

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

James P. Gleason, Chairman

Frederick J. Shon

Dr. Oscar H. Paris

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)

) Docket Nos.

) 50-247 SP

) 50-286 SP

) December 10, 1982

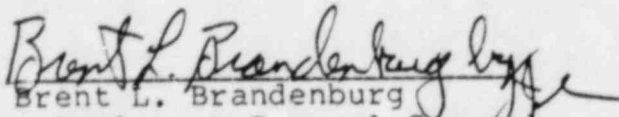
REPLY TO WEST BRANCH CONSERVATION ASSOCIATION'S
REPLY [SIC] TO MOTION OF THE LICENSEES OF
DECEMBER 1 TO DISMISS CERTAIN CONTENTIONS

West Branch Conservation Association's (WBCA's) Reply [sic] to Motion of the Licensees of December 1 to Dismiss Certain Contentions (Dec. 4, 1982) (Reply) misconstrues the intent of the Nuclear Regulatory Commission (Commission) as articulated in the Commission's orders establishing this proceeding. The Commission intended that the intervenors submit contentions meeting not only the general requirements regarding contentions contained in 10 C.F.R. § 2.714 (1982), but also the two-pronged test. See Memorandum and Order at 12-13 (July 27, 1982). If an intervenor cannot satisfy the Commission's tests at the testimony stage, the burden should not shift to the Atomic Safety and Licensing Board (Board)

or to the licensees to address that inadequate contention. Such an approach would render meaningless the Commission's threshold requirements.¹

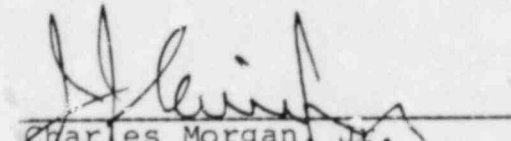
Additionally, as the lead intervenor for Contention 2.2(b), it is the responsibility of WBCA to present an affirmative case on that contention through its witnesses. Unlike the Union of Concerned Scientists/New York Public Interest Research Group, Inc. (UCS/NYPIRG), WBCA, in its "Reply," has merely renewed its assertion that it intends to present no witnesses on Contention 2.2(b). Compare Transcript of Proceedings at 4866 (Dec. 3, 1982) (Mr. Blum: "We could give a complete list of witnesses for Question 2 one week from today, if that would be all right.") with Telephone Call from WBCA Representative Mrs. Zipporah Fleisher to Licensees (Nov. 23, 1982) (WBCA will present no witnesses concerning Contention 2.2(b)). Because WBCA has refused to fulfill its responsibility, this contention should be struck.

1. See Memorandum and Order at 12 (July 27, 1982) ("Our intent was not that the requirements of 10 CFR § 2.714 be dispensed with . . . , but that additional requirements be applied to admission of contentions to assure a focused proceeding.") (emphasis in original).


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Respectfully submitted,


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Dated: December 10, 1982

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BRANCH

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Dec. 10, 1982

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of December, 1982, I caused a copy of Motion For Leave To File The Attached Reply To West Branch Conservation Association's Reply [sic] To Motion Of The Licensees Of December 1 To Dismiss Certain Contentions to be hand delivered to those parties marked with an asterisk, and served by first class mail, postage prepaid on all others.

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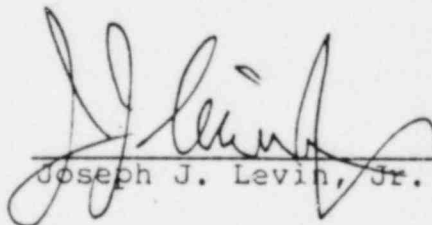
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