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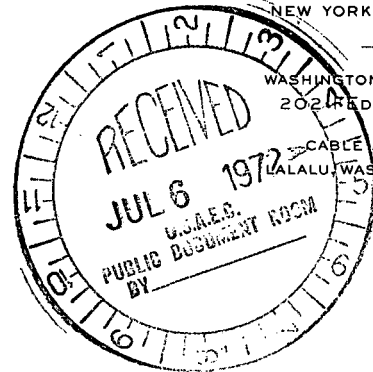
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July 6, 1972

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Mr. Daniel R. Muller, Assistant Director
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Directorate of Licensing
U. S. Atomic Energy Commission
Washington, D.C. 20545

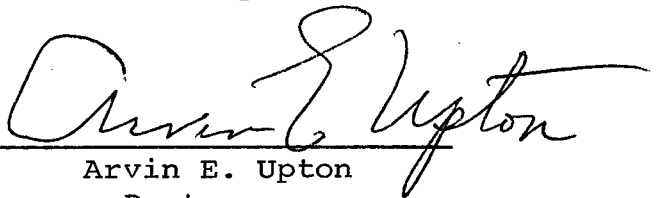
Dear Mr. Muller:

Re: Docket No. 50-247

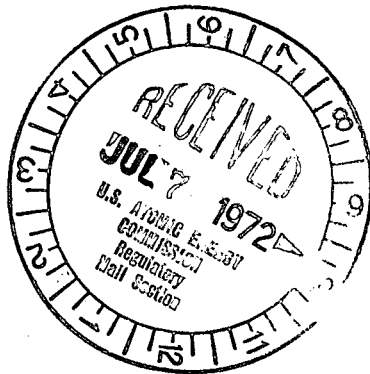
We enclose the response of Consolidated Edison Company of New York, Inc. to the comments dated June 21, 1972 by the Citizens Committee for the Protection of the Environment on the draft environmental statement prepared by the Commission in this proceeding.

Very truly yours,

LeBOEUF, LAMB, LEIBY & MacRae
Attorneys for Consolidated
Edison Company of New York, Inc.

By 
Arvin E. Upton
Partner

Enclosures



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Response of Con Edison to Comments of Citizens Committee for
the Protection of the Environment on Draft Detailed Statement -
Re Indian Point Unit No. 2

Under date of June 21, 1972, Citizens Committee for the Protection of the Environment ("CCPE") has submitted its "Comments on Draft Environmental Impact Statement" prepared by the Commission in this proceeding. We note that these comments are tardily filed.

CCPE's first assertion is that the assumptions and calculations utilized for nuclear safety review must also be utilized for environmental review. This argument ignores the different purposes of the Atomic Energy Act and the National Environmental Policy Act ("NEPA").

Before NEPA was enacted, the Commission was already carrying out a function which in a broad sense was "environmental," namely, the review of the potential radiological implications of the design and operation of nuclear plants. That function, which derived from the Atomic Energy Act of 1954, was not affected by NEPA. Consequently, there exists a certain overlap in subject matter between the Commission's responsibility under its basic jurisdictional statute and under NEPA.

But despite this overlap the responsibilities of the Commission under the two statutes are entirely different. Under the Atomic Energy Act the Commission is required to regulate atomic energy activities in such a way that the public will not be endangered by radiological hazards. In the case of nuclear power plants, because of the potential for accidents involving substantial

releases of radioactivity, the AEC has a system of regulation involving an intensive safety review of the design and operation of these plants. On the other hand, under NEPA the Commission has the duty to prepare an environmental statement which includes a broad assessment of the environmental impact of the plant. This assessment covers the thermal, aesthetic and other effects of the facility; radiological effects are only one of the many factors considered. The purpose of this assessment is not to repeat the intensive review carried on with respect to radiation safety matters; rather, it is to provide a mechanism for comprehensive decisions on such questions as whether the environmental and other costs of the project outweigh the benefits. For this purpose, NEPA calls for a realistic appraisal of all the costs and benefits, environmental and otherwise, of the plant.

Among the various environmental effects of plant operation discussed by the Commission in its draft environmental statement for Indian Point Unit #2 is the risk to the public represented by the potential for accidental radioactive releases. The Commission in making this evaluation followed its proposed Annex to 10 CFR 50 Appendix D, which among other things specifies the assumptions and methods used to calculate the radioactivity predicted as a result of each accident analyzed. Accordingly, both the probability and the consequences of the accidents were evaluated. Also, to place this factor on equal terms with other environmental factors, the Commission in assessing the consequences used assumptions about the course of the accident, the number of safeguards functioning, and so forth, which resemble what might really be expected to happen if such an event were actually to occur.

In contrast, the Commission's Atomic Energy Act responsibilities include the imposition of design requirements for the prevention

and control of nuclear accidents which might involve release of radioactive materials to the environment. To determine the adequacy of a given design, calculations are made of the course and consequences of such accidents. These calculations use extremely conservative assumptions as to the initial release of radioactivity from the core, the number of engineered safeguards which are operable, the amount of electrical power available, and meteorological conditions existing at the time of the accident. Such extreme conservatism is appropriate for the establishment of the design requirements for engineered safeguards, to insure that accident consequences will be within acceptable limits.^{1/}

But these highly conservative assumptions and calculations are not suitable for an environmental evaluation of radiological risks resulting from possible accidents. Their use in the draft environmental statement would have resulted in a totally unrealistic and unreasonable over-estimate of the environmental risk as a factor in an overall environmental balance. The use of realistic assumptions was the only correct way for the Commission to proceed.

CCPE also faults the Commission for not having reflected in the draft environmental statement the views of those who oppose the interim acceptance criteria for ECC systems. If this were a proceeding to establish Commission policy or to re-examine established policy, the contention of CCPE might find some support

^{1/} It is as a part of this review that Con Edison has shown, and the AEC Staff has agreed, that the design of the plant meets the interim acceptance criteria for ECC systems now in effect as a published rule of the Commission. As an incidental result, CCPE has been precluded from attacking the validity of those criteria as applied to the safety review of the plant involved in this proceeding.

through a speculative application of the Seaborg case ^{2/} to the area of regulation. For this adjudicatory proceeding, on the contrary, and for this proposed "major Federal action," the policy was set by the formal adoption of the interim acceptance criteria. The policy is now being re-examined in the current rule making proceeding in the course of which the views of both proponents and opponents are being fully and freely expressed.

CCPE is still attempting to find a technique to invalidate the Commission's regulations in this adjudicatory proceeding. As a counter to what it calls "stacking the deck," CCPE would resort to "dealer's choice," the choice being always the same, the cards being at this point in time rather worn from overuse.

^{2/}

Committee for Nuclear Responsibility v. Seaborg,
3 ERC 1126 (D.C. Cir. 1971)

Regulatory

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