

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:
James P. Gleason, Chairman
Frederick J. Shon
Dr. Oscar H. Paris

OFFICE OF SECRETARY
REGULATING & SERVICE
BRANCH

In the Matter of)

CONSOLIDATED EDISON COMPANY OF NEW YORK,)
INC. (Indian Point, Unit No. 2))

POWER AUTHORITY OF THE STATE OF NEW YORK)
(Indian Point, Unit No. 3))

October 19, 1982

LICENSEES' PROPOSED HEARING SCHEDULE

November 3-4	Prehearing Conference on Reformulated Contentions
November 12	Issuance of Revised October 1, 1982 Order
November 30	Discovery Closes on Commission Questions 1, 2, 5, and 6
December 14	Motions for Summary Disposition
December 23	Responses to Motions for Summary Disposition
January 3	Replies to Responses to Motions for Summary Disposition Raising New Facts and Arguments
January 13	Rulings on Motions for Summary Disposition
January 21	Licensees and Staff: Filing of Testimony on Board Questions 1.1, 1.2, 1.3, 1.4, and 2.2.1, Commission Question 2 (Respecting the Director's Order), and Commission Question 5 Intervenors and Interested States: Filing of Testimony on Contentions,

Board Questions, and Commission
Questions 1, 2, 5, and 6

- February 4 Licensees and Staff: Filing of Response
 Testimony to Intervenor's and
 Interested States' Testimony on
 Contentions, Board Questions, and
 Commission Questions 1, 2, 5, and 6
 Intervenor's and Interested States:
 Filing of Response Testimony to
 Licensees' and Staff's Testimony on
 Previously Filed Testimony
- February 14 Evidentiary Hearing on Questions 1, 2,
 and 5

Two items in the above proposed schedule require further discussion.

First, the proposed schedule, unlike the schedule earlier adopted by the Atomic Safety and Licensing Board (Board), provides for summary disposition. The licensees believe that the inclusion of summary disposition comports with the Nuclear Regulatory Commission's (Commission's) intent. The Commission has stated that, except as it has otherwise provided, its Rules of Practice apply to this proceeding. Memorandum and Order, 14 N.R.C. 610, 611 (Sept. 18, 1981). Summary disposition of issues is provided for in 10 C.F.R. Part 2, and is regularly used by licensing boards as a tool to dispose of issues which do not warrant continued consideration. The summary disposition tool would be especially useful here given the Commission's order that the proceeding focus only upon issues which are important to resolving the Commission's questions. See Memorandum and Order at 12 (July 27, 1982). This mandate was recognized by

Commissioner Asselstine in his separate view accompanying the July 27 order. Separate Opinion of Commissioner Asselstine at 5, Memorandum and Order (July 27, 1982).

Second, the schedule provides for two separate filings of testimony on Commission Questions 1, 2, and 5 prior to the commencement of evidentiary hearings. The licensees believe that staggered filings on risk questions were envisioned by the Commission. Thus, in its September 17 order the Commission stated that parties may develop risk testimony based upon testimony submitted by others. Order at 2-3 (Sept. 17, 1982). Similarly, in his separate opinion accompanying the Commission's July 27 order, Commissioner Asselstine referred to "alteration of the sequence for filing of prepared testimony so that the proponent of a contention files first" as one of the "procedures that will enable the parties to more sharply focus on the issues at the evidentiary hearing." Separate Opinion of Commissioner Asselstine at 5.


Under the licensees' proposed schedule, on January 21, the licensees and Staff would file testimony on Board Questions 1.1, 1.2, 1.3, 1.4, and 2.2.1. In addition, the licensees and Staff would file testimony dealing with that portion of Commission Question 2 which seeks to determine the effect of the measures included in the Director's Order, and on Commission Question 5. Also on this date interested states and other parties would file testimony in support of

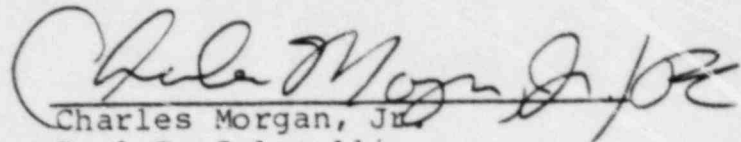
their respective contentions as well as any testimony they may have on the Board's Questions and Commission Questions 1, 2, 5, and 6.

On February 4, parties would file testimony in response to the testimony filed on January 21. Thus, on this date, the licensees and Staff would file testimony responding to testimony in support of contentions. This testimony would also respond to any other testimony earlier filed. Similarly, on February 4, the intervenors and interested states would file testimony which addresses the earlier filed testimony of the licensees and Staff.

Adoption of this staggered filing before the start of evidentiary hearings would permit the intervenors to review the risk assessments of others and make use of them in their own testimony on February 4. In addition, requiring the proponents of safety measures to file testimony first will permit the licensees and Staff to assess the impact of these specific measures after reviewing testimony detailing how these measures are to be designed and operated. Staggered filings prior to cross-examination may well reduce the actual amount of cross-examination by clearly delineating areas of agreement and disagreement.

Respectfully submitted,


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Dated: October 19, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:
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Frederick J. Shon
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_____)	
In the Matter of)	
)	
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.)	Docket Nos.
(Indian Point, Unit No. 2))	50-247 SP
)	50-286 SP
POWER AUTHORITY OF THE STATE OF NEW YORK)	
(Indian Point, Unit No. 3))	
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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October, 1982,
I caused a copy of the Licensees' Proposed Hearing Schedule
to be served by first-class mail, postage prepaid on the
following:

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