

POWER AUTHORITY OF THE STATE OF NEW YORK
10 COLUMBUS CIRCLE, NEW YORK, NEW YORK 10019

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
4 IRVING PLACE, NEW YORK, NEW YORK 10003

September 10, 1982

Chairman Nunzio J. Palladino
Commissioner John F. Ahearne
Commissioner Victor Gilinsky
Commissioner Thomas M. Roberts
Commissioner James K. Asselstine
United States Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

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OFFICE OF SECRETARY
DOCKETING & SERVICE
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Re: Consolidated Edison Co. of New York, Inc.
(Indian Point, Unit No. 2)

Power Authority of the State of New York
(Indian Point, Unit No. 3)

Docket Nos. 50-247 SP, 50-286 SP

Dear Commissioners:

On August 4, 1982, the Union of Concerned Scientists (UCS) and the New York Public Interest Research Group, Inc. (NYPIRG) transmitted to you another in a long series of letters and legal documents requesting the suspension of the operating licenses for Indian Point Units 2 and 3.¹ As licensees of the Indian Point Units 2 and 3 Nuclear Power Plants, Consolidated Edison Co. and the Power Authority urge that the Commission reject this latest attempt to circumvent the regulatory process.

1. UCS/NYPIRG Motion for Reconsideration of Commission Ruling Allowing Interim Operation and for Issuance of a Show Cause Order Against the Licensees Prior to Commencement of the Evidentiary Hearing on the Safety of the Indian Point Nuclear Power Plants (June 4, 1982); UCS & NYPIRG v. NRC, No. 81-4188 (2d Cir., filed Oct. 9, 1981); Letter from Donald K. Ross, Executive Director, NYPIRG, and Joan Holt, Project Director, NYPIRG to Commissioners (Apr. 1, 1981); Union of Concerned Scientists' Comment on Director's Decision Under 10 CFR 2.206 (Mar. 10, 1980); Union of Concerned Scientists' Petition for Decommissioning of Indian Point Unit 1 and Suspension of Operation of Units 2 & 3 (Sept. 17, 1979).

The August 4 letter asks the Commission to forgo the so-called "120-day clock" established by 10 CFR § 50.54(s)(2), and instead order an immediate shutdown of the plants because of the alleged deficiencies in off-site emergency planning. The Commission has rejected that request by commencing the "120-day clock."

The licensees note, however, that the latest UCS/NYPIRG request is improper and unfounded. The Commission's regulatory framework recognizes that emergency planning is a dynamic process. It contemplates that while some deficiencies may be corrected, others may later arise, or prior deficiencies could recur. Accordingly, the Commission's regulations provide licensees a four-month period in which to correct or work toward arranging correction of emergency planning deficiencies. The August 4 letter patently seeks to circumvent this process, and to deprive the licensees of due process and of those protections afforded the licensees and their customers by the regulations.

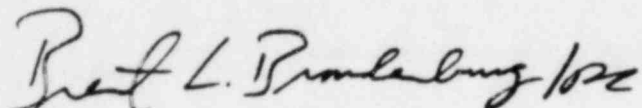
In addition, UCS and NYPIRG assume that inadequacy in off-site emergency planning warrants shutdown of the plants. In fact, however, 10 CFR § 50.54(s)(2) requires the Commission, after expiration of the four-month corrective period, to make a determination "whether the reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate." The regulation allows the licensees to demonstrate that "the deficiencies are not significant for the plant in question" or that "adequate interim compensating actions" can be taken. Thus, UCS and NYPIRG have not only asked the Commission to circumvent its own procedures, but also have presumed the applicability of a remedy which may, in any event, be far from appropriate.

As the New York Times pointed out in a recent editorial ("The Issue at Indian Point," Aug. 12, 1982, at A26, col. 1) (enclosed):

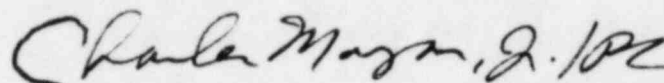
[T]he basic technical issue of the plants' inherent safety is being eclipsed by the more colorful question of emergency evacuation plans. . . . The various inquiries now in progress or planned will serve no useful purpose if they let themselves be diverted from the main issue. Better to prevent a fire breaking out than to argue over details of the escape drill.

While remaining wholeheartedly committed to the emergency planning process, the licensees agree with the Times in urging that a proper perspective be maintained.

Very truly yours,



Brent L. Brandenburg
Counsel for Consolidated Edison
Co. of New York, Inc.



Charles Morgan, Jr.
Counsel for Power Authority
of the State of New York

CMJr.:llb

Enclosure

cc: Official Service List
(first-class mail)

N.Y. Times, Aug. 12, 1982,

at A26, col. 1

The Issue at Indian Point

The two nuclear reactors at Indian Point, 35 miles north of Times Square, are receiving a shower of critical attention, much of it by way of the long-lived political fallout from Three Mile Island. But the basic technical issue of the plants' inherent safety is being eclipsed by the more colorful question of emergency evacuation plans.

At the urging of the Union of Concerned Scientists and others, the Nuclear Regulatory Commission has appointed a three-judge panel to reconsider whether the plants are safe. The panel will have serious questions to address: Do the lessons of the Three Mile Island accident require installing additional safety features at the Indian Point plants? Should safety mechanisms built into Indian Point 3 be retrofitted into Indian Point 2?

At present, however, the panel has suspended its hearings while it sorts out with its sponsor the scope of its inquiry into emergency evacuation planning. The plans proposed for Indian Point have the look of an Achilles heel, which is why the critics are focusing on them.

It may prove almost impossible to draw up a

plausible plan for evacuating the 270,000 people who live within 10 miles of the plants. The plans submitted so far are riddled with improbable expectations, such as that parents will leave the area by themselves and depend on others to evacuate their children.

The Federal Emergency Management Agency has already found fault with the plans, and the N.R.C. has told Con Ed and the State Power Authority, the two entities involved, that they must correct the defects in 120 days. But critics charge that the plans are inherently unworkable, and local authorities, responsible for putting them into effect, may be inclined to agree. Westchester County Executive Alfred DeBello is reserving judgment on the question.

Emergency evacuation plans are an important exercise, and more interesting to some than the dry technical details of safe nuclear plumbing. But they are of considerably less importance. The various inquiries now in progress or planned will serve no useful purpose if they let themselves be diverted from the main issue. Better to prevent a fire breaking out than to argue over details of the escape drill.