

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of	)	
	)	Docket No. 50-247
CONSOLIDATED EDISON COMPANY	)	OL No. DPR-26
OF NEW YORK, INC.	)	(Determination of Preferred
	)	Alternative Closed-Cycle
(Indian Point Station,	)	Cooling System)
Unit No. 2)	)	

APPLICANT'S EXCEPTION TO SUPPLEMENTAL  
PARTIAL INITIAL DECISION CONCERNING ISSUES  
OF DATE FOR TERMINATION OF CLOSED-CYCLE COOLING  
AND OF BIRD MONITORING

On December 27, 1976, the Atomic Safety and Licensing Board ("the Licensing Board") issued a Supplemental Partial Initial Decision Concerning Issues of Date for Termination of Closed-Cycle Cooling and of Bird Monitoring ("Supplemental Partial Initial Decision"). Pursuant to that Supplemental Partial Initial Decision, Consolidated Edison Company of New York, Inc. ("Con Edison"), Applicant in the above captioned proceeding, submits the following exception in addition to the four exceptions filed in this proceeding on December 6, 1976.

EXCEPTION NO. 5:

The Licensing Board erred in its finding and conclusion that the reasonable

8110230584 770105  
PDR ADOCK 05000247  
G PDR

Hy

termination date for once-through cooling of Indian Point Unit No. 2 shall now be postponed from May 1, 1979 to May 1, 1980.

Portion of the Decision to which Exception No. 5 is addressed:

Supplemental Partial Initial Decision at page 4 and Order at page 5.

BRIEF IN SUPPORT OF EXCEPTION NO. 5

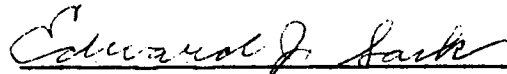
Exception No. 5 is based on the Board's failure to include appropriate conditional language in its finding. On page 3 of the Supplemental Partial Initial Decision, the Licensing Board correctly notes that all parties agreed that if all necessary governmental approvals are obtained by January 1, 1977, the termination date for once-through cooling shall be postponed to May 1, 1980. The finding and conclusion on page 4 and the language of the Order on page 5 omit the "if".

Con Edison has stated its position in Exception No. 1, filed on December 6, 1976, that all governmental approvals have not yet been received. Said exception and the brief in support thereof (filed December 21, 1976) are incorporated herein by reference. Consistently therewith, Con Edison objects to the establishment of a May 1, 1980 date in language that does not recognize the condition on which that date depends.

REQUEST FOR ORAL ARGUMENT

In accordance with 10 CFR § 2.763, Con Edison hereby requests oral argument on its exceptions.

Respectfully submitted,



Edward J. Sack

4 Irving Place

New York, N.Y. 10003

212-460-4333

Attorney for Consolidated Edison  
Company of New York, Inc.

Of Counsel:

Joyce P. Davis

Leonard M. Trosten

Eugene R. Fidell

LeBoeuf, Lamb, Leiby & MacRae

1757 N Street, N.W.

Washington, D.C. 20036

January 5, 1977

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket No. 50-247
CONSOLIDATED EDISON COMPANY	)	OL No. DPR-26
OF NEW YORK, INC.	)	(Determination of Preferred
	)	Alternative Closed-Cycle
(Indian Point Station	)	Cooling System)
Unit No. 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of January, 1977, served the foregoing document entitled "Applicant's Exception to Supplemental Partial Initial Decision Concerning Issues of Date for Termination of Closed-Cycle Cooling and of Bird Monitoring" by mailing copies thereof first class mail, postage prepaid and properly addressed to the following persons:

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555  
(original + 20)

Atomic Safety and Licensing  
Appeal Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Jerome E. Sharfman, Esq.  
Chairman, Atomic Safety and  
Licensing Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. John H. Buck  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Lawrence R. Quarles  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Samuel Jensch, Esq.  
Chairman, Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Franklin C. Daiber  
College of Marine Studies  
University of Delaware  
Newark, Delaware 19711

Mr. R. B. Briggs  
110 Evans Lane  
Oak Ridge, Tennessee 37830


Howard K. Shapar, Esq.  
Executive Legal Director  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Sarah Chasis, Esq.  
Natural Resources Defense  
Council, Inc.  
15 West 44th Street  
New York, New York 10036

Stephen H. Lewis, Esq.  
Office of the Executive  
Legal Director  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Carl R. D'Alvia, Esq.  
Attorney for Village of Buchanan  
395 S. Riverside Avenue  
Croton-on-Hudson, New York 10520

Richard C. King, Esq.  
New York State Energy Office  
Swan Street Building, Core 1  
Empire State Plaza  
Albany, New York 12223

  
Edward J. Sack