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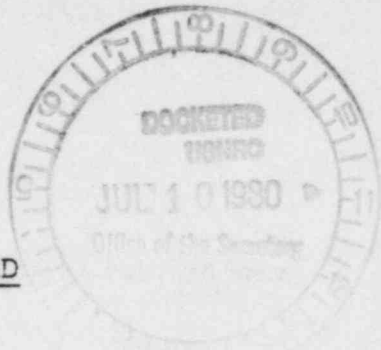

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	(Restart)
(Three Mile Island Nuclear Station, Unit No. 1)	)	

LICENSEE'S OBJECTION TO ANGRY MOTION FOR RECONSIDERATION

On June 30, 1980, the Anti-Nuclear Group Representing York ("ANGRY") filed a motion seeking reconsideration of the Board's rulings with respect to ANGRY Contention II(C). In its Third Special Prehearing Conference Order (January 25, 1980), at pp. 1-5 & 13, the Board rejected ANGRY Contention II(C). Thereafter, ANGRY twice filed objections to this determination (dated February 4 and March 10, 1980); both of which were denied by the Board (Orders dated February 29 and May 8, 1980). As a basis for again arguing its position to the Board, ANGRY points to a Commission Order in Consolidated Edison Company of New York, Inc. (Indian Point, Unit No. 2) and Power Authority of the State of New York (Indian Point, Unit No. 3), Docket Nos. 50-247 and 50-286 (May 30, 1980).[1/] The ANGRY motion both misstates the Commission's Order in Indian Point and in any event overstates the import of that ruling. It should therefore be denied.

The Commission Order in Indian Point established a four-pronged response to the issues presented in that proceeding:

1/ A copy of the decision is attached hereto.

(1) an informal proceeding to better define issues for adjudication; (2) a discretionary formal adjudication of the issues defined during the informal proceeding; (3) a generic proceeding to consider the issues associated with operation of reactors in areas of high population density; and (4) a task force study on interim operation of Indian Point. With respect to the discretionary formal adjudication, the Commission indicated that, "[s]ubject to modification in light of the informal proceeding", one issue that should be addressed by the Licensing Board in that proceeding is:

> What is the current status and acceptability of state and local emergency planning within a 10-mile radius of the site and, to the extent that it is relevant to risks posed by the two plants, beyond a 10-mile radius?

In assessing this statement, three significant facts need to be considered.

First, contrary to the claim of ANGRY the Commission did not specify this question as one that must be considered during the discretionary formal adjudication. Rather, it raised the question so that the informal proceeding might resolve whether such a question was "material or useful in resolving the ultimate issue in the adjudication."

Second, the question posed by the Commission only seeks information on whether or not state and local emergency planning exists beyond a 10-mile radius from Indian Point. Obviously, some amount of planning with respect to the ingestion pathway exists out to 50 miles from the plant. Licensee understands the Commission to be asking both as to the extent of such planning

and whether planning beyond that necessary for the ingestion pathway also exists. That is, the Commission is not precluding the Indian Point licensees from demonstrating, if they so wish, that the risks posed by Indian Point are less than might otherwise be assumed because for this site state and local emergency planning for the plume exposure pathway extends beyond 10 miles from the plant. The Commission Order neither requires such extensive emergency planning for the Indian Point plant nor for any other nuclear facility.

Third, the Commission rulemaking on emergency planning has almost concluded and there is no indication from that proceeding that the Commission intends to revise its position as to the adequacy of the 10- and 50-mile emergency plannning zones. To the contrary, the rulemaking proceeding confirms that preplanning within the 10- and 50-mile EPZ's is all that will be required by the Commission. See SECY-80-275, at pp. 2, B-20, B-30, B-36 (June 3, 1980); SECY-80-275A (June 25, 1980); SECY-80-275B (July 2, 1980). In addition, the Federal Emergency Management Agency ("FEMA"), the agency to which the President assigned lead responsibility for offsite emergency planning, has recently published notice of a proposed rule on the review and approval of state and local emergency plans which also adopts the EPZ concept. See 45 Fed. Reg. 42341 (June 24, 1980).

Thus, there is no basis for ANGRY's speculation that the Commission Order in Indian Point is somehow intended to indirectly expand the area in which preplanning of emergency response must be undertaken.

Moreover, the ANGRY motion ignores a central part of this Board's earlier rulings on ANGRY Contention II(C): the Commission's August 9, 1979 Order recommending that emergency planning be extended out to 10 miles. On the basis of that recommendation, the Board held:[2/]

> First, we view the recommendation in the order that licensee plan to take emergency actions for the population 10 miles around the site to be a rebuttable presumption that 10 miles for a plume EPZ is adequate. The sufficiency of the 10-mile radius may be challenged for the reasons we stated in First Special Prehearing Conference Order, supra
>
> * * * * *
>
> Accordingly, we will accept emergency planning contentions which specify local circumstances raising questions about the adequacy of the licensee's EPZs, but reject unspecified contentions which challenge the basic concept of the 10-mile and 50-mile EPZs. We will look to the proposed rule and its referenced documents for guidance during this phase of the proceeding. We will, of course, adjust to changes appearing in the final rule which will probably be in effect before the hearing is concluded. [Third Special Prehearing Conference Order, at pp. 4 & 5 (January 25, 1980).] 3/

2/ While accepting the position of the Staff that the Commission's August 9 Order was relevant, the Board rejected Licensee's claim that the October 23, 1979 Policy Statement precluded litigation of ANGRY Contention II(C). Thus, to the extent ANGRY implies in its present motion that the Board relied on the Policy Statement it is mistaken.

3/ The Board has implemented this holding by permitting ANGRY to adopt Sholly Contention No. 8(C). This ANGRY has done, including the proposed revision of the contention to include two additional subsections. ANGRY Contention II(C) does not relate to specific local conditions which might warrant extending the plume exposure EPZ beyond 10 miles, but rather is an unspecified attack on the EPZ concept itself.

In this regard, Licensee finds the Commission's specific guidance in this proceeding much more useful than the out-of-context inferences ANGRY would draw from an unrelated Commission Order in another proceeding. For the foregoing reasons, the ANGRY motion for reconsideration should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Robert Zahler
Robert E. Zahler

Dated: July 9, 1980

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	(Restart)
(Three Mile Island Nuclear Station, Unit No. 1)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Objection to ANGRY Motion for Reconsideration" were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 9th day of July, 1980.

Robert E. Zahler

Dated: July 9, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	(Restart)
(Three Mile Island Nuclear Station, Unit No. 1)	)	
	)	

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FOR IMMEDIATE RELEASE
(Monday, June 2, 1980)

NOTE TO EDITORS:

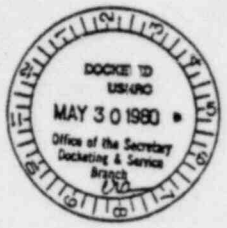
Attached is an order issued by the Nuclear Regulatory Commission on May 30, 1980, concerning the Indian Point nuclear power plant Units 2 and 3 in New York state.

Attachment

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

John F. Ahearne, Chairman
Victor Gilinsky
Richard T. Kennedy
Joseph M. Hendrie
Peter A. Bradford



In the Matter of

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (Indian Point, Unit No. 2)

POWER AUTHORITY OF THE STATE OF NEW YORK (Indian Point, Unit No. 3)

Docket Nos. 50-247
50-286

ORDER

On February 11, 1980, the Director of the Office of Nuclear Reactor Regulation issued a decision granting in part and denying in part a petition, filed by the Union of Concerned Scientists ("UCS"), that called for, among other things, the decommissioning of Indian Point Station Unit 1, and the shutdown of Units 2 and 3.

On February 15, 1980, the Commission approved publication of a notice soliciting public comment on the Director's decision regarding Units 2 and 3. 45 Fed. Reg. 11969 (Feb. 22, 1980). The notice requested comment both on the merits of the Director's decision and on the procedural form which any further Commission action on the matter should take. The notice included a list of five possible procedural options, including adjudication, rulemaking, and an informal proceeding. It noted that this list was not exhaustive, nor were the options necessarily mutually exclusive.

The Commission received well over 100 responses to this Federal Register notice, and has given them careful consideration. Our review of the original UCS petition, the Director's February 11 decision, and the comments which have been received lead us to a four-pronged approach for resolving the issues raised by the UCS petition. These are described in more detail below but, briefly, the ...cise of Commission discretion, an adjudica- ...sing Board, with the decision on the ...on safety issues related specifically to ...ormal proceeding, to begin at once, for ...edited basis, the issues which the adjudica- ...e criteria to be used for the ultimate ...ric consideration of the question of

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