

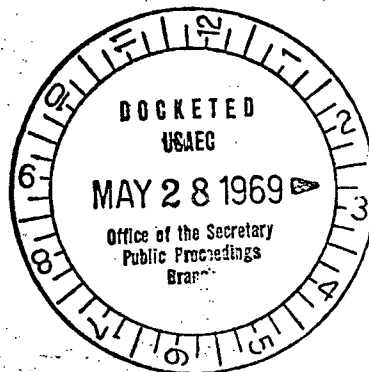
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May 28, 1969

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Samuel W. Jensch, Esq.
Chairman
Atomic Safety and Licensing Board
U.S. Atomic Energy Commission
Washington, D.C. 20545

Re: Consolidated Edison Company of
New York, Inc.
Indian Point Unit No. 3
AEC Docket No. 50-286

Dear Mr. Chairman:

I enclose (1) a copy of the Applicant's proposed findings of fact and conclusions of law in the form of a proposed initial decision, (2) a copy of Applicant's proposed corrections to the transcript, and (3) a copy of a certificate of service of the foregoing two documents and of this letter. The original and twenty copies of each of these three documents, together with twenty-one copies of this letter, will be filed with the Commission today.

On pages 2244-2245 of the Transcript, you suggested that the parties submit comments to the Board concerning the impact of the Hudson River Compact Act upon this proceeding. This suggestion was based upon a statement made at the March 25, 1969 session of the hearing (Tr. pp. 311, 321-322) by a representative of two limited participants, Citizens Committee for the Hudson River and Citizens Committee for the Hudson Valley, supplemented by a letter to you dated March 31, 1969 from the Committees.

Public Law 89-605 (80 Stat. 847), the so-called Hudson River Compact Act, provides the consent of Congress to

the negotiation of a multi-State compact pertaining to the Hudson River Basin. The statute specifies certain matters to be considered by the parties in negotiating the Compact. Any such Compact must be approved by Congress before becoming effective, which approval has not been given as yet.

Section 5 of the statute requires any Federal agency before which there is pending an application for a license for an activity which may affect the resources of the Hudson Riverway to notify the Secretary of the Interior and allow him ninety days to present his views on the matter. The Atomic Energy Commission has complied with the requirements of this section. It has received and considered the comments of the Secretary of the Interior concerning the application for licenses for Unit No. 3 (see Staff Safety Evaluation, Appendix G).

Public Law 89-605 does not contain any standards or criteria governing the issuance of a provisional construction permit for Unit No. 3. Hence, it is Applicant's position that the Board should not consider this statute in reaching its decision in this proceeding.

The Commission's jurisdiction with respect to facility licensing proceedings is defined in the Atomic Energy Act of 1954, as amended, and is limited to matters pertaining to radiological health and safety and the common defense and security. There is nothing in Public Law 89-605 which enlarges the Commission's regulatory jurisdiction over nuclear facilities, or which authorizes the Commission to impose conditions upon applicants for licenses based upon recommendations of the Secretary of the Interior which pertain to matters outside the Commission's jurisdiction.

Apart from the question of the applicability of

Public Law 89-605 to this proceeding, Applicant believes that construction and operation of Unit No. 3 would in no way be inconsistent with the objectives of this statute.

Very truly yours,

LeBOEUF, LAMB, LEIBY & MacRAE

By Leonard M. Trosten
Leonard M. Trosten
Partner

Enclosures

cc: Dr. John Henry Buck
Dr. Thomas Pigford