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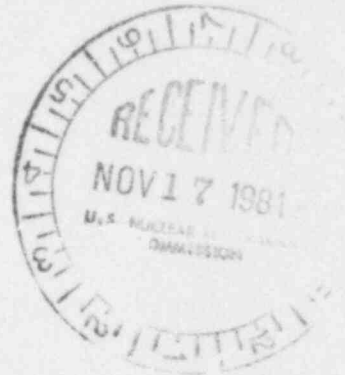
November 13, 1981

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Atomic Safety and Licensing Board  
Washington, D. C. 20555

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U. S. Nuclear Regulatory Commission  
Atomic Safety and Licensing Board  
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Re: Consolidated Edison Company of New York,  
Inc. (Indian Point Station, Unit No. 2)  
Docket No. 50-247 (Spent Fuel Pool  
Modification)

Dear Sirs:

We are in receipt of a document from counsel for the NRC staff in the foregoing matter entitled a "Status Report," dated November 6, 1981. This report states that a Notice of Proposed Issuance of Amendment to Facility Operating License relating to the licensee's request for a spent fuel pool modification was published in the Federal Register on May 28, 1980, and that the NRC staff is now prepared to issue the requested license amendment.

The licensee, Consolidated Edison Company of New York, Inc., without waiving any of its rights under 10 CFR § 2.714, submits that there is no lawful basis why the license amendment, which was requested more than two years ago on September 7, 1979, should not issue forthwith. It appears from staff counsel's report that the only supposed impediment to the issuance of the amendment is a letter characterized as a hearing request which, according to the status report, was mailed to the Commission on January 19, 1981.

No hearing request has ever been served upon the licensee as called for by the Commission's own requirements set forth in 10 CFR § 2.714. Hence the licensee has never had

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an occasion to familiarize itself with or respond to the assertions of any hearing request. Even if a hearing request were to be served upon the licensee at the present time, it would be a monstrous perversion of administrative procedure and the Commission's rules if such a request were to receive any consideration, some seventeen months after the June 27, 1980 deadline set forth in the Federal Register notice for such requests, and on the eve of the issuance of the license amendment by the NRC staff. Were the Commission or the Atomic Safety and Licensing Board to entertain hearing requests under the circumstances here presented, then any individual or organization with the inclination and ability to prepare a letter would be able to create a "midnight" stay of virtually any Commission licensing activity, a situation surely not contemplated under the Atomic Energy Act or the Commission's own rules.

Any delay in the issuance of the subject license amendment would result in extreme prejudice to the licensee, and would be inimicable to the enhancement of nuclear safety. If the new racks are not installed prior to the next outage, the number of movements of spent fuel necessary to accomplish the storage modification would likely double over that which would be necessary if the modification was accomplished prior to the outage. This would be due to the increased number of spent fuel assemblies in the spent fuel pool and the need to optimize load carry paths in that area. Doubling the number of fuel movements adds significantly to the costs and time involved in making the fuel movements necessary to accommodate the modification. Further, if the spent fuel storage modifications were delayed until after the removal of the next region of fuel, the addition of this spent fuel to the pool would increase the potential for higher worker exposure during installation of the modified equipment.

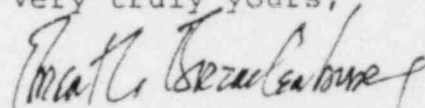
Any delay in the completion of the spent fuel storage modification beyond the commencement of the next refueling outage would also mean that the unit would no longer have the capacity for a full reactor core discharge. Maintenance of this capacity is viewed by Con Edison, as well as other reactor licensees and the NRC staff, as desirable in order to ensure the continued ability to conduct unscheduled inspection of the fuel or the reactor vessel and its internals should such inspections become necessary. During the licensee's last refueling outage, it became necessary to discharge the Indian Point 2 reactor core to conduct an unscheduled fuel inspection.

Finally, a lengthy hearing could have an impact on the required Indian Point Unit No. 2 10-year inservice inspection of the reactor vessel and its lower internals which

is projected for early 1984. Without the spent fuel storage modification, the full core discharge capability which is necessary for this inspection would not be available.

For the foregoing reasons, the licensee respectfully submits that any consideration of a hearing request in the present circumstances and at the present time would not be appropriate or permissible under applicable Commission procedure or policy, and that the staff should issue the amendment without further delay.

Very truly yours,



Brent L. Brandenburg

BLB:cz

cc: All recipients of  
staff Status Report  
dated November 6, 1981