

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Louis J. Carter, 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)	:	Docket Nos. 50-247 SP
POWER AUTHORITY OF THE STATE OF NEW YORK (Indian Point, Unit No. 3)	:	50-286 SP June 22, 1982

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LICENSEES' RESPONSE TO UCS/NYPIRG
REQUESTS FOR ADMISSIONS

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PRELIMINARY STATEMENT

Consolidated Edison Company of New York, Inc. ("Con Edison"), licensee of Indian Point Station, Unit No. 2, and Power Authority of the State of New York ("Power Authority"), licensee of Indian Point 3 Nuclear Power Plant (collectively the "licensees"), submit these responses to UCS/NYPIRG Requests for Admissions.

Licensees have made every effort to respond to the UCS/NYPIRG requests. Several requests, however, could not be responded to because they are vague or seek information outside of licensees' control.

UCS/NYPIRG appears in some instances to misunderstand the nature of requests for admissions pursuant to 10 CFR §2.742. Many UCS/NYPIRG requests seek admission of facts which are obviously beyond licensees' knowledge.* Indeed, the first two requests, which relate to precise details surrounding the Three Mile Island accident, typify such requests. Response to such requests would require speculation or burdensome and oppressive research which would, in any event, likely require reconciliation of various scholarly viewpoints. Accordingly, licensees have responded to such improper requests for admissions by denying having knowledge or

* 10 CFR §2.742 does not require a party to admit facts which are not within its knowledge.

information sufficient to form a belief as to the truth of the statements.

LICENSEES' RESPONSES

1. REQUEST:

The only radiological emergency involving a commercial nuclear power reactor in U.S. history in which any protective response recommendation, advisory, or order was given to the general public was the accident at Three Mile Island Unit 2 from March 28, 1979 to April 9, 1979.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

2. REQUEST:

The population within 15 miles of the Three Mile Island Unit 2 reactor did not follow the protective response recommendations made by the Governor of Pennsylvania during the TMI-2 accident in that despite the fact that only pregnant women and pre-school age children within 5 miles of the plant were advised to evacuate, and persons within 10 miles of the plant were advised to shelter, the following actually occurred:

- A. Instead of the evacuation being limited to the 2,500 pregnant women and pre-school age children within 5 miles of the TMI-2 reactor, 144,000 of the 370,000 persons living within 15 miles of the TMI-2 reactor evacuated.
- B. Approximately 14% of the evacuees (about 20,000) evacuated before any protective response recommendation was issued.
- C. Despite the fact that the evacuation advisory was in effect for 10 days, the median evacuation period was 5 days.

- D. Persons beyond 5 miles but within 10 miles evacuated rather than sheltering as recommended by the Governor.
- E. Persons beyond 10 miles evacuated (32% of the population between 10 and 15 miles) despite receiving no recommendation to do so.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

3. REQUEST:

Meteorology of the site and the Indian Point region was not considered in the establishment of the areal extent of the Plume Exposure Pathway Emergency Planning Zone for Indian Point.

RESPONSE:

Licensees object to this request on the ground that it is unduly vague. Notwithstanding this objection, licensees note that while site-specific meteorology was not considered in establishing the contours of the plume exposure pathway emergency planning zone ("plume EPZ") for Indian Point, the meteorology of various sites was considered in determining the generic requirement that a plume EPZ be about 10 miles in radius.

4. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that a release of radioactivity from Indian Point Units 2 or 3, in combination with weather conditions at

the time of the release, will cause radiation doses to the general public in excess of the EPA Protective Action Guide levels beyond the Plume Exposure Pathway Emergency Planning Zone for Indian Point.

RESPONSE:

Licensees object to this request on the grounds that it is immaterial, irrelevant and outside the scope of any of the Commission's Questions. Any accident scenario that can be imagined has, in theory, a possibility greater than zero. Mere reference to a possibility "greater than zero" is therefore immaterial, and contributes nothing toward resolving the Commission's Questions.*

* Indeed, UCS/NYPIRG's reference to a standard of "possibility greater than zero" completely ignores a long line of cases holding that every conceivable radiological risk need not be mitigated. See, e.g., Citizens for Safe Power, Inc. v. NRC, 524 F.2d 1291, 1297 (D.C. Cir. 1975) ("[a]bsolute or perfect assurances are not required by [the Atomic Energy Act], and neither present technology nor public policy admit of such a standard"); In re Honicker Petition, ___ N.R.C. ___, 46 Fed. Reg. 39,573, 39,580 (1981) (footnote omitted) ("it is reasonable to conclude that such a standard, as distinguished for example from 'absolute' protection, left room for some degree of health impact on the public commensurate with the benefits of having a nuclear power program A country that builds highways, that licenses airplanes, that regulates coal mines, has clearly not established 'zero risk' or 'zero deaths' as a legal or moral absolute"); see also, Power Reactor Development Co. v. International Union of Electrical, Radio and Machine Workers, AFL-CIO, et al., 367 U.S. 396 (1961).

In addition, the Commission has directed that there be no consideration of consequences without equivalent consideration of the probability of such consequences.

5. REQUEST:

Any exposure to ionizing radiation carries with it an increased risk of cancer.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

6. REQUEST:

There is no level of radiation exposure below which there is no increased risk of cancer.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

7. REQUEST:

There exist circumstances in which it will not be possible to recognize that a core melt accident sequence has been entered until fuel melting actually starts to occur.

RESPONSE:

Licensees object to this request as improper, internally inconsistent, and incomprehensible. It is not possible to conclude that an actual core melt sequence has been entered into prior to fuel melting.

8. REQUEST:

A whole-body exposure of 50 Rems corresponds to the radiation dose at which early radiation illnesses begin to be observed in the general population.

RESPONSE:

Licensees object to this request on the ground that radiation dose effects are highly time dependent.

9. REQUEST:

A whole-body exposure of 200 Rems corresponds to the radiation dose at which early fatalities begin to be observed in the general population.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

10. REQUEST:

Other than the radiological emergency plans for Rockland, Westchester, Putnam, and Orange counties, no other county radiological emergency plans have been devised for responding to accidents at the Indian Point Nuclear Power Station.

RESPONSE:

Licensees deny this assertion. Dutchess County has undertaken efforts to plan for its role as a host county and participated in the March 3, 1982 exercise. On information and belief, Bergen County, New Jersey, has also undertaken efforts to plan for its role as a host county.

11. REQUEST:

The Plume Exposure Pathway Emergency Planning Zone for the Indian Point Nuclear Power Station does not cover the full areal extent of the areas which could be impacted in the event of a worst-case accident at Indian Point Units 2 and 3 (i.e., a core melt accident with containment failure); specifically, the Plume EPZ does not cover the full areal extent of areas in which residents could be exposed to radiation causing early fatalities, early injuries, fatal and non-fatal cancers, thyroid nodules, and genetic effects.

RESPONSE:

Licensees admit the truth of this statement.

12. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR1 release category.

RESPONSE:

See licensees' response to request 4, above.

13. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR2 release category.

RESPONSE:

See licensees' response to request 4, above.

14. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR3 release category.

RESPONSE:

See licensees' response to request 4, above.

15. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR4 release category.

RESPONSE:

See licensees' response to request 4, above.

16. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR5 release category.

RESPONSE:

See licensees' response to request 4, above.

17. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian

Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR6 release category.

RESPONSE:

See licensees' response to request 4, above.

18. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of a magnitude equal to that described in WASH-1400 for a PWR7 release category.

RESPONSE:

See licensees' response to request 4, above.

19. REQUEST:

The population and population density surrounding the Indian Point site is greater at 10, 30, and 50 miles than at any other nuclear power plant site in the U.S.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

20. REQUEST:

There is a finite possibility (i.e., a possibility greater than zero) that an accident will occur at Indian Point Unit 2 or Unit 3 which will result in a release of radioactivity to the environment that in combination with prevailing weather at the time of and subsequent to the release

will result in radiation doses to the general public outside the Plume Exposure Pathway Emergency Planning Zone which are sufficiently high so as to require the implementation of some form of protective response from the general public.

RESPONSE:

See licensees' response to request 4, above.

21. REQUEST:

There are no studies, surveys, or any type of evaluation for the Indian Point Plume Exposure Pathway Emergency Planning Zone which is directed at determining or predicting the degree of conformance of the general public to protective action recommendations, advisories, or orders for the Indian Point Plume Exposure Pathway Emergency Planning Zone.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

22. REQUEST:

Consolidated Edison Company of New York does not rely in any way upon the evacuation time estimates prepared by CONSAD Research Corporation.

RESPONSE:

Licensee Con Edison objects to this request on the ground that it is too vague for response. In particular, Con Edison objects to the phrase "does not rely in any way...."*

* Without waiving this objection, Con Edison notes that the CONSAD estimates were reviewed, but were not used in drafting the county evacuation plans.

23. REQUEST:

The Power Authority of the State of New York does not rely in any way upon the evacuation time estimates prepared by CONSAD Research Corporation.

RESPONSE:

Licensee Power Authority objects to this request on the ground that it is too vague for response. In particular, the Power Authority objects to the phrase "does not rely in any way...."*

29. REQUEST:

New York City could not be evacuated in less than one week.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

30. REQUEST:

The Plume Exposure Pathway Emergency Planning Zone for Indian Point cannot be evacuated in less than four hours under favorable conditions.

* Without waiving this objection, the Power Authority notes that the CONSAD estimates were reviewed, but were not used in drafting the county evacuation plans.

RESPONSE:

Licensees deny this assertion.

31. REQUEST:

Sheltering is useful in limiting inhalation doses for only about 2 hours.

RESPONSE:

Licensees object to this request as unduly vague. In particular, the request fails to specify the type of sheltering and the extent of the doses.

33. REQUEST:

The use of Emergency Action Level Criteria by Consolidated Edison Company of New York and/or the Power Authority of the State of New York cannot guarantee that an accident sequence involving core melt and containment failure will be recognized in sufficient time to permit notification and evacuation by the residents of the Plume Exposure Pathway Emergency Planning Zone before plume arrival.

RESPONSE:

See licensees' response to request 4, above. Licensees object to the term "guarantee" for the reasons underlying their objection to the term "possibility greater than zero."

35. REQUEST:

There are no written agreements between individual bus drivers or groups of bus drivers which indicate that the bus drivers upon which the County Radiological Emergency Response Plans for Rockland, Westchester, Orange, and Putnam depend will be available to drive buses into and out of the Indian Point Plume Exposure Pathway Emergency Planning Zone in

the event of a radiological emergency at Indian Point Unit 2 or Unit 3.

RESPONSE:

Licensees deny having knowledge or information sufficient to form a belief as to the truth of this statement.

As to Answers:

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

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Richard P. Remshaw
Project Manager - Indian Point Hearings

POWER AUTHORITY OF THE STATE OF NEW YORK

By Herschel Specter
Herschel Specter
Project Manager - Indian Point Hearings

As to Objections:

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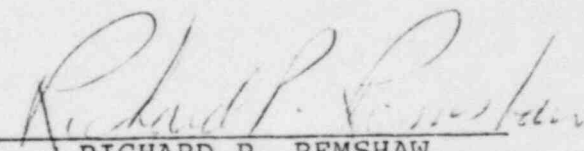
Attorneys for Power Authority of
the State of New York

VERIFICATION

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

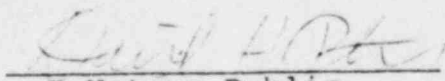
RICHARD P. REMSHAW, being duly sworn, deposes and says:

That he is the Project Manager - Indian Point Hearings for Consolidated Edison Company of New York, Inc., licensee of Indian Point Nuclear Generating Station, Unit No. 2; that he is authorized to make this verification on behalf of said corporation; and that the foregoing answers to interrogatories were prepared under his direction and supervision and are true and correct to the best of his knowledge, information and belief.



RICHARD P. REMSHAW

Sworn to before me this
22nd day of June, 1982.



Notary Public

DAVID H. PIKUS
Notary Public, State of New York
No. 31-4720306
Qualified in New York County
Commission Expires March 30, 1993

VERIFICATION

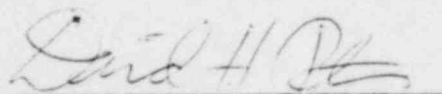
STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

HERSCHEL SPECTER, being duly sworn, deposes and
says:

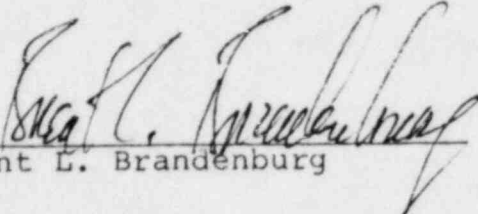
That he is the Manager, Indian Point 3 Hearings,
Technical Support for Power Authority of the State of New
York, licensee of Indian Point 3 Nuclear Power Plant; that
he is authorized to make this verification on behalf of said
Authority; and that the foregoing answers to interrogatories
were prepared under his direction and supervision and are
true and correct to the best of his knowledge, information
and belief.


HERSCHEL SPECTER

Sworn to before me this
22nd day of June, 1982.

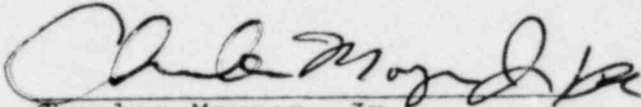

Notary Public

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Dated: June 22, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Louis J. Carter, Chairman
Frederick J. Shon
Dr. Oscar H. Paris

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In the Matter of)	Docket Nos.
)	
CONSOLIDATED EDISON COMPANY OF NEW YORK,)	50-247 SP
INC. (Indian Point, Unit No. 2))	50-286 SP
)	
POWER AUTHORITY OF THE STATE OF NEW YORK)	
(Indian Point, Unit No. 3))	June 22, 1982
)	
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CERTIFICATE OF SERVICE

I hereby certify that copies of LICENSEES' RESPONSE TO UCS/NYPIRG REQUESTS FOR ADMISSIONS in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, this 22nd day of June, 1982.

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
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