

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CONSOLIDATED EDISON'S
STATEMENT IN REPLY TO
NOTICE OF VIOLATION

This Statement in Reply to Notice of Violation is submitted by Consolidated Edison Company of New York, Inc. ("Con Edison"), licensee of Indian Point Unit 2, pursuant to NRC regulations, 10 CFR 2.201, and to the Notice of Violation dated December 19, 1980.

I. Summary of Con Edison's Position

1. Con Edison's statement of the facts is set forth in Section II, below.

2. Con Edison denies that the facts alleged in the Notice of Violation constitute a violation of NRC regulations, for the reasons set forth in Section III, below. Specifically, while Con Edison admits that "on May 10, 1977, a change in a procedure was made without Commission approval", Con Edison denies that the change was "contrary to Technical Specification 3.3.B.1.b". Con Edison further denies that the change "involved an unreviewed safety question".

3. The steps that Con Edison has taken and plans to

take in response to NRC's concerns about this matter and the schedule for future actions are set forth in Section IV, below.

II. Statement of Facts

During early 1977 Con Edison was concerned about the possibility of spurious actuation of the containment spray system while people were inside the containment building during power operation. Of special concern was the possibility that personnel would be drenched in caustic solution and subject to a potentially severe inhalation hazard from caustic and boric acid mist. Based on consideration of all factors involved, Con Edison decided to revise the procedure for containment entries at power (SOP 10.6.2 "Containment Entry and Egress") to require that the controls for pumps of the spray system be kept in the "pull-out" position and tagged while containment is occupied. This would minimize the personnel hazard while keeping the spray system subject to immediate actuation by the operators pursuant to a specific emergency procedure.

Having made the evaluation that such a procedure would not affect the operability of the spray system, Con Edison determined that, therefore, there was no unreviewed safety question involved, and that no change to the Technical Specifications was required. After the appropriate review by the Station Nuclear Safety Committee (SNSC), the procedure was issued and became effective on May 10, 1977.

That procedure was available for inspection by NRC at all times thereafter. In 1979, during Inspection No. 50-247/79-13, the

NRC inspector reviewed Procedure SOP 10.6.2, Rev. 3 and specifically stated so in his Inspection Report. Health Physics Procedure No. HPP 2.4, which referred to the containment entry procedure, was also reviewed during that inspection and again during Inspection No. 50-247/79-14. No problem was found with either procedure. On September 24, 1980, a resident NRC inspector present in the control room while personnel were in containment during power operation made the observation that triggered this proceeding (see, Inspection Report No. 50-247/80-16, Section 3.b, page 3).

III. Basis for Denial of Violation

A. There was no non-compliance with NRC Regulations

1. The procedure change was not contrary to Technical Specification 3.3.B.1.b, which requires, inter alia, that two containment spray pumps be "operable". The Indian Point 2 Technical Specifications state (Section 1.3) that, "[a] system or component is operable when it is capable of performing its intended function within the required range". This definition of "operable" does not specify "automatic" or "manual" modes. Either mode of operation is accordingly acceptable, particularly since nowhere in the Indian Point Unit 2 docket is there a requirement to assume no operator action. The containment spray pumps were verified to be operable through performance of monthly tests in accordance with Indian Point Unit 2 Technical Specifications and Section XI of the ASME Boiler and Pressure Vessel Code, as required by NRC regulation 10 CFR 50.55a.

The containment spray pumps are capable of performing their intended function (i.e., spray into containment following a

loss of coolant accident to lower the pressure and remove airborne radionuclides) within their required range (i.e., design parameters of flow, head, capacity, Sodium Hydroxide concentration, etc.) when the pumps are in either mode of operation. With the pump switches in the "pullout" position, the system is not rendered inoperable, since operator action will always result in proper operation of the system.

Proper operator action is further assured by Emergency Procedure E-2. The first step of that procedure for "Immediate Operator Action" in an emergency instructs the operator to verify that all safeguards are initiated and to manually initiate any safeguard system that has not been initiated. The pump switches are conveniently located and their position, if pulled out, conspicuously tagged. The short time required for the operator to manually initiate the system would not reduce the margin of safety as defined in the Bases for the Technical Specifications. It should be noted that the containment pressure accident analysis shown in Fig. 14.3.4-2 of the Unit 2 FSAR is not based on instantaneous actuation of the containment spray system but on actuation about one minute later. That figure demonstrates that the containment spray system is not required for the initial pressure reduction phase of accident mitigation (i.e., containment pressure would reach a peak and begin to decrease before spray system operation starts).

The other function of the sprays, to remove iodine and airborne radioactive materials from the containment atmosphere, is not sensitive to delays in actuation time on the order of minutes,

since a source of such radionuclides would not be instantaneously available and removal time is substantially greater than the time increment associated with manual actuation.

2. The procedure change did not involve an "unreviewed safety question". The Commission's regulation, 10 CFR 50.59a(2), defines an unreviewed safety question to exist under the following conditions: "(i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (iii) if the margin of safety as defined in the basis for any technical specification is reduced".

For the reasons stated in Subsection 1., above, Con Edison determined before implementing the procedure change that it did not (1) increase the probability or consequences of previously analyzed accidents; nor (2) create a type of accident not previously considered; nor (3) create a condition contrary to the technical specifications, and that therefore, there was no unreviewed safety question involved. The issuance of the procedure change did not violate 10 CFR 50.59 because that regulation permits a change to a procedure to be issued and implemented without prior NRC approval so long as it does not involve an unreviewed safety question.

B. Assuming non-compliance, arguendo, the non-compliance was not in the "violation" category

The NRC states in its Inspection Report No. 50-247/80-16,

that the alleged non-compliance, involving operation contrary to Technical Specifications Requirements Section 3.3.B.1.b and 3.3.B.2.b, is an "infraction". This is in keeping with the applicable enforcement criteria ("Criteria for Determining Enforcement Action" ("Criteria") December 31, 1974), which lists "[e]xceeding limiting conditions for operation in . . . technical specifications" as a type of infraction-level non-compliance.

The Inspection Report lists, as an additional alleged non-compliance, a "change in procedures contrary to 10 CFR 50.59(a)(1) and (2)". That non-compliance is denominated as "violation". The Notice of Violation further characterizes this single non-compliance as having "the potential for causing or contributing to an occurrence related to safety". However, the Notice of Violation is silent on the issue of what the safety related occurrence could be. Moreover, it does not appear that there is a basis in the applicable enforcement criteria for placing this non-compliance in the highest severity category.

In the Criteria, a "violation" is described as "an item of non-compliance which has substantial potential for causing, contributing to or aggravating" an incident of a type listed. The things so listed are of a very serious nature, such as "radiation levels in unrestricted areas which exceed 50 times the regulatory limits". In this case, at most, the assumed non-compliance contributed to the occurrence of occasional brief items of assumed non-compliance that were no higher than the "infraction" level. Such a non-compliance cannot be considered a "violation" under the

Criteria.

IV. Corrective Actions

1. As noted in the NRC letter which forwarded this Notice of Violation, Con Edison "initiated corrective action expeditiously" after the matter was brought to its attention by the NRC inspector. (See, Inspection Report 50-247/80-16, pg. 4). The switches were returned to the automatic position and the procedure in question and a related Health Physics procedure, HPP 2.4, were immediately revised to reflect compliance with NRC's interpretation of the Technical Specifications.

2. Con Edison also agreed to take additional steps, as discussed at the Enforcement Conference of October 15, 1980 (Inspection Report No. 50-247/80-20). The current status of these actions is as follows:

(a) "Take under consideration the development of a formal system for operator identification of procedural problems."

Con Edison has developed such a system. A current Station Policy, set forth in Station Administrative Order No. 123 (SAO-123), covers plant workers' submittal of safety concerns and their options for expressing concerns on nuclear safety. Such concerns may be presented orally or in writing. For specific procedural concerns, a special form is available. This form provides for documentation of management review of the matters raised and a written response to the individual who submitted it.

(b) "Complete a review of all existing applicable procedures to detect any similar situation which could result in viola-

tion of Technical Specifications or regulatory requirements."

Con Edison was scheduled to complete this review on December 15, 1980. However, due to the press of other matters relating to the October 1980 containment leakage incident and the current outage, the review has not yet been completed. It will be completed before the unit is returned to service. In addition, the system for periodic review of procedures was examined and found to be adequate. Reviewers were re-instructed in the need to examine carefully the bases for changes to procedures.

The system for review of proposed changes for unreviewed safety questions was examined and determined to be adequate. Since the occurrence of the review in question, the actions of the SNSC have been formalized to a greater extent, and more complete records are kept to facilitate review of the bases for SNSC action in the future. SNSC membership had also been expanded to include representatives of the Engineering and Quality Assurance departments.

(c) "Pursue, with the NRC Office of Nuclear Reactor Regulation ("NRR"), a change to Indian Point Unit 2 Technical Specifications that addresses containment spray system operability requirements during containment entries at power."

Con Edison has had informal discussions on this matter with NRR personnel. Further discussion is planned to determine the feasibility of such an amendment to the Technical Specifications.

V. Request for Relief

Based on the information set forth in the above Statement,
Con Edison requests that the instant proceeding be dismissed.



John D. O'Toole
Assistant Vice President
Consolidated Edison Company
of New York, Inc.

Dated: New York, New York
January 13, 1981