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May 12, 1975

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Washington, D. C. 20555

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Re: Consolidated Edison Company of New York, Inc.
(Indian Point No. 3) -- Docket No. 50-286

Gentlemen:

Although not a party to this proceeding the Citizens Committee for Protection of the Environment has followed it with a great deal of interest. For financial reasons the Citizens Committee for Protection chose not to raise its concerns about the seismicity of the site in a single proceeding affecting only one plant but to address the issue in a single proceeding affecting all plants. The State of New York is of a similar view. Obviously a single proceeding affecting all plants will involve the most efficient use of resources for all parties and for the licensing board members.

The Applicant sees it differently. It wishes to have this Board, in a proceeding where the presence of CCPE is precluded, resolve the issue on the record thus presumably creating a precedent for the other two plants. We believe the approach suggested has no merit to it, regardless of the residual authority of this Board to hold the hearing requested by the Applicant.

To Solicitor for appropriate action. Cy of incoming to D&SS.

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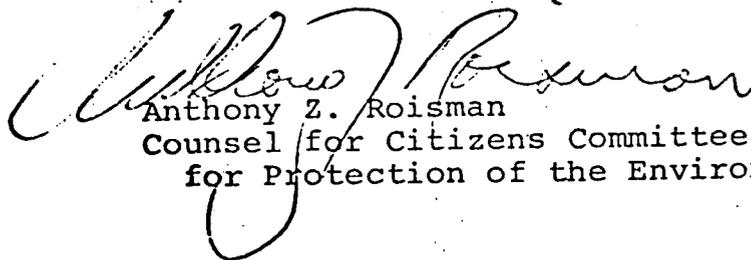
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First, the entire seismic question for this site and the proper procedural framework for its discussion is now the subject of Commission review. The outcome of that review will directly affect this proceeding and this Board should not rush ahead until the Commission has issued its decision. Second, it is clear that New York State, CCPE, the Applicant and the Staff are all concerned with this issue and that all three plants are affected by it. There is no sense to holding a hearing to resolve these issues if all the concerned parties and all the concerned plants are not involved.

What course should this Board follow? We respectfully submit that this Board has no choice but to postpone a final decision on the operating license for Indian Point No. 3 until the seismic issue is resolved. The State of New York's seismic expert has now submitted two affidavits (attached to the New York Atomic Energy Council letter to this Board of April 25, 1975) that he does not believe that the Ramapo Fault has been proven to be incapable and that he believes the safe shutdown earthquake for the plant should be a MM VIII. These are critical safety issues which require definitive resolution prior to approval of an operating license. (Power Reactor and Development Co. v. Electrical Union, 367 U.S. 396 (1961) and Vermont Yankee Nuclear Power Corporation, ALAB-138 (July 25, 1973), RAI-73-7, p. 520). Whether the affidavits are formerly in the record is not critical because all this Board should decide is that there is a sufficient question of plant safety that it should await the Commission's decision and ultimate resolution of the seismic question before it proceeds. We believe there clearly is such a question.

Sincerely,



Anthony Z. Roisman
Counsel for Citizens Committee
for Protection of the Environment

AZR/pq

CC: All persons on the Service List.