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Certified By E. L. Becker  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
CONSOLIDATED EDISON COMPANY	)	Docket Nos. 50-247-SP
OF NEW YORK (Indian Point, Unit 2)	)	50-286-SP
POWER AUTHORITY OF THE STATE OF	)	
NEW YORK (Indian Point, Unit 3)	)	October 15, 1982

NRC STAFF RESPONSE TO BOARD ORDER OF OCTOBER 1, 1982

I. INTRODUCTION

The Staff of the Nuclear Regulatory Commission (Staff) is responding to the order issued on October 1, 1982, by the Atomic Safety and Licensing Board (Licensing Board) established to preside over the above-captioned proceeding. As set forth below, the Staff requests that the Licensing Board narrow the language of Board Question 1.1. The Staff also responds to the Licensing Board's invitation to propose a schedule for continuation of this proceeding.

II. BACKGROUND

By order dated July 27, 1982, the Commission instructed the Licensing Board to reconsider its rulings on the contentions which had been admitted as matters in controversy in this special investigative proceeding. In the Matter of Consolidated Edison Company of New York (Indian Point, Unit 2) and Power Authority of the State of New York (Indian Point, Unit 3), CLI-82-15, \_\_\_\_\_ NRC \_\_\_\_\_, slip op. at 17 (July 27, 1982). The Licensing Board by a document dated August 9, 1982, asked the Commission

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for further guidance with regard to: 1) the method for presentation of testimony concerning accident probabilities and consequences; and 2) on the consideration of emergency planning contentions in light of the commencement by the Staff of the 120-day clock pursuant to 10 C.F.R.

§ 50.54(s)(2)(ii) of the Commission's regulations. Memorandum and Certification (Seeking Further Commission Guidance) (August 9, 1982).

The Commission furnished this guidance in an order dated September 17, 1982. In the Matter of Consolidated Edison Company of New York (Indian Point, Unit 2), and Power Authority of the State of New York (Indian Point, Unit 3), CLI-82-25, \_\_\_ NRC \_\_\_ (September 17, 1982).

In its order of October 1, 1982, the Licensing Board has reformulated several contentions, rejected certain contentions, and retained other contentions without modification. The Board has also asked some questions of its own. The Board invited the submission of the views of the parties on this order by October 15, 1982. Memorandum and Order (Restating contentions and establishing procedures based on Commission guidance) at 42 (October 1, 1982) (hereinafter Order Restating Contentions). The Board also invited the parties to submit a schedule for the future conduct of this proceeding.<sup>1/</sup> Id. at 39. The Staff's response to this order is set forth below.

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<sup>1/</sup> By Order dated October 14, 1982, the Board granted Licensees' request for an extension of time for submission of parties' views and proposed schedules from October 15, 1982 until October 19, 1982.

### III. DISCUSSION

#### A. Staff Comments

The Staff only wishes to address one aspect of the Licensing Board order. The Board has reformulated contention 1.1, and has asked certain additional board questions relating to the Commission's first question.

Id. at 7-11. Board Question 1.1 states:

What are the consequences of serious accidents at Indian Point and what is the probability of occurrence of such accidents?

In answering this question the parties shall address at least the following documents: (a) the Indian Point Probabilistic Safety Study (IPPSS) prepared by the Licensees; (b) any reviews or studies of the IPPSS prepared by or for the Licensees, the NRC Staff, or the Intervenors, or any other document which addresses the accuracy of the IPPSS.

Id. at 9-10.

The Staff believes that this directive is too broad in its current form. An identification of the documents which the Board wishes addressed is necessary in order that they may be responded to in the parties' direct testimony. The parties should be prepared to identify documents which they believe to be relevant to this Board Question at the Prehearing Conference. Otherwise, the only way to determine if there are any documents reviewing or studying the IPPSS in the possession of the Intervenors or Licensees would be through discovery. This process would not leave time, however, for parties to analyze and address these documents in their prefiled testimony if such documents are uncovered. Therefore, it is important for the Licensing Board, using the information gained from the parties at the Prehearing Conference to identify which documents it wishes the parties to address in their direct testimony so that the Board can be provided with the information it seeks in a timely manner.

The Staff has no comments on the remaining portions of the Licensing Board's order of October 1, 1982.

B. Proposed Schedule for the Continuation of the Indian Point Special Proceeding.

The Staff has been in the process of reviewing the IPPSS since its submittal in March, 1982. We have preliminary views on the IPPSS and on the indication it provides of the risk posed by Indian Point facilities. The Staff can be prepared to present testimony on its initial views of IPPSS and the risk associated with the Indian Point facilities (Questions 1, 2 and 5) within four weeks after the Board so orders. <sup>2/</sup>

For our comprehensive assessment we are in part employing the services of consultants from Sandia National Laboratories. Their preliminary views on issues relating to events leading to core melt probability estimates (an essential first step in risk estimation) were made available, in the form of a draft letter report, at the end of August. The letter report was provided to the Board and the parties on September 1, 1982. Sandia's initial views are currently undergoing discussion with the Staff. Moreover, additional information developed by the Licensees since IPPSS is also to be taken into account in developing a finalized assessment of core melt probability estimates. These estimates will be used by the Staff in estimating the risk associated with the Indian Point facilities. The Sandia work is currently scheduled to be completed

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<sup>2/</sup> Some aspects of Question 6 can be considered separately from risk assessment considerations. We could provide testimony on such aspects shortly after the Board so orders.

by December 15, 1982. We could be prepared to supplement the testimony on our initial views to take into account the Sandia work by the end of January 1983.

With regard to discovery, the Staff recommends that discovery on contentions related to Commission Questions 1, 2, 5 and 6 be completed 14 days following the issuance of the Board's prehearing conference order. This schedule would allow the parties sufficient time to complete their answers to interrogatories and requests for documents filed pursuant to the Licensing Board's Memorandum and Order (Setting Forth Rules Governing Discovery) dated July 6, 1982.<sup>3/</sup> Completion of such discovery was interrupted on July 28, 1982 when the Board issued an order suspending all scheduled filing deadlines "pending further order of the Board."

The Staff does not believe that any time should be allowed for additional interrogatories or document requests since the October 1, 1982 Order restating contentions did not allow any new contentions. The Board did reformulate two contentions (Contention 1.1 and Contention 2.2(b)), but such reformulation was to narrow the focus of each contention. Order Restating Contentions at 7-9 and 20-21. Accordingly, additional discovery on contentions related to Commission Questions 1, 2, 5 and 6 should not be allowed.

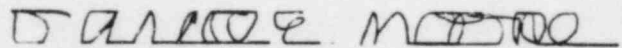
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<sup>3/</sup> In that Memorandum and Order the Board ruled that interrogatories and requests for production of documents on contentions related to Commission Questions 1, 2, 5, and 6 be delivered on July 19, 1982, and that answers to such interrogatories and requests be filed by August 2, 1982.

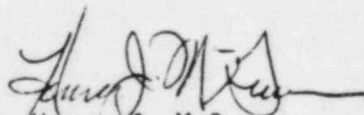
IV. CONCLUSION

For the reasons stated above the Staff concludes that: Board Question 1.1 should be modified to identify the specific documents pertaining to the IPPSS which the Board wishes the parties to address in their direct testimony; and recommends that the Board adopt a schedule which takes into account the factors discussed above.

Respectfully submitted,



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Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 19th day of October, 1982

UNITED STATES OF AMERICA  
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CONSOLIDATED EDISON COMPANY )  
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Docket Nos. 50-247-SP  
50-286-SP

October 19, 1982

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO BOARD ORDER OF OCTOBER 1, 1982" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 19th day of October, 1982.

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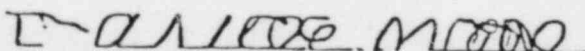
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