

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATCMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
James P. Gleason, Chairman
Frederick J. Shon
Dr. Oscar H. Paris

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))
) March 25, 1983

GNYCE RESPONSE TO LICENSEES' MOTION FOR SANCTIONS AGAINST
DEAN CORREN, GNYCE, AND ESRG, INC.

GNYCE requests that the Board deny this licensee motion because it is based on erroneous information and would serve no valid useful purpose in this proceeding.

I. Licensees Belief That GNYCE Intentionally Withheld Discoverable materials is Erroneous

As described in our March 14, 1983 response to the licensees' motion to compel interrogatory responses from GNYCE, we have continually made every reasonable effort to satisfy the licensees' requests for information. However, it was and still is our belief that we are under no obligation to provide our Question 6 testimony until April 12, 1983. The report, per se, of the ESRG study is that testimony. What we have been under a continuing obligation to provide to licensees as soon as possible is the supporting documentation which is contained in the appendices to the ESRG report. This information was provided to the licensees on March 17, 1983, as soon as possible after GNYCE first received it on March 15, 1983. In addition, licensees were provided

copies of the study report so that they would have more than ample time (over one month) to prepare to crossexamine our witness.

The licensees have the mistaken belief that GNYCE misrepresented as we continually asserted that the information was unavailable prior to March 15, 1983, because an ASLB petitioner in South Carolina cited the ESRG Indian Point study. GNYCE has recently learned that ESRG had supplied the petitioner with a copy of the study without the knowledge of GNYCE. We do not know whether that copy included the relevant material - the appendices. It may have, because we have also just learned that the appendices were actually prepared by November or December of 1982, but due to an oversight or misunderstanding, ESRG failed to provide them to GNYCE at that time.

At no time did GNYCE make any misrepresentation of the facts as we understood them. We would also have liked to have received the study appendices earlier and at no time had any interest in hindering discovery by the licensees. We certainly regret any inconvenience our mixup has caused, and to lessen that inconvenience we voluntarily supplied the licensees with the entirety of our testimony almost one month prior to its being due. There is neither cause for nor need for sanctions, which the licensees would have discovered had they simply contacted GNYCE, especially since they had been advised the week before they prepared this motion that they would soon receive our complete testimony. In fact, they did receive the entire ESRG study prior to completion of their motion. Their eagerness to file such a motion, making such extreme accusations, would indicate more of a desire for procedural wrangling and restriction of information than for acquiring information.

II. Granting the Present Motion Would Serve No Valid Purpose

GNYCE has never made any misrepresentations regarding discovery by the licensees and has herein clarified the source of their misunderstandings and accusations. Granting of the motion would only serve to keep from this proceeding information essential to its record, and to harass this intervenor and its witness. Any inconvenience caused by our not providing the licensees with certain information as soon as possible (had we known) has been mitigated by our supplying that material and our complete testimony over one month before the hearing. Thus there is no substantial prejudice to the licensees or lack of due process protection.

It should be noted that while the licensees are complaining that they do not have enough time to review the GNYCE information, GNYCE has yet to acquire the analogous information from the licensees; we intend to do so at the depositions of their witnesses. Similarly, PASNY only acquired the analogous documents from the City Council witnesses on March 22, 1983, five days after they had received our supporting documents and complete testimony, yet they have not complained about that discovery.

The present motion is thus a specific, directed attempt to bar from this proceeding authoritative, effective information without which the record cannot be complete. GNYCE requests that the Board reject this motion and emplores the Board to reiterate that this proceeding should go forward in a pragmatic manner directed to completion of the substantive task at hand with a minimum of legal "gamesmanship" as typified by this abusive, burdensome, and unnecessary motion.

Respectfully Submitted,



Dean R. Corren
Director, GNYCE

March 25, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of 'GNYCE Response to Licensees' Motion for Sanctions Against Dean Corren, GNYCE, and ESRG, Inc.' have been served on all parties on the official service list by first class mail this 25th day of March, 1983.



Dean R. Corren
Director, GNYCE