POWER AUTHORITY OF THE STATE OF NEW YORK
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CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
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March 16, 1983

James P. Gleason, Chairman
The Honorable Frederick J. Shon
The Honorable Oscar H. Paris
Administrative Law Judges
Atomic Safety & Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: In re Consolidated Edison Co. of New York, Inc. & Power Authority of the State of New York (Indian Point, Units 2 and 3), Nos. 50-247 SP, -286 SP

Dear Judges Gleason, Shon, and Paris:

This letter is to inform the Board of our understanding of the status of additional mitigation testimony.

Licensees originally objected to the introduction of pre-filed testimony on new mitigation measures raised for the first time by Nuclear Regulatory Commission (Commission) Staff witnesses William Trevor Pratt and James F. Meyer in their Question 1 testimony. See Transcript at 7608-09 (Feb. 10, 1983). The objections were based primarily on the fact that the proffered testimony was not relevant to Commission Question 1 issues, but rather should have been submitted during the hearing on Commission Question 2 issues.

Although it ruled that the pre-filed testimony should be admitted, the Board was evidently persuaded by the due process arguments raised by licensees. After the Board termed the evidentiary problem raised by Staff's new testimony "a question of fairness to the Licensees," id. at 7618, the parties and intervenors agreed to a procedure whereby the Staff would "defer the whole testimony package on containment analysis until some further time." Id. at 7624 (statement of Staff counsel Janice Moore). In the interim, the licensees were to depose the Staff's witnesses, the focus of which was to be the Staff's additional mitigation measures. See id. Once discovery of the Staff's witnesses was complete, the licensees would file, if they so chose, responsive testimony. See id. at 7625.

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At the deposition of Dr. Meyer and Dr. Pratt conducted on March 4, 1983, it was revealed that, in addition to filing testimony on mitigation issues under Question 1, the Staff also plans to file additional testimony on still other mitigation features under Question 5. See Deposition of William Trevor Pratt and James F. Meyer at 7-9, 113 (Mar. 4, 1983) (Attachment). The licensees reserved on the record their objection to the admission of such additional mitigation testimony under Question 5. Id. at 13-14.

In light of the revelation that Staff intends to submit new, and as yet unformulated, testimony dealing with mitigation issues under Question 5, licensees wish to inform the Board that licensees do intend to file responsive testimony on all further mitigation devices that were not part of the Staff's Question 2 case. To file responsive testimony at this time, however, would be wasteful because it would, in all probability, have to be supplemented to respond to Staff's additional mitigation testimony under Question 5. Therefore, rather than file piecemeal responsive testimony on the subject of mitigation, licensees intend to file a single piece of testimony addressing all of the Staff's post-Question 2 mitigation measures following Staff's completion of its submission, presumably on March 22, 1983, the due date for Question 5 testimony.

However, licensees reserve their right to object to any additional mitigation testimony filed by Staff under Question 5. If unsuccessful in this objection, licensees reserve their right to seek further discovery of the Staff, before filing responsive testimony, with respect to mitigation testimony that is to be presented for the first time under Question 5.

Sincerely,

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cc: Official Service List

this system or the other systems that you discuss in your testimony?

A (WITNESS MEYER) As stated under cross examination under Question 2, yes, and there will be recommendations either for a particular mitigation feature or against the requirement of a particular mitigation feature or strategy.

Q Could you give us a hint as to the timing of that recommendation?

A (WITNESS MEYER) The recommendation will be part of the Question 5 Staff testimony to be presented in April.

Q So that is just, so I understand it, the Staff's position that -- well, let me ask you this question. Has Staff concluded what those recommendations are going to be?

A (WITNESS MEYER) I don't know.

Q Dr. Pratt, would you happen to know that?

A (WITNESS PRATT) No.

Q Are the recommendations going to focus upon the three items mentioned at page III.B.29 of your testimony, namely glow plugs, the passive containment

heat removal system, and a system for flooding the reactor cavity?

A (WITNESS MEYER) The recommendation will take consideration of those three elements in the mitigation strategy that was presented as part of the Question 1 testimony. They are candidate mitigation features which will be under consideration, as mentioned in my Question 2 testimony. There are other candidates under consideration.

Q I have always been somewhat confused by the reference to the mitigation strategy that you made here, and I believe earlier. When you said the mitigation strategy, are you referring to the strategy that was part of an earlier NUREG, or are you simply using those terms to refer to the fact that you are undertaking a process on the review of mitigation systems?

A (WITNESS MEYER) Well, are you asking how I would define the term "mitigation strategy?"

Q Yes. How are you using that in this context?

A (WITNESS MEYER) The term "mitigation strategy" means the following rather than single out one particular containment failure mode and address the

question of mitigation for that failure mode with a particular mitigation feature.

The approach that we chose to follow is to consider a group or family of mitigation features that would have the requirement to prevent failure of all containment failure modes that are preventable in the mitigation context; that is, overpressurization from steam and noncondensables, overpressurization from hydrogen burns and the basemat penetration.

The strategy is directed to preventing failure by all three of those containment failure modes. In this particular case it is made up of three specific mitigation features that we have explored in the testimony, namely glow plug igniters, heat pipes or hydrogen control, and the requirement of a flooded cavity.

Q The earlier mitigation devices that were the subject of the Question 2 testimony, are they still candidates in your galaxy of mitigation features?

A (WITNESS MEYER) As stated in the Question 2 --

Q The specific contentions referred to on filtered vent separate containment, are those still

to explore any and all possible candidates, the particular ones that would be cost benefit, would be attractive from a cost-benefit standpoint.

As indicated in the discovery materials, recommendations for such alternatives to mitigation features like heat pipes were suggested, and we considered it within the scope of our Indian Point study to study these matters further to see if there was some advantages to this particular system, for example, relative to the ones that were incorporated in such studies as those at UCLA.

Q Okay. We will come back to the spray systems in further detail.

I guess, Mrs. Moore, just so the record and notice is clear, there is a distinct possibility that if Staff is going to be presenting additional testimony on other mitigation features that have not been captured under Question 2 testimony, not on Question 1 testimony, that we would very likely object to that kind of testimony coming in under Question 5, since, as you know, our position was that we thought all of this mitigation testimony and discussion should have been

under Question 2 to begin with, and now we obviously are considering something under Question 1.

So if there is even further new analysis under Question 5, I think that there is a strong possibility that we would be asserting objections to that.

MS. MOORE: I think it should be noted that the auxiliary spray system, if I remember correctly, was mentioned under Question 2 as one of the better ways or one of the mitigation features which was being considered along with the passive containment heat removal system.

I think Dr. Meyer listed that, and perhaps he can correct me if I am wrong. It was listed in the Question 2 testimony.

MR. COLABULLI: Yes. I guess the key question would be whether or not there would be a significant elaboration of that system and of its worth in terms of risk reduction. But obviously we will have to wait to see exactly what you decide to do on that matter.

MS. MOORE: Right.

BY MR. COLABULLI: (Resuming)

Q Dr. Meyer, are there any other viable

for preventative features that would be weighed under your fifth prong as possible trade-offs to futher mitigative features?

MS. MOORE: Did you mean Question 2?

MR. BRANDENBURG: Commission Question 2, yes, Commission Question 2 being are there other specific devices to reduce the risk, et cetera.

BY MR. BRANDENBURG: (Resuming)

Q AS I understood it, in your decisional analysis for these features, the fifth prong is the trade-off between mitigative and preventative.

A (WITNESS MEYER) That is correct. That will be addressed under Question 5.

Q Okay. Well, take it, then, within the context of Question 5, but you have a competing list, if you will, of candidates that are aimed towards prevention rather than mitigation?

A (WITNESS MEYER) There are, of course, the prevention fixes that have taken place over the course of the last several months on both units, and those, of course, have been factored into the assessment and have a desirable impact in terms of risk reduction. Whether