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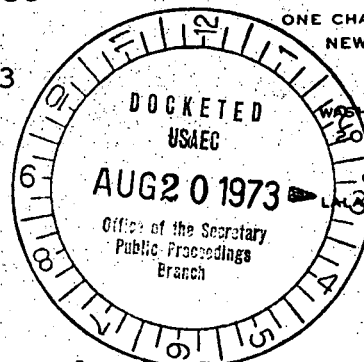
August 16, 1973

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Re: Consolidated Edison Company  
of New York, Inc.  
Indian Point Unit No. 2  
AEC Docket No. 50-247

Gentlemen:

We acknowledge receipt of the Chairman's letter under date of August 9, 1973 stating the Board's concerns "regarding the character and sufficiency of the evidence regarding the quality assurance program for operations."

Applicant is seriously concerned that the Board has chosen at this time to delay the issuance of its Initial Decision for a full-term, full-power operating license for Indian Point 2 until the Board further considers the quality assurance program for full-term, full-power operations. By submitting its special presentation on quality assurance matters together with its memorandum in support thereof on July 10, 1973, Applicant endeavored to meet the Board's request of July 2, 1973 and to resolve the expressed concerns of the Board as soon as possible. Although all comments of the parties had been submitted by July 19, 1973 the Board

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did not determine until August 9, 1973 that an evidentiary hearing on this matter might be advisable or necessary. Applicant submits that to the extent the Board continued to have concerns notwithstanding the parties' presentations, the Board should have so advised the parties immediately so that this matter could have been resolved without delay. Among other things, such a course could have avoided the necessity of presenting the Board with successive motions to permit further testing and operation pending the Board's Initial Decision on the full-term, full-power operating license for this facility.

Applicant further submits that an evidentiary hearing on this topic is not now required by the regulations or applicable decisions and, therefore, should not be held.

The Staff has conducted an extensive review of the quality assurance program for the operation of Indian Point 2. During this review, which included a comparison of Applicant's program with the requirements of Appendix B to 10 C.F.R. Part 50, the Staff notified Applicant that the quality assurance program was to be modified or supplemented in certain respects. Letter from Mr. O'Reilly to Mr. Lapsley, January 23, 1973 together with RO Inspection Report Nos. 50-003/72-09 and 50-247/72-17; Letter from Mr. Howard to Mr. Lapsley, February 7, 1973, together with RO Inspection Report Nos. 50-003/73-01 and 50-247/73-02; Letter from Mr. Howard to Mr. Lapsley, February 16, 1973. Such correspondence, however, in no way requires that the record in this proceeding be reopened. As stated in a letter from Applicant's counsel to the Board dated July 19, 1973, this same correspondence demonstrates that Applicant had supplemented and clarified its quality assurance program for the operation of Indian Point 2 and that reported items of nonconformance with Appendix B to 10 C.F.R. Part 50 had been satisfactorily resolved. See especially letter from Mr. Howard to Mr. Lapsley, February 16, 1973, together with RO Inspection Report Nos. 50-003/73-02 and 50-247/73-03. This correspondence further demonstrates that the Staff had determined that the quality assurance program for the operation of Indian Point 2 is in compliance with applicable quality assurance program requirements. Indeed, based on these letters the Appeal Board

decisions referenced by the Board demonstrate that the Indian Point 2 hearing should not be reopened for the receipt of evidence on the subject of quality assurance for operation. Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB-106, RAI-73-3 at 182 (March 26, 1973); Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), ALAB-124, RAI-73-5 at 358 (May 23, 1973); Vermont Yankee, ALAB-126, RAI-73-6 at 393 (June 8, 1973); Vermont Yankee, ALAB-131, RAI-73-6 at 427 (June 25, 1973); Vermont Yankee, ALAB-138, July 25, 1973.

Subsequent correspondence on the quality assurance program for the operation of Indian Point 2 between the Staff and the Applicant also does not justify a further evidentiary hearing on this matter. The letters from Mr. Kniel to Applicant dated April 3, 1973 and from Mr. Cahill to Mr. Kniel dated July 6, 1973 transmitting a description of the quality assurance program for the operation of Indian Point 2 neither state nor indicate that Applicant's quality assurance program is deficient. To the contrary, such correspondence further demonstrates that Applicant's program complies with Appendix B to 10 C.F.R. Part 50 and, therefore, buttresses the Staff's approval of Applicant's program. Accordingly, under the Vermont Yankee and other decisions of the Appeal Board cited above, the Board should not reopen the hearing for the receipt of evidence on the quality assurance program. See especially ALAB-138 at 12-13, 25.

Applicant objects to further delay based on consideration of the quality assurance program for the full-power operation of Indian Point 2. Applicant maintains its position as set forth in Applicant's submittals of July 10, 1973 and the letter from Applicant's counsel to the Board dated July 19, 1973 that in view of the documents and information contained in both the evidentiary record of this proceeding and in the public docket maintained in the Commission's Public Document Room (cited above) the recent Appeal Board decisions require that the Indian Point 2 hearing not be reopened to receive evidence on the matter of the quality assurance program for the full-term, full-power operation of Indian Point 2.

Applicant requests that the Board review this letter

and the attached documents and reconsider its position as expressed in the Chairman's letter of August 9, 1973. Should the Board consider it necessary following such review, Applicant proposes that a conference hearing be convened next week in Bethesda, Maryland or such other location as is suitable to the Board to resolve the matters raised by the Chairman's letter of August 9. Prior to such hearing Applicant requests a clarification by the Board of its concerns respecting the state of the evidentiary record on quality assurance for operations. Should the Board determine at the conference hearing that further evidence must be received into the record, this could take place immediately thereafter. Of course, Applicant will also be prepared to proceed on September 12.

Applicant intends to confer with the other parties prior to any hearing, as suggested by the Chairman.

Very truly yours,

LEBOEUF, LAMB, LEIBY & MACRAE  
Attorneys for Applicant

BY

Leonard M. Trosten

Leonard M. Trosten  
Partner

Enclosures

Letter from Mr. O'Reilly to Mr. Lapsley dated  
January 23, 1973, together with RO Inspection  
Report Nos. 50-003/72-09 and 50-247/72-17

Letter from Mr. Howard to Mr. Lapsley dated  
February 7, 1973, together with RO Inspection  
Report Nos. 50-003/73-01 and 50-247/73-02

Letter from Mr. Howard to Mr. Lapsley dated  
February 16, 1973, together with RO Inspection  
Report Nos. 50-003/73-02 and 50-247/73-03

Letter from Mr. Kniel to Mr. Cahill dated  
April 3, 1973

Letter from Mr. Cahill to Mr. Kniel dated  
July 6, 1973, together with "Description  
of Con Edison Quality Assurance Program for  
Operation of Indian Point Unit No. 2"

cc w/encs:

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Anthony Z. Roisman, Esq.

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J. Bruce MacDonald, Esq.

Honorable Louis J. Lefkowitz

Secretary, U. S. Atomic Energy Commission (2)

Atomic Safety and Licensing Board Panel