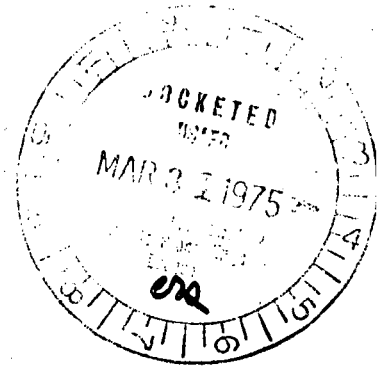


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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

APPLICANT'S RESPONSE TO STAFF'S PROPOSED
ORDER APPROVING STIPULATION

By letter dated March 7, 1975, the Chairman of the Atomic Safety and Licensing Board requested that the parties submit a proposed order for disposition of the Stipulation dated January 13, 1975. On March 24, 1975, counsel for Consolidated Edison Company of New York, Inc. ("Applicant") received the Staff's proposed order in response to said letter. Since Applicant is in substantial agreement with the Staff's proposal, we are not submitting a counter-proposal.

With one exception, Applicant is prepared to stipulate to the Staff's proposed order. Our exception is to the reference in the second and third paragraphs of the Staff's proposal to an "evidentiary hearing." The order of this Board issued on February 18, 1975,

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does not call for an evidentiary hearing with respect to the Stipulation; instead, it prescribes "a session of the proceeding for the presentation of data related to the stipulation signed by all the parties." We believe that the Board has correctly perceived that no evidentiary hearing is required where all of the parties have executed a stipulation settling all matters in controversy and expressly withdrawing prior requests for a hearing. It is our understanding that the session to be held on April 1, 1975, is for the purpose of reviewing the documentary submittals of the parties, together with written responses to certain specific questions posed by the Board. Such a session is not a "hearing" in the conventional sense, and it certainly is not an "evidentiary hearing." We support the Board's determination that no "evidentiary hearing" is required for approval of the Stipulation, and accordingly oppose the Staff's reference to an "evidentiary hearing" in its proposed order.

In a companion motion, the Staff has requested the adoption of an order prescribing procedures for consideration of the Stipulation. That motion indicates that

the Staff believes that the Board should not make findings of fact or conclusions of law with respect to the Stipulation. The Staff has made clear its position that it is not appropriate for the Board to render an initial decision concerning the Stipulation. We agree with the Staff on these matters. We think it necessarily follows that the session to be held on April 1 "for the presentation of data related to the stipulation" should not be an evidentiary hearing. It is simply inconsistent for the Staff to assert that an evidentiary hearing is required and, at the same time, to propose certification of the Stipulation without findings and conclusions and without an initial decision.

The Board should adhere to the procedure contemplated by its February 18 notice. The Staff's proposed order approving the Stipulation should be modified by striking from the second paragraph the words "an evidentiary hearing" and substituting therefor the words "a session of the proceeding for the presentation of data related to the stipulation." In the third paragraph, the words "of the transcript of this evidentiary hearing"

should be deleted and replaced by "the data presented".
If those changes are made, Applicant will stipulate to
the entry of an order by the Board in the form proposed
by the Staff.

Respectfully submitted,

LEBOEUF, LAMB, LEIBY & MacRAE

By Harry H. Voigt
Partner
Attorneys for Consolidated Edison
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March 28, 1975

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of)
)
CONSOLIDATED EDISON COMPANY) Docket No. 50-286
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(Indian Point Station,)
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CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of March, 1975, served the foregoing document entitled "Applicant's Response to Staff's Proposed Order Approving Stipulation" by mailing copies thereof first class, postage prepaid, and properly addressed to the following persons:

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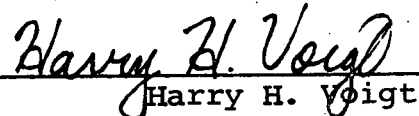
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