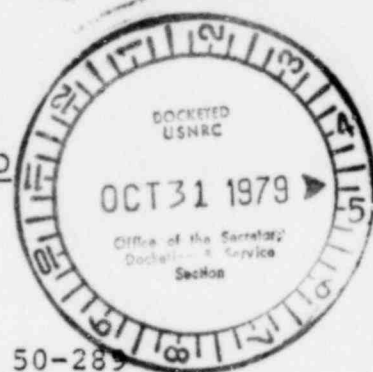


October 31, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

METROPOLITAN Edison COMPANY)

Three Mile Island Nuclear)
Station, Unit No. 1)Docket No. 50-289
(Restart)LICENSEE'S RESPONSE TO PETITIONERS'
AMENDED PETITIONS

Pursuant to the Board's Memorandum and Order dated September 21, 1979, each of the petitioners to intervene in this proceeding (except the Coalition for Nuclear Power Plant Postponement) has filed an amended petition specifying petitioner's contentions and, in the case of petitioners Marvin Lewis and Marjorie Aamodt, whose standing to intervene has not yet been determined by the Board, addressing further petitioner's interest in the proceeding. Licensee's answers to each of the amended petitions are attached to this Response.

By way of introduction to Licensee's answers to petitioners' contentions, it is important that the Board and other participants in the proceeding understand fully the grounds on which Licensee objects to certain contentions as well as Licensee's reasons for not objecting at this time to certain other contentions.

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A. Licensee's Objection to Certain Contentions
as Outside the Scope of the Proceeding.

Licensee's authority to operate Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) was suspended by the Commission by Order dated July 2, 1979 (hereinafter July 2 Order), effective immediately, pending the resolution of the issues specified in the Commission's Order and Notice of Hearing dated August 9, 1979 (hereinafter August 9 Order). The bases for such suspension were expressly defined in the August 9 Order. It is Licensee's position that consistent with the intent of the Commission's July 2 and August 9 Orders the scope of this hearing should be confined to the bases for suspension. Contentions outside this scope must be rejected as attempts to burden the hearing and prolong the shutdown of TMI-1 with safety or environmental issues not directly related to the bases for suspension and for which other forums are provided by the Commission's Rules of Practice, namely requests for NRC action under Section 2.206 or for rulemaking under Section 2.802.

We begin with the Commission's July 2 Order requiring that TMI-1 be shut down until further order of the Commission and requiring that a hearing precede restart of the facility. The stated basis for the shut down order was "the variety of issues raised by the accident at the Three Mile Island Unit No. 2 facility" and the fact that as a result of the accident "the Commission lacks the requisite reasonable assurance that

the same licensee's Three Mile Island Unit No. 1 facility, a nuclear power reactor of similar design, can be operated without endangering the health and safety of the public." Thus the July 2 Order expressly tied the basis for suspension to the TMI-2 accident. Further, it promised a further order by the Commission "specifying in detail the basis for its concern."

Section II of the subsequent August 9 Order refers again to the recitation in the July 2 Order that the Commission presently lacks the requisite reasonable assurance that TMI-1 can be operated without endangering the public health and safety and specifically enumerates "the bases for that conclusion" (pp. 2-5). These bases fall into two categories--those common to other B&W reactors and those concerned with the unique circumstances at TMI. The Commission's concerns in the first category are generally described in the August 9 Order (pp. 3-4) and relate both to the sensitivity of B&W designed reactors to certain off-normal transient conditions originating in the secondary system and the avoidance of errors that occurred during the TMI-2 accident. These concerns are further specified in documents referenced in the Order, i.e. a series of I&E Bulletins issued to owners of B&W reactors (I&E Bulletins 79-05, 79-05A, 79-05B and 79-05C) and the Office of Nuclear Reactor Regulation Status Report to the Commission of April 25, 1979.

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Concerns in the second category were specifically enumerated as (1) potential interaction between Unit 1 and the damaged Unit 2, (2) questions about the management capabilities and technical resources of Metropolitan Edison, including the impact of the Unit 2 accident on these, (3) the potential effect of operations necessary to decontaminate the Unit 2 facility on Unit 1, and (4) recognized deficiencies in emergency plans and station operating procedures (pp. 4-5).

By its own terms, the August 9 Order "establishes procedures for a hearing and decision on the particular issues identified in Section V of the Order" (p. 2). The issues listed in Section V (p. 12) in turn relate solely to the necessity and sufficiency of certain "short term" and "long term" actions recommended by the Director of Nuclear Reactor Regulation. As explained in the Order both the short term and long term recommendations were made by the Director "to resolve the concerns" stated in the Order and to "permit a finding of reasonable assurance that the facility can safely resume operation" (pp. 5 and 7). Thus the only reasonable reading of the August 9 Order is that the issues to be considered in this hearing relate only to the necessity and sufficiency of the Director's recommendations to resolve the concerns identified by the Commission as the bases for suspension of operation of TMI-1. It was not the Commission's intention to encompass in this hearing,

thereby prolonging the suspension of TMI-1's operating authority, issues which may be of concern to petitioners to intervene and which may bear on the safety of nuclear reactors, but which do not relate to the bases for suspension.

The Commission did not intend that all lessons which may be learned from the TMI-2 accident be the subject of this hearing. The Commission was aware, for example, of Staff concerns identified in NUREG-0578 which would be considered at a later date, including those deferred for treatment in the final report of the Lessons Learned Task Force. These concerns were not, however, the bases for the suspension of operation of TMI-1 or other B&W reactors. The August 9 Order expressly recognizes that there may be additional long-term requirements imposed on operating reactors and provides a mechanism by which the Commission may if deemed necessary add those requirements which it considers relevant to the restart of TMI-1 to the issues specified for the hearing. Section IV of the August 9 Order (p. 9) provides if during the pendency of this hearing the Commission issues immediately effective orders against other licensees imposing requirements with respect to other long-term actions, the Commission will, to the extent appropriate in the circumstances, issue orders, effective immediately, to require that Licensee demonstrate reasonable progress toward completion of such other actions as a condition to restart.

B. Licensee's Conditional Acceptance of
Certain Contentions.

A number of contentions advanced by petitioners to intervene relate in general to the issues raised by the Staff's recommended short and long term actions but lack the specificity and basis ordinarily expected in NRC licensing proceedings. The reasons for this are both obvious and justifiable. Unlike the normal licensing proceeding, where petitioners have available to them the applicant's Safety Analysis Report and Environmental Report and can reasonably be expected to frame their contentions to address the information provided in these documents, petitioners have only recently received the first installment of Licensee's Restart Report indicating how Licensee proposes to respond to the short and long term actions recommended by the Director of Nuclear Reactor Regulation. Thus, for example, petitioners do not yet have Licensee's updated emergency plans or Licensee's program for augmented off-site monitoring. The degree of specificity and basis to be required at this point must take this situation into account. Licensee will, however, propose at the Special Prehearing Conference on November 8-9 that with respect to certain specified contentions the Board require the contentions to be revised and resubmitted to the Board at a later time after petitioners have received the relevant section of Licensee's Restart Report describing Licensee's response to the Staff's recommended actions. Licensee

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and other parties would then have an opportunity to object to the revised contentions for lack of specificity or basis. Each of the contentions which Licensee proposes to be encompassed by this procedure is marked with an asterisk (*) in Licensee's responses to the contentions of individual petitioners attached hereto.

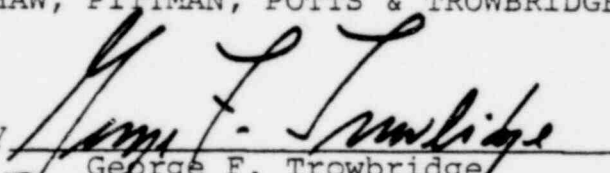
Several petitioners have pointed out that the reports of the Kemeny Commission or other investigative groups, or other materials not yet available such as the final report of the Lessons Learned Task Force, may contain new information which justifies supplemental contentions. Licensee acknowledges this possibility and the provision in the Commission's Rules of Practice for the admission of late contentions for good cause shown. Licensee will, however, propose at the Special Prehearing Conference on November 8-9 that the Board fix a date, such as 30 days after publication of the document in question, by which a motion to admit supplemental contentions based on any such document must be filed.

Licensee calls the Board's attention to the fact that in reciting petitioners' contentions along with its responses thereto we have taken the liberty of correcting obvious typographical errors.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By


George F. Trowbridge

Dated: October 31, 1979

Attachments: See page 8

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Attachments:

Licensee's Response to Final Contentions of:

Union of Concerned Scientists
Environmental Coalition on Nuclear Power
Anti-Nuclear Group Representing York
Chesapeake Environmental Alliance, Inc.
Three Mile Island Alert, Inc.
Steven C. Sholly
People Against Nuclear Energy
Newberry Township T.M.I. Steering Committee, et al.

Licensee's Response to Amended Petition for Intervention
and Final Contentions of Marjorie A. Aamodt

Licensee's Response to Amended Petition for Intervention
and Final Contentions of Marvin I. Lewis

Licensee's Brief Opposing Admission of Psychological
Distress Contentions

Licensee's Brief on the Issue of Preparing a FES Prior
to TMI-1 Restart

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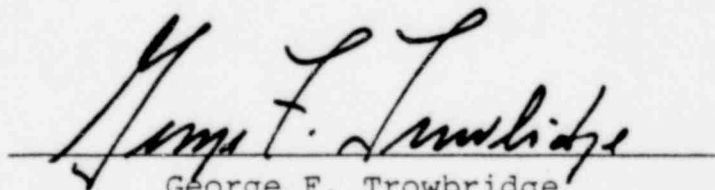
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Station, Unit No. 1))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to Petitioners' Amended Petitions," dated October 31, 1979, with attachments, were served upon those persons on the attached Service List by deposit in the United States mail, postage pre-paid, this 31st day of October, 1979.


George F. Trowbridge

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Dated: October 31, 1979

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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