

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
FOR THE ATOMIC SAFETY
BRANCH

In the Matter of)	
)	
CONSOLIDATED EDISON COMPANY OF NEW YORK (Indian Point Unit 2))	Docket Nos. 50-247 SP 50-286 SP
)	
POWER AUTHORITY OF THE STATE OF NEW YORK (Indian Point Unit 3))	February 7, 1983

INTERVENOR PROPOSAL FOR
FAIR AND EFFICIENT METHOD
FOR RECEIVING EVIDENCE ON
QUESTIONS 3 and 4

Intervenors have jointly prepared the following submission in response to the Board oral order as memorialized in the Mailgram of January 29, 1983.

INTRODUCTION

The intervenors have complied with the Board's order to propose a "fair and efficient method for receiving evidence" on Commission Questions 3 and 4 by withdrawing the testimony of seven witnesses; by putting the testimony of six witnesses in the category of Limited Appearance Statement; by releasing four witnesses to be sponsored by Rockland County; by grouping 94 witnesses into 21 panels; and by preparing 26 Proposed Stipulations of Fact to deal with the testimony presented by 41 witnesses. All the witnesses we retain, on panels and as individual witnesses, are vital to our case. We cannot eliminate any others without severely prejudicing ourselves.

CONTENTIONS

Intervenors' testimony on Questions 3 and 4 is organized according to general subject matter and the experience and knowledge of each witness. Each witness offered by the intervenors testifies to facts relevant to more than one contention. We do not propose to recall these witnesses. We

propose to allow each witness to present his or her entire testimony at one sitting, addressing Questions 3 and 4 as a whole.

WITNESSES GROUPED IN PANELS

Intervenors have organized testimony on Questions 3 and 4 according to the role each witness is expected to play in the emergency response plan or the personal knowledge or professional expertise of the witnesses. Wherever possible we have grouped witnesses into panels. The following are the subject matter of the panels and the number of witnesses we expect to offer in each panel:

<u>PANEL</u>	<u>NUMBER OF WITNESSES</u>
School Administrators: CET School	4
School Administrators: Other Schools	6
School Reception Centers	4
Teachers	6
Public Recreation Program Administrators	5
Private Recreation Program Administrators	6
Nursery School and Day Care	7
Special Needs Populations	5
Deaf	4
Senior Citizens	4
Local Officials	4
Police Chiefs	2
Communications Professionals	2
Notification	3
Ambulance Personnel	4
Transportation	5
Pastors	3
Nature and Condition of Local Roads	3
Arbitrary Nature of 10 Mile EPZ	5
Parents	10
Observation of Medical Support: March 3, 1982 Exercise	2

Intervenors expect that each witness on a panel will be given an opportunity to summarize his or her own testimony. Since the testimony of each of these witnesses is extremely brief, cross examination which is efficient and to the point will not take much time.

INDIVIDUAL WITNESSES

The following witnesses will not be presented as part of a panel, but will take the stand individually:

Dr. Donald Pizzarello	#2 *
Richard Altschuler	#3
Donald D. Smith	#20
Thomas Ryder	#28
James Murphy	#40
Robert Morris	#44
Gladys Burger	#63
Samuel Anderson	#67
Jerome Kagan	#103
T. Berry Brazelton	#128
Kai T. Erikson	#148
Robert Jay Lifton	#149
Albert J. Solnit	#154
Christopher Maxwell	#152
Julie Palmer, M.D.	#153
Murray Melbin	#168
Stanley G. Booker	#151

WITHDRAWN TESTIMONY

The testimony of the following witnesses has been withdrawn:

Thomas P. Judd	#15
Lawrence Kaagan	#18
Dr. Philip Wolfe	#48
Inez Janger	#57
David Elkind	#104
Victor W. Sidel	#170
Daniel M. Pisello and Richard G. Piccioni	#171

Since the following witnesses are active members of Parents Concerned About Indian Point, they have decided as a matter of courtesy to present their testimony at a Limited Appearance Hearing:

Phyllis Rodriguez	#76
Myra Speigelman	#137
Kathleen Toscani	#139
Ervine Kimmerling	#145
Sherry Horowitz	#146
Katherine Feit	#167

* Numbers refer to the "Index of Witnesses Presenting Testimony on Emergency Planning Issues on Behalf of the Intervenors: UCS, NYPIRG, RCSE, WBCA, Parents, WESPAC, FOE and Audubon; and on Behalf of the Attorney General of the State of New York," June 7, 1982

COUNTY WITNESSES

The following witnesses are elected officials or employees of Rockland County. Intervenor propose to delete them from the list of intervenor witnesses, providing that approval is obtained for them to be presented by the attorney for Rockland County:

Kenneth Ingenito	#22
Stephen Scurti	#25
Fred Seeger	#26
Gregory Carney	#30

STIPULATIONS

If all parties will stipulate in writing to the facts contained in the pre-filed testimony of the following witnesses, the intervenors will agree to the presentation of their testimony at a Limited Appearance Hearing. We have prepared sample stipulations based on the information contained in the testimony of witnesses in this category.

PROPOSED STIPULATION #1:

On March 3, 1982, the exercise of the prompt notification system (sirens) showed an inadequacy in the system in that the sirens were not heard, were barely audible, or were not distinguishable from other types of sirens in the locations reported by the following witnesses: Mabel Cronk #6; Jamie Greene #12; Patsy Chazen #13; Arlene Tift #92; Susan Scheffel #123; Phyllis Mendelson #155; Margaret Davis #163.

PROPOSED STIPULATION #2:

The Fry readability formula is widely used by test book publishers and others in the field of education in order to determine suitability of reading material for a particular grade level. By applying this formula, Amy Kriveloff, #4, concluded that the emergency planning brochure "Indian Point, Emergency Planning and You," is appropriate reading for those who read on a college level.

PROPOSED STIPULATION #3:

The distribution system for the emergency planning brochure, "Indian Point, Emergency Planning and You" is inadequate in that the following witnesses did not receive the brochure, or received the wrong brochure, or did not receive a timely response to a request for a brochure: Kathy Pierpont #142; Teralyn Woods #5; Mabel Cronk #6; Lynn Gunzenhauser #8; Myles Lavelle #24.

PROPOSED STIPULATION #4:

Whether or not they have been informed not to use the telephone during a radiological emergency, a significant number of people will use the telephone to try to get information about the development of the emergency or to make personal arrangements or to locate and reunite family members. This stipulation is based on the testimony of Barbara Hickernell #7; Patsy Chazen #13; Loretta Brundage #55; Phyllis Mendelson #155.

PROPOSED STIPULATION #5:

The intervenor witnesses listed below are teachers working within the currently defined plume exposure pathway emergency planning zone. They are familiar with the emergency plans for the Indian Point Nuclear Power Station and with the provisions that require teachers to accompany school children on evacuation buses. Each of the witnesses listed below has admitted that she will be in severe conflict about the priority of duty to the school children in her care as opposed to the primary duty to her family, and may decide to attend to the needs of family first: Breda Curran #118; Maggie North #119; Paula Myers #158; Charlyn Appollonio #162; Margaret Davis #163; Becky Catherall #113.

PROPOSED STIPULATION #6:

An unknown number of parents within the currently defined emergency planning zone, whether or not they are familiar with current plans to bus children to reception centers directly from school, have given their children instructions not to leave on evacuation buses. Many of these parents plan to go to their children's schools to pick up the children before evacuating themselves. This stipulation is based on the testimony of Barbara Hirschman #116; Maggie North #119; Myra Speigelman #137; Kathy Pierpont #142; Sari Eklund #143; Sherry Horowitz #146 Susan Scheffel #123.

PROPOSED STIPULATION #7:

Parents who work, or who for other reasons occasionally leave their children home alone, have not been given adequate information as to what to tell their children to do in case a radiological emergency is announced when the children are home alone. This stipulation is based on the testimony of Karen Henes #9; Helen Balgooyan #72; Daniela Misch #129; Barbara Hickernell #7; Elise Lentz #136; Lillian Moore #130.

PROPOSED STIPULATION #8:

Some residents in the currently defined emergency planning zone live in frame homes without underground basements. Such structures are not effective for sheltering. This stipulation is based on the testimony of Jamie Greene #12.

PROPOSED STIPULATION #9:

Between January 21, 1982 and June 7, 1982, repeated attempts by teachers and parents of students at the Croton Montessori School to get the school included in the Radiological Emergency Response Plans were ignored. This stipulation is based on the testimony of Eleonore Bronzo #91; Arlene Tift #92; Lynn Kauderer #93.

PROPOSED STIPULATION #10:

As of June 7, 1982, the Police Department in the Village of Croton-on-Hudson, which is located within 5 miles of the Indian Point Nuclear Power Station, had only six dosimeters, no protective clothing, and no back up communication system if the telephone "hot line" should fail. The Police Department of the Village of Croton-on-Hudson does not intend to arrest or to prevent ingress of people attempting to enter the ten mile EPZ during an evacuation. This stipulation is based on the testimony of Reginald Lambruschi, Chief of Police, Village of Croton-on-Hudson, #37.

PROPOSED STIPULATION #11:

According to the evacuation plan, 10 group of evacuees from 10 feeder routes travelling south on Route 9 will be joined by evacuees from 3 feeder routes travelling on Route 9A, at a narrow road which has no shoulders, curves sharply, and goes under a bridge. At the underpass, Route 9A has a "volume/capacity ratio" of .8, where a "volume/capacity ratio" of 1 denotes a standstill. This stipulation is based on the testimony of Linda Berker #45.

PROPOSED STIPULATION #12:

Many residents of the 10 mile EPZ have not been given sufficient information regarding the Radiological Emergency Response Plan to satisfy their serious, practical questions about the preparations which have or have not been made to assure attention to the needs and safety of evacuees. This stipulation is based on the testimony of Loretta Brundage #55; Lynn Gunzenhauser #8; Michael Robinscn #101; Joan Livingston #114; Phyllis Mendelson #155; Judith Glass #157; Katherine Feit #167.

PROPOSED STIPULATION #13:

The mistakes attending the preparation and distribution of information about the emergency response plans, including the failure of many sirens to be heard on March 3, 1982, has increased the anxiety of children living within the affected area, and has increased the lack of confidence adults have the the nuclear facility operators. This stipulation is based on the testimony of Barbara Hickernell #7; Lynn Gunzenhauser #8; Karen Henes #9; Patsy Chazen #13; Helen Balgooyen #72; Barbara Hirschman #116; Daniela Misch #129; Kathy Pierpont #142; Sari Eklund #143; Sheila Rechtshaffer #132; Phyllis Mendelson #155; Paula Myers #158; Elise Lentz #136; Lynn Kauderer #93.

PROPOSED STIPULATION #14:

Parents and teachers living and working within the currently defined EPZ have not been given adequate information concerning the protection of children who are away from school during school hours (on field trips or at special instructional facilities.) This stipulation is based on the testimony of Helen Balgooyen #72.

PROPOSED STIPULATION #15:

At Temple Israel, Glengary Road, Croton-on-Hudson, there are 125 children in attendance at Sabbath School on Saturday and Sunday mornings, 30 children in a Youth Program on Sunday night, and 80 children at Religious School on Monday night. There are not enough vehicles for evacuation of these children at the disposal of the Temple staff; there is no destination for their evacuation; parents are frequently unavailable during the hours their children are left at Religious School; and no radios or T.V. sets are on during Religious School hours. This stipulation is based on the testimony of Rabbi Michael Aaron Robinson #101.

PROPOSED STIPULATION #16:

Drivers employed by Vanguard Tours, Inc., are part time employees, largely local residents with families. There are at present no contracts requiring these drivers to participate in a radiological emergency evacuation. Vanguard is relying on volunteers. The drivers have not been trained and there is one dosimeter on Vanguard property. The Assistant General Manager of Vanguard Tours, Inc., does not know how many children would require the assistance of Vanguard buses. The Assistant General Manager of Vanguard Tours, Inc. expects to be notified four times before an actual evacuation were ordered: once to prepare a list of voluntary drivers; again to contact drivers on the premises and to refuel buses; again to contact other drivers; and a fourth time when the evacuation is ordered. This stipulation is based on the testimony of Tom Turner, Assistant General Manager, Vanguard Tours Inc.

PROPOSED STIPULATION #17:

The Holy Name of Mary School in Croton-on-Hudson, New York has been assigned buses to handle 140 students while their actual enrollment is 190. There are no contracts between HNM and the bus companies assigned to transport HNM students. The administrators of HNM have not been given instructions about how to prepare if sheltering is ordered. There are children attending school who take medication. Generally these children do not have a three day supply of medication on hand at school. This stipulation is based on the testimony of Sister Colleen Murray, #109.

PROPOSED STIPULATION #18:

The Yorktown PTA is obliged to point out inadequacies and questions pertaining to the Radiological Emergency Response Plan relating to schools because of its commitment to "promote the welfare of children and youth" and to "secure adequate laws for the care and protection of children and youth." This stipulation is based on the testimony of Betsy Doepken #122.

PROPOSED STIPULATION #19:

Some children who live within the currently defined EPZ have indicated their intention to respond in a way not called for in the plan, and in a way which may be inimical to the smooth functioning of the official emergency response plan. This stipulation is based on the testimony of Helen Balgooyen #72 and Daniela Misch #129.

PROPOSED STIPULATION #20:

Teachers who are concerned about their own families but who remain to accompany their students during a radiological emergency evacuation, will transmit feelings of anxiety and despair to the children in their care. This stipulation is based on the testimony of Joyce Zern #160.

PROPOSED STIPULATION #2 :

The Tappan Zee Nursery School should be assigned one van for evacuation rather than two as proposed in the Radiological Emergency Response Plan. If the Tappan Zee Nursery School is evacuated in two vans, one van will be without a teacher to accompany the children and driver. This stipulation is based on the testimony of Linda Brown #166.

PROPOSED STIPULATION #22:

Carefully prepared evacuation plans broke down in European towns and villages during World War II because of inadequate communications and transportation facilities. This stipulation is based on the testimony of Bela and Inge Cseh #169.

PROPOSED STIPULATION #23:

In the Town of Cortlandt there is a population of 1200-1500 homebound senior citizens. Transportation of seniors under normal circumstances, as for a recreation program, is a problem because of a lack of suitable vehicles. Relocation of frail elderly people requires help from known trusted assistants and extensive advance planning in the form of direct communication with the individual involved. The Board of Directors of the Shepherd Center of Cortlandt, a voluntary organization for senior citizens, has not been informed of any special provisions to plan for and communicate with the senior citizens of Cortlandt. This stipulation is based on the testimony of Seymour Greenbaum #62.

PROPOSED STIPULATION #24:

The rapidly dividing cells of fetuses, infants, and children are more susceptible to the damaging effects of radiation than the more slowly changing cells of an adult. This stipulation is based on the testimony of Helen Balgooyen #72.

PROPOSED STIPULATION #25:

In case of an evacuation due to a radiological emergency, the teachers who accompany children with special medical needs will not be equipped to minister to the medical needs of their students. This stipulation is based on the testimony of Ruth Isaacs #117; Susan Scheffel #123; Sister Colleen Murray #109; Joan Livingston #114.

Intervenors will be pleased to consider any other stipulations based on intervenor testimony proposed by the licensees or the NRC staff in the interest of a "fair and efficient method for receiving evidence" on Commission Questions 3 and 4.

ORDER OF PRESENTATION

Intervenors propose that the evidence on Commission Questions 3 and 4 be heard in the following order:

New York City Council*

Licensees On-Site Emergency Planning Testimony

Intervenors' Off-Site Emergency Planning Testimony

Interested States' Off-Site Emergency Planning Testimony

Licensees' Off-Site Emergency Planning Testimony

NRC Staff Testimony

Testimony on the Results of the March 9, 1983 Exercise:

NRC (Including FEMA)
Intervenors
Interested States
Licensees

ORAL ARGUMENT

Intervenors request that oral argument on the Proposals received by the Board be heard on Friday, February 11, at the end of the day of hearings. The intervenors' lead attorney on Commission Questions 3 and 4 is Amanda Potterfield, and we make this request because Ms. Potterfield cannot come to New York on any other day before the presentation of evidence on Questions 3 and 4 in March.

CONCLUSION

It has been more than three years since the Union of Concerned Scientists (UCS) filed a petition on September 17, 1979, seeking a hearing on the grave safety issues surrounding the continued operation of the Indian Point Nuclear Power Station. The Commission issued an order on May 30, 1980, announcing its intention to hold a discretionary adjudication on the matters raised in the UCS petition. The order defining the questions to be answered in this adjudication was issued on January 8, 1981, but the order appointing an Atomic Safety and Licensing Board to hear the evidence was not forthcoming until September 18, 1981. The Board order formulating contentions was issued on April 23, 1982, and the hearings were interrupted by the Commission on July 27, 1982. The intervenors have not been responsible for any delay in the onset or interruptions of the hearings. Indeed, intervenors believe it is in the interest of the public to have their concerns about Indian Point resolved as soon as possible, but not at the sacrifice of a complete and thorough record.

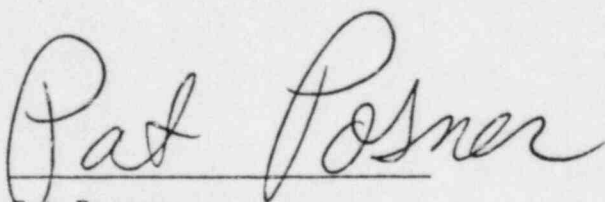
The Indian Point Nuclear Power Station, Units 2 and 3, have been operating without implementable emergency response plans since April 1, 1981, contrary to 10 C.F.R. 50.54(s)(2) and contrary to the best interests of the people within the affected area. These hearings provide an opportunity for the affected communities to prove that "the state of emergency planning does not provide reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency," and that after two four month periods, "the deficiencies are not corrected." The evidence presented by the community witnesses will be a striking contrast to the FEMA review of paper plans.

This Board has not suggested that 28 presentations by the licensees and the NRC staff on Commission Question 1, adding up to 54 witnesses, (including some who will take the stand twice), is excessive or burdensome. Each of the witnesses on Question 1 presents lengthy, complex testimony on an arcane technological subject matter, and intervenors have had only 11 days from in-hand receipt of this material to prepare cross examination. Although intervenors have sponsored the testimony of a relatively large number of witnesses on the emergency planning questions, the total number of pages of testimony presented is no greater than the total number of pages of testimony submitted by the NRC staff on Question 1. Most of the intervenor witnesses on Questions 3 and 4 testify to a few simple facts relating to his or her role in the emergency plan, and the licensees and staff have had this testimony since June, 1982.

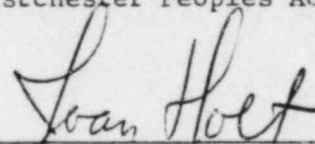
Considerations of fairness, due process, and the necessity for a complete record require that the intervenors' case on Questions 3 and 4 not be restricted because of arbitrary time constraints.

Dated: New York, New York
February 7, 1983

Submitted on Behalf of Intervenors:
NYPIRG/UCS
Parents Concerned About Indian Point
West Branch Conservation Association
Rockland Citizens for Safe Energy
Westchester Peoples Action Coalition



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