8-1-73

BEFORE THE
UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of

CONSOLIDATED EDISON COMPANY OF NEW YORK (Indian Point, Unit No. 2)	)))	Docket No. 50-247

CITIZENS COMMITTEE FOR PROTECTION
OF THE ENVIRONMENT
REPLY TO APPLICANT'S MOTION
FOR ISSUANCE OF A LICENSE
AUTHORIZING LIMITED OPERATION

Applicant offers no reason why this Board should abandon its present efforts for consideration of the full-term license to act upon a hastily drawn and belatedly filed request to extend the temporary operating license for this plant. Applicant has had the authority to operate Indian Point No. 2 up to 50% for testing purposes for over a year. It has done nothing to extend that license. Now, with time nearly gone and with all parties forced to respond on an unduly abbreviated schedule, applicant makes a new request. It should be rejected.

Furthermore, we find that the legislative history of Section 192b of the Atomic Energy Act clearly recognized that, but for the passage of that amendment, there would be no authority to issue a license such as requested here. (S. Rep. No. 92-787, 92nd Cong., 2d Sess., p. 6):

> Attorneys who have represented intervenors in numerous contested licensing proceedings so testified at the Joint Committee hearings on March 17 as well as before other interested committees. The Commission, however, has stated repeatedly that it needs the additional authority to permit the temporary operation of a plant if the full-term license is being contested.

Significantly the very issues raised in this motion - urgent need for electric power - were the issues which warranted adoption of Section 192b.

Sections 50.57(c) of 10 CFR must be read in the context in which it was traditionally used and as the Atomic Energy Commission has consistently interpreted it. It has traditionally been a low power testing license authorization provision for those cases where issuance of a full power license was contested. If it were intended to provide what applicant seeks here, then there would have been no reason for Section 192b. Obviously the AEC and the Congress felt there was a need. That procedure is still available to applicant and we invite it to follow the procedure required.

If Section 50.57(d) procedures had been used,the material filed by applicant would have been intelligible. We would know the precise term for which authority to operate was being requested and not merely that it would last until "the issuance of an [unspecified] amendment to the license in accordance with an [unspecified] Initial Decision by the Board [Appeal, Licensing, ?]" (brackets added). The extent to which applicant believes radiological issues involved in the full-term license are not pertinent here would be disclosed. The basis for assertions by Mr. Schwartz

would be fully disclosed, particularly:

1) The causes of brownouts this summer and whether additional generating capacity would relieve them.

2) The nature and extent of non-firm purchase contracts and whether they can be made firm and if not why not.

3) The availability of power from other sources not thoroughly investigated for additional firm purchase contracts.

Without the kind of detail required by a Section 50.57(d) request this Board is left amidst a sea of data with no basis for extracting the data relevant to the imprecise license requested by applicant.

Finally, for the same reasons we oppose full power operation and in the absence of any special showing that limited operation has limited safety implications, we oppose the applicant's motion.

Respectfully submitted,

Anthony Z. Roisman
Counsel for Citizens Committee
for Protection of the Environment

Dated: August 1, 1973