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UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD DEC 16 A11:43

Before Administrative Judges:FFICE OF SECRETARY
James P. Gleason, ChairmanDOCKETING & SERVICE
Dr. Oscar H. Paris
Frederick J. Shon

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In the Matter of

CONSOLIDATED EDISON COMPANY
OF NEW YORK

(Indian Point, Unit No. 2)

POWER AUTHORITY OF THE STATE
OF NEW YORK

(Indian Point, Unit No. 3)

December 15, 1982

MEMORANDUM AND ORDER
(Granting Staff's Request for Protective Order)

On November 19, 1982, the NRC Staff filed a motion for a protective order regarding UCS/NYPIRG's Interrogatory No. 5. UCS/NYPIRG has not responded to the motion.

Interrogatory No. 5 requests Staff to identify and list the ten most serious Staff criticisms of the IPPSS. Staff objects to this request on the grounds that no list of criticisms exists and neither 10 C.F.R. § 2.741, concerning the production of documents, nor 10 C.F.R.

DSOZ

 $[\]overline{R}$ Pursuant to our July 6, 1982, Memorandum and Order (Setting Forth Rules Governing Discovery) UCS had until December 1, 1982, to respond to Staff's motion (7 days from service plus 5 days for mailing). Even if UCS mistakenly believed the time for response was 10 days plus 5 days for mailing, as provided in 10 C.F.R. Part 2, it failed to submit a response on time.

§ 2.740, concerning discovery in general, requires the Staff to search through documents to create such a list. Moreover, Staff asserts that the compilation and review of such a list, as well as the formulation of a Staff position, would require extensive Staff effort which would be inconsistent with NRC case law and principles enunciated in Moore's Federal Practice. Staff represents that it has amassed, in response to Interrogatory No. 2, those documents which contain Staff comments on the IPPSS and is making such documents available to UCS/NYPIRG for inspection and copying.

We find that the Staff's provision of these documents, from which UCS/NYPIRG may itself compile a list of criticisms of the IPPSS, fulfills Staff's discovery obligations. Staff is not required to compile a list of criticisms nor to formulate a position on them in response to an interrogatory.

For the foregoing reasons, it is this 15th day of December, 1982 ORDERED

That the Staff's Motion for a Protective Order is granted.

FOR THE ATOMIC SAFETY AND LICENSING BOARD

ames P. Gleason, Chairman ADMINISTRATIVE JUDGE

Bethesda, Maryland