

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)
)
CONSOLIDATED EDISON COMPANY)
OF NEW YORK, INC. AND POWER)
AUTHORITY OF THE STATE OF)
NEW YORK)
)
(Indian Point Station, Unit)
Nos. 1, 2 and 3))

3/18/76
Docket Nos: 50-3
50-247
50-286

CITIZENS' COMMITTEE FOR PROTECTION OF THE ENVIRONMENT'S
REQUEST FOR A RULING REGARDING SATISFACTION OF THE
BURDEN OF GOING FORWARD WITH RESPECT TO
ISSUE #3 -- THE CAPABILITY OF THE RAMAPO FAULT

In the Prehearing Conference Order of October 17, 1975, this Board admitted the Ramapo Fault as an issue in this proceeding,^{1/} but required that CCPE's written direct testimony be filed before the NRC Staff and Con Edison/PASNY's. In so doing, the Board stated:

As to the latter issue [the capability of the Ramapo Fault] we do not believe that the pleadings to date have sufficiently apprised this Board and the licensee of the matters in factual dispute so as to permit the presentation of a complete case in chief by the licensee, and review by this Board. Accordingly, we require that the written direct testimony of the CCPE and the Council be filed first. These parties have the burden of going forward with evidence on the Ramapo fault matter. If the burden is carried, the ultimate burden of proof (i.e., the burden of persuasion) lies with the licensee.^{2/}

With the filing of this testimony, evidence is produced that
a) the Ramapo fault has exhibited macro-seismicity instrumentally determined with records of sufficient precision to demonstrate

^{1/} Prehearing Conference Order of October 17, 1975, at p. 4.

^{2/} Id., at p. 7.

a direct relationship with the fault; b) the Ramapo fault has exhibited movement at or near the ground surface at least once within the past 35,000 years or movement of a recurring nature within the past 500,000 years.

In short, CCPE's factual contentions are in sharp focus. Under the circumstances, Con Edison/PASNY is fully able to fashion a case-in-chief in response. The Board has before it a well-defined case suitable for review.

Accordingly, CCPE submits that it has satisfied the burden of going forward and requests the Board to so rule.

Respectfully submitted,



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Dated: 18th March 1976