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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

SECRETARY
OF LICENSING & SERVICE
BRANCH

Before Administrative Judges:

James P. Gleason, Chairman
Dr. Oscar H. Paris
Frederick J. Shon

In the Matter of:)	
)	
CONSOLIDATED EDISON COMPANY)	Docket No. 50-247-SP
OF NEW YORK STATE)	50-286-SP
)	
(Indian Point, Unit No. 2))	
)	
POWER AUTHORITY OF THE STATE)	
OF NEW YORK)	
)	October 19, 1982
(Indian Point, Unit No. 3))	

WESTCHESTER COUNTY EXECUTIVE
MOTION IN RESPONSE TO ASLB
MEMORANDUM AND ORDER
(OCTOBER 1, 1982)

WESTCHESTER COUNTY EXECUTIVE hereby moves this Board for an ORDER reversing this Board's current position regarding the taking of testimony on Commission Questions 3 and 4 and establishing a schedule which will allow the WESTCHESTER COUNTY EXECUTIVE to present testimony on Commission Questions 3 and 4 immediately upon the expiration of the 120-day clock.

WESTCHESTER COUNTY EXECUTIVE duly filed testimony before this Board on June 14 and 16, 1982. As you know, the testimony of the WESTCHESTER COUNTY EXECUTIVE represents the factual data and opinions of those County Officials who are primarily responsible for implementation of the Emergency Response Plan

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in the event of a radiological emergency. This testimony was directed at the Commission Questions themselves and not to any particular contentions. According to the original schedule, WESTCHESTER COUNTY EXECUTIVE Witnesses were to begin presentation of their testimony on August 2, 1982.

The Nuclear Regulatory Commission in its MEMORANDUM AND ORDER of July 27, 1982 remanded that this Board reconsider and reformulate contentions in accordance with the guidance provided in that Order. In light of this, filing deadlines and hearing schedules in these proceedings were suspended on July 27, 1982. It is significant to note that these proceedings were suspended shortly after the Rockland County Officials had presented their testimony and one week before the Westchester County Officials were to begin their presentation.

As a result of the Federal Emergency Management Agency's Interim Report which noted significant deficiencies in five planning standards, the Nuclear Regulatory Commission pursuant to 10 CFR §50.54(s)(2)(ii), initiated a "120-day regulatory clock" against the facilities at Indian Point on August 3, 1982. Consequently, the Commission in its MEMORANDUM AND ORDER of October 1, 1982 suggested that this Board proceed to take testimony on Commission Questions 1, 2, 5, 6 and 7 before completing Questions 3 and 4. This Board has adopted this procedural framework for the future conduct of these proceedings.

It is undisputed that to hear testimony during the 120-day period would be wasteful of the time and resources of all the participants involved. However, the WESTCHESTER COUNTY EXECUTIVE

submits that there is no reason why the WESTCHESTER COUNTY EXECUTIVE's testimony should not be heard immediately after the 120-day regulatory period. It is submitted that this Board can receive the testimony from the WESTCHESTER COUNTY EXECUTIVE during the month of December while all parties are engaging in discovery and the preparation of testimony for Commission Questions 1, 2, 5, 6, and 7.

This proposed schedule will provide a thorough review of the corrective actions that have been undertaken or are underway and an analysis of what deficiencies remain in effect. It is acknowledged that there has been some effort to resolve deficiencies in emergency planning, however, the WESTCHESTER COUNTY EXECUTIVE contends that these new developments could be discussed at the time testimony is presented; and without prejudice to the other parties. The reformulation of contentions under Questions 3 and 4 will not affect the relevancy of our testimony, as our testimony is solely directed at the Commission Questions themselves.

It is maintained that further delay will be minimized by this Board in receiving the WESTCHESTER COUNTY EXECUTIVE's testimony already pre-filed before this Board. Moreover, a reversal of this Board's position regarding the taking of testimony on emergency planning will spare the County the expense involved in the substantial revision and preparation of testimony.

WHEREAS, the reformulation of contentions by this Board on Commission Questions 3 and 4 will not affect the relevancy of testimony filed by the WESTCHESTER COUNTY EXECUTIVE; and

whereas, substantial delay and expense will be minimized by this proposed schedule, the WESTCHESTER COUNTY EXECUTIVE prays for and ORDER granting the herein requested relief and any other relief that to this Atomic Safety and Licensing Board may seem proper.

Respectfully submitted,

Laurie A. Vetere

Laurie A. Vetere, Counsel
for Westchester County Executive
Alfred B. DelBello

DATED: October 19, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD ⁸² OCT 22 AM 11:15

In the Matter of)
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CONSOLIDATED EDISON COMPANY)
OF NEW YORK (Indian Point, Unit 2))
)
POWER AUTHORITY OF THE STATE OF)
NEW YORK (Indian Point, Unit 3))

SECRETARY
HEARING & SERVICE
BRANCH
Docket Nos. 50-247-SP
50-286-SP

CERTIFICATE OF SERVICE

I hereby certify that copies of WESTCHESTER COUNTY EXECUTIVE MOTION AND RESPONSE TO ASLB MEMORANDUM AND ORDER OCTOBER 1, 1982 in the above-captioned preceeding have been served on the following by deposit in the United States mail, first class this 19 day of the October, 1982.

James P. Gleason, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Brent L. Brandenburg, Esq.
Assistant General Counsel
Consolidated Edison Co.
of New York, Inc.
4 Irving Place
New York, NY 10003

Janice Moore, Esq.
Counsel for NRC Staff
Office of The Executive
Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Paul L. Colarulli, Esq.
Joseph J. Levin, Jr., Esq.
Pamela S. Horowitz, Esq.
Charles Morgan, Jr., Esq.
Morgan Associates, Chartered
1899 L. Street, N.W.
Washington, DC 20036

Charles M. Pratt, Esq.
Thomas R. Frey, Esq.
Power Authority of the
State of New York
10 Columbus Circle
New York, NY 10019

Ellen R. Weiss, Esq.
William S. Jordan, III, Esq.
Harmon & Weiss
1725 I Street, N.W., Suite 506
Washington, DC 20006

Joan Holt, Project Director
Indian Point Project
New York Public Interest
Research Group
9 Murray
New York, NY 10007

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

Jeffrey M. Blum, Esq.
New York University Law School
423 Vanderbilt Hall
New York, N.Y. 10012

Charles J. Maikish, Esq.
Litigation Division
The Port Authority of N.Y.
New York and New Jersey
One World Trade Center
New York N.Y. 10048ersey

Ezra I. Bialik Esq.
Steve Leipsiz, Esq.
Enviromental Protection Bureau
New York State Attorney
General's Office
Two Workd Trade Centery
New York N.Y. 10047

Andrew S.Roffe, Esq.
New York State Assembly
Albany, New York 12248

Margaret Oppel, Esq.
Renee Schwartz, Esq.
Botein, Hays, Sklar & Herzberg
Attorneys for Metropolitan
Transportation Authority
200 Park Avenue
New York, NY 10166

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

Honorable Ruth Messinger
Member of the Council of the
Cityof New York
District #4
City Hall
New York, New York 10007

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

David B. Duboff, Esq.
Charles A. Scheiner, Co-Chairperson
Westchester People's Action
Coalition, Inc.
P.O. Box 488
White Plains, New York 10602

Alan Latman, Esq.
44 Sunset Drive
Croton-on-Hudson, New York 10520
40 Washington Square South

Judith Kressler, Coordinator
Rockland Citizens for
Safe Energy
300 New Hempstead Road
New City, New York 10956

Eric Thorson, Esq.
Marc L. Parris, Esq.
County Attorney
County of Rockland
11 New Hempsteadd Road
New City, New York 10956

Donald Davidoff
Director Radiological Emergency
Preparedness Group
Empire State Plaza
Tower Building, Ro

Greater New York Council
On Energy
c/o Dean R. Corren, Director
New York University
26 Stuyvesant Street
New York, New York 10003

Ruthanne G. Miller, Esq.
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ms. Amanda Potterfield
P.O. Box 384
Village Station
New York, New York 10014

Richard M. Hartzman, Esq.
Lorna Salzman
Mid-Atlantic Representative
Friends of the Earth, Inc.
208 West 13th Street
New York, New York 10011

Zipporah S. Fleisher
West Branch Conservation Association
443 Buena Vista Road
New City, NY 10956

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mayor F. Webster Pierce
Village of Buchanan
236 Tate Avenue
Buchanan, NY 10511

Honorable Richard L. Brodsky
Member of the County Legislature
Westchester County
County Office Building
White Plains, New York 10601

David H. Pikus, Esq.
Richard F. Czaja, Esq.
330 Madison Avenue
New York, New York 10017

Jonathan D. Feinberg
New York State Public
Service Commission
Three Empire State Plaza
Albany, New York 12223

Joan Miles
Indian Point Coordinator
New York City Audubon Society
71 West 23rd Street, Suite 1828
New York, New York 10010

Laurel D. Vetere

Dated: October 19, 1982
White Plains, N.Y.