

ORIGINAL

OFFICIAL TRANSCRIPT PROCEEDINGS BEFORE

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DKT/CASE NO. 50-247 SP and 50-286 SP

TITLE CONSOLIDATED EDISON COMPANY OF NEW YORK
(Indian Point Unit 2) - POWER AUTHORITY OF THE
STATE OF NEW YORK (Indian Point Unit 3)

PLACE Washington, D. C.

DATE December 3, 1982

PAGES 4856 - 4888

*Return or mail (stapled) to Anita Mahan
439 E/W
Send 1 extra copy to Elliott Greber Rm 1007 H*

8212070049 821203
PDR ADOCK 05000247
T PDR



ALDERSON REPORTING

(202) 628-9300
440 FIRST STREET, N.W.
WASHINGTON, D.C. 20001

TR 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

In the Offices of
Alderson Reporting
440 First Street, N.W.
Washington, D.C.

Friday, December 3, 1982

The telephone conference in this special
investigative proceeding was convened, pursuant to
recess, at 3:30 p.m.

BEFORE:

JAMES P. GLEASON, Chairman
Administrative Law Judge

OSCAR H. PARIS
Administrative Law Judge

FREDERICK J. SHON
Administrative Law Judge

1 APPEARANCES:

2 On behalf of Licensee, Consolidated Edison Company
of New York:

3 BRENT L. BRANDENBURG, Esq.
4 Assistant General Counsel
Consolidated Edison Company of New York, Inc.
5 4 Irving Place
New York, N.Y. 10003

6 On behalf of Licensee, the Power Authority of the
7 State of New York:

8 JOSEPH J. LEVIN, Esq.
9 Morgan Associates, Chartered
1899 L Street, N.W.
Washington, D.C. 20036

10 Union of Concerned Scientists:

11 JEFFREY BLUM, Esq.
12 New York University of Law
40 Washington Square South, Room 423
New York, N.Y. 10011

13 On behalf of the Nuclear Regulatory
14 Commission Staff:

15 JANICE MOORE, Esq.
DONALD HASSLE, Esq.
Washington, D.C.

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE GLEASON: This is Chairman Gleason.

Will the parties identify themselves, starting with the Licensee.

MR. BRANDENBERG: This is Brent Brandenburg for Con Edison.

MR. LEVIN: This is Joe Levin in Washington for the Power Authority.

CHAIRMAN GLEASON: The staff, please?

MS. MOORE: This is Janice Moore for the staff.

CHAIRMAN GLEASON: For Intervenors?

MR. BLUM: Jeff Blum.

CHAIRMAN GLEASON: This is a telephone conference requested by the licensees to consider licensees' motion to dismiss certain contentions. I don't think that we have to have a lot of conversation about it. I think we all have the motion and we understand it.

I think, really, unless the licensees have anything to add to what they have sent in, I would like to go right to Mr. Blum and get his response to the motion.

MR. BLUM: Thank you, Mr. Chairman. Can you hear me fairly well?

1 CHAIRMAN GLEASON: We are having to stress a
2 little bit.

3 MR. BLUM: The first point is that the
4 UCS/NYPERG position on Question 2 is not accurately
5 represented in the licensees' pleading. We have no
6 intention of abandoning and not presenting some sort of
7 case on Question 2, or Contention 2.

8 What has happened is that we tried to get one
9 particular witness in the period right before
10 interrogatory answers, and when that witness fell
11 through, I called up Mr. Scoville and told him that we
12 had no witness for Question 2, and that I would call him
13 promptly if it changed.

14 We were still assuming that we had a December
15 23rd deadline for filing testimony, and I thought that
16 it was fairly clear that we were not making a commitment
17 to abandon our rights in the case under Question 2. I
18 think it was a case of misunderstanding based on the
19 fact that we were dealing, perhaps, more informally than
20 we should have.

21 CHAIRMAN GLEASON: What is your situation
22 currently, Mr. Blum.

23 MR. BLUM: The situation is that we have been
24 doing fairly extensive research, trying to get a summary
25 of the state of knowledge within the NRC on the two

1 remaining issues. We have a deposition set up on
2 Tuesday morning in Washington where we will be finding
3 out something about the kind of testimony that the staff
4 will be putting on.

5 CHAIRMAN GLEASON: Where do you stand with
6 respect to furnishing a list of witnesses?

7 MR. BLUM: On Question 2?

8 CHAIRMAN GLEASON: Yes.

9 MR. BLUM: We do not have a list of witnesses
10 to give right now. There is the possibility of having a
11 witness who will mainly present a compilation of
12 documents, and will testify not as a matter of personal
13 experience but on an on-going study.

14 CHAIRMAN GLEASON: I would ask if licensees
15 would like to have the name of the witness at the
16 present moment?

17 MR. BRANDENBERG: This is Brent Brandenburg
18 for Con-Edison. Yes, we would like to have the name of
19 the witness.

20 CHAIRMAN GLEASON: Do you want to get it over
21 the telephone?

22 MR. BRANDENBERG: The Board's original order
23 requires that the names of witnesses be furnished by
24 November 19 --

25 CHAIRMAN GLEASON: I understand that. I am

1 asking you if you want the name of the witnesses now,
2 despite what the Board's has indicated in its order of
3 November 24, because we would allow the extension
4 anyway.

5 MR. LEVIN: Your Honor, this is Joe Levin of
6 the Power Authority. I could not hear Mr. Brandenburg,
7 although I heard him speaking. It would be helpful, on
8 behalf of the Power Authority, if I hear Your Honor
9 correctly that he would allow an extension until today
10 for intervenors to submit the name of their witnesses on
11 Question 2 contentions.

12 CHAIRMAN GLEASON: They have indicated that
13 they have them available right now. I would suggest
14 that we go ahead and have Mr. Blum give you the name of
15 the witnesses, and then he can follow that up with a
16 written communication to you.

17 MR. LEVIN: I would like to preserve our
18 objection to their missing the schedule, however, it
19 would be helpful to have the name of their witnesses.

20 CHAIRMAN GLEASON: Tell us who your witnesses
21 are, please, Mr. Blum.

22 MR. BLUM: The one witness's identity we now
23 have, who would present the sort of limited testimony
24 that I have described earlier, is Steve Sholly. In
25 addition to him, we are going to be trying to contact

1 other witnesses.

2 What we are also going to be doing is giving
3 some sort of written submission to the Board and all
4 parties approximately a week from now, reporting on the
5 state of our progress with regard to the Commission
6 Question 2, and possibly requesting different courses of
7 action be taken. That will not be prepared for about a
8 week, though.

9 MR. LEVIN: Your Honor, Mr. Blum's suggestion
10 that he will put Mr. Sholly on the witness stand to
11 introduce literature, which is what I understand him to
12 be saying, on this point is completely inadequate to
13 address the concerns that are expressed in the
14 contention.

15 We cannot cross-examine the documents, and we
16 certainly cannot cross-examine Mr. Sholly if he is not
17 being presented as an expert on these points.

18 CHAIRMAN GLEASON: Mr. Blum, do you have a
19 response to that?

20 MR. BLUM: We would hope that to the extent
21 they are actual experts, using documents that are very
22 relevant to the questions, and such testimony is not
23 subsumed in what the staff is presenting, we would hope
24 that these persons could then be made available to the
25 hearing somehow. We will be trying to contact some of

1 these people, looking into different ways of possibly
2 getting them to the hearing.

3 JUDGE PARIS: Mr. Blum, by these persons, are
4 you referring to NRC employees or consultants?

5 MR. BLUM: What I was thinking of right now
6 was consultants. There is one person who is not a
7 consultant, who we may wish to talk with again. We have
8 talked to him once.

9 CHAIRMAN GLEASON: Excuse us a moment.

10 (Off-the-record.)

11 CHAIRMAN GLEASON: This is Chairman Gleason,
12 again, can you all hear me?

13 MR. LEVIN: Yes.

14 CHAIRMAN GLEASON: It seems to the Board, Mr.
15 Blum, that for some reason you are having some kind of a
16 difficulty in complying with the schedule that has been
17 laid down by the Board. Ordinarily this would be
18 addressed by requests for extensions of time, which we
19 have not received from you.

20 The response today indicates that you have one
21 witness who is going to be in the position of
22 introducing documents. I assume from that that he is
23 not in a position of testifying himself. Then you want
24 to get other witnesses. That kind of a procedure is not
25 fair to anyone in the proceeding, and certainly it does

1 not meet the requirements of the schedule that has been
2 issued by the Board.

3 Do you have any comment on that, or any
4 further comments to help us make some kind of a
5 determination?

6 MR. BLUM: Yes, Judge Gleason. I am sorry if
7 it appears that way. I had understood that we had a
8 December 23rd deadline for filing testimony, and that is
9 what we have been working toward as the deadline. We
10 were slowed up a little bit by having to devote time in
11 answering a significant number of interrogatories.

12 What is the particular deadline that we
13 missed?

14 CHAIRMAN GLEASON: The particular deadline is
15 that you were supposed to submit a list of witnesses by
16 November 29, and then you were have answers to the
17 interrogatories filed by December 2nd. We are concerned
18 right at the moment with respect to the list of
19 witnesses.

20 It sounds to me like you need some more time,
21 and I guess the question that we are asking is -- this
22 matter goes to hearing on January 18, and we are asking
23 how much more time you require to get your list of
24 witnesses to the Board, the staff, and the other
25 parties.

1 JUDGE PARIS: This is Judge Paris. Mr. Blum,
2 what Judge Gleason just mentiond was given in our
3 November 24 letter in which we modified the schedule
4 with respect to discovery as it involved UCS. Did you
5 read that?

6 MR. BLUM: Yes, I did, Judge Paris. My
7 understanding was that that was the deadline for
8 providing answers to the interrogatories, including an
9 earlier answer to interrogatories asking what witnesses
10 we had at that time. I have been operating under the
11 assumption that we had a continuing duty to supplement
12 our answers on that.

13 MR. LEVIN: This is Joe Levin for the Power
14 Authority, Your Honor.

15 The order also instructed UCS that they would
16 provide the list of witnesses it plans to present on
17 Questions 1, 2, and 5, including the qualifications, and
18 a listing of the documents each witness relied on in his
19 or her testimony. This was November the 29th, and we
20 are beyond that. I don't know where Mr. Blum gets his
21 reasons for not knowing that this was the date. This is
22 an extension, obviously, of the prior deadline, which I
23 believe was November the 19th.

24 CHAIRMAN GLEASON: Just a minute. We are
25 going to put you on hold for a minute, because this is

1 something that the Board wants to discuss. We will be
2 right back with you.

3 (Off-the-record.)

4 CHAIRMAN GLEASON: Mr. Blum.

5 MR. BLUM: Yes.

6 CHAIRMAN GLEASON: This is Chairman Gleason
7 again. Would you give an estimate of time as to when or
8 at what point you will be able to respond to the order
9 of the Board of November 24th to furnish the list of
10 witnesses on Contentions 1, 2, and 5?

11 MR. BLUM: We could give a complete list of
12 witnesses for Question 2 one week from today, if that
13 would be all right.

14 CHAIRMAN GLEASON: From today?

15 MR. BLUM: Yes.

16 CHAIRMAN GLEASON: Mr. Levin.

17 MR. LEVIN: Yes, Your Honor.

18 CHAIRMAN GLEASON: I think you come in very
19 clearly, so it is easier to talk to you, and I hope that
20 the others can hear you and they can hear me.

21 What is your feeling about that? One week
22 from today, Mr. Blum says that he can get a list of
23 witnesses in on Question 2.

24 MR. LEVIN: Your Honor, the policy, of course,
25 underlying the schedule was to give us an adequate

1 amount of time to do our discovery, take depositions,
2 and get prepared for the Question 2 contention portion
3 of the case.

4 CHAIRMAN GLEASON: Right.

5 MR. LEVIN: We are weeks beyond what the Board
6 originally scheduled for that, and we will be a further
7 week beyond it with a deadline on us, that is on the
8 licensees and the staff, I believe, to complete
9 depositions by December the 16th.

10 At apparently no cost to the intervenors, it
11 costs us more and more time. We find that
12 objectionable, and stick by our present position which
13 is outlined in our motion that the intervenors have
14 failed thoroughly to comply with the Board's order.
15 They have failed thoroughly to come forward with an
16 affirmative case on the Question 2 contentions, and they
17 ought to be dismissed.

18 CHAIRMAN GLEASON: Mr. Levin, you have made
19 those kinds of objections on the record. We are in kind
20 of an unofficial status in discussing this aspect
21 because you have to make other motions based on the
22 argument you are raising now.

23 MR. LEVIN: That is the theme of our motion to
24 dismiss the contentions.

25 CHAIRMAN GLEASON: You are a little behind.

1 You indicated that they were not going to furnish their
2 witnesses.

3 MR. LEVIN: That is right.

4 CHAIRMAN GLEASON: The answer to that is
5 incorrect with regard to that aspect to the motion.

6 MR. LEVIN: I would respectfully disagree with
7 Your Honor's view of it.

8 The fact that they were not going to furnish
9 any was simply a factor that we assumed to be apparent
10 from the fact that they had not, as the Board required,
11 provided us with their list of witnesses on November --
12 I have LOS the date now, but whatever the last date was
13 that they proposed to provide their list of
14 witnesses -- November 29th, and the representations, as
15 I understand it, both to the counsel for the staff and
16 to Mr. Scovill.

17 We are still dealing with the underlying
18 policy here, and I understand your position on it, but
19 we have the difficulty now of preparation. At no cost
20 to the intervenors, we are now being asked to sacrifice
21 weeks of preparation time.

22 I am making an oral motion that these
23 contentions be struck.

24 CHAIRMAN GLEASON: I am not going to consider
25 any oral motion, so don't even make them.

1 MR. BRANDENBERG: Your Honor, this is Brent
2 Brandenburg for Con-Edison.

3 CHAIRMAN GLEASON: Yes, Mr. Brandenburg, I was
4 going to hear from you. Go ahead.

5 MR. BRANDENBERG: I think it is of some value
6 to all of us to keep in mind that Mr. Blum had
7 originally committed to giving us his Question 2
8 witnesses through his participation in the schedule
9 committee at our hearing conference in November on the
10 19th of November. That was the date that all of us had
11 agreed to on this information regarding Question 2.

12 Any further delay beyond that would, indeed,
13 create great difficulties for licensees to file
14 testimony on Commission Question 2 on the January 7th
15 date, and to be prepared for a hearing on that subject
16 on January the 18th.

17 If we were to accommodate Mr. Blum in this
18 regard, we are adding to an already very ambitious time
19 schedule, as I believe Judge Paris pointed out, would
20 get us back to hearings on the 18th of January even
21 further.

22 I just don't believe that in fairness to us,
23 and in order to prepare our case for the hearings to
24 resume on January the 18th, that we really have adequate
25 time to make the discovery that will be required, and so

1 forth particularly if any further extensions are given
2 to Mr. Blum.

3 CHAIRMAN GLEASON: The Chairman understands
4 the difficulties that the delay puts you in. What we
5 are trying to do is to work something out in a practical
6 manner, and this will require, you know, some
7 cooperation on the part of all parties.

8 MS. MOORE: Mr. Chairman, this is Janice Moore
9 for the staff.

10 CHAIRMAN GLEASON: All right, Ms. Moore.

11 MS. MOORE: It is the staff's position that we
12 would oppose having the contentions dismissed at this
13 time. But I want to express the concern that with a
14 continued extension of time for the submission of a
15 witness list, we will be effectively precluded from
16 discovery in that if the witness list doesn't come in
17 until the 15th, and UCS's testimony is due on the 23rd,
18 it may not be possible to schedule depositions of those
19 witnesses within that timeframe.

20 We had previously been at loggerhead on the
21 question of whether one could take depositions after the
22 filing of direct testimony, and I see that same fight
23 looming again.

24 I would suggest that if an extension of time
25 is granted to Mr. Blum to provide a witness list, that he

1 must be willing to agree that depositions may have to be
2 taken after his witnesses' direct testimony has been
3 filed.

4 CHAIRMAN GLEASON: Will you respond to that,
5 Mr. Blum?

6 MR. BLUM: Yes, Judge Gleason.

7 I think we would consent to that. We would
8 ask that good faith be exercised in trying to ... t up the
9 depositions before the 23rd.

10 In the event that they have to occur after the
11 23rd, we would ask that the pre-filed testimony not be
12 in front of the deponents while they are asking
13 questions. Beyond that, we would consent to Ms. Moore's
14 request.

15 CHAIRMAN GLEASON: Hang on a minute, we are
16 going to put you on hold for a minute.

17 (Off-the-record.)

18 CHAIRMAN GLEASON: We are back together.

19 The Board has decided to consider or we have
20 decided to grant an extension of time, based on,
21 presumably, a misunderstanding as to the established
22 date to file the list of witnesses on the part of Mr.
23 Blum, or on the part of UCS.

24 With respect to Contention 2, we would grant
25 an extension to UCS to provide a list of witnesses, an

1 extension to December the 10th. We will require UCS to
2 place in the hands of all the parties that list of
3 witnesses on that date. So it will have to be done by
4 telephone, with confirmation by wire or some expedited
5 method of service.

6 We will grant an extension to December 23rd as
7 the final date for taking depositions, and also for
8 filing testimony --

9 Excuse me.

10 December the 23rd will be the final date for
11 taking depositions, and December the 28th will be the
12 final date for filing testimony.

13 MR. BRANDENBERG: December 28th, Mr.
14 Chairman?

15 CHAIRMAN GLEASON: December the 28th, that is
16 right.

17 MR. BRANDENBERG: This is by whom?

18 CHAIRMAN GLEASON: That is by everyone.

19 MR. LEVIN: Mr. Chairman, this is Joe Levin of
20 the Power Authority.

21 The December 23rd date that you give, I take
22 it that that is the final date for the licensees to take
23 the depositions of the UCS/NYPERG witnesses, and that
24 UCS/NYPERG is bound by the schedule already established
25 by the Board.

1 CHAIRMAN GLEASON: They will go ahead with the
2 schedule currently established. I understood Mr. Blum
3 to indicate that they have those worked out with you.

4 MR. LEVIN: Your Honor, this is Joe Levin
5 again.

6 You said the 28th is for the filing of all
7 testimony. I would point out, however, that the
8 licensees under the present schedule are required to
9 respond to the Question 2 contention testimony, or the
10 Question 2 issues on January the 7th, 1983. Your Honor,
11 is that altered in some way?

12 CHAIRMAN GLEASON: No, that is not altered.
13 Just hold on for a minute.

14 (Off-the-record.)

15 CHAIRMAN GLEASON: We would require the filing
16 of testimony on the part of the parties who have to
17 carry the contentions that are filed on the 28th. We
18 could extend, if the licensees want, for a short period
19 of time the filing of their testimony, which as
20 indicated is now due on the 7th of January.

21 We could not extend it for long because we go
22 to hearing, and the hearing is supposed to start on the
23 18th.

24 I would like to hear from the licensees on
25 that.

1 MR. BRANDENBERG: This is Brent Brandenburg
2 from Con-Edison, Mr. Chairman.

3 I might suggest that under the December 28th
4 date, the intervenors would be provided another five
5 days from the December 23rd date originally set forth
6 for the filing of their testimony on Question 2.

7 I might just suggest that we, as licensees, be
8 given a similar five-day extension, which would give us
9 until January 12th to file our testimony on this
10 Question 2.

11 CHAIRMAN GLEASON: That is all right with the
12 Board.

13 MR. LEVIN: Your Honor, this is Joe Levin,
14 again. That would indeed be helpful to the licensees,
15 and to the Power Authority particularly.

16 There is another question, or actually a
17 request, and that is, at least the Power Authority is by
18 no means assured that UCS/NYPERG will have witnesses.
19 We have Mr. Blum saying that he is contemplating
20 witnesses, but we have no names yet.

21 Therefore, we would request that the Board
22 hold in abeyance our motion to dismiss these contentions
23 until we can learn whether witnesses will actually
24 appear.

25 CHAIRMAN GLEASON: The Board will do that, Mr.

1 Levin.

2 MR. BRANDENBERG: Mr. Chairman, this s Brent
3 Brandenburg, again, from Con-Edison. I have one further
4 question.

5 Mr. Blum has said that he is confused about
6 his obligations as far as identifying witnesses. I
7 notice that under the undisturbed portion of the Board's
8 November 15th order, we, as licensees, and indeed all
9 parties are required to notice our depositions under
10 Commission Question 1 no later than December 10. Of
11 course, as things ostensibly stand, none of the
12 intervenors have identified any witnesses under
13 Commission Question 1.

14 CHAIRMAN GLEASON: I was going to proceed to
15 that next, Mr. Brandenburg. If we can get Question 2
16 resolved, then we can proceed to what other
17 complications we have.

18 MR. BRANDENBERG: If that is your pleasure,
19 Mr. Chairman.

20 The only remaining question I have under
21 Question 2 is the contention 2.2(b), which is a
22 contention that proposes some specific remedies for
23 pressurized thermal shock.

24 We have been advised by Mr. Fleischer, as
25 indicated in our motion, that unlike Mr. Blum, he is not

1 only not trying to identify any witnesses for that
2 contention, but he does not have any desire to pursue
3 this further.

4 CHAIRMAN GLEASON: We have been advised
5 telephonically by Mr. Fleischer that he will not have
6 any witnesses with respect to 2.2(b), but he will be
7 having a witness with respect to 2.2(a).

8 MR. BRANDENBERG: That is our understanding,
9 Mr. Chairman.

10 CHAIRMAN GLEASON: We have asked that he put
11 that in writing and send that to the Board. So as soon
12 as we receive that, we will take action with respect to
13 2.2(b). All right?

14 MR. BRANDENBERG: Fine.

15 CHAIRMAN GLEASON: All right, now as to
16 Question 1 --

17 MS. MOORE: Mr. Chairman, excuse me for
18 interrupting.

19 CHAIRMAN GLEASON: I am sorry, I should have
20 asked Mrs. Moore if she had any problems.

21 MS. MOORE: No, I don't have any problems. I
22 am just checking to make sure that the hearing date on
23 Question 2 then remains on January the 18th, is that
24 correct?

25 CHAIRMAN GLEASON: Yes, even if the Board has

1 to be there all by themselves.

2 MS. MOORE: Yes, sir.

3 MR. BLUM: Your Honor, this is Mr. Blum.

4 CHAIRMAN GLEASON: Yes, Mr. Blum.

5 MR. BLUM: I have one question.

6 If the licensees' motion to dismiss the
7 contentions were granted at some future date, what would
8 be the practical effect of this, given that the staff is
9 still presenting testimony on these specific issues
10 before the Board.

11 I am wondering, would the granting of the
12 motion reduce the Board's ability to consider this issue
13 in its final decision?

14 CHAIRMAN GLEASON: I really don't like to
15 respond to that. The licensees and the staff have to
16 present testimony on the Commission's questions. The
17 Board has the question on Question 2, and we expect
18 responses to that. But I would rather not get into what
19 is going to happen if something occurs, other than that
20 statement.

21 Mr. Blum, do you understand now your
22 responsibilities with respect to your part of Contention
23 2?

24 MR. BLUM: Yes, I do, Your Honor.

25 CHAIRMAN GLEASON: It is agreeable with you?

1 MR. BLUM: Yes, it is.

2 CHAIRMAN GLEASON: Fine.

3 Now what problems are to be raised with
4 respect to contention 1 by the licensees?

5 MR. BRANDENBERG: Under the Board's order, Mr.
6 Chairman, that portion which has not yet been disturbed
7 by any subsequent order of the Board, Mr. Blum and
8 UCS/NYPERG were required to identify witnesses under
9 Commission Question 1 and 5.

10 CHAIRMAN GLEASON: Let me ask the question of
11 Mr. Blum, then.

12 MR. BRANDENBERG: We were to -- Under the
13 Board's November 15th order, we were to notice the
14 depositions under Commission Question 1 no later than
15 December 10. We still as of today do not have any
16 witnesses from UCS/NYPERG, or any of the other
17 intervenors I might add, under Commission Question 1 or
18 the contentions thereunder.

19 CHAIRMAN GLEASON: Mr. Blum.

20 MR. BLUM: Could I first ask a clarifying
21 question of Mr. Brandenburg?

22 Is it true that you don't have notice of Isaac
23 Levy, because if you don't that should be provided very
24 soon. It was my understanding that notice had been
25 provided by another intervenor.

1 CHAIRMAN GLEASON: Do you want to respond to
2 that, Mr. Brandenburg?

3 MR. BRANDENBERG: I did not hear Mr. Blum, I
4 am afraid, Mr. Chairman.

5 MR. LEVIN: Mr. Chairman, this is Joe Levin
6 again.

7 I believe that another intervenor, and I will
8 have to go back and check the record on this, may well
9 have indicated that such a person would be a witness
10 under Question 1. But I do not think that it was UCS or
11 NYPERG.

12 CHAIRMAN GLEASON: Mr. Blum.

13 MR. BLUM: Yes, Judge Gleason.

14 CHAIRMAN GLEASON: Could you provide the Board
15 with some kind of an estimate of when you might be able
16 to file witnesses on Question 1?

17 MR. BLUM: Would December 24th be adequate for
18 the Board's purposes?

19 CHAIRMAN GLEASON: All right.

20 MR. LEVIN: Your Honor, this is Joe Levin.
21 The date for noticing depositions --

22 CHAIRMAN GLEASON: Don't remind me of our
23 order of November 23rd again, please.

24 MS. MOORE: Mr. Chairman, this is Janice
25 Moore.

1 I think there is an additional problem with
2 that date. We commence our hearing schedule on January
3 7th, and notice the witnesses by the January 14th, and
4 file our testimony by the 24th of January. I really
5 think that, as a practical matter, it precludes any
6 depositions of UCS/NYPERG's witnesses.

7 CHAIRMAN GLEASON: Ms. Moore.

8 MS. MOORE: Yes, Mr. Chairman.

9 CHAIRMAN GLEASON: I am not sure whether you
10 received notice, but you know the hearing on the
11 emergency planning issues has been rescheduled to
12 January 10th.

13 MS. MOORE: Yes, I understand that, but we
14 will be entering a very tough hearing schedule by
15 January 10th, and if we don't get the witness list until
16 January 24th --

17 CHAIRMAN GLEASON: No.

18 MS. MOORE: It is December 24th, I am sorry.
19 I mispoke.

20 You are effectively giving everyone perhaps
21 eight days, excluding the week between Christmas and New
22 Year when it is very hard to get anybody available, to
23 take those depositions before the hearing starts in
24 which most of us, I believe, are going to be involved.

25 CHAIRMAN GLEASON: Hang on just a minute

1 please.

2 (Off the record.)

3 CHAIRMAN GLEASON: Mrs. Moore.

4 MS. MOORE: Yes, Your Honor.

5 CHAIRMAN GLEASON: If we extended the date for
6 the filing of witnesses until the 17th of December, does
7 that alleviate the problem a bit?

8 MS. MOORE: A bit.

9 MR. BRANDENBERG: Mr. Chairman, this is Mr.
10 Brandenburg again.

11 I am looking at the schedule, and I notice
12 that at the end of December, in addition to preparing
13 for the January 10th hearing, which will involve
14 reviewing new testimony from the Westchester County
15 people, the Board has also directed the parties to
16 extensively brief the contentions under Commission
17 Questions 3 and 4, and the reformulation of those.

18 We will indeed, as Mrs. Moore quite correctly
19 points out, be very, very busy already in the last weeks
20 of December and the first week of January.

21 CHAIRMAN GLEASON: Mr. Brandenburg, nobody has
22 indicated and no one made an assumption that everyone in
23 this case is not going to be very, very busy for the
24 next seven months.

25 What we are trying to do is to work out a

1 reasonable extension of time for the filing of witnesses
2 on Question 1.

3 MR. BRANDENBERG: Yes.

4 CHAIRMAN GLEASON: It seems to me that if we
5 do extend this date to the 17th of December, it still
6 gives us enough time for the parties to do what they
7 have to do in connection with those witnesses.

8 Will you hang on for just a minute, please.

9 (Off-the-record.)

10 CHAIRMAN GLEASON: We are back together again,
11 is everybody around.

12 MS. MOORE: Yes.

13 CHAIRMAN GLEASON: Mr. Blum, are you there?

14 MR. BLUM: Yes.

15 CHAIRMAN GLEASON: Mr. Blum, the Board is
16 quite concerned with having to make the changes in the
17 schedule, and we are also concerned that we have to do
18 this, because of the time problem, in a telephone
19 conference.

20 The Board is able to extend the time period
21 for refiling you witnesses with respect to Question 1
22 until December the 17th. We will not and see no reason
23 for changing any other part of the schedule. There is a
24 date in there of December the 10th for the filing and
25 noticing depositions on Question 1. We can just ignore

1 that, and not put a new date in, because you people
2 ought to be working that out in any event.

3 This is what our thinking is, and the Board is
4 prepared to finalize that ruling. Do you want to make
5 any comment on it?

6 MR. BRANDENBERG: Mr. Chairman, this is Mr.
7 Brandenburg from Con-Edison. .

8 MR. BLUM: That ruling seems quite fair.

9 CHAIRMAN GLEASON: Mr. Brandenburg, I am
10 asking Mr. Blum to respond.

11 MR. BRANDENBERG: I understand.

12 CHAIRMAN GLEASON: Go ahead, Mr. Blum.

13 MR. BLUM: That ruling seems quite fair, Judge
14 Gleason. The only way we would have any difficulty in
15 meeting the December 10th deadline for noticing
16 depositions would be if the licensees were refusing to
17 give us specific identities of people. In this case, we
18 would have to notice them by job category. We assume
19 that that notice would be adequate for meeting the
20 December 10th deadline.

21 CHAIRMAN GLEASON: Yes.

22 MR. LEVIN: Your Honor, this is Joe Levin.

23 I believe we have already identified --

24 CHAIRMAN GLEASON: They have already filed
25 their list of witnesses, so you shouldn't have any

1 problems meeting that.

2 MR. BLUM: That is true, with the list of
3 witnesses. The only problem would be if there were one
4 person responsible for some aspect of plant operation
5 who was not a witness.

6 CHAIRMAN GLEASON: I think, in that event, I
7 am sure that they would attempt to work it out.

8 MR. BLUM: Yes, I believe that.

9 CHAIRMAN GLEASON: If they didn't, of course,
10 we would be available for some kind of motion.

11 MR. LEVIN: Your Honor, this is Joe Levin.

12 I am not sure what -- Is Mr. Blum suggesting
13 that he might wish to take the depositions of persons
14 that the licensees do not intend to present as
15 witnesses?

16 CHAIRMAN GLEASON: Mr. Blum.

17 MR. BLUM: We don't now have plans to do that,
18 but it occurs to me that it could come up during the
19 next week, when we are discussing it, and that was the
20 only conceivable problem I foresaw.

21 CHAIRMAN GLEASON: Let's not create more
22 problems than we have, Mr. Levin.

23 MR. LEVIN: I didn't create it, Your Honor. I
24 was just trying to find out what we were talking about.

25 CHAIRMAN GLEASON: I would leave it where it

1 is.

2 Mr. Brandenburg.

3 MR. BRANDENBERG: Yes, Mr. Chairman, thank
4 you.

5 I was trying to suggest that in addition to
6 receiving the identity of the witnesses on Commission
7 Question 2 on December 10, and on Commission Questions 1
8 and 5 on December 17 --

9 CHAIRMAN GLEASON: I didn't say anything, Mr.
10 Brandenburg, on Question 5. I said on Question 1.

11 MR. BRANDENBERG: With request to Question 1,
12 it would be useful to us, and it would permit us to
13 start the depositions to which Mrs. Moore referred much
14 sooner after that, if at the same time Mr. Blum
15 identified his witnesses, he also supplied with copies
16 or the identification of the documents upon which those
17 witnesses would be relying in their testimony.

18 CHAIRMAN GLEASON: I believe that is in the
19 order, and I believe that part of the order remains
20 unchanged. In other words, when we say, identify
21 witnesses, we mean identify witnesses with their
22 qualifications and the list of documents on which they
23 are going to rely.

24 MR. BRANDENBERG: Fine.

25 CHAIRMAN GLEASON: There hasn't been any

1 change in that aspect of the November 24th order.

2 MR. BRANDENBERG: If that is the case, Mr.
3 Chairman, thank you.

4 CHAIRMAN GLEASON: All right.

5 MR. BLUM: Judge Gleason.

6 CHAIRMAN GLEASON: Yes.

7 MR. BLUM: This is Mr. Blum, and I have one
8 question relating to discovery under Commission Question
9 1, which might head off another conference call, if we
10 could resolve it now.

11 I have gotten some indication that a motion is
12 being prepared objecting our interrogatory answers that
13 we delivered in late July, around July 18th. The normal
14 rule for proceeding is 10 days during which to deliver
15 such objections after the interrogatory answers are
16 filed, that might be altered somewhat for this
17 proceeding.

18 The question I have, is there any way that the
19 motion objecting to interrogatory answers in late July
20 would not be considered timely?

21 MR. LEVIN: Joe Levin, Your Honor, for the
22 Power Authority. I think Mr. Blum is asking for an
23 advisory opinion.

24 CHAIRMAN GLEASON: I think he is, too, and I
25 am not prepared to give it.

1 I am not prepared to anticipate anything that
2 any of the parties are going to do, Mr. Blum.

3 MR. BLUM: Thank you, Judge Gleason.

4 CHAIRMAN GLEASON: All right, is there
5 anything else to be brought before us at this point that
6 relates to this motion?

7 (No response.)

8 CHAIRMAN GLEASON: All right, I take it that
9 the silence is a unified no.

10 Judge Paris wants to say something.

11 JUDGE PARIS: Mr. Blum, I want to express to
12 you the view of one third of the Board. I am concerned
13 with respect to your inability to meet deadlines.

14 I simply want to remind you that under NRC
15 practice and procedure, and based on rulings of the
16 Appeal Boards, certain intervenors have been given a
17 good deal of license by Licensing Boards to be less than
18 precise in their pleadings, but this leniency is not
19 normally extended to experienced attorneys.

20 I know that you came into this proceeding as
21 an inexperienced attorney in NRC proceedings, but it has
22 been going on long enough so that I don't think we can
23 consider you as inexperienced by now.

24 I would certainly hope that in the future you
25 would pay great attention to deadlines, and if you can't

1 meet them, then act in the appropriate manner for an
2 attorney, so that we will avoid this sort of mess in the
3 future.

4 MR. BLUM: Thank you, Judge Paris.

5 CHAIRMAN GLEASON: That is going to conclude
6 the conference call.

7 I believe Judge Paris speaks for the other
8 member of the Board and for the Chairman. I hope that
9 this will be the last conference call. Good bye,
10 gentlemen.

11 (Whereupon, 4:25 p.m., the conference call
12 adjourned.)

13

14

15

16

17

18

19

20

21

22

23

24

25

NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
ATOMIC SAFETY AND LICENSING BOARD

in the matter of: CONSOLIDATED EDISON CO. OF NEW YORK (Indian Point Unit
2) POWER AUTHORITY OF THE STATE OF NEW YORK (Indian Point Unit 3)
Date of Proceeding: December 3, 1982

Docket Number: 50-247 SP and 50-286 SP

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript
thereof for the file of the Commission.

Patricia A. Minson

Official Reporter (Typed)

Patricia A. Minson

Official Reporter (Signature)