UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Louis J. Carter, Chairman
Frederick J. Shon
Dr. Oscar H. Paris

In the Matter of	
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (Indian Point, Unit No. 2)	Docket Nos. 50-247 SP 50-286 SP
POWER AUTHORITY OF THE STATE OF NEW YORK, (Indian Point, Unit No. 3)	December 31, 1981

CON EDISON'S INITIAL STATEMENT OF POSITION REGARDING THE FIRST SIX QUESTIONS POSED BY THE COMMISSION

Table of Contents

Brent L. Brandenburg
Assistant General Counsel
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003
Telephone (212) 460-4333

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BY THE COMMISSION

Consolidated Edison Company of New York, Inc. ("Con Edison"), licensee of Indian Point Unit 2, states herein its initial position regarding the first six questions to be considered in this proceeding pursuant to the Commission's orders of January 8, 1981 and September 18, 1981. The submission of statements of initial position on these six questions by the NRC Staff and licensees was directed by the Licensing Board at the first pre-hearing conference held on December 2, 1981 (Tr. at pp. 128-33).

Question No. 1

What risk may be posed by serious accidents at Indian Point 2 and 3, including accidents not considered in the plants' design basis, pending and after any improvements described in (2) and (4) below? Although not requiring the preparation of an Environmental Impact Statement, the Commission intends that the review with respect to this question be conducted in a manner consistent with the guidance provided the staff in the Statement of Interim Policy on "Nuclear Power Plant Accident Considerations under the National Environmental Policy Act of 1969;" 44 Fed. Reg. 40101 (June 13, 1980). 5/

5/ In particular, that policy statement indicates that:

> Attention shall be given both to the probability of occurrences of releases and to the environmental consequences of such releases;
>
> The reviews "shall include a reasoned consideration of the environmental risks (impacts) attributable to accidents at the particular facility or facilities....";
>
> "Approximately equal attention should be given to the probability of occurrence of releases and to the probability of occurrence of the environmental consequences...."; and
>
> Such studies "will take into account significant site and plant-specific features...."

Thus, a description of a release scenario must include a discussion of the probability of such a release for the specific Indian Point plants.

Con Edison's Response to Question No. 1

As we noted in our pre-hearing memorandum, Con Con Edison cannot provide a complete answer to this question. This is so because we are unaware of the range of possible accidents which may be postulated in this proceeding. In addition, we cannot at this time address the impact of possible safety measures beyond those referenced in the February 11, 1980 order of the Director of Nuclear Reactor Regulation (Question 2), and of possible improvements in the level of emergency planning (Question 4), until we have had an opportunity to review and assess these matters after they are offered by their proponents to the Board for its consideration. Nevertheless, there are two recent quantitative assessments of the risk of continued operation at Indian Point which may be of use to the Board in answering Question 1. In addition, in connection with their preparation for this proceeding, Con Edison and the Power Authority of the State of New York ("Power Authority"), licensee of Indian Point Unit No. 3, are conducting an exhaustive probabilistic safety study of Indian Point Units 2 and 3. This study is presently expected to be completed in or about February, 1982.

By letter dated May 23, 1980, Con Edison and the Power Authority submitted to the NRC a study setting forth the

quantitative estimates of the risk of the Indian Point units. The letter transmitted a detailed plant-specific study conducted by Westinghouse/Offshore Power Systems, entitled "An Evaluation of Residual Risks from the Indian Point Nuclear Power Plants", as well as an estimate by Dr. Ian Wall of the Electric Power Research Institute of the short term health risks from the continued operation of Indian Point.

The principal conclusion of the studies transmitted by the May 23, 1980 letter is that the level of risk associated with the Indian Point plants is significantly less than the level of risk reported in WASH-1400 for a typical PWR located at an average or "composite" site. This conclusion resulted from accident probability estimates based largely on the application of WASH-1400 methodology and data to the specific design of the Indian Point plants.

A second conclusion of importance reached in this study was that consideration of both the site-specific characteristics (demography, meteorology, etc.) and the plant-specific design are essential before responsible conclusions may be drawn concerning the risk from accidents for a particular reactor or a particular site. The Commission recognized this in its September 18 order when it specified in a footnote to this question (see p.2, supra) that consideration of risk issues in this proceeding "must include a discussion of the probability of such a release from the specific Indian plants."

The results of the May 23, 1980 studies were not surprising. During the design and licensing phases of both plants, many significant special design features were included in order to lessen the risk of operation of these plants. Many of these features were not included in other plants. The inclusion of these features significantly reduces the risks from these plants. As NRC Director of Nuclear Reactor Regulation Harold Denton stated in his February 11, 1980 decision denying the UCS' request for a shutdown of these units, these ". . . compensating features . . . in the design of Indian Point Station Units 2 and 3 . . . would limit the potential radiological consequences of a major accident." *

The conclusions of the May 23, 1980 studies were buttressed by the report of the NRC's Task Force on Interim Operation of Indian Point, which was created pursuant to the Commission's May 30, 1980 order. The Task Force's report is entitled "Report of the Task Force on Interim Operation of Indian Point," NUREG-0715. The Task Force was directed to advise the Commission on whether the plants should be permitted to continue to operate pending the completion of these adjudicatory hearings.

The NRC Task Force study estimated the accident risk posed by the Indian Point units in their then-current condition,

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* The special design features of Indian Point Units 2 and 3 were described by Mr. Denton in his February 11, 1980 decision at pp. 10-12.

and then compared the estimates which they arrived at with estimates of risks determined for other operating nuclear plants. The Task Force Report concluded that:

> "the overall [i.e., societal] risk of the Indian Point reactor is about the same as a typical reactor in a typical site" (p. 38).

In the area of risk to individuals living in the vicinity of Indian Point, the Task Force found that Indian Point when compared with a typical reactor:

> ". . . poses about 30 times less risk of early fatalities, about 50 times less risk of early injuries, about 30 times less risk of latent cancers and about 50 times less risk of property damage [than the typical reactor at a typical site]." (p. 32).

The comprehensive probabilistic safety assessment study for the Indian Point units which, as noted earlier, is currently underway in connection with this proceeding will incorporate the following important features:

- o A probabilistic framework or model for assessing risk.
- o Full consideration of the plants' systems and their operation and maintenance, to determine their contribution to risk.
- o A full treatment of accident initiators, including those intrinsically related to the plant (internal) and those due to external events such as earthquakes, fires, floods and winds.

- o Detailed analysis of accident phenomena, including accidents not considered in the plants' design bases, with examination of in-vessel and ex-vessel degraded core behavior, transient analysis, containment response, and source term definition.
- o Consequence analysis based on plant-specific/site-specific weather and evacuation models.
- o A quantitative expression of risk, including the uncertainty in the results, expressed in terms of early fatalities and injuries, latent and thyroid cancers, and man-rem.

The study is expected to be completed in early 1982. This study will model the consequences of postulated accidents in light of current levels of emergency planning for the Indian Point site, and will form a basis for evaluation of possible changes in design, operation and maintenance of the units.

Although the probabilistic safety study now being conducted will provide additional information about the risk of operations at Indian Point, Con Edison believes that the studies submitted with the May 23, 1980 letter and the Task Force Report establish that the risk of serious accidents at Indian Point is at least comparable with the risk posed by reactors generally.

Question No. 2

What improvements in the level of safety will result from measures required or referenced in the Director's Order to the licensee, dated February 11, 1980? (A contention by a party that one or more specific safety measures, in addition to those identified or referenced by the Director, should be required as a condition of operation would be within the scope of this inquiry if, according to the Licensing Board, admission of the contention seems likely to be important in resolving whether (a) there exists a significant risk to public health and safety, notwithstanding the Director's measures, and (b) the additional proposed measures would result in a significant reduction in that risk.)

Con Edison's Response to Question No. 2

Improvements in the level of safety resulting from the Director's February 11, 1980 Order to the Indian Point licensees were evaluated and quantified in the Indian Point Interim Operations Task Force Report, NUREG-0715. The Report concluded that these improvements reduced the probability of severe core damage by a factor of three.*

With regard to the value of other, unspecified safety measures, licensees are of course unable to provide any

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* The effect of these changes on early fatalities, early illnesses, latent cancers and property damage are shown at pp. 25-31 of NUREG-0715.

evaluation at this time. Such measures may be offered during the future course of this proceeding, and admitted as issues if the Licensing Board is persuaded that they meet the Commission's standards for acceptance as set forth in the question.

Question No. 3

What is the current status and degree of conformance with NRC/FEMA guidelines 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 this context, an effort should be made to establish what the minimum number of hours warning for an effective evacuation of a 10-mile quadrant at Indian Point would be. The FEMA position should be taken as a rebuttable presumption for this estimate.

Con Edison's Response To Question No. 3

On August 19, 1980, the NRC published revised emergency planning requirements for nuclear power plants, which were to become effective in most respects on April 1, 1981 (45 Fed. Reg. 55402). Con Edison, the Power Authority and the other nuclear utilities in the State of New York entered into a contract with the State of New York dated April 29, 1980 whereby the State, acting through its Division of Military and Naval Affairs (which supervises all emergency planning and response activities in the State), undertook to see that revised plans would be prepared sufficient to assure that the public health and safety would be protected from the effects of a radiological incident arising out of the operation of the nuclear power plants located

in the State. This contract was approved as to its form by Robert Abrams, Attorney General of the State of New York, on August 4, 1980.

Pursuant to the April 29, 1980 contract and in consideration of substantial funding provided by the State's nuclear utilities, the State agreed to:

> "... see to it that the [New York State radiological emergency response plan] and implementing procedures submitted by the State fully comply with all Federal regulations and guidance."

The contract also provided that the State of New York, acting through its Division of Military and Naval Affairs:

> "... shall also be responsible for the coordination and review of local radiological emergency response plans and written implementing procedures. The Division shall work diligently in all phases of the work described in this paragraph."

Pursuant to NRC regulation 10 CFR § 50.54(e)(1), in December 1980 Con Edison and the Power Authority submitted to the Commission the New York State Radiological Emergency Response Plan (State Plan) and the Radiological Emergency Response Plans for Westchester, Putnam, Orange County and Rockland Counties (County Plans). Various portions of each of these four counties comprise the 10-mile plume Emergency Planning Zone (EPZ) for the Indian Point site. Both the State and County Plans were developed by the New York State Disaster Preparedness Commission, the New York State agency with principal responsibility for emergency planning, after consultation

with local and utility officials.

By letter dated April 24, 1981, the Commission staff informed all NRC licensees in New York that based upon a review by the Federal Emergency Management Agency (FEMA) of the State Plan, it had concluded that there were a number of deficiencies in that plan. The Staff's letter to Con Edison and the Power Authority also advised that a number of deficiencies had been identified in the County Plans. The Commission's April 24 letter included a list enumerating the alleged deficiencies in the plans as found by FEMA.

Responding to the Commission's April 24, 1981 letter, the New York State Disaster Preparedness Commission, again working in consultation with county officials, revised the plans to address those deficiencies and to bring the plans into conformance with NRC regulations. On May 26, 1981 the licensees sent letters to the Commission outlining their understanding of state and county efforts being undertaken to alleviate and correct the deficiencies claimed in the April 24 letter. By letter dated July 9, 1981, Boyce H. Grier, Director of the Commission's Region I, acknowledged receipt of the May 26, 1981 submittal.

The principal deficiency in the State and County Plans found in the FEMA review of these plans was a potential

for "conflict between State and County authorities and responsibilities pertaining to radiological emergency preparedness."* The Commission Staff and FEMA evidently concluded that the State's generic emergency planning statute, (Article 2-B of the Executive Law), which is equally applicable to floods, forest fires, chemical spills and the like as well as to "radiological accidents," (Executive Law §29-C), was insufficiently precise to give the level of assurance desired by the NRC staff that appropriate response actions would be decided upon and implemented in a cohesive and coordinated manner should radiological emergency response activities ever be required.

The New York State Disaster Preparedness Commission and the New York State Nuclear Emergency Planning Group promptly undertook efforts to introduce and assure passage of new legislation in the New York State Legislature which would ameliorate the concerns expressed by the NRC Staff on authority questions and provide clarification of the responsibilities of various levels of government in the event of a radiological emergency. On July 21, 1981 the Governor signed the results of this effort into law as Chapter 708

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* FEMA April 6, 1981 letter to William C. Hennessy, attached to April 24, 1981 letter from Boyce Grier to New York State nuclear reactor licensees.

of the Laws of 1981. This legislation provided in pertinent part that:

> Upon declaration of a disaster arising from a radiological accident, the governor or his designee, shall direct one or more chief executives and emergency services organizations to:
>
> (a) notify the public that an emergency exists; and
>
> (b) take appropriate protective actions pursuant to sections twenty-two and twenty-three of this article. The governor, or his designee, shall also have authority to direct that other actions be taken by such chief executives pursuant to their authority under section twenty-four of this article*

The new legislation also provided for substantial levels of resources to be dedicated to the funding of radiological emergency planning activities in the State. The legislation provided that:

> 2. (a) Any licensee of the United States nuclear regulatory commission for a nuclear electric generating facility shall be liable for an annual fee to support state and local governmental responsibilities under accepted radiological emergency preparedness plans related to the facility operated by such licensee.
>
> (b) The amount of such fee shall be determined annually by the [New York State Disaster Preparedness] commission taking into account the costs of such responsibilities not otherwise provided for and unexpended amounts of previous fees paid by any such licensee. In no event shall an annual fee for any facility exceed two hundred fifty thousand dollars. Such fee, which shall be payable to the commission on or before April first, shall be expended or distributed only by appropriation.

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*Executive Law §28(4), as added by Section 2 of Chapter 708, Laws of 1981.

3. Such fees shall be expended by the [New York State Disaster Preparedness] commission for purposes of supporting state and local government responsibilities under accepted radiological emergency preparedness plans, including:

(a) purchase, installation, maintenance and operation of equipment used by the [New York State Disaster Preparedness] commission and local governments to monitor and record the potential and actual presence of radioactive materials within the appropriate planning radius from a nuclear electric generating facility;

(b) purchase, storage and distribution by the [New York State Disaster Preparedness] commission of equipment, drugs or other material for the purpose of protecting public health and safety;

(c) personal service, administrative costs and contractual services;

(d) emergency services personnel training and the plans, development, implementation, testing and revisions; and,

(e) the state or local share when applying for matching funds.

4. Notwithstanding the provisions of paragraph (b) of subdivision two of this section, for the fiscal year beginning April first, nineteen hundred eighty-one, any person who holds a license from the United States nuclear regulatory commission to operate a nuclear electric generating facility shall be liable for a seventy-five thousand dollar annual fee for each such facility which amount shall be payable to the commission on or before October first, nineteen hundred eighty-one.*

Con Edison believes that the level of resources to be to be devoted on a continuing basis to radiological emergency planning under this legislation is sub-

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*Executive Law §29-C(2)-(4), as added by Section 3, Chapter 708, Laws of 1981.

stantially in excess of the levels of resources devoted to this purpose in other jurisdictions.

On July 15, 1981 the Director of the New York State Nuclear Emergency Planning Group forwarded revised State Plans to FEMA, and on August 17, 1981, revised County Plans were submitted. The revised plans clarified the respective responsibilities of various levels of government in the event of a radiological emergency, and otherwise corrected the deficiencies which had been alleged in the NRC Staff's April 24, 1981 letter. The August 17 transmittal letter from the Chairman of the State Disaster Preparedness Commission stated in pertinent part that:

> "The Plan, is in our opinion, adequate to protect public health and safety of citizens living within the emergency planning zone for the nuclear power facilities... by providing reasonable assurance that appropriate protective measures can and will be taken by State and local governments within the emergency planning zone in the event of a radiological emergency for the site in question."

By letter dated August 24, 1981 the NRC informed licensees that the issue of deficiencies "has been resolved satisfactorily." Attached to this letter was an August 19, 1981 memorandum to the NRC from FEMA's Acting Director of Radiological Emergency Preparedness Disaster regarding the status of off-site radiological emergency planning in New York State. The memorandum concluded that:

> " . . . FEMA believes that the present state of planning is generally adequate to carry out the responsibility of state and local government in

the case of an accident at these sites. A judgment of the overall adequacy of preparedness can not be provided until the results of the exercises are evaluated."

An emergency planning exercise is presently scheduled for the Indian Point site for March, 1982. After FEMA review of the exercise, FEMA will either determine that the state and local plans are adequate or find deficiencies in the plans.

Pursuant to the NRC-FEMA January 14, 1980 Memorandum of Understanding, FEMA agreed to independently evaluate the evacuation times for twelve sites, including the Indian Point site. The results of this FEMA study were reported by the NRC in NUREG-0755, "Report to Congress on Status of Emergency Response Planning for Nuclear Power Plants." The range of evacuation times for Indian Point for the general population (i.e., persons with their own automobiles or equivalents) under differing conditions was between seven and nine hours.* Estimates of evacuation times for areas within the plume EPZ under different scenarios are provided in the State and County Plans.

Based on the foregoing, Con Edison is of the view that state and local emergency planning at the Indian

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* NUREG-0755 at 18. Hours are rounded to the nearest full hour.

Point site is in conformance with NRC/FEMA guidelines, and that an effective evacuation of a 10-mile radius at Indian Point is feasible.

Question No. 4

What improvements in the level of emergency planning can be expected in the near future, and on what time schedule, and are there other specific offsite emergency procedures that are feasible and should be taken to protect the public?

Con Edison's Response To Question No. 4

As noted in our response to Question 3, significant actions have been taken in the last year to improve the level of emergency planning for the Indian Point site. Further improvements are likely in the near future.

First, as part of the TMI Action Plan a number of improvements will be made to the on-site capabilities at Indian Point Unit 2 to handle an emergency situation. These improvements include the establishment of permanent emergency response facilities. These facilities include a Technical Support Center, an Operational Support Center, and an Emergency Operations Facility. The facilities will be installed on a schedule consistent with NRC direction.

In addition, a number of significant improvements in off-site emergency response capabilities are to be expected, including:

- o A siren system to inform the public within the 10-mile plume EPZ of the occurrence of an emergency has been installed. This system will be tested

and operational by February 1, 1982.

- o The installation of special radios in selected buildings (such as schools and hospitals) throughout the 10-mile EPZ. These radios will be activated by the frequency of the Emergency Broadcast System which will inform persons within these buildings of what actions to take.

- o A brochure which will provide information on radiation and instruct the public, including the handicapped, in actions to be taken in case of a radiological emergency will be distributed simultaneously with the implementation of the siren system.

- o Improvements in radiological monitoring will be achieved through the installation by licensees of the Reuter-Stokes Sentri 101 automated environmental monitoring system and the Ludlum radiation monitoring system.

In addition, further improvements in off-site emergency planning can be expected as a result of the passage of Chapter 708 of the Laws of New York State of 1981. As noted in our response to Question 3, the statute provides for the payment of fees by nuclear reactor operators which are distributed to state and local officials for expenditure on facets of emergency planning which are peculiar to radiological emergencies. These fees will permit state and local officials to upgrade the state of readiness for radiological emergencies by providing funds for additional radiological monitoring equipment and training.

Finally, further improvements in radiological emergency planning are likely to result from annual coordinated on-site and off-site exercises of the plants. The first such exercise for the Indian Point site is presently scheduled for in or about March 1982.

Question No. 5

Based on the foregoing, how do the risks posed by Indian Point Units 2 and 3 compare with the range of risks posed by other nuclear power plants licensed to operate by the Commission? (The Board should limit its inquiry to generic examination of the range of risks and not go into any site-specific examination other than for Indian Point itself, except to the extent raised by the Task Force.)

Con Edison's Response to Question No. 5

Both the short-term risk study submitted to the Commission on May 23, 1980 and the "Report of the Task Force on Future Operation of Indian Point" (see response to Question 1, above) indicate that the risks posed by Indian Point Units 2 and 3 compare favorably with the risks from other nuclear power plants licensed to operate by the Commission.

Also, Director Denton found that special features incorporated into the design of the Indian Point Units which are not present in many other nuclear power plants contribute substantially to the reduction of risk at Indian Point. As noted in our response to Question 1, the Director concluded that "... compensating features ... in the design of Indian Point Station Units 2 and 3 ... would limit the potential radiological consequences of a major accident."

In addition, the studies submitted with the licensees'

May 23, 1980 letter showed that the level of risk associated with the Indian Point plants is significantly below the level of risk reported in WASH-1400. This conclusion is consistent with those of the NRC's "Task Force on Interim Operation of Indian Point". The Task Force's report concluded that the societal risk of operation at Indian Point is about the same as that of a typical reactor at a typical site, while the risk to individuals is significantly below the risk from a typical site. (See Response to Question 1)

As noted earlier, in preparation for this proceeding Con Edison and the Power Authority are examining the levels of safety of Indian Point Units 2 and 3 compared to the levels of safety currently existing at other operating nuclear plants, some of which are the subject of completed or currently ongoing probabilistic safety studies. This work is currently in progress.

Based upon the Task Force report, Con Edison is currently of the view that the overall (i.e., aggregate societal) risk posed by the Indian Point Units is at least as minimal as the risk posed by other operating nuclear plants, and that the risk to individuals living in the vicinity of Indian Point is considerably less than that at other plants.

Question No. 6

What would be the energy, environmental, economic or other consequences of a shutdown of Indian Point Unit 2 and/or Unit 3.

Con Edison's Response To Question No. 6

The Indian Point nuclear units play a major role in supplying the energy needs of the Con Edison service area. The unavailability of the units would result in higher rates to people who already pay the highest electric rates in the United States. These higher rates would have an especially severe impact on the area's transit system. In addition, cessation of operation of these units would further increase New York's already heavy reliance on foreign oil for electric generation.

The 1,814 megawatts of generating capacity of Indian Point Units 2 and 3 represent about 16% of the total generating capacity of Con Edison and the Power Authority which is available to serve the New York City and Westchester County service area. However, because of their low fuel costs they are baseloaded and account for about 30% of all electric energy used in the service area during a typical year. Generation by these nuclear units reduces oil requirements significantly since oil-fired capacity would have to be utilized to replace them. Operation of the units saves the equivalent of more than 40,000 barrels of oil per day and,

thus, any long-term unavailability of the Indian Point units would increase this area's and the nation's dependence on unreliable sources of oil, which are subject to radical changes in price and availability, and would weaken national security.

Replacing Indian Point generation with oil-fired generation would result in slight increases in air pollution. It is not expected that the use of oil-fired units as sources of replacement energy would produce any significant incremental effects on water quality and fisheries.

The increases in electric production costs which would result from a cessation of operations at the Indian Point units can be calculated by simulating operation of the electric system and production costs with and without the Indian Point units in service. The resultant increase in electric production costs would reflect changes in costs of operation of units in the Con Edison service area and in the New York Power Pool (NYPP), as well as changes in costs of energy purchased from Canada, which is priced substantially on an avoided cost basis. In addition to such annual electric production cost increases, inventory and working capital costs would also increase as a result of the additional residual oil requirements for Con Edison and the Power

Authority in the service area. An allowance would also have to be made for increased gross revenue taxes and sales taxes paid by consumer on higher rates. The total of such costs (i.e., electrical production costs, inventory and working capital costs and increased taxes) would be more than one-half billion dollars per year in 1982, and would increase substantially in subsequent years.

While costs other than the increased costs of production such as emergency planning, decommissioning, operating and maintenance costs, equipment repair/replacements, and safety related and environmentally required modifications, must be considered in an evaluation of the economic impact of a shutdown of the Indian Point units, the sum of such costs and savings would be relatively minor in relation to the large increases in production costs.

The unavailability of the Indian Point units would have an immediate and lasting adverse impact on residual oil prices as a result of increased demand. Such price increases would affect rates for service area electric customers, as well as on customers of the Con Edison steam system, which is primarily residual oil-fired. Other utilities in New York State and elsewhere that use residual oil will also be affected, as would other users of residual oil. The aggregate oil price impact on the East Coast market would be substantial,

and would possibly be as large as the electric production cost increase.

Unavailability of the Indian Point units would substantially increase costs to the MTA, which would ultimately adversely impact the level of service, cause an increase in subway fares, and a decline in ridership. These effects would, in turn, have a deleterious business and social impact in the New York metropolitan area.

Respectfully submitted,

BRENT L. BRANDENBURG
Assistant General Counsel
Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, New York 10003
(212) 460-4333

Of Counsel,
Thomas J. Farrelly

Dated: New York, New York
December 31, 1981

UNITED STATES OF AMERICA
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CERTIFICATE OF SERVICE

I certify that I have served copies of "Con Edison's Initial Statement of Position Regarding The First Six Questions Posed By The Commission" on the following parties by first class mail, postage prepaid, this 31st day of December, 1981:

Samuel J. Chilk, Secretary
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Louis J. Carter, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission

Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission

Oscar H. Paris, Member
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Frederick J. Shon, Member
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Ilyn R. Weiss, Esq.
William S. Jordan, III, Esq.
Harmon & Weiss, Suite 506
1725 I Street
Washington, D.C. 20006

Ruth Messinger, et al
Members of the Council of
the City of New York
City Hall
New York, New York 10007

Botein, Hays, Sklar & Herzberg
Attorneys for the Metropolitan
Transportation Authority
200 Park Avenue
New York, New York 10166

Charles Morgan, Jr., Esq.
Morgan Associates, Chartered
1899 L. Street, N.W.
Washington, D.C. 20036

Andrew S. Roffe, Esq.
Executive Counsel to the
Speaker, New York State
Assembly Chair, Special
Committee on Nuclear Power
Safety
State Capitol
Albany, New York 12248

Alan Latman, Esq.
44 Sunset Drive
Croton-on-Hudson, New York 10520

Thomas R. Frey, Esq.,
General Counsel
Power Authority of the
State of New York
10 Columbus Circle
New York, New York 10019

Charles M. Pratt, Esq.
Assistant General Counsel
Power Authority of the
State of New York
10 Columbus Circle
New York, New York 10019

Joan Holt, Director
Indian Point Project,
NY Public Interest Research
Group
5 Beekman Street
New York, New York 10038

Lorna Salzman
Mid-Atlantic Representative
Friends of the Earth
208 West 13th Street
New York, New York 10011

Paul F. Colarulli, Esq.
Morgan Associates, Chartered
1899 L. Street, N.W.
Washington, D.C. 20036

Joseph J. Levin, Jr., Esq.
Morgan Associates, Chartered
1899 L. Street, N.W.
Washington, D.C. 20036

Pamela S. Horowitz, Esq.
Morgan Associates, Chartered
1899 L. Street, N.W.
Washington, D.C. 20036

Charles A. Scheiner
Co-chairperson, WESPAC
Westchester People's Action
Coalition, Inc.
P. O. Box 488
White Plains, New York 10602

Zipporah S. Fleisher, Secretary
West Branch Conservation
Association
443 Buena Vista Road
New York, New York 10956

General Counsel
The Port Authority of New York
and New Jersey
One World Trade Center, 66S
New York, New York 10048
Attention: Charles J. Maikish,Esq.

Jonathan L. Levine, Esq.
Rockland Citizens For Safe Energy
P. O. Box 74
New City, New York 10956

Geoffrey Cobb Ryan
Conservation Committee Chairman
Director, New York City Audubon
Society
71 West 23rd Street, Suite 1828
New York, New York 10010

Pat Posner
Parents Concerned About Indian
Point
P. O. Box 125
Croton-on-Hudson, New York 10520

Jeffrey M. Blum, Esq.
New York University Law School
423 Vanderbilt Hall
40 Washington Square South
New York, New York 10012

Stanley B. Klimberg
General Counsel
New York State Energy Office
2 Rockefeller State Plaza
Albany, New York 12223

Environmental Protection
Bureau
New York State Attorney
General's Office
Ezra I. Bialik, Esq.
Assistant Attorney General
Steve Leipzig, Esq.
Deputy Assistant Attorney
General
2 World Trade Center
New York, New York 10047

Marc L. Parris, Esq.
County Attorney
The County of Rockland
11 New Hempstead Road
New City, New York 10956

Greater New York Council on
Energy
Dean R. Corren, Director
New York University
26 Stuyvesant Street
New York, New York 10003

John Gilroy, Westchester
Coordinator,
Indian Point Project
New York Public Interest
Research Group
240 Central Avenue
White Plains, New York 10606

Alfred B. Del Bello,
Executive of the County of
Westchester
Westchester County
148 Martine Avenue
New York, New York 10601

Clerk's Office
Village of Buchanan
36 Tate Avenue
Buchanan, New York 10511

Shea & Gould
Attorney for Power Authority of
the State of New York
330 Madison Avenue
New York, New York 10017

Richard Brodsky, Esq.
9th Legislative District
Westchester County
White Plains, New York 10601

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New York, New York

BRENT L. BRANDENBURG