

June 29, 1973

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

Gentlemen:

The regulatory staff has carefully reviewed the proposed stipulation of points to be covered in a prehearing order in the above-captioned proceeding prepared by Mr. Voigt and believes that the following changes should be made in the proposed stipulation.

1. Paragraph 1. - The final sentence, which reads as follows, "It is intended that the record shall be closed on or before March 29, 1974" should be deleted.

We know of no reason why an arbitrary target date for the closing of the record need be selected. Both the Board (Tr. pp. 40 & 61) and the regulatory staff (Tr. pp. 51 - 52) have stated their intention to expedite the hearing. Further, the Board indicated no target date for the closing of the record when announcing February 4, 1974 as the date for the commencement of the hearing (Tr. pp. 68 - 69).

2. Paragraph 3. - The regulatory staff suggests the dates in this paragraph be revised to provide for exchange of interrogatories or requests for documents during September 1973, with responses to be furnished during November 1973.

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The dates presently stated in paragraph 3 accurately relate the dates discussed during the prehearing conference. However, as a practical matter, there are only a few days remaining in June, and it does not appear that there will be any time left in June for significant discovery by the time all parties have agreed to the stipulation. In addition, the regulatory staff will not be able to issue its draft environmental statement until September 5, 1973 instead of June 29, 1973 as originally estimated. In view of the above, we believe more meaningful discovery will be accomplished during the later dates suggested.

Further, we propose that the following sentence be added to paragraph 3. "The parties do not waive their right to object to an interrogatory or request for documents as provided in the Commission's Rules and Regulations."

A narrow reading of paragraph 3 might leave the implication that responses to interrogatories or requests for documents are mandatory. The above language is suggested to dispel such an implication and indicate that all parties retain their usual rights with regard to discovery.

Finally, we propose that the following additional sentence be added to paragraph 3, "This limitation on discovery shall not apply to the matters contained in the additional research reports relevant to the environmental issues to be supplied by the Applicant as provided in Paragraph 7 of this stipulation."

The staff believes that as these reports become available, it is quite likely they will induce questions by the parties. We believe it will expedite the proceeding to permit discovery on these reports as they are released.

3. Paragraph 7. - The regulatory staff suggests the following clause be added. "however, in no case shall copies of the monthly reports and any other relevant research data be provided to the other parties later than 20 calendar days after being issued with all 1973 reports distributed not later than January 20, 1974."

Distribution of the research reports on the suggested schedule should result in most of the material being

reviewed by the parties prior to the beginning of the hearings and eliminate the need for any extended recess of the hearings in February 1974 when the annual report is to be made available.

The staff has no objection to the proposed language for paragraph 9 submitted by Mr. Robinson.

Sincerely,

Stuart A. Treby
Counsel for AEC Regulatory Staff

cc: James P. Corcoran, Esq.

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