

Docket File (2)

JAN 17 1974

Docket Nos. 50-286
and 50-247

A. Giambusso, Deputy Director for Reactor Projects, L
THRU: D. R. Muller, Assistant Director for Environmental Projects, L

IMPACT ANALYSIS ON SCHEDULE FOR INDIAN POINT UNIT NO. 3 HEARING AND PROSPECTIVE DECISION DATE

In regards to the schedule for the Indian Point Unit No. 3 hearing and Prospective Decision Date, at a special prehearing conference held on November 27, 1973, the ASLB and parties discussed schedules for the issuance of the FES, environmental hearing, and issuance of the Initial Decision. Consolidated Edison first stated that the fuel loading date for IP-3 had slipped until August 1, 1974 (now slipped to November 1974) and requested strongly that the start of the environmental hearing be delayed until June 3, 1974 in order to complete the Texas Instruments Annual Report on ecological studies by April or May of 1974. At the May 21, 1973 special prehearing conference, Consolidated Edison also requested the hearing be delayed until February 4, 1973 for the same reason. Throughout the spring of 1974 Consolidated Edison plans to continue to submit additional supplements to the Environmental Report and additional reports and documents on ecological studies to develop the hearing record for IP-3 independent of the IP-2 case and of the staff's DES or FES for IP-3. The applicant has already submitted Supplement No. 10 to the ER for IP-3. The delaying tactics are to substantiate its position that only after the completion of the ecological studies by 1977, should the AEC make a decision to require cooling towers. Thus, according to Consolidated Edison, construction of cooling towers should not be started until 1978 and operation with the towers by September 1981 only if the towers are ready by then.

The staff's position has been made very clear. The results of the applicant's ecological studies, with its many shortcomings as well as benefits, will in no way influence whether or not cooling towers are needed, nor the date when they should be operational. It is the reproductive life cycle of the striped bass (4 to 5 years) which

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has determined the time when once-through cooling operation is unacceptable. Although the date of January 1, 1978 to operate with towers was originally recommended by the staff in the FES for IP-2, the date of May 1, 1978 selected by the ASLB in its Initial Decision for IP-2 is the date the staff has also used in its DES for IP-3. If one assumes IP-2 operation for 1973-78 and IP-3 operation for 1975-78 using once-through cooling, the consequences of the biological impacts could be felt up to 1982-83, even though cooling tower operation would start in May 1978. In addition, NEPA requires that the AEC make decisions (before the fact rather than after the fact) based on assessments of potential impacts which can occur in the future, and, after review of alternatives to resolve conflicts, decide on a cost-benefit basis which system is the preferable one to mitigate impacts. The staff did so in the IP-2 and IP-3 cases. The ASLB in its Initial Decision for IP-2 supported that same position.

For further clarification, the January 1, 1978 date originally selected by the staff in the IP-2 case would allow the applicant a reasonable time period for construction of the cooling towers. During the interim period of operation, damage will be limited through the Environmental Technical Specifications and a Plan of Action. Based on a cost-benefit analyses of the need for the plant, the staff believes the short term benefits outweigh any damage, which is expected to be recoverable, but over the long term the benefits for the plant can be obtained with an alternate cooling system.

At the November 27 hearing, the staff insisted that the environmental hearing for IP-3 begin March 19, 1974 and be completed by April 19, 1974. However, Consolidated Edison wants at least two months after the issuance of the FES to develop rebuttal testimony on the FES. This was the same situation for the IP-2 hearing in which one month after the FES was issued, Consolidated Edison literally started for the first time to submit updated information on IP-2. The staff has continually encountered a persistent problem with Consolidated Edison in not obtaining adequate updated information in a timely manner. The possible reason the October 1972 information was submitted by Consolidated Edison was the staff position taken on the cooling tower requirement in the IP-2 FES of September 1972. The ER for both IP-2 and IP-3 submitted in 1971 contained material dated 1955-1969, much of which was no longer relevant or applicable to the case. Consolidated Edison took one year (from May 1972 to May

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1973) to respond to our letter of April 24, 1972 requesting information to obtain an acceptable ER. However, the ORNL Lab team began its review to prepare the DES/FES for IP-3 in January 1973.

The staff plans to issue the FES for IP-3 by February 8, 1974 based on the material we had on hand during the week of December 10, 1973, the due date for submittal of comments on the DES. On this date, no party to the hearing had submitted its comments on the DES. On December 10, 1973, Consolidated Edison requested to delay issuance of comments on the DES from December 10 until December 24. Consolidated Edison's extensive comments were received on December 26. The late comments received from Consolidated Edison will result in essentially eliminating a response to them in the FES. A separate response in a Supplement to the FES will be prepared as rebuttal testimony for the hearing. This also applies to whatever additional information the staff obtains from Consolidated Edison after the FES for IP-3 is issued.

At the time of the May 21, 1973 hearing, the ASLB established the target date to start the hearing on February 4, 1974, based on the fuel loading date of April 1, 1974, and the applicant's submission of reports on ecological studies. However, in the November 27 hearing the ASLB ordered that a prehearing conference be held on April 24, 1974, with limited appearances for the public on April 25, 1974. The start of the evidentiary environmental hearings will begin May 14 and end June 14, 1974 and will be continuous with no chance of submission of rebuttal testimony during the hearing. During the spring of 1974, the parties will attempt to reach a stipulation of consolidating by reference the IP-2 case. However, Consolidated Edison insists that the ER and supplements will represent its position and record rather than agreeing to a stipulation on consolidating the two cases.

In conclusion, the delay in issuance of the FES until February 8, 1974 will not impact the schedule of the Prospective Decision Date of November 1, 1974.

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