

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD '83 MAR 14 11:05
Before Administrative Judges:
James P. Gleason, Chairman
Frederick J. Shon
Dr. Oscar H. Paris

DOCKETED
USNRC

SECRETARY
OF LICENSING & SERVICE
BRANCH

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In the Matter of :
CONSOLIDATED EDISON COMPANY OF NEW : Docket Nos.
YORK, INC. (Indian Point Unit No. 2) : 50-247 SP
 : 50-286 SP
POWER AUTHORITY OF THE STATE OF :
NEW YORK (Indian Point Unit No. 3) : March 9, 1983
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CON EDISON'S MOTION TO
STRIKE SUPPLEMENTAL TESTIMONY
OF DR. KAI T. ERIKSON

Consolidated Edison Company of New York, Inc.
licensee of Indian Point Unit No. 2 ("Con Edison") hereby
moves for an order striking the supplemental testimony of
Dr. Kai T. Erikson, filed on February 21, 1983 on behalf of
intervenor-sponsors UCS/NYPIRG and Parents Concerned About
Indian Point. The testimony is not relevant to any issue
properly before the Board under the Commission's Orders,
and is also unreliable hearsay which, if admitted, would
effectively preclude any cross-examination by licensees.

This proceeding is under a mandate from the NRC to be Indian-Point-specific. Commission Question 3 asks whether NRC emergency planning regulations are complied with at Indian Point, and Commission Question 4 asks whether there are specific, feasible emergency planning improvements that can be made at Indian Point. Testimony about Shoreham, or any other plant, is irrelevant to Indian Point emergency planning and whether or not there are any difficulties affecting emergency planning in the area around Indian Point. Yet the supplemental testimony that Dr. Erikson proposes to present consists entirely of a report of a study, not conducted by Dr. Erikson, of purported emergency response in the area around LILCO's Shoreham plant in Suffolk County, Long Island. Dr. Erikson mentions Indian Point only insofar as he asserts, without reasoning or support, that the Shoreham study should be accepted as applicable to Indian Point.

The Commission has stressed that "the Board should focus clearly upon the [Indian-Point-specific] questions asked by the Commission." (CLI-81-1, p. 7; 13 NRC 1, 6 (1981).) This intention of the Commission would be thwarted by the introduction of voluminous and irrelevant material, relating to an entirely different

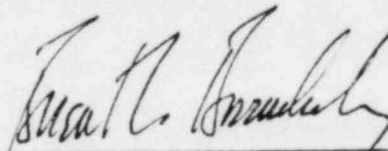
site, as proffered by Dr. Erikson. Even in the area of comparative risk between Indian Point and other plants, which is the most specific inquiry into issues relating to other plants intended by the Commission, the Commission provided that: "The Board should limit its inquiry to generic examination of the range of risks and not go into any site-specific examination other than for Indian Point itself. . . ." (CLI-81-1, p. 10; 13 NRC 1, 8 (1981).) Surely the Commission did not intend that specific data from other sites be excluded in the comparative risk area (as it provided) while intending to permit emergency planning data from other sites to be admissible under Commission Questions 3 and 4. If one were to accept, arguendo, that the Shoreham material were somehow relevant to this proceeding, then material from any other nuclear plant site would similarly be relevant, and this proceeding would be deprived of the Indian-Point-specific focus so clearly intended by the Commission.

Moreover, the material is irrelevant to Commission Question 3, since there is no mention of compliance or non-compliance with any NRC/FEMA guideline. It is also irrelevant to Commission Question 4, since there is no suggestion of any additional, feasible off-site emergency procedures that could be implemented at Indian

Point. The testimony purportedly addresses Contentions 3.2 and 3.7. However, it fails to satisfy the reformulated version of Contention 3.2, since it does not address any specific NRC/FEMA guideline, and it is also totally irrelevant to Contention 3.7, which deals not with parents' reactions to evacuation of their children, but with evacuation of the children themselves.

Finally, the Shoreham study underlying the testimony is entirely multiple-level hearsay, and unreliable. Dr. Erikson had only the most passing connection with the Suffolk study. Indeed, he claims only to have been "consulted" by the authors of the study, and to have "commented" on a draft of the questionnaire. This is clearly insufficient to allow the survey to be admitted as evidence in this proceeding, since licensees would be deprived of any opportunity to inquire how the survey was conducted.

Respectfully submitted,



Brent L. Brandenburg

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Licensee of Indian Point
Unit 2

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Dated: March 9, 1983
New York, New York

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CERTIFICATE OF SERVICE

I certify that I have served copies of Con Edison's Motion to Strike Supplemental Testimony of Dr. Kai T. Erikson on the following parties by deposit in the United States Mail this ninth day of March 1983.

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Dated: March 9, 1983
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