

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

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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) :
-----x

Docket Nos.
50-247 SP
50-286 SP
March 8, 1983

POWER AUTHORITY'S MOTION TO
STRIKE SUPPLEMENTAL TESTIMONY
OF DR. KAI T. ERIKSON

ATTORNEYS FILING THIS DOCUMENT:

Charles Morgan, Jr.
Paul F. Colarulli
Joseph J. Levin, Jr.
MORGAN ASSOCIATES, CHARTERED
1899 L Street, N.W.
Washington, D.C. 20036
(202) 466-7000

DS03

Preliminary Statement

Power Authority of the State of New York ("Power Authority"), licensee of Indian Point 3 Nuclear Power Plant, hereby moves for an order striking the supplemental testimony filed on February 21, 1983 by UCS/NYPIRG and Parents Concerned About Indian Point witness Kai T. Erikson. Our motion is based on the grounds that the supplemental testimony is:

- (1) beyond the scope of the Commission's Questions and orders and is therefore irrelevant; and
- (2) based on inadmissible hearsay.

THE SUPPLEMENTAL TESTIMONY
SHOULD BE STRICKEN

- A. The supplemental testimony is beyond the scope of the Commission's Questions and orders and is therefore irrelevant.

Dr. Erikson's supplemental testimony consists entirely of hearsay matter regarding the Shoreham Nuclear Generating Station being constructed by the Long Island Lighting Company in Suffolk County, New York, well outside the plume exposure and ingestion pathway emergency planning zones for Indian Point. In fact, the bulk of the so-called "testimony" consists of a 183-page document entitled "Volume III, Suffolk County Radiological Emergency Response Plan." The document contains no substantive reference to Indian

Point or its licensees, and consists almost entirely of surveys done in Nassau and Suffolk Counties on Long Island.

The Commission's July 27, 1982 Order makes clear that this is a "focused" proceeding, and directs the Board to "screen out those issues which, in its judgment, would make only a minor contribution to the Commission's goal, incommensurate with the time and resources required to address them."¹ (July 27, 1982 Order at 12-13.) Under this test or even general evidentiary principles of relevance (see, e.g., 10 CFR §2.743), the supplemental testimony must be stricken. Assuming that the hearsay problem could also somehow be cured, it would take many hours to cross-examine Dr. Erikson adequately on this voluminous material, and much longer to prepare. This would be a clear waste of the Board's and parties' time and resources. Since this proceeding is plainly Indian Point-specific, testimony about Shoreham, or any other nuclear plant site, is irrelevant.² It does not iden-

¹ While the July 27 Order speaks in terms of screening out issues and contentions, a fortiori this guidance should apply to presentation of evidence. The Commission's obvious objective is to avoid wasting hearing time on matters beyond its primary concerns. To screen out issues and contentions, but then to allow the presentation of evidence without regard to the Commission's guidance, would make no sense, contravene the Commission's objectives, and waste time.

² Even assuming that public perceptions surveyed at one site are somehow predictive of public perceptions elsewhere, Shoreham is a particularly inappropriate site for comparison. Unlike Shoreham, which has yet to receive its operating license, nuclear plants have been operating at Indian Point for over 20 years. Emergency planning, training and public
(footnote continued)

tify either NRC/FEMA guidelines with which the Indian Point licensees are not in conformance (Commission Question 3) or additional specific, feasible off-site emergency procedures which could be implemented at Indian Point (Commission Question 4).

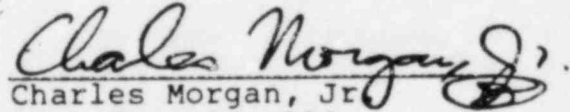
B. The testimony is purely hearsay.

Virtually all of the so-called "supplemental testimony" is hearsay material written by others. Even the brief introduction written by Dr. Erikson himself is admittedly based on those hearsay documents. Dr. Erikson's claim that he "was instrumental in designing those studies and in analyzing the results" (Supplemental Testimony at 1) is not only insufficient to cure the hearsay defect, but is unsupported by the document itself. The authors of Volume III of the Suffolk Plan are identified in its table of contents; Dr. Erikson is not among them. Indeed, the only reference to any work done by Dr. Erikson simply states that he was "consulted" by the preparer of one of the surveys and that he "commented" on a draft of the questionnaire. ("Responses of Emergency Personnel to a Possible Accident at the Shoreham Nuclear Power Plant" at 39.) Even Dr. Erikson does not claim to have conducted or supervised the survey himself. Since

(footnote continued from previous page)
education have been underway for many years at Indian Point. Moreover, unlike Shoreham, Indian Point has a State-approved emergency preparedness plan. There is plainly no basis for comparison.

the actual authors and administrators of the survey will not be present for cross-examination, the supplemental testimony is inadmissible hearsay.

Respectfully submitted,



Charles Morgan, Jr.
Paul F. Colarulli
Joseph J. Levin, Jr.

MORGAN ASSOCIATES, CHARTERED
1899 L Street, N.W.
Washington, D.C. 20036
(202) 466-7000

Stephen L. Baum
General Counsel
Charles M. Pratt
Assistant General Counsel

POWER AUTHORITY OF THE
STATE OF NEW YORK
Licensee of Indian Point Unit 3
10 Columbus Circle
New York, New York 10019
(212) 397-6200

Bernard D. Fischman
Michael Curley
Richard F. Czaja
David H. Pikus

SHEA & GOULD
330 Madison Avenue
New York, New York 10017
(212) 370-8000

Dated: March 8, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of POWER AUTHORITY'S
MOTION TO STRIKE SUPPLEMENTAL TESTIMONY OF DR. KAI T. ERIKSON
in the above-captioned proceeding have been served on the
following by deposit in the United States mail, first class,
this 8th day of March, 1983.

Docketing and Service Branch
Office of the Secretary
U. S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

*James P. Gleason, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing
Board
513 Gilmore Drive
Silver Spring, Maryland 20901

**Joan Holt, Project Director
Indian Point Project
New York Public Interest
Research Group
9 Murray Street
New York, N.Y. 10007

* Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

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

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

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

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

Marc L. Parris, Esq.
Eric Thorsen, Esq.
County Attorney
County of Rockland
11 New Hemstead Road
New City, N.Y. 10956

Ezra I. Bialik, Esq.
Steve Leipsig, Esq.
Environmental Protection Bureau
New York State Attorney
General's Office
Two World Trade Center
New York, N.Y. 10047

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

Alfred B. Del Bello
Westchester County Executive
Westchester County
148 Martine Avenue
White Plains, N.Y. 10601

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

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

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

Renee Schwartz, Esq.
Paul Chessin, Esq.
Laurens R. Schwartz, Esq.
Margaret Oppel, Esq.
Botein, Hays, Sklar & Herzberg
200 Park Avenue
New York, N.Y. 10166

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

Honorable Ruth Messinger
Member of the Council of the
City of New York
District No. 4
City Hall
New York, New York 10007

Richard M. Hartzman, Esq.
Lorna Salzman
Friends of the Earth, Inc.
208 West 13th Street
New York, N.Y. 10011

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

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

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

Charles A. Scheiner, Co-
Chairperson
Westchester People's Action
Coalition, Inc.
P.O. Box 488
White Plains, N.Y. 10602

Alan Latman, Esq.
44 Sunset Drive
Croton-on-Hudson, N.Y. 10520

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

Mayor George V. Begany
Village of Buchanan
236 Tate Avenue
Buchanan, N.Y. 10511

* David Lewis, Esq.
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Stewart M. Glass
Regional Counsel
Room 1349
Federal Emergency Management
Agency
26 Federal Plaza
New York, New York 10278

Melvin Goldberg
Staff Attorney
New York Public Interest
Research Group
9 Murray Street
New York, New York 10007

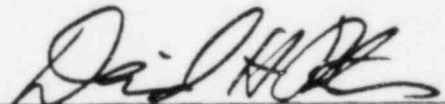
Spence W. Perry
Office of General Counsel
Federal Emergency Management
Agency
500 C Street, Southwest
Washington, D.C. 20472

Judith Kessler, Coordinator
Rockland Citizens for Safe
Energy
300 New Hempstead Road
New City, N.Y. 10956

Mr. Donald Davidoff
Director, Radiological
Emergency Preparedness
Group
Empire State Plaza
Tower Building, RM 1750
Albany, New York 12237

**Amanda Potterfield, Esq.
Johnson & George, Attys at Law
528 Iowa Avenue
Iowa City, Iowa 52240

Steven C. Sholly
Union of Concerned Scientists
1346 Connecticut Ave., N.W.
Suite 1101
Washington, D.C. 20036



David H. Pikus

- * Service also effected by hand delivery on March 9, 1983.
- ** Service also effected by hand delivery on March 8, 1983
at the offices of NYPIRG.