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UNITED STATES OF AMERICA

BEFORE THE NUCLEAR REGULATORY COMMISSION DOCKETED
USNRC

COMMISSIONERS:

Nunzio J. Palladino, Chairman
Victor Gilinsky
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal

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

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

Docket Nos.

50-247 OL

50-286 OL

CON EDISON AND POWER AUTHORITY RESPONSE TO NYPIRG PETITION
FOR SUSPENSION OF OPERATION OF INDIAN POINTS UNITS 2 AND 3

Consolidated Edison Company of New York, Inc. and Power Authority of the State of New York, licensees of Indian Point 2 and 3, respectively (Licensees), submit this response to the April 6, 1984 petition¹ of New York Public Interest Group (NYPIRG) to suspend operation of Indian Point Units 2 and 3.

¹Although it is not so entitled, Licensees submit that the petition, if it is to be considered at all, must be treated as if it were filed pursuant to 10 CFR § 2.206 for consideration by the Director of Nuclear Reactor Regulation, the Director of Nuclear Material Safety & Safeguards, or the Director of the Office of Inspection & Enforcement.

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In its petition, NYPIRG purports to raise anew issues which petitioner² previously litigated in proceedings before an Atomic Safety and Licensing Board (Licensing Board), Consolidated Edison Company of New York, 50-247-SP, 50-286-SP, and which are currently before the Commission in its review of the Licensing Board's recommendations. The issues of radiological emergency planning in the vicinity of Indian Point have been thoroughly, if not exhaustively, litigated over the course of the last four to five years. In the Licensing Board hearings, intervenors, among whom NYPIRG was a leading participant, presented over 100 witnesses on the aspects of emergency planning they considered important, including the issues discussed in the present petition. The hearings on emergency planning issues consumed at least 50 percent of the year-long hearings.

NYPIRG does not allege that the issues it purports to raise in its present petition are new. Indeed, NYPIRG argues that emergency planning for the protection of schoolchildren, about which it expresses concern, has been

²NYPIRG claims to be "joined by seven community organizations" (Petition, pp. 1, 2) in its petition. All are identified by name and representative only. Apparently none of the representatives signed the petition. All seven representatives participated in proceedings before an Atomic Safety and Licensing Board on these particular issues, see Consolidated Edison Company of New York, 50-247-SP, 50-286-SP. The names of certain of the groups represented, however, have been changed since the Licensing Board hearings.

unsatisfactory "from the beginning of planning" (Petition, p. 2) and "continues" to be so (id., p. 1). As NYPIRG readily admits (id., p. 2) this is the very argument it and the other intervenors advanced before the Licensing Board. NYPIRG claims as a new development causing its current expression of concern its belated discovery since the Licensing Board hearings that "school plans were far more complicated" than it had previously been aware. Petition, p. 4. Even a cursory review of the record established by the Licensing Board reveals that NYPIRG and the parents or citizens groups that intervened in those proceedings and are now purported to join in this petition had full rights of discovery and cross-examination in all emergency planning areas throughout the lengthy hearings, and that they in fact cross-examined Licensees' and Commission Staff's witnesses, in addition to presenting their own witnesses (See id., p. 2).

The NYPIRG petition suggests that some persons, even some school, county, or state officials, may disagree about the perfection of emergency planning for schoolchildren. It asserts that discussion and alteration of the plans continue. Its implication that activity directed towards further plan improvements indicates an inadequacy in present planning is, however, ill-founded. These opinions and activities are, rather, entirely normal and desirable parts of the democratic and dynamic process of planning. They

reflect the attempts of all the people, agencies, and organizations involved to improve emergency preparedness for schoolchildren as well as for the general public. If NYPIRG's criticisms of the state of emergency planning are sincere, it is time for that organization and the joint sponsors of its petition to channel their efforts productively and work with the schools, the counties, the State, and FEMA, all of whom are working diligently to provide emergency plans and preparedness for their communities. NYPIRG's failure to aid the planning and preparedness efforts, while it repeatedly attempts to secure the shutdown of the Indian Point plants, contravenes the stated definition and seriousness of its purpose. It is time for NYPIRG to follow the example of Rockland County, which has turned from litigation to preparation and cooperation. While NYPIRG fosters discord, which inhibits the emergency planning efforts of the school, county, state and federal governments, its standing to file the instant petition should be denied.

Because NYPIRG's petition is but a belated effort to reargue issues it has already litigated at exhaustive length, because it raises no new issues for consideration by the Commission or its Staff, and because these matters are before the Commission which is already reviewing the Licensing Board's recommendations, the petition should be denied.

Respectfully submitted,

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Dated: New York, New York
May 4, 1984

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(Indian Point, Unit 3))	

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of May, 1984 I caused a copy of Con Edison and Power Authority Response to NYPIRG Motion for Suspension of Operation of Indian Point Units 2 and 3 to be served by first class mail, postage prepaid, on the following:

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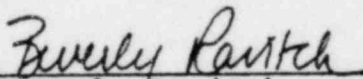
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