

LIC 9/11/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Nuclear Regulatory Commission

In the Matter of)
METROPOLITAN EDISON COMPANY)
(Three Mile Island Nuclear)
Station, Unit 1))

Docket No. 50-289
(Pestart)

LICENSEE'S COMMENTS ON
IMMEDIATE EFFECTIVENESS OF
PARTIAL INITIAL DECISION

The Commission's Order of August 20, 1981 (CLI-81-19) requested the parties to this proceeding to file comments on whether the Licensing Board's partial initial decision on management competence, dated August 27, 1981, should be made immediately effective. In Licensee's view, the Board's decision is fully supported by the record on management issues and should be made immediately effective.

In the Partial Initial Decision at paragraphs 461-506, the Licensing Board provides its opinion on the subject of Licensee's management response to the TMI-2 accident. In this section the Board focuses on the issue of deficiencies in the flow of information regarding plant conditions from the Licensee to NRC and State authorities particularly on the first day of the accident.



DSO3
50/1

See Partial Initial Decision, ¶¶ 469-503. Much of the Board's discussion is devoted to providing the reasons why it chose not to pursue this issue in more detail, including the fact that individual commissioners have addressed this issue before. Because the Board admittedly (and necessarily) has relied on extra-record materials to provide its views, Licensee believes it is appropriate to provide for the Commission's consideration some amplifications to this aspect of the Board's decision.^{*/}

First, the Licensing Board refers (¶ 499) to statements by two operators who were present in the TMI-2 control room on the day of the accident concerning their awareness and appreciation of what is now commonly known as the hydrogen spike. These statements are referred to in the context of judging the accuracy of Mr. Dieckamp's mailgram to Representative Udall on May 9, 1979, in which it was stated:

There is no evidence that anyone interpreted the "pressure spike" and the spray initiation in terms of reactor core damage at the time of the spike nor that anyone withheld any information.

The Commissioners should note that the earliest of the interviews of these two individuals through which their appreciation on March 28th of the hydrogen spike came later to be known was conducted by NRC I&E investigators almost two weeks after Mr. Dieckamp's mailgram, that the Company did not receive a transcript of this interview until months later, and, further,

^{*/} One clarification has already been made by the Licensing Board. See Licensing Board Memorandum and Order Modifying Partial Initial Decision Finding No. 479, dated September 2, 1981.

that in the only interview of either of these individuals which took place prior to May 9, 1979 (conducted by GPU personnel on April 25th), no appreciation on the day of the accident, of the pressure spike was reported.

Second, it is instructive in this regard to note that the I&E investigative team which authored NUREG-0760 (Staff Ex. 5) specifically concluded that there was on March 28th no acknowledged cause for the pressure spike. See, e.g., Staff Ex. 5 (NUREG-0760), at 28, and Tr. 13061-62 (Moseley). NRC's investigative report states:

The investigators conclude that hydrogen was not believed to be the cause of the pressure spike. The testimony reviewed leads the investigators to further conclude that hydrogen was not discussed on March 28, 1979. This conclusion concerning hydrogen not being identified as the cause of the pressure spike on March 28, 1979, is based on the testimony of operators and a review of the engineered safety systems.

Staff Ex. 5 (NUREG-0760), at 24.

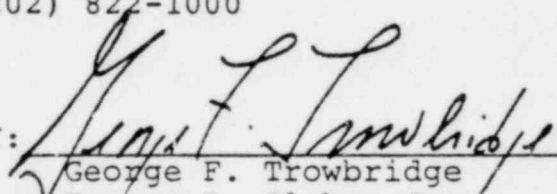
Finally, the Licensing Board reflects some pause over the question whether Mr. Dieckamp himself believed his May 9th mailgram statement to be true at the time he sent it (Partial Initial Decision, ¶ 501) and discloses that they were unable to determine whether Mr. Dieckamp was even questioned in this regard. Mr. Dieckamp was in fact questioned on this precise subject by the head of the I&E investigation team, Mr. Moseley, in a deposition which took place on September 12, 1980. At pages 2 to 6

of the transcript of that deposition, Mr. Dieckamp confirms that he believed the statement to be true when he sent the mailgram on May 9th, and that the statement was made based on his considerable degree of awareness of the available information at that time by virtue of his personal reviews of interviews conducted of personnel following the accident, his personal involvement in review sessions with GPU's team which was trying to recreate the conditions that followed the accident and trying to seek explanations of what had happened, and his detailed preparations for the presentation of testimony before the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works on April 23, 1979.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE
1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

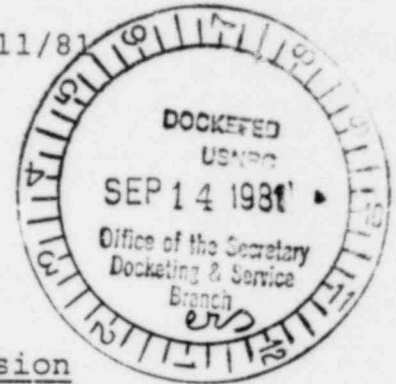
BY:


George F. Trowbridge
Ernest L. Blake, Jr.

Counsel for Licensee
Metropolitan Edison Company

LIC 9/11/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



Before the Nuclear Regulatory Commission

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

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing LICENSEE'S COMMENTS ON IMMEDIATE EFFECTIVENESS OF PARTIAL INITIAL DECISION were served by hand on Chairman Palladino, Commissioners Gilinsky, Ahearne, Bradford and Roberts, and the Secretary of the Nuclear Regulatory Commission, by delivery to the offices of the Nuclear Regulatory Commission, 1717 H Street, N.W., Washington, D.C.; and were served by deposit in the United States mail, postage prepaid, on those persons listed on the attached Service List, this 11th day of September, 1981.

Ernest L. Blake, Jr.

Ernest L. Blake, Jr.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

SERVICE LIST

Administrative Judge Ivan W. Smith U. S. Nuclear Regulatory Commission Atomic Safety & Licensing Board Panel Washington, D.C. 20555	Walter W. Cohen, Esquire Consumer Advocate Office of Consumer Advocate 1425 Strawberry Square Harrisburg, PA 17127
Administrative Judge Walter H. Jordan Atomic Safety and Licensing Board 881 West Outer Drive Oak Ridge, Tennessee 37830	Jordan D. Cunningham, Esquire Fox, Farr & Cunningham 2320 North Second Street Harrisburg, PA 17110
Administrative Judge Linda W. Little Atomic Safety and Licensing Board 5000 Hermitage Drive Raleigh, North Carolina 27612	Ms. Louise Bradford TMI ALERT 315 Peffer Street Harrisburg, PA 17102
James R. Tourtellotte, Esquire (4) Office of Executive Legal Director U. S. Nuclear Regulatory Commission Washington, D.C. 20555	Ellyn R. Weiss, Esquire Harmon & Weiss 1725 Eye Street, N.W., Suite 506 Washington, D.C. 20006
Docketing and Service Section (3) Office of the Secretary U. S. Nuclear Regulatory Commission Washington, D.C. 20555	Steven C. Sholly Union of Concerned Scientists 1725 Eye Street, N.W., Suite 601 Washington, D.C. 20006
John A. Levin, Esquire Assistant Counsel Pennsylvania Public Utility Commission P. O. Box 3265 Harrisburg, PA 17120	Gail Bradford ANGRY 245 West Philadelphia Street York, PA 17404
Robert Q. Pollard 609 Montpelier Street Baltimore, MD 21218	William S. Jordan, III, Esquire Harmon & Weiss 1725 Eye Street, N.W., Suite 506 Washington, D.C. 20006

Robert Adler, Esquire
Karin W. Carter, Esquire
Assistant Attorney General
505 Executive House
P. O. Box 2357
Harrisburg, PA 17120

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

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

Alan S. Rosenthal, Chairman
Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Marvin I. Lewis
6504 Bradford Terrace
Philadelphia, PA 19149

Attorney General of New Jersey
Attn: Thomas J. Germine, Esquire
Deputy Attorney General
Division of Law - Room 316
1100 Raymond Boulevard
Newark, New Jersey 07102

Prof. Gary L. Milhollin
1815 Jefferson Street
Madison, Wisconsin 53711