

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
CONSOLIDATED EDISON COMPANY	)	Docket No. 50-247
OF NEW YORK, INC.	)	
(Indian Point Nuclear Generating	)	
Unit No. 2)	)	

EXEMPTION

I.

The Consolidated Edison Company of New York, Inc. (the licensee) is the holder of Facility Operating License No. DPR-26, which authorizes operation of the Indian Point Nuclear Generating Unit No. 2 (IP2). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Westchester County, New York.

II.

By letter dated January 28, 1994, the licensee requested an amendment to the Technical Specifications (TSs) that would allow containment isolation valve leak rate tests to be performed at intervals up to 30 months. In addition, the licensee's letter requested an exemption from the requirements of the Code of Federal Regulations (CFR) since 10 CFR Part 50, Appendix J, Paragraph III.D.3, requires that licensees perform Type C tests during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type C tests are tests that measure containment isolation valve leakage rates.

The licensee commenced operating on 24-month fuel cycles, instead of the previous 18-month fuel cycles, with fuel cycle 12. Fuel cycle 12 started in April 1993. In order to conform with the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.3, the licensee could be required to shutdown IP2 and enter a forced outage prior to the next scheduled refueling outage. The next refueling outage is scheduled to commence in the February 1995 time frame.

### III.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present when, "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule...."

The CFR at 10 CFR Part 50, Appendix J, Paragraph III.D.3, states: "Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years...." The underlying purpose of the requirement to perform Type B and Type C containment leak rate tests of intervals not to exceed 2 years, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or being unknown and long enough to allow the tests to be conducted during scheduled refueling

outages. This requirement to perform Type C leak rate tests at intervals no greater than 2 years presumed the 2-year time interval was adequate to accommodate the 12-month fuel cycles which were common when Appendix J to 10 CFR Part 50 was published in 1973. However, IP2, along with other facilities, is utilizing a core design which allows operation on a 24-month cycle.

The NRC staff recognized that the current 2-year intervals for Type C leak rate tests would likely require a facility to shutdown to perform these tests before completion of the facility's 24-month fuel cycle. Consequently, the NRC staff issued Generic Letter (GL) 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle." This GL provides guidance to licensees on how to prepare requests for TS amendments and CFR exemptions which are needed to accommodate a 24-month fuel cycle. Enclosure 3 to GL 91-04 indicated, in part, that two issues should be addressed to justify extending the 2-year Type C test interval: (1) a possible reduction in the combined leakage limit for Types B and C tests and (2) the basis for concluding that the containment leakage rate would be maintained within the acceptable limits with a Type C test interval of up to 30 months. The licensee's letter of January 28, 1994, addressed both of these issues.

The first issue is a reduction in the combined containment penetration and isolation valve leakage rate limit for Types B and C tests which increases the margin to the maximum allowable leakage rate. The maximum allowable leakage rate, which is referred to as  $L_a$ , is specified in the facility's TSs. The acceptance criterion for Types B and C leak rate tests is that the combined leakage rate shall be less than  $0.60 L_a$ . This constitutes a margin

of  $0.40 L_a$  (40 percent of  $L_a$ ). Enclosure 3 to GL 91-04 states, in part, that in order to justify an exemption to the Appendix J requirements and extend Type C test intervals up to 30 months, licensees should either: (1) use leak rate test data to demonstrate that the margin of  $0.40 L_a$  will not be reduced as a result of the test interval increase or (2) propose an acceptance criterion limit of less than  $0.60 L_a$  as a TS change. The licensee has proposed an acceptance criterion limit of  $0.50 L_a$  for IP2. This constitutes a 25 percent increase in margin (40 percent to 50 percent). The staff has reviewed the proposed reduction in the combined leakage rate limit to  $0.50 L_a$  and finds that it is consistent with the recommendations of Enclosure 3 to GL 91-04 and is, therefore, acceptable.

The second issue is the basis for concluding that containment leakage would be maintained within acceptable limits with a Type C test interval of up to 30 months. Eleven leak rate tests have been performed at IP2 since the beginning of commercial operation. The first three tests (1976, 1978, and 1979) did not meet the allowable leakage limit due to excessive leakage from several valves which were subsequently repaired and retested. The as-found results of the next eight tests were below the allowable leakage limit. The licensee has concluded that there has been a noticeable downward trend in the as-found valve leakage over the last seven years. The as-found value for testing during the 1993 refueling outage was  $0.093 L_a$ . The NRC staff has considered the test result information provided by the licensee and concluded that there is reasonable assurance that containment leakage rate would be maintained within acceptable limits with a Type C test interval of up to 30 months.

Therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Thus, these are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(ii).


IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that (1) the exemption as described in Section III is authorized by law, will not endanger life or property, and is otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii). Therefore, the Commission hereby grants the following exemption:

The Consolidated Edison Company of New York, Inc. is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the interval for Type C tests may be extended greater than 2 years but in no case greater than 30 months for the Indian Point Nuclear Generating Unit No. 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (59 FR 25130).

This exemption is effective upon issuance.  
FOR THE NUCLEAR REGULATORY COMMISSION

  
Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 20th day of June 1994

Therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Thus, these are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(ii).

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that (1) the exemption as described in Section III is authorized by law, will not endanger life or property, and is otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii).

Therefore, the Commission hereby grants the following exemption:

The Consolidated Edison Company of New York, Inc. is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the interval for Type C tests may be extended greater than 2 years but in no case greater than 30 months for the Indian Point Nuclear Generating Unit No. 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (59 FR 25130).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION  
ORIGINAL SIGNED BY:  
Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 20th day of June 1994

\*See previous concurrence

PDI-1:LA	PDI-1:PM	PDI-1:PM	*OGC	PDI-1:D	DRPE:AD	DRPE:D
CVogan <i>CV</i>	JMenning <i>JM</i>	Williams <i>W</i>		MBoyle <i>MB</i>	JCalvo <i>JC</i>	SVarga <i>SV</i>
6/15/94	6/15/94	6/15/94	05/31/94	6/15/94	6/17/94	6/17/94

Therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Thus, these are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(ii).

IV.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12, that (1) the exemption as described in Section III is authorized by law, will not endanger life or property, and is otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(ii).

Therefore, the Commission hereby grants the following exemption:

The Consolidated Edison Company of New York, Inc. is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the interval for Type C tests may be extended greater than 2 years but in no case greater than 30 months for the Indian Point Nuclear Generating Unit No. 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (59 FR 25130).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION  
ORIGINAL SIGNED BY:  
Steven A. Varga, Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 20th day of June 1994

\*See previous concurrence

PDI-1:LA	PDI-1:PM	PDI-1:PM	*OGC	PDI-1:D	DRPE:AD	DRPE:D
CVogan <i>CV</i>	JMenning <i>JM</i>	FWilliams <i>FW</i>		MBoyle <i>MB</i>	JCalvo <i>JC</i>	SVarga <i>SV</i>
6/15/94	6/15/94	6/15/94	05/31/94	6/15/94	6/17/94	6/17/94