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UNITED STATES OF AMERICA
BEFORE THE NUCLEAR REGULATORY COMMISSION

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USNRC

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DOCKETING & SERVICE

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

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

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

) 13 August 1984
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UNION OF CONCERNED SCIENTISTS COMMENTS ON JUDGE GLEASON'S DISSENT

On July 30, 1984, the Commission issued an unpublished order directing the NRC Staff and inviting the other parties to submit their views on Judge Gleason's dissent. The Union of Concerned Scientists herein responds to that order.

Chairman Gleason's dissent misconstrues and tortuously distorts the rather modest and eminently reasonable recommendation put forward by the two technical members of the ASLB: namely, "that the Commission factor into its deliberations the potential consequences of a low probability accident at Indian Point as well as the expected risk [probability times consequences] values . . ." Opinion at 105. The majority reached this recommendation after observing -- as it was compelled to, based upon the evidence in the case -- that "(b)y considering only the integrated expected values [for risk], one may be beguiled by the mathematical elegance of the algorithm into thinking that more is known about the risk than is actually known." Id., at 104.

Or, as UCS has argued (and no party seriously contests), there is far greater uncertainty concerning the probability component of the risk equation than concerning the consequences. The fact is that we still are extremely

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uncertain of the probability of an accident at any site; indeed, the probability of a serious accident at Indian Point is about the same as the probability at any site within the uncertainty bounds inherent in such an analysis. Rowsome and Blond, ff. tr. 12834, at 14-18, 25, and 33; Proposed Findings of Fact and Conclusions of Law, submitted jointly by intervenors, at 40-41; Intervenors' Comments on Licensing Board Recommendations on Indian Point Units 2 and 3, at 12-13.

By contrast, it is a known and indisputable fact arising from concrete demographic statistics that the consequences of a such an accident, should it occur, would be far greater at Indian Point than all but a handful of similar high-population density sites.^{1/} Therefore, it is eminently reasonable for the decision-maker to at least "factor in" potential consequences as a separate matter. As the majority pointed out, such an approach would be consistent with the actuarial analyses used by insurance companies. Opinion at 105.

Mr. Gleason, by contrast, distorts the majority's view by accusing it of "ignoring" the low probability of a serious accident. Since dozens of pages of the majority's decision deal precisely with accident probabilities, his description of the decision is incomprehensible. Nor, of course, does the majority suggest the application of an "absolute" or "zero-risk" standard of protection. It simply recommends, at bottom, that consideration be given to

^{1/} Mr. Gleason's citation to Mr. Sholly's testimony (Opinion at 435) is extremely misleading. At Tr. 12,760,, Mr. Sholly was being questioned about a comparison of consequences at different sites presented in his direct testimony. While twenty-five sites were included in the "upper range" as compared with all sites, the whole point of the testimony was that Indian Point was consistently at the top of virtually every measure of consequences employed. Sholly, ff. tr. 12730, pages 8-11.

the societal risk of operating nuclear plants at very high population density locations. Since the purpose of this proceeding was to grapple with precisely that question, Judge Gleason's noting of the fact that the issue has never before been considered in an adjudication is baffling. This proceeding was, after all, established to consider issues like this one which have never previously been considered in an adjudication.

Mr. Gleason is incorrect in stating that Indian Point has been singled out "to the exclusion of many other sites similarly situated." Opinion at 403. In fact, there are only a small handful of sites for which accident consequences could be in the range of Indian Point, and Indian Point is at the top of virtually all measures of accident consequences.^{2/} As noted above, Mr. Gleason distorts Mr. Sholly's testimony in arguing otherwise.

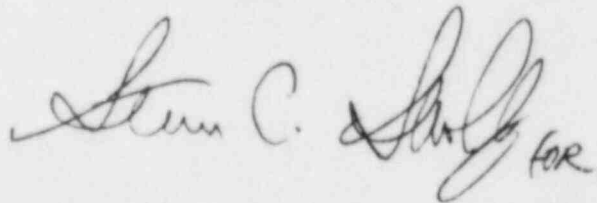
Finally, Mr. Gleason is also flatly wrong that this issue was not called for by the Commission Questions are argued by the parties. Commission Question Five called for a comparison of the risk of Indian Point and other plants at other sites. UCS and the NRC Staff presented testimony directed to precisely this point. Sholly, ff. tr. 12,730; Rowsome and Elond, ff. tr. 12,834. Indeed, the basic premise of the UCS petition which began this proceeding is that while the probability of a catastrophic accident is essentially unknowable, the consequences of such an accident would be intolerable should it occur at Indian Point, some thirty-five miles from Times Square. We believe that the evidence amply supports both of these propositions: namely, 1) that the probability is still unknowable and 2) that

^{2/} These include most prominently Limerick and Zion. Sholly, ff. tr. 12730, page 10.

the consequences would be intolerable. See Intervenor's Comments on Licensing Board Recommendations on Indian Point Units 2 and 3, February 6, 1984.

In summary, as the additional views of the majority (Opinion at 436-438) amply demonstrate, Mr. Gleason's dissent levels its ammunition at a straw man. It is most troublesome not on its merits but insofar as it indicates that the Chairman, who took the position after the original chairman resigned in protest, lacked a clear understanding of both the purpose of the proceeding and the reasoning of the majority.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ellyn R. Weiss", followed by the word "for" in a smaller, less stylized script.

Ellyn R. Weiss
General Counsel
Union of Concerned Scientists

BEFORE THE COMMISSION

13 August 1984

James P. Gleason, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board
513 Gilmore Drive
Silver Spring, MD 20901

Dr. Oscar H. Paris
Administrative Judge
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, DC 20555

David Lewis, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

*Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Janice E. Moore, Esq.
Donald F. Hassell, Esq.
Henry J. McGurran, Esq.
Office of the Executive Legal
Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Brent L. Brandenburg, Esq.
Assistant General Counsel
Consolidated Edison Company of
New York, Inc.
4 Irving Place
New York, NY 10003

Paul F. Colarulli, Esq.
Joseph J. Levin, Jr., Esq.
Pamela S. Horowitz, Esq.
Charles Morgan, Jr., Esq.
Morgan Associates, Chartered
1899 L Street, N.W.
Washington, D.C. 20036

Charles M. Pratt, Esq.
Stephen L. Baum, Esq.
Power Authority of the State
of New York
10 Columbus Circle
New York, NY 10019

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

Jonathon D. Feinberg
New York State Public Service
Commission
Three Empire State Plaza
Albany, NY 12223

Stanley B. Klimberg, Esq.
General Counsel
New York State Energy Office
2 Rockefeller State Plaza
Albany, NY 12223

Charles J. Maikish, Esq.
Litigation Division
The Port Authority of New
York and New Jersey
One World Trade Center
New York, NY 10048

Marc L. Farris, Esq.
Eric Thorsen, Esq.
County Attorney
County of Rockland
11 New Hempstead Road
New City, NY 10956

Honorable Ruth Messinger
Member of the Council of the
City of New York
District #4
City Hall
New York, NY 10007

Westchester County Executive
Care of: Laurie Vetere, Esq.
148 Martine Avenue
White Plains, NY 10601

Ezra I. Bialik, Esq.
Steve Leipsiz, Esq.
Environmental Protection Bureau
New York State Attorney
General's Office
Two World Trade Center
New York, NY 10047

Donald Davidoff, Director
New York State Radiological
Emergency Preparedness Group
Empire State Plaza
Tower Building, Room 1750
Albany, NY 12237

David H. Pikus, Esq.
Richard F. Czaja, Esq.
Shea and Gould
330 Madison Avenue
New York, NY 10017

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

Richard M. Hartzman, Esq.
Lorna Salzman
Friends of the Earth, Inc.
208 West 13th Street
New York, NY 10011

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

Renee Schwartz, Esq.
Paul Chessin, Esq.
Laurens R. Schwartz, Esq.
Margaret Oppel, Esq.
Botein, Hays, Sklar & Hertzberg
200 Park Avenue
New York, NY 10166

David B. Duboff
Westchester People's Action
Coalition, Inc.
255 Grove Street
White Plains, NY 10601

Andrew S. Roffe, Esq.
New York State Assembly
Albany, NY 12248

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

Spence W. Perry, Esq.
Office of General Counsel
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472

Stewart M. Glass, Esq.
Regional Counsel
Federal Emergency Management Agency
Room 1349
26 Federal Plaza
New York, NY 10278

Charles A. Scheiner, Co-Chairperson
Westchester People's Action
Coalition, Inc.
P.O. Box 488
White Plains, NY 10602

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

Zipporah S. Fleisher
West Branch Conservation Association
443 Buena Vista Road
New City, NY 10956

Joan Holt, Project Director
New York Public Interest
Research Group, Inc.
9 Murray Street
New York, NY 10007

Craig Kaplan, Esq.
National Emergency Civil
Liberties Committee
175 Fifth Avenue, Suite 712
New York, NY 10010

Jeffrey M. Blum, Esq.
Apartment 8D
One Stuyvesant Oval
New York, NY 10009

Joan Miles
Indian Point Coordinator
New York City Audubon Society
71 West 23rd Street, Suite 1828
New York, NY 10010

Greater New York Council on Energy
c/o Dean R. Corren, Director
New York University
26 Stuyvesant Street
New York, NY 10003

* Served by messenger to indicated addressee
at 1717 H Street, NW, Washington, DC