

June 28, 1973

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of

METROPOLITAN EDISON COMPANY, ET AL

(Three Mile Island Nuclear Station,
Unit 1)

} Docket No. 50-289

APPLICANTS' ANSWER TO STAFF'S
OBJECTIONS TO AND MOTION
FOR RECONSIDERATION OF THE
ORDER OF MAY 31, 1973

On June 22, 1973, the regulatory staff (Staff) filed with the Atomic Safety and Licensing Board in this proceeding (Board) the "Staff's Objections to and Motion for Reconsideration of the Order of May 31, 1973," issued by the Board following a prehearing conference conducted on May 24, 1973. Pursuant to 10 CFR §2.730(c) of the Atomic Energy Commission's (Commission's) Rules of Practice, 10 CFR Part 2, Metropolitan Edison Company, Jersey Central Power & Light Company and Pennsylvania Electric Company (Applicants) by this Answer take the following position with respect to the Staff's Motion: 1/

1/ Applicants have adopted the Staff's format (i.e., grouping of arguments into Sections I, II, III, and IV) for purposes of this Answer.

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I.

Applicants have no quarrel with the Staff's view of the present state of the law related to challenges in individual licensing proceedings to Commission regulations, including published regulations which are currently the subject of rule-making proceedings. Applicants do not read the Board's May 31 Order as precluding the possibility of a showing of "special circumstances" for a challenge to the Commission's regulations, but only as a recognition that no such showing has to date been made by Citizens for a Safe Environment and Environmental Coalition on Nuclear Power (Intervenors). Applicants would, of course, have no objection to further clarification of the Board's Order in this respect.

Applicants would also consider it useful for the Board to amplify its instructions with respect to contentions involving the environmental effects of fuel cycle activities other than activities at the plant site, or involving the transportation of fuel and radioactive wastes to or from the plant site. As stated by the Atomic Safety and Licensing Appeal Board (Appeal Board) in the Shoreham proceeding, ^{2/} consideration of the impact of such fuel cycle activities is outside the scope of licensing proceedings by virtue of the Appeal Board's rulings in the Vermont Yankee proceeding ^{3/} and the fact that the Notice of Proposed Rule Making on the Environmental Effects of the Uranium Fuel Cycle ^{4/} expressly

^{2/} Long Island Lighting Company (Shoreham Nuclear Power Station), ALAB-99, RAI-73-2, p. 53 (February 1, 1973).

^{3/} Vermont Yankee Nuclear Power Corporation (Yankee Nuclear Power Station), ALAB-50, WASH-1218 395 (June 6, 1972), ALAB-73, WASH-1218 (Suppl. 1) 495 (October 11, 1972).

^{4/} 37 Fed. Reg. 24191 (1972).

provided that the holdings by the Appeal Board in the Vermont Yankee proceeding "shall continue in effect unless and until modified by promulgation of a regulation or other Commission action."

II.

While Applicants requested a ruling from the Board on the allowability of the six contentions ^{5/} referenced in the Staff Motion, Applicants have no objection to the alternative approach adopted by the Board, i.e., of permitting Intervenor to revise those contentions while instructing the Intervenor as to the allowability of contentions constituting an attack on AEC regulations or involving the environmental effects of fuel cycle activities.

III.

On the ground that "more meaningful and substantive matters could be accomplished at a prehearing conference held after the Advisory Committee on Reactor Safeguards (ACRS) meeting on the subject facility [presently anticipated to be held August 9-11, 1973]," the Staff has requested that the next prehearing conference be held during the week of August 13, 1973, rather than during the week of July 30, 1973, as the Board contemplates. Applicants oppose this request. The scheduling of the ACRS meeting to consider this facility has already been delayed for two months from a

^{5/}Contentions a, f, g, 15 (second), 16 and 17.

previously anticipated June meeting to the presently estimated August date. 6/ As was pointed out at the prehearing conference on May 24, 1973, schedule changes of this type are not uncommon occurrences. 7/ Thus, while Applicants at present know of no reason why the August ACRS date might be delayed still further, such may be the case. Further, it is highly doubtful that the ACRS report of their meeting on the facility would in any event be available to the parties during the week of August 13.

Applicants also wish to advise the Licensing Board that Applicants' counsel anticipates a possible schedule conflict with another licensing proceeding if the next prehearing conference in this proceeding is scheduled during the week of August 13, 1973.

IV.

Intervenors' counsel has today informed Applicants' counsel that he is at the end of the day mailing a substantial number of discovery requests, some of which will, in the opinion of Applicants' counsel, require more than one week for response. Intervenors' counsel has also authorized Applicants' counsel to advise the Board

6/Tr. 18.

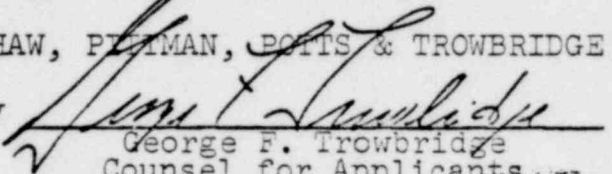
7/Tr. 42.

that he would have no objection to a one-week extension of the time for response to such requests. Accordingly, Applicants request that the time for responses to Intervenor's discovery requests be extended one week to July 12, 1973.

Respectfully submitted,

SHAW, PITMAN, POTTS & TROWBRIDGE

By


George F. Trowbridge
Counsel for Applicants

Dated: June 28, 1973