

William J. Cahill, Jr.
Vice President

Consolidated Edison Company of New York, Inc.
4 Irving Place, New York, N Y 10003
Telephone (212) 460-3819

April 1, 1976

Re Indian Point Unit No. 3
Docket No. 50-286

Director of Nuclear Reactor Regulation
ATTN: Mr. D.B. Vassallo, Chief
Light Water Reactor Branch No. 5
Division of Project Management
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

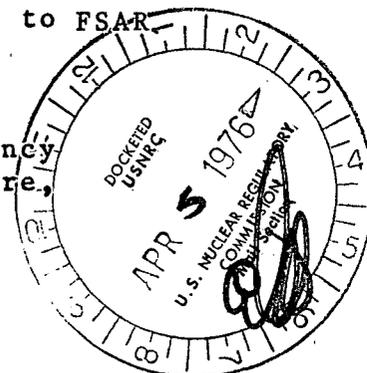


Dear Mr. Vassallo

We wish to supplement the response given to you in our March 8, 1976 letter regarding redundant position indication for valves de-energized to meet the single failure criterion.

The supports on which the position indication switches are mounted have been designed as seismic Class I structures. An evaluation of their seismic capability in accordance with the Indian Point Unit 3 seismic criteria indicates that the supports are acceptable in accordance with the responses to FSAR Questions 5.16, 5.21, 5.25 and 5.36.

The fundamental frequency of each support was determined to be well outside the cutoff frequency of the seismic criteria. Each support, therefore, acts as a rigid structure with respect to the ground response.



The supports were also evaluated for pipe whip and found acceptable in accordance with the response to Question 6.10.

Very truly yours

William J. Cahill, Jr.
William J. Cahill, Jr.
Vice President

mrh

Copy to Mr. George T. Berry
General Manager and Chief Engineer
The Power Authority of the State
of New York
10 Columbus Circle
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PDR ADOCK 05000286
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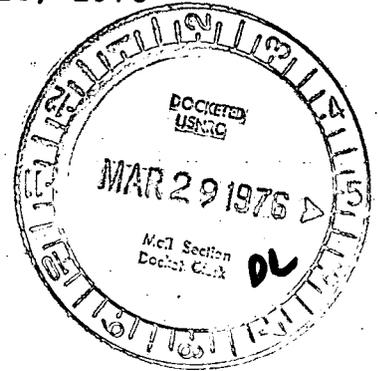
William J. Cahill, Jr.
Vice President

Regulatory Docket File

Consolidated Edison Company of New York, Inc.
4 Irving Place, New York, N Y 10003
Telephone (212) 460-3819

March 26, 1976

Director of Nuclear Reactor Regulation
ATTN: Mr. George W. Knighton, Chief
Environmental Projects Branch No. 1
Division of Reactor Licensing
United States Nuclear Regulatory Commission
Washington, D. C. 20555



Re: Indian Point 2 and Indian Point 3
Docket No. 50-247 and Docket No.

50-286

Dear Sir:

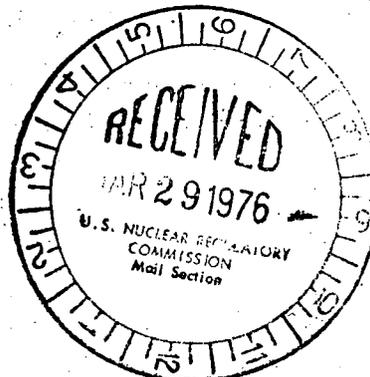
In accordance with our understanding for distribution of research reports, I enclose six copies of the final report entitled "Predation By Bluefish In The Lower Hudson River" - February 1976 prepared by Texas Instruments, Incorporated with the distribution indicated on Attachment A.

Very truly yours,

William J. Cahill, Jr.
William J. Cahill, Jr.

emw/klg

Enc. (6) of (1)



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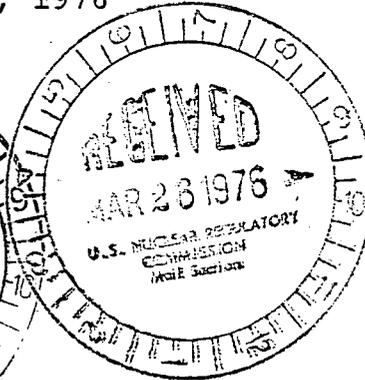
March 24, 1976

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Regulatory Docket File



BY HAND

Mr. Ben C. Rusche
Director
Office of Nuclear Reactor
Regulation
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: Consolidated Edison Company of New York, Inc.
and Power Authority of the State of New York
(Indian Point Units 1, 2 and 3; NRC Docket
Nos. 50-3, 50-247, 50-286 (Show Cause - Seismic))

Dear Mr. Rusche:

As counsel for Licensees in the above-captioned proceeding, we wish to respond to the March 19, 1976 letter from counsel for the Citizens' Committee for Protection of the Environment ("CCPE"). Having lost its attempt to have the Atomic Safety and Licensing Appeal Board ("Appeal Board") in the above proceeding stay issuance of a full-term, full-power operating license for Indian Point Unit No. 3 ("Indian Point 3"), CCPE now advances the same claim to you. CCPE argues in essence that because the Appeal Board in its Memorandum and Order of March 16, 1976, ALAB-319, "found that the Staff has the authority to make the requisite finding [necessary for licensing]" (letter at 1), the Staff's decision must now abide the outcome of the seismic show cause proceeding. Licensees strenuously object to this second attempt by CCPE to tie the issuance of a full-term, full-power operating license for Indian Point 3 to resolution of the issue of the capability of the Ramapo Fault, an issue specifically reserved for the seismic proceeding. CCPE is not a party to the Indian Point 3 licensing case and has no right even to raise the question with you.

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CCPE interprets ALAB-319 as "finding" that the NRC Staff has authority to make findings prerequisite to licensing. CCPE thus implies some newly-discovered Staff responsibility. We suggest ALAB-319 did nothing more than recognize the already existing division of responsibility established by §§ 185 and 189a of the Atomic Energy Act and §§ 50.57 and 2.760a of the Commission's regulations. Under that statutory scheme, when the Commission in its August 4 Memorandum and Order, CLI-75-8, NRCI-75/8, 173, removed seismic concerns from the Indian Point 3 licensing case, those issues, later defined to include the capability of the Ramapo Fault, ceased to be matters in controversy in the licensing proceeding. 10 C.F.R. 2.760a. In other words, implicit in the Commission's August 4, 1975 order, and its December 2, 1975 order, CLI-75-14, NRCI-75/12 835, 840 are findings of reasonable assurance and compliance with Commission regulations insofar as the Ramapo Fault is concerned. Therefore, you are not now required to consider the Ramapo Fault, but simply to make the other general findings required by 10 C.F.R. 50.57. As the Appeal Board recognized in ALAB-319 (at 10), "[T]he seismic matters [including the issue of the capability of the Ramapo Fault] were to be handled within the confines of the special proceeding convened by the Commission for that purpose." This statement is consistent with the limited site findings contained in the Staff's Supplement No. 2 to the Indian Point 3 Safety Evaluation Report, December 12, 1975, at 2-1 to 2-3.

CCPE asks you to consider what it terms "compelling evidence" that the Ramapo Fault has exhibited the macro-seismicity characteristic of capability. CCPE's "compelling evidence" is nothing more than its own direct testimony on issue number 3 (capability of the Ramapo Fault) in the upcoming seismic proceeding. This testimony was prepared for the adjudicatory hearing which will commence before the Appeal Board on April 21. The testimony's merits will be considered at that time, and the proponent of the testimony will be subject to cross-examination. In our view, for you to postpone a licensing decision pending an evaluation of this one-sided testimony not only is unfair to Licensees, but eliminates the function of the Appeal Board. Licensees also find it curious that CCPE terms its evidence "compelling" yet seeks in its motion of March 18, 1976 Appeal Board assurance that CCPE's threshold burden of production has been satisfied.

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Assuming that CCPE's witness Sykes has properly calculated both the location and the intensity of the two earthquakes referred to by CCPE, it does not follow that the Ramapo Fault is a capable fault. First, the occurrence of one or two events (at considerable distance from the site) does not automatically constitute "macro-seismicity instrumentally determined with records of sufficient precision to demonstrate a direct relationship to the fault" as set forth in Appendix A to Part 100, Section III(g)(2). Second, the absence of any evidence of ground movement, and the existence of considerable evidence that no such movement has occurred, refutes the existence of a "direct relationship" with the Ramapo Fault. Third, we believe it is undisputed that the evidence supports a finding that the Ramapo Fault satisfies the "notwithstanding" portion of the regulatory definition of non-capability. In short, even though no finding of compliance with Appendix A with respect to the Ramapo Fault is required or appropriate before licensing Indian Point 3, such a finding could nevertheless properly be made now.

CCPE notes that if the subject of the Ramapo Fault were to be considered by a licensing board, then no license might issue until the question were resolved. This is irrelevant, and ignores the procedural history of this seismic proceeding recounted by the Appeal Board in ALAB-319. Almost a year ago, Con Edison urged that seismic issues be determined as part of the Indian Point 3 operating license proceeding, when they could have resolved in a timely fashion prior to plant operation. The Commission, however, rejected that argument and determined that the issue of the Ramapo Fault's capability is to be decided in a separate, seismic show cause proceeding distinct from the licensing case. As the Board noted in ALAB-319 at 11, "[T]he operating license hearing for Unit 3 has been held and is now over." It continued, "[T]he Staff is free to issue the license without abiding the completion of this seismic proceeding." (Id. at 12.) Notwithstanding, CCPE urges that the Staff should "consider fully Dr. Sykes' testimony" before making findings. It suggests, "The more prudent approach would be to defer issuance of the operating license until resolution of the issue in an adjudicatory hearing." This gratuitous advice

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ignores the express wording of the Appeal Board's March 16 decision, and attempts to induce the Director of Nuclear Reactor Regulation to accomplish that which CCPE could not convince the Appeal Board to do. CCPE would have the Director reverse that opinion as well as the December 2 Commission decision authorizing issuance of a full-term, full-power license for unit 3, without regard for the ongoing seismic proceeding.

In essence, we suggest that CCPE is again confusing the seismic show cause proceeding with the licensing case -- a proceeding it deliberately chose not to enter. We feel that the issue of the Ramapo Fault's capability should be examined, but must be done in the appropriate forum. Should developments come to light in the course of that hearing concerning this fault which require action to protect the public health and safety, the Appeal Board can take action which could "affect the . . . terms of the license." ALAB-319 at 12. We suggest this approach is adequate assurance that the public interest will be protected.

In conclusion, we suggest as we did in "Licensee's Response to CCPE's Request to Stay Issuance of a Full-Term, Full-Power Operating License for Indian Point Unit No. 3," that the Director of Nuclear Reactor Regulation can and should immediately make the statutory findings prerequisite to issuing such a license. There is no basis for holding up the license even further to give CCPE 48 hours notice before issuing it, since ALAB-319 authorizes a license to be issued immediately.

Sincerely,

Harry H. Voigt

cc: Michael C. Farrar, Chairman
Dr. John H. Buck
Dr. Lawrence R. Quarles
Ms. Colleen K. Nissl
David S. Fleischaker, Esq.
Michael Curley, Esq.