

T/C

SHAW, PITTMAN, POTTS & TROWBRIDGE

1800 M STREET, N. W.
WASHINGTON, D. C. 20036

RAMSAY D. POTTS
STUART L. PITTMAN
GEORGE F. TROWBRIDGE
STEPHEN O. POTTS
GERALD CHARNOFF
PHILLIP D. BOSTWICK
R. TIMOTHY HANLON
GEORGE M. ROGERS, JR.
JOHN B. RHINELANDER
BRUCE W. CHURCHILL
LESLIE A. NICHOLSON, JR.
MARTIN D. KRALL
RICHARD J. KENDALL
JAY E. SILBERG
BARBARA M. ROSSOTTI
GEORGE V. ALLEN, JR.
WM. BRADFORD REYNOLDS
FRED A. LITTLE
FRED CRASHER
NATHANIEL P. BREED, JR.
MARK AUGENBLICK
ERNEST L. BLAKE, JR.
CARLETON S. JONES
THOMAS A. BAXTER
JAMES M. BURGER
SHELDON J. WEISEL
JOHN A. McCULLOUGH
J. PATRICK WICKET
JAMES THOMAS LENHART

STEVEN L. MELTZER
DEAN D. AULICK
JOHN ENGEL
STEPHEN B. HUTTLER
WINTHROP N. BROWN
JAMES S. HAMLIN
ROBERT E. ZAHNER
RICHARD E. GALEN
ROBERT S. ROSSINS
STEVEN M. LUCAS
MATIAS F. TRAVIESO-DIAZ
VICTORIA J. PERKINS
JOHN H. O'NEILL, JR.
JAY A. EPSTEIN
RAND L. ALLEN
TIMOTHY S. MCBRIDE
ELISABETH M. FENDLETON
LUCY G. ELIASOF
PAUL A. KAPLAN
HARRY H. GLASSPIEGEL
THOMAS H. MCCORMICK
SUSAN D. FALKSON
ALAN J. WEISSARD
WILLIAM P. BARR
JOHN L. CARR, JR.
PHILIP J. HARVEY
KAY L. RICHMAN
CHARLES W. SURASKY
ROBERT M. GORDON

* NOT ADMITTED IN D. C.



(202) 331-4100
TELECOPIER
(202) 296-0694 & 296-1760
TELEX
89-2693 (SHAWLAW WSH)
CABLE "SHAWLAW"
JOHN H. SHARON
EDWARD S. CROSLAND
COUNSEL

November 2, 1979

Ivan W. Smith, Esquire
Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Walter H. Jordan, Member
Atomic Safety and Licensing Board
881 West Outer Drive
Oak Ridge, Tennessee 37830

Dr. Linda W. Little, Member
Atomic Safety and Licensing Board
5000 Hermitage Drive
Raleigh, North Carolina 27612

POOR ORIGINAL

In the Matter of
METROPOLITAN EDISON COMPANY
(Three Mile Island Nuclear Station, Unit No. 1)
Docket No. 50-289

Dear Mr. Chairman and Members of the Board:

This is to advise the Board and all petitioners as to Licensee's suggestions on a number of procedural matters requiring consideration at the upcoming Special Prehearing Conference on November 8-9, 1979. By making these suggestions prior to the Special Prehearing Conference, Licensee hopes to minimize the time which will be spent on procedural matters.

1345 174

A. Contentions

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1. Order in which contentions are to be considered.
Licensee suggests starting the review of petitioners'

G

Ivan W. Smith, Esquire
Dr. Walter H. Jordan
Dr. Linda W. Little
November 2, 1979
Page Two

contentions with those proposed by the Union of Concerned Scientists ("UCS"). The UCS contentions, more than the rest of the proposed contentions, will require careful focus on the principal issue facing the Board -- i.e., the scope of this proceeding in view of the bases for suspension identified by the Commission in its August 9 Order.

2. Argument on contentions. Licensee proposes that argument on each set of contentions be confined to the Staff, Licensee, and the Petitioner advancing the contention. Of course, each petitioner would have an opportunity to argue in favor of its contentions even if a similar contention has previously been argued by another petitioner.

3. Schedule for revised contentions. As noted in the covering memorandum accompanying our responses to the final contentions, Licensee has requested the Board to require certain petitioners to submit revised contentions with respect to emergency planning and offsite radiation monitoring after receiving additional information from Licensee in those areas; such contentions were marked by an asterisk (*) in our responses. Licensee suggests that the Board adopt thirty days following service of the additional information as the time within which more specific contentions must be filed. The Staff and Licensee would then be allowed seven days within which to file responses, and the Board could thereafter rule on the admissibility of the revised contentions. Licensee also suggests that an identical process be followed with respect to any supplemental contentions based on new information contained in the report of the Kemeny Commission, the Raggovin Special Inquiry, or the final report of the Lessons Learned Task Force (i.e., thirty days after publication of the document for revised contentions and seven days for responses).

B. Consolidation

Licensee suggests that, in lieu of consolidation of parties, the Board consider consolidation of issues by designating a single spokesperson pursuant to 10 C.F.R. § 2.714(e) for major categories of contentions covered by two or more petitioners. The single spokesperson would be designated for purposes of discovery, motions, testimony and cross-examination.

1345 175

Ivan W. Smith, Esquire
Dr. Walter H. Jordan
Dr. Linda W. Little
November 2, 1979
Page Three

Notwithstanding such consolidation, Licensee and the Staff would continue to serve their papers and documents on all parties.

This consolidation procedure has a number of advantages. It would be directly responsive to the Commission's "expectation that the Board will conduct the proceeding expeditiously" and the Commission's instruction to consolidate parties "to the maximum extent practicable consistent with the provisions of [10 C.F.R. § 2.715a]" (August 9, 1979 Order and Notice of Hearing at 10). Moreover, consolidation of issues would produce a more readable and focused record, assisting the parties, this Board, and the Commission in a full and complete review of all the relevant evidence. It might also permit various intervening parties to conserve their resources without in any way restricting the scope or extent of their total participation on all issues. On the basis of very similar considerations, the hearing board in the license modification proceeding for Portland General Electric Co. (Trojan Nuclear Plant), Docket No. 50-344, directed, pursuant to 10 C.F.R. § 2.714(e), the consolidation of issues through a single spokesperson. See Order Concerning Requests for Hearing and Intervention Petitions (filed July 27, 1978), at pp. 6-8, appeal denied, ALAB-496, 8 N.R.C. 308, 310 (1978). Cf. Duke Power Co. (Amendment to Materials License SNM-1773), ALAB-528, 9 N.R.C. 146, 150 & n.9 (1979); Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 & 3), ALAB-512, 8 N.R.C. 690, 693 n.2 (1978); Detroit Edison Co. (Greenwood Energy Center, Units 2 & 3), ALAB-476, 7 N.R.C. 759, 763, 765 (1978). 1/

To assist both the Board and other parties, Licensee has prepared a tentative list of the major categories of contentions indicating the contentions which fall into each category; that list is attached hereto. There are, of course,

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In situations of complex litigation, the federal courts routinely consolidate parties and issues through the use of both liaison counsel (see Manual for Complex Litigation, § 1.90), and lead counsel, either at the pretrial (see id. at § 1.92) or at the trial stage (see id. at § 4.53). Indeed, such consolidation is actively encouraged (id.). Given the favorable experience of the federal courts with consolidation, there is no reason to believe that any of the rights of the intervening parties here would be adversely affected by a similar procedure.

Ivan W. Smith, Esquire
Dr. Walter H. Jordan
Dr. Linda W. Little
November 2, 1979
Page Four

additional contentions outside these categories and these would be handled by the individual intervenor advancing the particular contention.

C. Discovery Schedule

Licensee proposes that discovery in this proceeding commence immediately upon issuance of the Board's Order following the Special Prehearing Conference. Discovery requests should be filed within thirty days following the Order, and responses thereto within thirty days following service of the request. Licensee contemplates that there might be late requests for discovery. Such discovery should be permitted where the parties involved can agree on additional discovery and on a mutually acceptable schedule for the discovery or, in the absence of such agreement, upon a finding by the Board of good cause. In either case, Licensee anticipates that such late discovery, if permitted, would be carried on in an extremely expeditious manner.

With respect to those petitioners that Licensee has not objected to as impermissible parties, and as to those final contentions that Licensee has not objected to, discovery from Licensee can begin immediately. In this regard, Licensee notes the availability of its Discovery Reading Room following the Special Prehearing Conference (see Licensee's Notice of Discovery Reading Room (filed October 26, 1979)), and requests that the Board authorize document production in accordance with the procedures set forth in Licensee's Notice.

D. Duplication and Filing of Documents

The Board's Memorandum and Order of October 15, 1979 (p. 8) requested Licensee to address the "means by which a reliable and affordable system of duplication of papers, filing, and other communication methods can be established." Licensee has considered the matter and makes the following suggestions:

1. Licensee and NRC Staff continue to serve their papers and documents on all parties to the proceeding in accordance with existing regulations.

1345 177

Ivan W. Smith, Esquire
Dr. Walter H. Jordan
Dr. Linda W. Little
November 2, 1979
Page Five

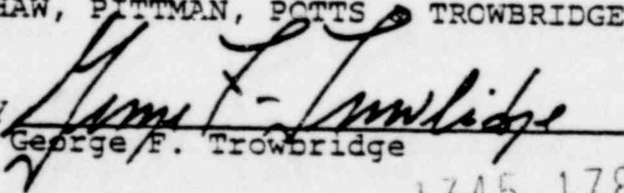
2. At a minimum, intervening parties should serve their papers and documents on the Licensing Board, counsel for the NRC Staff, counsel for Licensee, and one copy on the Secretary, Docketing and Service Section.
3. With respect to interrogatories, intervening parties should be relieved of the obligation to serve other intervenors with copies of interrogatories addressed to Licensee or the Staff or of their answers to interrogatories from Licensee or the Staff, provided that at the Special Prehearing Conference those other intervenors waive the requirement of service. As an aid to this process, Licensee and the Staff in their replies to interrogatories will repeat the interrogatory and serve the replies on all parties.
4. With respect to motions and answers to motions, those papers that affect the interests of all parties (including all motions relating to schedule) should be served on all parties. However, as to motions and answers that affect the interests of less than all the parties, intervenors may serve only those other intervenors that might be affected by the motion.
5. With respect to direct written testimony prepared by intervenors, such documents should be received into evidence as exhibits, rather than incorporated into the transcript, so as to limit the number of necessary copies. However, all parties to the proceeding should receive advance copies of the testimony.

Licensee believes that these suggestions, if implemented in a reasonable and cooperative manner, should serve to reduce much of the duplicating and filing burden of the intervenors.

Respectfully submitted

SHAW, PITTMAN, POTTS & TROWBRIDGE

By


George F. Trowbridge

cc: Attached Service List

1345 178

Parties	Analyses and Modification of Plant Design	TMI-1 and TMI-2 Separation	Radiation Monitoring	Emergency Plans	Management Capability and Resources	Operator Training	Financial Qualifications	Psychological Stress and Secondary Impacts
Union of Concerned Scientists	No. 142 No. 3 No. 4 No. 5 No. 6 No. 7 No. 8 No. 9 No. 10 No. 11 No. 12 No. 13 No. 14 No. 15 No. 17 No. 18 No. 19 No. 20		No. 16					
Marjorie M. Amstutz			No. 3 No. 6	No. 4 No. 5 No. 6	No. 2	No. 2		No. 9
Anti-Nuclear Group Representative York	No. 5 No. 6		No. 2	No. 1 No. 2 No. 3	No. 4			

1345 179

Parties	Analyses and Modification of Plant Design	TMI-1 and TMI-2 Separation	Radiation Monitoring	Emergency Plans	Management Capability and Resources	Operator Training	Financial Qualifications	Psychological Stress and Secondary Impacts
Environmental Coalition on Nuclear Power <u>October 22, 1979</u>	No. 1(a)							
	No. 1(b)							
	No. 1(c)							
	No. 1(d)							
	No. 1(e)							
<u>October 5, 1979</u>	No. 1(f)							
	No. 1(g)							
	No. 1(h)							
	No. 1(i)							
	No. 4			No. 2	No. 3			No. 6
Chesapeake Energy Alliance	No. 7							
	No. 4							
		No. 9		No. 7 No. 8				
			No. 3 No. 4	No. 2				
	No. 12	No. 5 No. 6 No. 7			No. 8	No. 13	No. 9	

Parties	Analyses and Modification of Plant Design	TMI-1 and TMI-2 Separation	Radiation Monitoring	Emergency Plans	Management Capability and Resources	Operator Training	Financial Qualifications	Psychological Stress and Secondary Impacts
Steven C. Sholly	No. 1 No. 2 No. 3		No. 4 No. 5					
	No. 6 No. 7		No. 9	No. 8				
	No. 11 No. 13 No. 15	No. 10			No. 14			No. 12
Three Mile Island Alert, Inc.		No. 2					No. 6	No. 3 No. 4
		No. 7			No. 5			
Madison Township T.M.I. Select Ind. Committee				No. 3				No. 1 No. 2
People Against Nuclear Energy				No. 3				No. 1 No. 2

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
METROPOLITAN EDISON COMPANY)	Docket No. 50-289
)	(Restart)
(Three Mile Island Nuclear)	
Station, Unit No. 1))	

SERVICE LIST

Ivan W. Smith, Esquire
Chairman
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Walter H. Jordan
Atomic Safety and Licensing
Board Panel
881 West Outer Drive
Oak Ridge, Tennessee 37830

Dr. Linda W. Little
Atomic Safety and Licensing
Board Panel
5000 Hermitage Drive
Raleigh, North Carolina 27612

James A. Tourtellotte, Esquire
Office of the Executive Legal
Director
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

John A. Levin, Esquire
Assistant Counsel
Pennsylvania Public Utility
Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Karin W. Carter, Esquire
Assistant Attorney General
Commonwealth of Pennsylvania
505 Executive House
P. O. Box 2357
Harrisburg, Pennsylvania 17120

Robert L. Knupp, Esquire
Assistant Solicitor
County of Dauphin
P. O. Box P
407 North Front Street
Harrisburg, Pennsylvania 17108

John E. Minnich
Chairman, Dauphin County Board
of Commissioners
Dauphin County Courthouse
Front and Market Streets
Harrisburg, Pennsylvania 17101

Walter W. Cohen, Esquire
Consumer Advocate
Department of Justice
14th Floor, Strawberry Square
Harrisburg, Pennsylvania 17127

1345 182

Jordan D. Cunningham, Esquire
Attorney for Newberry Township
T.M.I. Steering Committee
2320 North Second Street
Harrisburg, Pennsylvania 17110

Theodore A. Adler, Esquire
Widoff Reager Selkowitz & Adler
P. O. Box 1547
Harrisburg, Pennsylvania 17105

Ellyn Weiss, Esquire
Sheldon, Harmon & Weiss
Suite 506
1725 Eye Street, N.W.
Washington, D.C. 20006

Steven C. Sholly
304 South Market Street
Mechanicsburg, Pennsylvania 17055

Frieda Berryhill
Chairman, Coalition for Nuclear
Power Plant Postponement
2610 Glendon Drive
Wilmington, Delaware 19808

Holly S. Keck
Legislation Chairman
Anti-Nuclear Group Representing
York
245 West Philadelphia Street
York, Pennsylvania 17404

Karen Sheldon, Esquire
Sheldon, Harmon & Weiss
Suite 506
1725 Eye Street, N.W.
Washington, D.C. 20006

Robert Q. Pollard
Chesapeake Energy Alliance
609 Montpelier Street
Baltimore, Maryland 21218

Chauncey Kepford
Judith H. Johnsrud
Environmental Coalition on
Nuclear Power
433 Orlando Avenue
State College, Pennsylvania 16801

Marvin I. Lewis
6504 Bradford Terrace
Philadelphia, Pennsylvania 19149

Marjorie M. Aamodt
R. D. 5
Coatesville, Pennsylvania 19320

1345 183