

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

COMMISSIONERS:

James R. Schlesinger, Chairman  
James T. Ramey  
Wilfrid E. Johnson  
Clarence E. Larson  
William O. Doub

IN THE MATTER OF  
CONSOLIDATED EDISON COMPANY  
(Indian Point # 3)

DOCKET NO. 50-286

MEMORANDUM AND ORDER

On December 3, 1971, the Commission's Director of Regulation (Director) published in the Federal Register (36 F.R. 23082), his determination under 10 CFR Part 50, Appendix D, Section E, that construction activities at the Indian Point Nuclear Generating Unit No. 3 (authorized pursuant to Provisional Construction Permit No. CPPR-62) should not be suspended pending completion of the environmental review under the National Environmental Policy Act of 1969 (NEPA). The Federal Register notice also provided that persons whose interest may be affected could file a request for a hearing. In this regard the notice further provided that "such request should set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant

8111120528 720830  
PDR ADOCK 05000286  
PDR  
G

a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request."<sup>1/</sup>

On December 16, 1971, the Commission's Office of the Secretary, received for filing a petition by Mary Hays Weik, as "a citizen of the area affected". The petition requested a hearing on the Director's determination, setting out the following contentions:

"I

"Many environmental effects of the renewed construction work which would follow the Commission's ruling are not fully treated in the summary given in the Determination. They require thoughtful public examination.

"II

"That resuming construction before NEPA review is completed would not preclude later and better alternatives, is not at all clear. The addition of a few new safety features, for example, would not cure fundamental errors in design.

---

1/ The criteria are:

- "(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.
- "(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.
- "(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

"III

"The actual 'costs of delay' cannot be figured only in dollar costs, as the Determination assumes. 'Fish protection' and 'Balanced accounting' are given far more weight in these documents than hazards to human beings - although our Government's first commitment is supposed to be the welfare of its citizens.

"The main concern of the Commission's ruling seems to be the prevention of added dollar outlays by Con-Ed's stockholders, due to construction delay. The fact is, the Company's undue haste to go ahead needs careful study. Indian Point's destructive fire on Nov. 4th at Reactor 2 - withheld for 10 days from New York papers and broadcasts - might never have occurred if a hasty agreement for a pre-license fuel loading had not slipped through the recent Indian Point hearings."

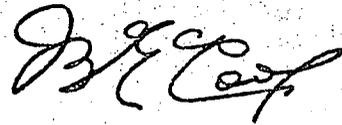
The request is opposed by the applicant and the regulatory staff on the ground that the petition fails to meet the requirements established by 10 CFR Part 50, Appendix D, Section E.4 and the notice, for such a request. It is their position that, as required, the request fails to set forth with reasonable specificity matters which warrant a determination other than that made by the Director of Regulation and the factual basis for the request.

We agree that the petition fails to meet our pleading requirements and that it should be denied. In addition to the extreme generality of its allegations, the petition is devoid of any factual basis for the request. The purpose of the pleading requirements is to provide the Commission with information on which to make an informed judgment as to whether a hearing is warranted. A hearing imposes serious economic and manpower burdens upon all concerned. It is essential, therefore, that a request for hearing be drawn with some particularity. In the

present circumstances, giving due recognition to the fact that petitioner appears without counsel, we conclude that the instant request does not warrant a hearing. In our view, a hearing request submitted by one in petitioner's circumstances <sup>2/</sup> should reflect at least some degree of compliance with applicable requirements. The present request falls far short of that standard, and it is denied.

It is so ORDERED.

By the Commission.



W. B. McCool  
Secretary of the Commission

Dated: June 14, 1972

---

<sup>2/</sup> Petitioner is no stranger to AEC proceedings, having participated extensively in the hearing on the issuance of the construction permit for this facility and in another licensing proceeding. See, In the Matter of Trustees of Columbia University in the City of New York, Docket No. 50-208. Moreover, she has several years' experience in journalism (Columbia Transcript, Mar. 18, 1969, p. 285).

Rep. Ogden R. Reid (R.I.)

CONTROL NUMBER

4766

FILE LOCATION

DATE OF DOCUMENT

8/3/72

ACTION COMPLETION DEADLINE

8/22/72

TO

Glambasso

ACTION PROCESSING DATES

Acknowledged \_\_\_\_\_

Interim Report \_\_\_\_\_

Final

El Glambasso  
8/21/72

PREPARE FOR SIGNATURE OF:

\_\_\_\_ Chairman

\_\_\_\_ Director of Regulation

Glambasso

DESCRIPTION

ltr

Original

Copy

Other

Encl cy ltr to Mary Hays Weik to McCool re request for a public hearing on AEC's determination to resume construction of Indian Point 3 w/cys of articles re radiation hazards in the area

19819

REMARKS

REFERRED TO

DATE

IS NOTIFICATION TO THE JCAE RECOMMENDED? \_\_\_\_\_

Glambasso f/action

8/16/72

Cys:

FBR (50-286)

DO NOT DETACH THIS COPY

DIRECTOR OF REGULATION  
COMMUNICATIONS CONTROL

Form HQ-32 (6-70)  
USA EC