

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE 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)



COMMONWEALTH OF PENNSYLVANIA'S MOTION TO
RECEIVE WITNESSES ON NUREG-0680, SUPP. NO. 3
AND "SAFETY EVALUATION REPORTS FOR ITEMS
CONTAINED IN ENCLOSURE 1 TO NUREG-0737"

Introduction

Staff Exhibits 11, 12, and 14 were moved into evidence without the production of supporting witnesses. The parties were given until May 1, 1981, to respond to this motion and to request the production of witnesses. The Commonwealth objects to the introduction of Staff Exhibits 12 and 14 unless the Staff produces witnesses who are able to answer all questions reasonably related to the items identified below.

It is important to bear in mind the appropriate standard to be used by the Board in passing on these motions. As the Chairman correctly noted during the April 28, 1981 hearing session, it is not in general permissible for a party to produce testimony without a sponsoring witness over the objection of an adversary party. The same standard should apply to Staff Exhibits 12 and 14.

The Commonwealth is sympathetic to the Board's concern that some information contained in the Staff Exhibits merely reiterates prior Staff positions on issues that have already been litigated fully. Such issues should not become the subject of litigation at this late date. However,

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both Staff Exhibits 12 and 14 contain a significant number of new positions and, more importantly, changed positions. The standard for the production of witnesses, therefore, is clear. A witness should be required wherever a party identifies a new or changed Staff position on any material issue in the proceeding.

The Staff attempts to exclude certain issues from the scope of the proceeding by identifying items that are "outside of the content of the Commission's Orders of August 9, 1979 and March 6, 1980 required by restart."¹ Staff Ex. 12. This definition ignores completely the Board's consistent rulings that the scope of the proceeding extends to all areas with a reasonable nexus to the TMI-2 accident. See, e.g., First Special Prehearing Conference Order, at 14. Opportunity for cross-examination should be extended to all issues that have been ruled within the scope of this proceeding--not simply to items that are expressly contained in the Commission's orders.

The Commonwealth does not object to any of the Staff exhibits for any other reason than to require the production of witnesses. As has been stated throughout the proceeding, the Commonwealth's primary interest is to ensure a full and fair adjudication. The production of evidence without adversary cross-examination on disputed issues will produce a more complete but not necessarily a more reliable and probative record. Consequently, the NRC rules of practice afford parties "the right to present such oral or documentary evidence and conduct such cross-examination as may be required for full and true disclosure of the facts." 10 C.F.R. §2.743 (1980). Therefore, the standard for granting requests for witnesses on the proposed Staff exhibits should be extremely light, essentially

1. This classification is used primarily to justify the application of NUREG-0737 schedules to TMI-1. The Staff has no authority to remove from the jurisdiction of this Board items that are properly within the scope of the proceeding.

consisting of a demonstration that the litigation will not be repetitive.

Areas of Proposed Commonwealth Cross-Examination

A. NUREG-0680, Supp. No. 3

1. Short-term action 1a., Additional item 1.

The Staff changed its position on whether independent power supplies will be required for the Condensate Water Storage Tank low-low level alarms prior to restart. Although these alarms were not specifically included in the Commission orders, EFW reliability has been a major subject of the proceeding as encompassed by Board Question 6.

2. Short-term Order Item 4, Gaseous Radwaste Treatment System (p. 19)

The information and review discussed in this section are completely new. The subject is covered directly by short-term item 4 and Board Question 8.

3. Short-term Order Item 8,² Item 2.1.1, Emergency Power Supply Requirements (p. 24)

The Staff appears to have changed the basis for its approval of Licensee's design for power supplies to the PORV, block valve, and pressurizer level instrumentation. This issue was the subject of UCS 5 and UCS 14.

4. Item 2.1.7a, Automatic Initiation of the Auxiliary Feedwater System for PWRs (p. 36)

The Staff reviewed new design information supplied by Licensee and approved a delayed implementation schedule. This is the subject of Board Question 6 and a Table B-1 item.

5. Item 2.1.8.a, Improved Post-Accident Sampling Capability (p. 39)

The Staff reviewed information provided recently in Amendment 23 to

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2. All items contained in Table B-1 of NUREG-0578 are automatically incorporated into the hearing by reference in short-term item 8 and long-term item 3.

the Restart Report. This is the subject of a Table B-1 item. These subjects are also relevant to Licensee's onsite emergency response capabilities.

6. Item 2.1.8.b, Increased Range of Radiation Monitors (p. 40)

There is continued ambiguity regarding the schedule for installation of these monitors and the acceptability of interim measures. This is the subject of a Table B-1 item, Sholly Contention 5, and ECNP Contention-1d.

7. Item 2.1.9, Transient and Accident Analysis (p. 43)

The Staff raises a number of new uncertainties and fails to explain the status of Staff review in the area of transient and accident analysis. This is a Table B-1 item and the subject of Board Question 11. The Staff still indicates no actual review of Licensee's ATOG program, with the exception of scheduling matters.

8. Item 2.2.2.b, Onsite Technical Support Center (p. 47)

The Staff concludes that Licensee has made reasonable progress towards completion of the long-term action. During the onsite emergency planning phase of the hearing, however, it was evident that there was disagreement between the Staff and the Licensee regarding compliance with NUREG-0696. The Commonwealth does not request witnesses on this subject if the Staff intends to address its position on NUREG-0696 compliance in the forthcoming emergency planning supplement.

Long-Term Items

9. Order Item 3, Containment Pressure Indication (p. 51)

The Staff approved an extended schedule for installation of this item. This is a category B order item and is of interest to the Commonwealth with regard to Licensee's emergency response capabilities (estimated containment leak rate).

10. Containment Water Level (p. 51)

The Staff has approved level indicators to a level of 90 inches rather than 10 feet. No information has been provided regarding the levels of critical instruments above the lowest instrument levels. This was the subject of UCS 12 and is a Category B item.

11. Reactor Coolant System Venting (p. 52)

The Staff approved delays in the installation of reactor coolant vents. These vents were used to support the ability to use natural circulation to provide core heat removal. (UCS 1 and 2)

B. Staff Exhibit 12

1. II.B.4, Training for Mitigating Core Damage

The Staff approved a delay in the implementation of one position of the training program. Operator training is the subject of short-term Order item 1(e) and Aamodt Contention 2.

2. II.K.2.13, Thermal Mechanical Report

The Staff extended deadlines and analyzed recent B&W analyses in this area. The effects of small break LOCAs is a generic issue in the proceeding and the subject of long-term item 2. Moreover, the newly required Staff procedures regarding subcooling margins lead to questions regarding the use of subcooling margin as a criteria for HPI termination.

3. II.K.2.14, Lift Frequency of PORV and Safety Valves

The Staff should be required to define criteria for "adequate justification for not meeting this requirement." The performance of PORV and relief valves relates to UCS 1, 2, 5, 6, and 8.

4. II.K.2.20, Small-Break Loss-of Coolant Which Repressurizes the Reactor Coolant System to the PORV Setpoint

The discussion in this section relates to ongoing Staff review of a B&W submittal of August 21, 1979. (It is not clear why this analysis

comes at this late date.) Small break LOCA analysis is the subject of long-term item 2 and UCS 8.

5. II.K.3.2, Report on Overall Safety Effect of PORV Isolation System

This review is of a Licensee submittal dated April 6, 1981. PORV and safety valve performance affects UCS 1, 2, 5, and 6, and is a generic issue regarding the ability to mitigate small break LOCAs.

6. III.D.3.4, Control Room Habitability

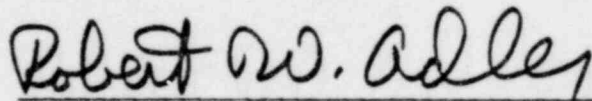
The Staff should be required to define what is meant by "adequate justification for relief from the requirements of this item." Control room habitability is relevant to Licensee's emergency response capabilities.

Conclusion

The Commonwealth feels that the above demonstration that the identified items relate to new information and Staff positions on material issues in the proceeding is sufficient to require the production of a witness. A more stringent standard would require the parties, in effect, to give advance notice of specific areas of planned cross-examination.

The Commonwealth requests that witnesses be produced on the items identified above. Absent such relief, the Commonwealth objects to the introduction of Staff Exhibits 12 and 14.

Respectfully submitted,



ROBERT W. ADLER

Attorney for the Commonwealth

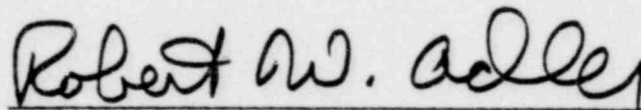
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CERTIFICATE OF SERVICE

I hereby certify that the attached "Commonwealth of Pennsylvania's Motion to Receive Witnesses on NUREG-0680, Supp. No. 3 and 'Safety Evaluation Reports for Items Contained in Enclosure 1 to NUREG-0737'" was served on the parties on the attached service list by deposit in the U.S. mail, first class postage prepaid, this 1st day of May, 1981.


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