Inasmuch as Con Edison is requesting authorization for operation at 50% and testing at 100% of capacity, it must present this Board with a new § 401(a)(1) certificate from the State of New York before approval of its application can be granted.

Dated: New York, New York
August 1, 1973

Respectfully submitted,

LOUIS J. LEFKOWITZ
Attorney General

By



PAUL S. SHEMIN
Assistant Attorney General

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Point Unit No. 2])

CERTIFICATE OF SERVICE

I hereby certify that I have served the documents entitled "Answer Of Intervenor State Of New York To Applicant's Motion For Issuance Of A License Authoritizing Limited Operation" by mailing copies thereof first class and postage prepaid to each of the following persons this 1st day of August 1973:

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