

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

MAY 20 P3:47

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)

Docket Nos. 50-247
50-286

REQUEST FOR SUBMISSION OF WRITTEN COMMENTS ON THE
ABOVE LISTED CASES BY AFFECTED EMPLOYEE'S REPRESENTATIVE

The Commission's Order dated May 5, 1983 provided specifically for both written and oral presentations, by the licensees, interested federal agencies and affected state and local governments, with regard to its intent to order by June 9, 1983 a suspension of operations of the Indian Point plants unless:

- (1) FEMA has determined that the significant deficiencies as determined in FEMA's Post Exercise Assessment dated April 14, 1983 no longer exists; or
- (2) The licensees demonstrate to the satisfaction of the Commission in accordance with 10 CFR 50.54(s) (2) (ii) that:
 - (a) adequate interim compensating actions have been or will be taken promptly, or

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- (b) the deficiencies identified by FEMA as significant are not significant, or
- (c) other compelling reasons exist to permit operation of the facility, or
- (d) there are other factors justifying continued operation

The Commission's order did not specifically provide for either written or oral presentations of views from affected employees or the certified representative of the affected employees.

The Utility Workers Union of America, AFL-CIO and its Local 1-2 have been certified to represent approximately 650 employees employed full time at the Indian Point plants and many hundreds more who are assigned to work at the Indian Point plants from time to time.

Inasmuch as these employees have as much at stake in the Commission decision as the licensee, and any possible interested federal agency or affected state or local government in a suspension of operations. It is our position the Commission erred when it failed to specifically provide for written and oral presentation of views from the certified representative of the employees at the Indian Point plants. The Utility Workers Union of America, AFL-CIO and its Local 1-2 requests permission to submit its views in writing to the Commission with respect to the Commission's intention to order a suspension of operations at the Indian Point plants.

WRITTEN COMMENTS BY
THE UTILITY WORKERS UNION OF AMERICA

It is the position of the Utility Workers Union of America that the deficiencies which FEMA has determined to be significant, are not sufficiently deficient to require suspending operations, and we believe the actions which have flowed from the various parties involved has provided adequate interim compensating actions. There are other compelling reasons that should permit the operation of the facility to continue and further there are other factors justifying continued operation.

THE DEFICIENCIES IDENTIFIED BY FEMA
AS SIGNIFICANT ARE NOT SIGNIFICANT

In this particular situation FEMA has cited two specific deficiencies which it has determined to be significant. First, it has indicated that the "non-participation of Rockland County in the planning process" and secondly, the "questionable availability" of bus drivers in Westchester County in the event of an accident are the significant deficiencies.

There has not been a showing the non-participation of Rockland County would have an appreciable affect on the "emergency preparedness" at the operating reactor nor on the requirement for "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency."

Nothing in the regulations specify that either the county, state or any other political subdivision has either the responsibility

or the obligation to participate in the emergency preparedness plan to make it either effective or adequate. While there is some indication the emergency preparedness plan must be designed in such a manner to enable each state and local government in the plume exposure pathway to participate, there is nothing to indicate such participation in either the planning or exercises are essential or significant to the conclusion, "as to whether state and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented".

While FEMA cited the lack of participation in the planning on the part of Rockland County, nothing was specifically cited to indicate the exercise failed or did not demonstrate adequacy because of this lack of participation in the planning.

It would also appear the reference made to the "questionability" of the availability of bus drivers in Westchester County on its face could not be considered as "significant". In a case where the availability is questionable, it means there either could be drivers available or they could not be available. It would appear FEMA has stated there "may be drivers available" and that "drivers may not be available". It would seem that for such a finding to be significant, the finding must clearly have concluded bus drivers would not be available.

ADEQUATE INTERIM COMPENSATING
ACTIONS HAVE BEEN TAKEN

There is no question an adequate number of bus drivers exist in Westchester County to drive all the existing buses. The

question of their availability has been remedied. Mr. Patrick Gallagher, Business Manager of Local 1-2, UWUA, AFL-CIO has met with all of the unions representing bus drivers in Westchester County, the Transport Workers Union, the Amalgamated Transit Union and CSEA. The unions and the bus drivers themselves have all indicated full cooperation in such an emergency and have all indicated they would be available to drive buses under such circumstances.

THERE ARE OTHER COMPELLING REASONS
TO PERMIT THE OPERATION OF THE FACILITY

There has been a continual operation of a nuclear generating facility at this site from approximately 1958 to this very day and while there have been minor operating problems, there has never been a situation which would fit the description of a "radiological emergency", nor is there any reason to believe such an emergency will develop.

The continued operation of the facility is essential to the continuing supply of necessary electrical energy to the consumers in the franchise area of the licensees.

The licensees should not be held captive of, or subject to the whims of a hostile local or state government which does not have the same responsibility and obligation as the licensee to meet the specifics of the NRC Regulations. In this case, the NRC should seek ways to either encourage or enforce the appropriate participation of Rockland County and the bus services it contends to be deficient, rather than suspend operations of the plant.

Action by the Commission which would lead to the suspension of operations at the Indian Point plants will create in the minds of the public that serious safety problems at the facility exist, creating even greater problems in the restoration of public confidence in the nuclear industry.

Other enforcement actions are available to the Commission which may well produce the desired results without the necessity in the drastic action involved in a suspension of operations. The only enforcement action listed in the Order is the two notifications to the licensee and the surrounding jurisdictions informing them the deficiencies existed.

OTHER FACTORS JUSTIFY CONTINUED OPERATIONS

There is every reason to believe the "deficiencies" can be remedied without a suspension of operations. In both cases it is a situation where one must first determine what is necessary to eliminate the deficiency, and then organize a plan or procedure to effect the elimination of that deficiency. It appears one such deficiency could be eliminated by removing the question regarding the availability of bus drivers in Westchester County. The bus drivers are represented in Westchester County by three transportation unions. The UWUA, through its representative, contacted those unions and the drivers they represent. All involved pledged full cooperation, indicating drivers would be available if needed in a "radiological emergency". This was done without threat or without suspension of plant operations.

There are avenues open to the NRC which would permit the dissemination of information to the citizens of Rockland County, indicating that while the plant is operating safely and its continued operations do not pose a danger, the officials of Rockland County have refused to participate in the emergency planning which is designed to give the citizens an additional measure of safety in the unlikely event it may be needed. It would seem that if the Rockland County officials with the responsibility for safeguarding the citizens of the county were to be pressured by their constituents, there would be greater impetus to participate in the planning than there would be with a suspension of plant operations. There is the possibility recalcitrant county officials may be so overjoyed by the suspension of operations that they would be encouraged to intensify and continue their refusal to participate in the planning of the emergency preparedness plan.

The licensees in this situation would have to replace the lost generation by purchasing power from other sources. With a major portion of the New York energy being imported from Canada, this could well be the source the licensees look to for the energy needed to replace that lost by the suspension of the plant operations, thus placing the licensees in a position of reliance on a foreign country for needed energy.

The suspension of plant operations could cause displacement and possible layoffs for the workers involved, and substantial

reductions in their income, in what is believed to be a totally unnecessary suspension of operations.

This request for leave to submit the views of the Utility Workers Union of America in the matter of the Commission's Order stating an intent to suspend operations of the Indian Point plants and the expressed views contained herein are respectfully submitted
by:

James Joy, Jr., President
Utility Workers Union of America

Marshall M. Hicks, Secretary-Treasurer
Utility Workers Union of America

Patrick J. Gallagher, Business Manager
Local 1-2, UWUA