

June 1, 1994

Re: Indian Point Unit No. 2
Docket No. 50-247
NET-085-02

Document Control Desk
US Nuclear Regulatory Commission
Washington, DC 20555

Attention: Mr. William Russell

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

SUBJECT: Proposed Amendments to Indian Point Unit 2 Technical Specifications to Allow Extended RPI Deviation Limits and On-line Calibration of the RPI Channels for Indian Point 2, Letter, Bram to Document Control Desk, June 1994.

Dear Mr. Russell:

The proprietary information for which withholding is being requested in the above-referenced letter is further identified in Affidavit NET-085-02 signed by the owner of the proprietary information, Con Edison. The affidavit, which accompanies this letter, sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR Section 2.790 of the Commission's regulations.

Correspondence with respect to the proprietary aspects of the application for withholding or the affidavit should reference this letter, and should be addressed to the undersigned.

Very truly yours,



Stephen B. Bram
Vice President, Nuclear Power

cc: M. P. Siemien, Esq.
Office of the General Counsel, NRC

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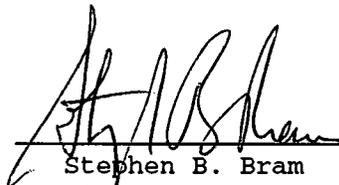
AFFIDAVIT

STATE OF NEW YORK

SS

COUNTY OF WESTCHESTER

Before me, the undersigned authority, personally appeared Stephen B. Bram, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this affidavit on behalf of Consolidated Edison Company and that the averments of fact set forth in this affidavit are true and correct to the best of his knowledge, information, and belief:



Stephen B. Bram
Vice President
Nuclear Power

Subscribed and sworn to
before me this 15th day
of June, 1994.

Karen L. Lancaster
Notary Public

KAREN L. LANCASTER
Notary Public, State of New York
No. 60-4643659
Qualified in Westchester County
Term Expires 9/30/95

- (1) I am the Vice President for Nuclear Power at Consolidated Edison Company of New York, Inc. I have been specifically delegated the function of reviewing proprietary information to be withheld from public disclosure in connection with nuclear power plant licensing and rulemaking proceedings, and am authorized to apply for its withholding on behalf of Consolidated Edison Company.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.790 of the Commission's regulations.
- (3) The proprietary information sought to be withheld is the entire report entitled "Extended RPI Deviation Limits and On-Line Calibration of the RPI Channels for Indian Point Unit No. 2, April 1994, Report No. NET-085-02 (Proprietary)", which is transmitted herewith by a Consolidated Edison Company Letter and an Application for Withholding Proprietary Information from Public Disclosure.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.790 of the Commission's regulations, the following information is furnished for consideration by the Commission in determining whether it should be withheld from public disclosure.
 - (i) Pursuant to Con Edison approved Corporate Procedures, Arthur P. Ginsberg and James P. Mooney obtained US Patent No. 5,011,649 for extended RPI Deviation Limits and the online, at power recalibration procedure of RPI channels in pressurized water reactors.
 - (ii) The information sought to be withheld from public disclosure comprises the application of the procedures developed in such patent as they pertain to Indian Point Unit 2. Such information is owned and has been held in confidence by Consolidated Edison Company, Arthur P. Ginsberg and James P. Mooney.
 - (iii) The information is of a type customarily held in confidence by Con Edison and not disclosed to the public. Con Edison has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine whether to hold certain types of information in confidence. Under that system, information is held in confidence if the release may result in the loss of an existing or potential competitive advantage, as follows:
 - (a) The information reveals distinguishing aspects of a patented method. The use of such information by others without a license would constitute a loss to Con Edison of a competitive economic advantage over other nuclear utilities, and a direct loss of protected patent rights to Con Edison.

- (b) Use of such information by a competitor would reduce his expenditure of resources and improve his competitive position in licensing a similar product.

There are sound policy reasons behind Con Edison's system which include the following:

- (a) As per corporate procedure and policy, Con Edison obtains patents for its employees and encourages them to market them.
 - (b) The information sought to be protected is valuable and marketable commercial information. The extent to which such information is available to others without license would diminish the ability of the individual co-owners to sell products and services involving the use of the information.
 - (c) Each piece or component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total package of proprietary information. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving the owners of the proprietary information of a competitive advantage.
- (iv) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.790, it is to be received in confidence by the Commission.
- (v) The information sought to be protected is not available in public sources and, to the best of our knowledge and belief, has not been previously employed in the same original manner or method.

This information will enable Con Edison to:

- (a) Provide documentation of the analyses and methodology used in extending the RPI deviation limits and performing on-line RPI calibrations.
- (b) Obtain NRC approval of the proposed Technical Specification Amendments.

Further, this information has substantial commercial value because:

- (a) The method allows a utility to continue operating its nuclear power plant and not shut down completely should the rod position indicators drift beyond their current limits as stated in the proposed Technical Specifications. This will result in significant operational benefits and enhanced unit availability. This also represents substantial savings as the utility would avoid having to purchase replacement power.

- (b) The method allows a utility to return to service more quickly following an outage, again avoiding additional replacement power costs.
- (c) The method is an alternative to purchasing very expensive replacement equipment.

The development of the technology described the proprietary report is the result of intensive efforts and the expenditure of a considerable sum of money by Con Edison. Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Con Edison because it would enhance the ability of other nuclear utilities to provide similar licensing services for commercial power reactors without incurring commensurate expense. Also, public disclosure of the information would enable other nuclear utilities to utilize the information to meet NRC requirements for licensing documentation to extend RPI deviation limits and perform on-line calibration of the RPI channels without purchasing the right to use the information.