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October 15, 1977

Hon. Samuel W. Jensch
Chairman, Atomic Safety &
Licensing Board
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: Consolidated Edison Company
of New York, Inc. (Indian
Point Unit #2, Docket #50-247)

Dear Chairman Jensch:

In reply to your letter dated to me October 11th, 1977 please be advised that leave to appeal to the Court of Appeals was granted by the Court of Appeals two or three months ago and all of the briefs in connection with the appeal have been filed with the Court of Appeals in Albany, New York and after discussing same with the special counsel, Henry J. Smith of White Plains, New York, he advises me that the appeal will be heard some time in February or March of 1978 and that the Court will make a decision in connection with that appeal approximately one or two months thereafter so that we should know the decision of the Court of Appeals by I believe at the very latest, around April or May 1st of 1978.

The appeal is based on the theory that the Village has no right to grant the variance to Con Edison and that State law in connection therewith is not preempted by the federal regulations. The reference in your letter in connection with the 45 day limit that the Nuclear Regulatory Commission Appeal Board prescribed for some action by the Village Zoning Board of Appeals practically gives the Village of Buchanan no rights at all. The local and incidental regulations mean very little to the Village of Buchanan as we see it and the Mayor and Board of Trustees feel that until the Court of Appeals has ruled

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on our appeal that all of the governmental approvals
have not been received.

Very truly yours,



Carl R. D'Alvia
Village Attorney
Village of Buchanan, New York

CRD:lcg

cc.: Joseph D. Block, Esq.
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