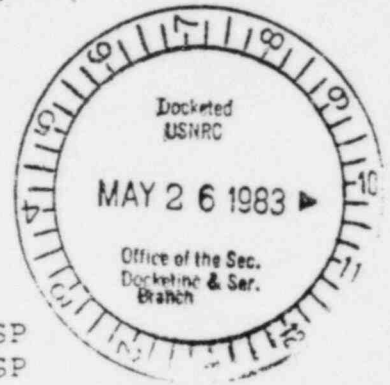


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:  
James I. Cleason, Chairman  
Dr. Oscar H. Paris  
Frederick J. Shon



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 No. 50-247-SP  
50-286-SP

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ROCKLAND COUNTY'S ANSWER TO LICENSEES' MOTION FOR  
RECONSIDERATION OF RULING ON ADMISSABILITY OF  
DISPOSITION

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ATTORNEYS FILING THIS DOCUMENT:

MARC L. PARRIS  
County Attorney  
County of Rockland  
11 New Hempstead Road  
New City, New York 10956

By: ERIC OLE THORSEN  
Of Counsel

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ROCKLAND COUNTY'S ANSWER TO LICENSEES' MOTION  
FOR RECONSIDERATION OF RULING ON ADMISSABILITY  
OF DEPOSITION

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Rockland County submits the within opposition to the motion of Consolidated Edison Company of New York, Inc. (CON ED) and the Power Authority of the State of New York (Power Authority) for reconsideration of the denial by the Board of the licensees' motion to receive the examination before trial of Donald P. McGuire into evidence, together with Donald P. McGuire's prefiled testimony, and upon such reconsideration to grant the requests and receive the documents into evidence.

The records should be clear that Rockland County has no objection to, and at the time of the hearings before the Board, had no objection to producing Donald P. McGuire as a witness before the Board. Should the Board deem Mr. McGuire's testimony to be so essential to this proceeding that the mandate given to it by the Nuclear Regulatory Commission cannot be answered without receipt of his testimony, the County of Rockland is and remains perfectly willing to present Mr. McGuire for cross-examination by all parties, interested States, and intervenors who were participants in the Atomic Safety Licensing Board hearings.

It is unfortunate that circumstances prevented Mr. McGuire from appearing for a third time before the ASLB (Mr. McGuire had previously testified in July of 1982, and March of 1983). Counsel for the County of Rockland did, in fact, assure all participants in the ASLB hearing that Mr. McGuire was willing to

testify, after he was unable to appear as scheduled. However, Rockland County must now object to the attempts by the licensees to introduce into the record the transcript of Mr. McGuire's examination before trial.

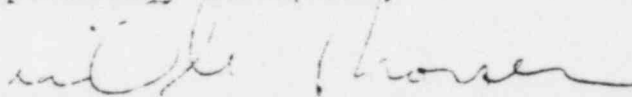
The efforts by the licensees to introduce the examination before trial are clearly in violation of the rights of Rockland County as an interested state, and clearly in violation of the rights of the other participants to the ASLB proceeding. A review of the transcript makes it clear that much of the testimony sought of the witness went well beyond the scope of his direct testimony, and was not intended for use in connection with these hearings. In spite of repeated objections by counsel for Rockland County that counsel for the licensee should restrict themselves to the March 9th drill and the witnesses' observations of it, counsel for the licensees insisted that their right to discovery "is not limited to admissible matters but may include anything that may lead to the discovery of admissible evidence" (see transcript page 17). The transcript is replete with materials which are not admissible under Rule 32 of the Federal Rules of Procedure and to which Rockland County would have objected, had the licensees attempted to introduce same at the hearings.

It is clear that under Rule 32(a) that the normal rules of evidence are to be applied to depositions offered at trial. Rockland County does not believe that it is our obligation to attempt to go through the depositions line by line in order to present the court that testimony which is admissible as distinguished from that which is objectionable. Rockland County

believes that it was the licensees' obligation to distinguish what they wanted introduced from the matter which was clearly objectionable. The fact that the licensees have chosen not to do so, and not to invest the time in this motion which would be necessary to the Board's realistic consideration, is evidence of the lack of relevancy and materiality of the majority of the material within the deposition.

For the foregoing reasons, Rockland County opposes the application of the licensees, and urges the Board to deny reconsideration of its prior ruling.

Respectfully submitted,

  
ERIC OLE THORSEN, ESQ.

Dated: May 24, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

-----x  
In the Matter of

CONSOLIDATED EDISON COMPANY OF NEW YORK  
(Indian Point, Unit 2)

POWER AUTHORITY OF THE STATE OF NEW YORK  
(Indian Point, Unit 3)  
-----x

AFFIDAVIT OF SERVICE  
BY MAIL

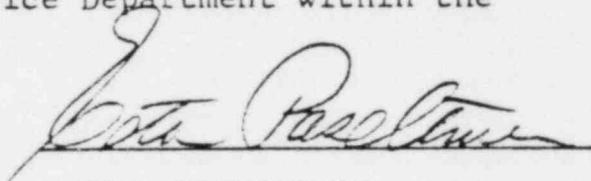
Docket Nos. 50-247-SP  
50-286-SP

STATE OF NEW YORK     )  
                                  ss.:  
COUNTY OF ROCKLAND    )

Esta Paseltiner


\_\_\_\_\_, being duly sworn, deposes and  
says that deponent is not a party to the action, is over 18 years of  
age, and resides at:

That on the 24th day of May, 1983, deponent served  
the enclosed papers upon the parties listed in the attached pages by  
depositing a true copy of same enclosed in a postpaid properly  
addressed wrapper, in an official depository under the exclusive care  
and custody of the United States Post Office Department within the  
State of New York.



ESTA PASELTINER

Sworn to before me this 24th  
day of May, 1983

  
NOTARY PUBLIC

ERIC OLE THORSEN  
Notary Public, State of New York  
No. 44-656344  
Qualified in Rockland County  
Commission expires March 31, 1985

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Richard L. Brodsky  
Legislature of Westchester County  
County Office Building  
White Plains, NY 10601

Charles A. Schneider  
Co-Chairperson  
West. People's Action Coal. Inc.  
P. O. Box 488  
White Plains, New York 10602

Andrew P. O'Rourke  
Westchester County Executive  
148 Martine Ave.  
White Plains, NY 10601

Ellyn R. Weiss, Esq.  
Wm. S. Jordan, III, Esq.  
Hartman & Weiss  
1725 I St., NW Suite 506  
Washington, D. C. 20006

Phyllis Rodriguez  
Parents Concerned About  
Indian Pt.  
P.O. Box 125  
Croton-on-Hudson, NY 10520

Mayor F. Webster Pierce  
Village of Buchanan  
236 Tate Avenue  
Buchanan, New York 10511

Joan Miles  
Indian Point Coordinator  
New York City Audubon Soc.  
71 W. 23rd St., Suite 1828  
New York, NY 10010

Judith Kessler, Coordinator  
Rockland Citizens for Safe  
Energy  
300 New Hempstead Rd.  
New City, NY 10956

Greater NY Council on Energy  
c/o Dean A. Corcoran, Dir.  
New York University  
25 Stuyvesant St.  
New York, New York 10003

Stewart M. Glass  
Regional Council, Rm. 1347  
Federal Emergency Mgmt. Agency  
25 Federal Plaza  
New York, NY 10278

Richard M. Hartzman, Esq.  
Lorna Salzman  
Friends of the Earth Inc.  
204 W. 13th St.  
New York, New York 10011

David H. Pious, Esq.  
Richard F. Crapo, Esq.  
330 Madison Ave.  
New York, NY 10017

Aranda Potterfield, Esq.  
NYPIRG  
9 Murray St., 3rd Fl.  
New York, NY 10007

Charles M. Pratt, Esq.  
Steven L. Baum  
Power Authority of St. of NY  
30 Columbus Circle  
New York, New York 10019

Joan Holt, Project Director  
Indian Point Project, NYPIRG  
9 Murray St.  
New York, New York 10007

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

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

Donald Davidoff, Director  
Radiological Preparedness Group  
Empire State Plaza  
Albany, New York 12237

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

James P. Gleason, Esq. Chairman  
Administrative Judge  
513 Gilmoure Dr.  
Silver Springs, Maryland 20901

Dr. Oscar R. Paris, Adm. Judge  
Atomic Safety & Licensing Bd.  
U.S. Nuclear Regulatory Comm.  
Washington, D. C. 20555

Mr. Frederick J. Shon, Adm. Jud.  
Atomic Safety & Licensing Bd.  
U.S. Nuclear Regulatory Comm.  
Washington, D. C. 20555

James A. Laurenson  
Administrative Judge  
Atomic Safety & Licensing Bd.  
U.S. Nuclear Reg. Commission  
Washington, D. C. 20555

Atomic Safety & Licensing Bd.  
Panel  
U.S. Nuclear Regulatory Comm.  
Washington, D. C. 20555

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

Janice Moore, Esq.  
Office of the Executive Legal  
Dir. U.S. Nuclear Reg. Comm.  
Washington, D. C. 20555

Paul F. Colarulli, Esq.  
Joseph J. Levin, Jr., Esq.  
Parvula I. Morawitz, Esq.  
Charles Morgan Jr., Esq.  
Morgan Associates, Chartered

1899 L Street, N.W.  
Washington, D. C. 20036

Melvin Goldberg, Staff Atty  
NYPIRG  
9 Murray Street  
New York, NY 10007

David Lewis, Esq.  
Atomic Safety & Licensing Bd. Panel  
U.S. Nuclear Regulatory Comm.  
Washington, D. C. 20555

Science W. Perry  
Office of General Counsel,  
Federal Emergency Mgmt. Agency  
500 C Street, S. W.  
Washington, D. C. 20472

Andrew S. Roff, Esq.  
New York State Assembly  
Albany, NY 12246

Jonathan D. Feinberg  
New York State Public Serv. Comm.  
3 Empire State Plaza  
Albany, New York 12223

Jeffrey M. Blum,  
N.Y. University Law School  
423 Vanderbilt Hall  
Washington Sq., South  
New York, NY 10012

Charles J. Malkish, Esq.  
Litigation Divn. Port Authority  
of N.Y. and N.J.  
One World Trade Center  
New York, NY 10046

Ezra I. Bialik, Esq.  
Steve Leibold, Esq.  
N.Y. State Atty. Gen. Office  
2 World Trade Center  
New York, NY 10046

Reene Schwartz, Esq.  
Paul Chessin, Esq.  
Laurens A. Schwartz, Esq.  
Hofman, Haviv, Sklar & Herzberg  
200 Park Avenue

New York, New York 100166

Ruth Messinger  
Council of City of New York  
District #4 - City Hall  
New York, NY 10007

Craig Kaplan, Esq.  
Natl. Emergency Civ. Lib. Comm.  
175 Fifth Ave., Suite 712  
New York, New York 100010

Brent L. Brandenburg, Esq.  
Asst. Gen. Counsel  
City of New York  
4 Irving Place  
New York, New York 10001

David L. Duffoff  
Westchester People's Act. Coal. Inc.  
100 Green St.  
White Plains, NY 10601

Alan Letman, Esq.  
44 Sunset Drive  
Croton-on-Hudson, NY 10520

Zimorah S. Fleisher  
West Branch, Crotonville  
44 Sunset Drive  
New City, NY 10956