

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

REPLY OF THE ATTORNEY GENERAL
OF THE STATE OF NEW YORK TO
THE ANSWER OF APPLICANT TO
ATTORNEY GENERAL'S PETITION
FOR LEAVE TO INTERVENE

Applicant's unworthy and dilatory attempt to obstruct the Attorney General of New York from participating as a party in this proceeding is wholly without merit. In the Indian Point 2 proceeding (Docket No. 50-247), both the Atomic Energy Council of New York State and the State Attorney General participated as parties, without the slightest objection by Con Edison or any other participant. There is no reason why the same procedure should not be followed in the instant proceeding.

It is strange that the applicant seeks so strenuously to limit the participation of the State of New York herein. The State has a vital and abiding interest in protecting its fisheries, a natural resource of the citizens of New York,

from the devastating effects of applicant's once-thru-cooling methods. The Attorney General, as chief legal officer of the State and trustee of the people's rights to a healthful environment and to protection of their natural resources, should plainly be permitted to participate in this proceeding as a party, and Con Edison has utterly failed to demonstrate the contrary.

The New York State Atomic Energy Council acts as a coordinator among various State agencies who wish to present evidence to the Atomic Safety and Licensing Board. The Attorney General, who has two legal actions pending against the applicant stemming from fish kills resulting from its operations at Indian Point Units 1 and 2, represents the interests of the people of the State. The Atomic Energy Council is not responsible for accumulating evidence and preparing testimony in the two aforementioned legal actions brought by the State, and such a burden should not be placed on the Council in this proceeding. The Council, in any event, cannot adequately represent the Attorney General. Evidence gathered by the Attorney General relating to Indian Point 3 is best presented by his office. Witnesses scheduled to testify in the legal actions, the subject-matter of which is interwoven with the issues before the Board, are best examined before the Board by the Attorney General. Similarly, the Attorney General has the

right to independently cross-examine the witnesses presented by the applicant and other parties before the Board. There is no conflict between the views of the Atomic Energy Council and the Attorney General.

The applicant is without standing in any event to object to the Attorney General's intervention on the ground that the Atomic Energy Council's intervention bars it. This is an issue of State law as to which the Attorney General's position is entitled to at least as much weight as that of the applicant.

Further, although the applicant refers to the Attorney General's delay in filing the petition, it utterly fails to show that it was prejudiced by such delay. No other party has objected to our petition on this ground, which is no more than a make-weight. It is ironic that the applicant, which continually insists on the urgency of its need for construction of its generating facilities, now makes this dilatory maneuver which can only serve to delay meaningful consideration of the genuine issues before the Board.

The Petitioner has re-filed its petition so as to meet certain technical objections raised by the applicant. These technical objections are now moot.

The petition for intervention should be granted
and the applicant should turn to the real issues raised by
this proceeding.

Respectfully submitted,

LOUIS J. LEFKOWITZ
Attorney General

By

James P. Corcoran

JAMES P. CORCORAN
Assistant Attorney General
Office & P.O. Address
80 Centre Street
New York, New York 10013
Tel. No. (212) 488-7567

JPC:dg