

BEFORE THE UNITED STATES
ATOMIC ENERGY COMMISSION



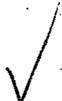
In the Matter of)
)
Consolidated Edison Company of) Docket No. 50-286
New York, Inc.)
(Indian Point Unit No. 3))

APPLICANT'S ANSWER TO "PETITION FOR
INTERVENTION" OF THE CITIZENS COMMITTEE
FOR THE PROTECTION OF THE ENVIRONMENT

By a "Petition for Intervention" filed with the Commission on March 6, 1969 the Citizens Committee for the Protection of the Environment (petitioner) seeks to intervene, on behalf of itself and its members, in the above-captioned proceeding.

The petition contains statements of the alleged interests of the petitioner and how they may be affected by the proceeding, as well as a number of contentions with regard to the proposed facility. A substantial portion of these statements and contentions relate to the thermal effects of operation of the facility on its environment. The Commission has consistently held that consideration of these matters in a facility licensing proceeding is beyond its jurisdiction. The Commission's position has been incorporated in its "Statement of General Policy" appended

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to Part 2 of its Regulations (10 CFR Part 2 Appendix A, Section III. (c).(7).) and has recently been upheld on review by the United States Court of Appeals for the First Circuit. State of New Hampshire v. Atomic Energy Commission, No. 7142 (1st Cir. January 13, 1969).

Petitioner makes no showing that it is authorized by its members to oppose this application. However, applicant does not object to the admission of petitioner as a party on the basis of its stated concern for individual members residing near the proposed facility as to radiological health and safety, if any order granting intervention expressly limits participation by petitioner to matters within the jurisdiction of the Commission and of this Board and within the scope of the issues set forth in the Notice of Hearing.

Applicant maintains that this facility can and will be constructed and operated without undue risk to the health and safety of the public, and denies each of petitioner's first four contentions to the extent that they allege the contrary. As to petitioner's fifth contention, although applicant is confident that the benefits of this facility to the public flowing from, among other things, low-cost power and freedom from air pollution, far outweigh

any risk, applicant does not consider that it is required to demonstrate, as a part of its showing that there is no "undue risk," that the benefits of a particular facility outweigh the risks to a particular group or groups. Such a requirement would necessitate consideration in this licensing proceeding of an endless variety of subjects, a result surely not contemplated by the Atomic Energy Act of 1954 or the Commission's regulations, and one more appropriate to a proceeding for a certificate of public convenience and necessity. The sort of balancing of risk versus benefit to which petitioner refers is reflected in the enactment of the Atomic Energy Act and amendments thereto and in the rulemaking process of the Commission whereby regulations are established containing, for example, detailed standards for protection of the public against radiation and guidelines for siting of nuclear facilities based upon analysis of hypothetical accident situations.

Applicant reaffirms that there is sufficient information in the record to support the safety

findings required for the granting of a provisional construction permit for this facility.

Respectfully submitted,

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By

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Dated: March 10, 1969