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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY) Docket No. 50-286
OF NEW YORK)
)
(Indian Point Nuclear Generating)
Unit No. 3))

ANSWER OF AEC REGULATORY STAFF TO PETITION FOR
LEAVE TO INTERVENE BY CORTLANDT CONSERVATION
ASSOCIATION, INC.

On October 25, 1972, the U.S. Atomic Energy Commission (Commission) published in the Federal Register a "Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing" for the Indian Point Nuclear Generating Unit No. 3 (Indian Point 3), owned by the Consolidated Edison Company of New York (37 F.R. 22816).

This Notice provided, inter alia, an opportunity for persons whose interest may be affected by operation of Indian Point 3 to file petitions with the Commission for leave to intervene in the above-captioned proceeding. The Notice specified that such petitions and requests for a hearing must be filed within thirty days of the date of publication of the Notice in the Federal Register and such petitions must be in accordance with the provisions of 10 CFR §2.714 of the Commission's "Rules of Practice".

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The Notice further provided that every such petition shall be accompanied by a supporting affidavit which identifies the specific aspect or aspects as to which the petitioner wishes to intervene and which sets forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene."

In a petition dated November 22, 1972,^{1/} the Cortlandt Conservation Association, Inc. (hereinafter "Petitioner" or "Association"), acting through its president, requested the Commission "to conduct a public hearing and permit its intervention as a party in this matter."^{2/} The three-page petition purports to identify the Association, then to describe its interest in this proceeding, and finally, through a series of nine separately numbered paragraphs, to demonstrate why "the Commission should not issue an operating permit to the Applicant."^{3/}

In describing its alleged interest in this proceeding, the Association does so in the broadest and most general of terms. For example, in paragraph B-1, Petitioner alleges that the "discharge of radioactive effluents and heat... may adversely affect marine and plant life in the area and endanger the health of the public..."^{4/} Paragraph B-2 provides that "[i]n the event of an

^{1/} The date in the petition is erroneously stated as "1972".

^{2/} Petition, p. 4

^{3/} Id., at 2.

^{4/} Ibid.

accident . . . , the health safety, lives and property of Petitioner's individual members . . . would be endangered" ^{5/} Finally, the Association asserts in paragraph B-3 that, in view of "the prevailing meteorological conditions in the area [which Petitioner fails to identify], the generation and dissipation of heat by the proposed facility . . . may create atmospheric conditions detrimental to the health, safety and activities of the public" ^{6/}

Section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, requires an intervenor to identify its interest in a proceeding with particularity. The AEC regulatory staff (staff) believes that the Association has failed in its petition to intervene in this proceeding so to identify its legal interest in reasonably specific terms.

In setting forth its contentions why the Commission should not issue an operating license for Indian Point 3, the Association has failed to comply with the Notice and the Commission's Rule, requiring a petitioner to set forth the "facts and reasons why he should be permitted to intervene" (37 F.R. 22816; 10 CFR §2.714(b)). The nine paragraphs under heading "C" of the Association's petition, which purports to demonstrate why an operating license should not be issued, contain broad unsupported allegations.

5/ Ibid.

6/ Ibid.

As stated in the Statement of Consideration to the Commission's Restructured Rules of Practice, "[i]n order to put a matter in issue, it will not be sufficient merely to make an unsupported allegation." (37 F.R. 15128). In this proceeding, the Association has not offered any facts to support its bald assertions.

As a concluding point in its petition, the Association attempts to reserve the right "to amend this petition in the event pertinent revelations on the state of the art are made after this filing."^{7/} The AEC "Rules of Practice" provide no such opportunity.^{8/}

Finally, the supporting affidavit to the petition, executed by the Association's president, fails to identify the specific aspect or aspects of the subject matter of the proceeding as to which the Association desires to intervene, as required by §2.714(a).

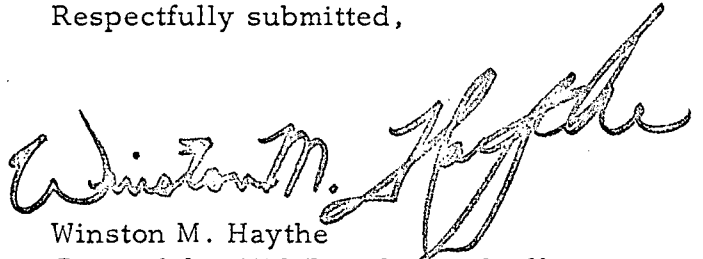
The affidavit states only that the affiant is authorized to represent the Association in the proceeding and that the statements in the petition are true and correct.

^{7/} Petition, p. 4.

^{8/} As provided in § 2.714(a) only upon "a substantial showing of good cause for failure to file on time" may the Commission or presiding officer entertain a nontimely filing.

For the reasons stated above, the staff believes the Association's petition should be denied. However, in the event that a hearing is held in this matter the staff would have no objection to a limited appearance by the Association, in accordance with 10 CFR §2.715.

Respectfully submitted,



Winston M. Haythe
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland
this 15th day of December, 1972.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Answer of AEC Regulatory Staff to Petition for Leave to Intervene by Cortlandt Conservation Association, Inc.", dated December 15, 1972, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 15th day of December, 1972:

Ms. Laura Seitz, President
Cortlandt Conservation
Association, Inc.
44 Cleveland Drive
Croton-on-Hudson, N. Y. 10520


Mr. Harry G. Woodbury
Executive Vice President
Consolidated Edison Company
of New York
4 Irving Place
New York, N. Y. 10003

Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1821 Jefferson Place, N.W.
Washington, D.C. 20036

Atomic Safety and Licensing Board
Panel
U. S. Atomic Energy Commission
Washington, D.C. 20545

Atomic Safety and Licensing Appeal
Board
U. S. Atomic Energy Commission
Washington, D.C. 20545

Mr. Frank W. Karas
Chief, Public Proceedings Staff
Office of the Secretary of the
Commission
U.S. Atomic Energy Commission
Washington, D.C. 20545


Winston M. Haythe
Counsel for AEC Regulatory Staff