

5/17/73

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

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

MOTION TO CONSOLIDATE INTERVENORS HRFA AND SOS

In accordance with Section 2.715a of the regulations of the Atomic Energy Commission, 10 C.F.R. § 2.715a (1972), Consolidated Edison Company of New York, Inc., ("Applicant") moves that the Atomic Safety and Licensing Board consolidate Hudson River Fishermen's Association, Inc. ("HRFA") and Save Our Stripers, Inc. ("SOS").

Under the Commission's regulations, the Board has power to order the consolidation of parties to an operating license proceeding "who have substantially the same interest that may be affected by the proceedings and who raise substantially the same questions . . ." 10 C.F.R. § 2.715a (1972). Such consolidation may extend to the "presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument," but may not be ordered where the rights of any party would be prejudiced.

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Applicant submits that all these factors point towards the consolidation of HRFA and SOS in the instant proceeding.

From an examination of the petitions for leave to intervene filed by HRFA and SOS, it is apparent that their interests are very closely related. The contentions raised by the two petitioners are identical. The purported interests of the two groups that would allegedly be affected by the issuance of an operating license are expressed in similar terms. In addition, HRFA and SOS share the same two counsel, and all pleadings submitted by them since the filing of the petitions for leave to intervene have been joint submittals.

Ordinarily, parties whose interests and contentions are so closely allied would petition jointly for leave to intervene, and would be admitted jointly to the proceeding. See, e.g., Metropolitan Edison Co. (Three-Mile Island Nuclear Station, Unit 1), CLI-73-5, RAI-73-2, 43 (Feb. 20, 1973); Philadelphia Elec. Co. (Peach Bottom Atomic Power Station, Units 2 and 3), CLI-73-10, RAI-73-3, 173 (Mar. 30, 1973). In the instant case, however, separate petitions were filed, and the Intervention Board admitted HRFA and SOS as "parties." Consolidated Edison Co. of New York (Indian Point Nuclear Generating Unit No. 3), Memorandum and Order (Feb. 28, 1973), at 2. Nevertheless, based on all the pleadings submitted to date, HRFA and SOS

have, for all practical purposes, conducted themselves as "joint" parties.

Applicant previously reserved its right to move for consideration. Answer of Applicant to Petitions of Hudson River Fishermen's Association and Save Our Stripers for Leave to Intervene, Dec. 11, 1972, at 1. We believe that it would now be appropriate for the Licensing Board to take such action. Consolidation will streamline the prehearing conferences and evidentiary sessions of the Board by eliminating needless duplication, cf. Office of Communication of United Church of Christ v. FCC, 359 F.2d 994, 1006 (D.C. Cir. 1966), and will in no way prejudice the rights of HRFA and SOS.

WHEREFORE, Applicant respectfully moves that Intervenor HRFA and SOS be consolidated for all purposes of this proceeding.

Respectfully submitted,

LeBOEUF, LAMB, LEIBY & MacRAE

By 

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May 17, 1973

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CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of May, 1973, served copies of a document entitled "Motion to Consolidate Intervenors HRFA and SOS" by mailing them first class, postage prepaid and properly addressed to the following persons:

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