

Carl L. Newman
Vice President

Consolidated Edison Company of New York, Inc.
4 Irving Place, New York, N. Y. 10003
Telephone (212) 460-5133

May 23, 1975

Docket Nos. 50-247
50-286

RE: IE Insp. Nos. 50-247/75-05
50-286/75-09

Mr. Paul R. Nelson, Chief
Radiological and Environmental
Protection Branch
U. S. Nuclear Regulatory Commission
Region I
631 Park Avenue
King of Prussia, Penn. 19406

Dear Mr. Nelson:

We are in receipt of your April 30, 1975 letter and the accompanying report of the Office of Inspection and Enforcement covering the inspection conducted on April 8-9, 1975. Your April 30 letter confirms the discussion our staff had with Mr. Everett of your office at the conclusion of the inspection that no items of non-compliance with NRC regulations were observed.

Your letter noted that one of our activities appeared to be a deviation from appropriate codes, standards or guides, and requests that with respect to this deviation we submit to your office within 20 days "...a written statement of explanation in reply, including a description of any steps that have been or will be taken to correct this item, a description of any steps that have been or will be taken to prevent recurrence, and the date all corrective actions or preventative measures were or will be completed."

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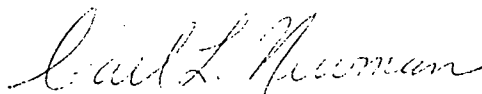
As we previously have pointed out orally and in writing (see our letter to Mr. D. B. Vassallo dated January 13, 1975), we have made no general commitment nor is it a condition of any of our licenses to conduct our activities in complete accordance with all Regulatory Guides, standards or accepted industry practices not specifically required by NRC regulations. Many of the Regulatory Guides and so-called standards and accepted industry practices are in an evolutionary status and we reserve the right to be selective as to their adoption taking into consideration whatever special circumstances of unique design and operating conditions which may exist at our various facilities.

Accordingly, we question what appears to be a new form of NRC citation to licensees - Notice of Deviation from Regulatory Guides, Standards and accepted Industry Practices - and which carries with it the operative language of 10CFR 2.201 heretofore applicable to violations of NRC Regulations. We can find no legal basis for this new Notice of Deviation in 10CFR 2.201 or any other of the Commission's regulations. We are concerned that the Staff in effect is promulgating regulations without observing the procedural steps required by law.

With specific reference to your inspection report, we have inspected the areas you believe do not have adequate ventilation, and suggest could be maintained in a more clean and orderly manner. An engineering evaluation is being performed to determine the need for additional temperature controls in the counting room. We expect this evaluation to be completed and corrective actions taken, if required, by January 1, 1976. We would like to point out, however, that the counting equipment, which provides the majority of the radiochemical analyses required by the Technical Specifications, has been provided with its own air conditioner to assure operability during adverse environmental conditions. Also, measures have been taken to assure that the areas are maintained in a clean and orderly manner.

We would appreciate your comments as to the concern we have expressed in our remarks concerning the new Notice of Deviation.

Sincerely yours,



Carl L. Newman
Vice President

JUN 27 1975

Gary Snyder

PROPOSED RESPONSE TO CONSOLIDATED EDISON COMPANY

It is recommended that the proposed response to the subject licensee be changed in accordance with the attached letter.

Original signed by
P.W. Ellis

W.P. Ellis
Enforcement Specialist

50-247
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OFFICE >						
SURNAME >						
DATE >						