

LIC 9/25/81

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 No. 1) )

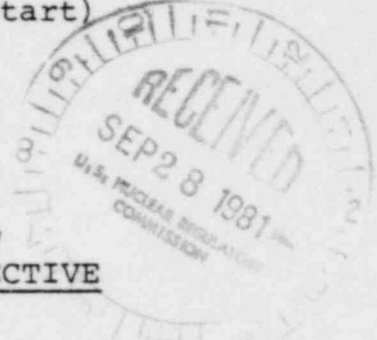
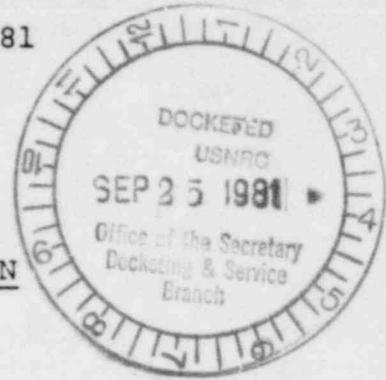
Docket No. 50-239  
(Restart)

LICENSEE'S REPLY TO COMMENTS FILED  
BY THE AAMODT FAMILY ON WHETHER THE  
PARTIAL INITIAL DECISION ON MANAGEMENT  
COMPETENCE SHOULD BE MADE IMMEDIATELY EFFECTIVE

In response to the Commission's August 20, 1981 Order, CLI-81-9, concerning immediate effectiveness, the Aamodt Family filed comments which criticize the Licensing Board's partial initial decision on management issues (PID), and implicitly oppose lifting of the TMI-1 suspension Order. For the reasons specified below, Licensee does not believe that the concerns raised by the Aamodt Family in their comments are of sufficient significance to warrant maintenance of the license suspension imposed by the Commission in its July 2 and August 9, 1979<sup>1/</sup> Orders.

As a preliminary matter, as stated in Licensee's Reply to TMIA Request for Stay Pending Review, dated September 25, 1981, Licensee essentially agrees with the Staff's thoughtful presentation of the immediate effectiveness issue, as set forth in the NRC Staff Comments on Immediate Effectiveness

1/ CLI-79-8, 10 NRC 141 (August 9, 1979).



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with Respect to Licensing Board Decision on Management Competence/ Operator Training, dated September 11, 1981. In Licensee's view, the Commission must determine whether, upon issuance of the Licensing Board's complete decision, the Commission should lift the immediately effective July 2, 1979 Order, which directed that TMI-1 remain shut down until further order of the Commission. See Licensee's Reply to TMIA Request for Stay Pending Review, September 25, 1981, at 1-3.

The Aamodt Family contend that the PID is seriously flawed on the basis of a number of specific disagreements the Aamodt Family has with the Board's findings and conclusions. In view of the fact that the Commission is not now entertaining exceptions to the PID pursuant to 10 C.F.R. § 2.762, but rather is considering the status of the PID and its impact on the Commission's July 2, 1979 suspension Order, to the extent possible, Licensee will avoid arguing the details of particular PID findings and conclusions. Instead, our focus here is on the sufficiency of the underlying record with respect to the management issues on which the TMI-1 operating license suspension was based, and the degree to which the PID addresses the management issues identified by the Commission in its August 9, 1979 and March 6, 1980 Orders and the management-related contentions filed by the parties, including the Aamodt Family.

The first Aamodt Family comment questions whether the Licensing Board properly used the 1978 rather than the

draft 1979 standard, ANSI/ANS 3.1, to evaluate the adequacy of the qualifications of TMI-1 personnel. See Aamodt Family comments, numbered ¶¶ 1-4. What is most troublesome about this complaint is the fact that, as admitted in their comments to the Commission, the Aamodt Family did not raise this very broad issue until the submission of their Reply Findings in late <sup>2/</sup> 1981. However, it has been abundantly clear since December of 1980 when management testimony was filed by the Staff and by Licensee, that, with respect to the training and qualification criteria applicable to the TMI-1 unit staff, the NRC Staff's requirement and Licensee's commitment was that TMI-1 unit personnel meet the standards of ANSI/ANS 3.1 (1978).<sup>3/</sup> In addition, Licensee's organizational structure was compared by the Staff, with favorable results, to the guidelines for utility management and technical resources contained in draft NUREG-0731. See PLD ¶¶ 64, 164. Neither the Staff witnesses who testified on this very subject, nor any of the numerous Licensee witnesses who addressed TMI-1 management and personnel qualifications, were questioned by the Aamodt Family as to the basis for their assurance that the currently adopted ANSI

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2/ ANSI/ANS 3.1 (1978), Draft ANS 3.1 (December 1979), Draft ANS 3.1 (October, 1980), Proposed Revision 2 to Regulatory Guide 1.8 (February, 1979) and Second Proposed Revision 2 to Regulatory Guide 1.8 (September, 1980) are all documents which the Staff distributed to interested parties in February, 1981, immediately prior to the time its witnesses testified on the subject of the TMI-1 unit staff's qualifications. However, no party requested that these documents be received in evidence, and they are not part of the TMI-1 evidentiary record.

3/ ANSI/ANS 3.1 (1978) is endorsed in Proposed Revision 2 to Regulatory Guide 1.8 (February 1979).

standard, ANSI/ANS 3.1 (1978), was the appropriate standard to use in evaluating TMI-1 personnel qualifications, keeping in mind the lessons learned from the TMI-2 accident. In fact, the Aamodt Family asked no questions of the Staff or the Licensee witnesses who testified on this subject.<sup>4/</sup>

In addition, in their comments, the Aamodt Family fail to identify why they believe that the requirements of ANSI/ANS 3.1 (1978) are "inappropriate and meaningless," other than their general complaint that the 1978 standard pre-dates the TMI-2 accident. In support of their position, the Aamodt Family cites their Reply Findings, ¶¶ 7-9. These findings refer to statements contained in the Value/Impact Statement accompanying Proposed Revision 2 to Regulatory Guide 1.8. According to the Aamodt Family, the Value/Impact Statement indicates that the 1978 ANSI standard was "not expected to raise personnel qualifications." However, the Value/Impact Statement states that more stringent requirements were imposed by ANSI/ANS 3.1 (1978) with respect to qualifications for operating personnel. Also, the 1978 revision to ANSI/ANS 3.1 expanded the requirements of the training

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4/ Messrs. Crocker and Allenspach, staff members of the Office of Nuclear Reactor Regulation, sponsored testimony on the subject of TMI Unit 1 personnel qualifications. Licensee's witness on the general corporate structure and organization of GPU Nuclear Corporation, including TMI-1, was Mr. Robert C. Arnold. Licensee also sponsored a panel of witnesses, headed by the Vice President of TMI-1, Mr. Henry D. Hukill, on the subject of TMI-1's organization, including personnel qualifications. In addition, Mr. William Wegner, of Basic Energy Technology Associates, testified on behalf of Licensee, giving his impressions of Licensee's reorganization since the TMI-2 accident, including the qualifications of TMI-1 personnel. The Aamodt Family asked no questions of any of these witnesses; in fact, to the best of Licensee's knowledge, the Aamodt Family did not even attend the sessions of the proceeding during which these witnesses testified.

program for licensed personnel, including requalification training, and the requirements for general employee training. See Value/Impact Statement accompanying Proposed Revision 2 to Regulatory Guide 1.8, at 2-3.<sup>5/</sup>

In conclusion, with respect to the Licensing Board's adoption of ANSI/ANS 3.1 (1978) as the proper standard for assessing the qualifications of the TMI Unit 1 staff, Licensee is aware of no basis for Commission concern that the Licensing Board has not carefully considered the level of qualifications which the Staff ought to impose upon TMI-1 personnel. The Licensing Board specifically questioned the NRC Staff witnesses who testified during the restart proceeding on this subject, and extensively reported its findings in the PID. See PID ¶¶ 64, 93, 101, 106, 116-162, 164. The Aamodt Family did not participate in the development of this portion of the record. No reason is posed by the Aamodt Family for finding

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5/ While the Value/Impact Statement does indicate, as the Aamodt Family states, that the impact of the new standard would be "negligible," it is referring here to the impact on the NRC Staff of evaluating the qualifications of nuclear power plant personnel according to ANSI/ANS 3.1 (1978), rather than using the previously applicable 1971 standard. See Value/Impact Statement, at 2. With respect to the utility industry, the Value/Impact Statement states:

The impact of the changes to existing guidance will make it necessary to ensure that personnel hired to fill the positions covered in the standard meet the requirements of the standard. Since these requirements are more stringent and fewer exceptions are allowed, the utility may have more difficulty in filling the position and may have to pay a higher wage or salary to the personnel involved.

Id. at 7.



fault at this juncture with the Licensing Board's carefully considered resolution of the broad issue of TMI Unit 1 personnel qualifications.

There are a number of subjects identified by the Aamodt Family as unsupported by the record: unlicensed personnel training, the adequacy of the TMI-1 licensed operator curriculum, shift manning criteria, special TMI-1 plant management training, and simulator examinations. See Aamodt Family comments, numbered ¶¶ 5, 8, 10, 11, 15, and 16. In Licensee's view, the Licensing Board's extremely thorough decision speaks for itself on these subjects. See PID ¶¶ 163-181, 208-224, 366 (unlicensed personnel training); 174-176, 182-207 (licensed operator curriculum); 556-578 (shift manning criteria); 552-553 (special TMI-1 plant management training); 542-551 (simulator examinations). Moreover, Licensee does not believe that the Commission's consideration as to whether to lift the immediately effective suspension Order with respect to matters resolved by the PID ought to be based on disagreements parties have with the Board's judgment with respect to particular sub-issues fully litigated in the restart proceeding. Rather, in our view, the question is whether the Board thoroughly and carefully examined the issues raised by the Commission in its August 9, 1979 Order and its March 6, 1980 Order,<sup>6/</sup> as well as the issues identified in contentions, prior to reaching a decision on Licensee's management capability

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<sup>6/</sup> CLI-80-5, 11 NRC 408 (1980).

and technical resources. We believe the detailed decision of the Licensing Board, which relies upon many thousands of pages of record testimony and exhibits, fully meets and disposes of the particular items identified in the Aamodt Family comments.

With respect to the Aamodt Family's criticisms of the Board's decision to reopen the record in order to allow the agreement reached by Licensee and the Commonwealth of Pennsylvania to be reflected therein, see Aamodt Family numbered ¶ 12, it is clear from the PID that the subject agreement had significant impact on the Board's decision because of the number of requirements to which Licensee was prepared to commit in the area of management capability. See PID ¶¶ 42, 523-555. Moreover, the Board's consideration of this agreement was based in part upon the Commission's general policies favoring negotiation and settlement. See PID ¶ 526. As the PID reflects, in view of the relevance of these commitments to the Aamodt Family contention concerning licensed operator training, the Aamodt Family was given ample opportunity to and did respond to the commitments made by Licensee. These issues were extensively litigated before the Licensing Board; the Aamodt Family presents no basis in its comments for questioning the merits of the Board's resolution of subjects covered in the agreement reached by the Commonwealth of Pennsylvania and Licensee.

Finally, with respect to the evidence of operator cheating discovered in July, 1980, see Aamodt Family comments, numbered ¶¶ 6, 9, there is no question but that the Licensing Board has retained jurisdiction to consider further the effect of the investigation of cheating on its management findings. PID ¶¶ 43-45. In fact, the Board has already reopened the record on this matter, and has scheduled a conference of the parties to discuss the scope of the reopened proceeding, as well as to the procedure and schedule which will govern that litigation. See Licensing Board Memorandum and Order Reopening Record on Matters Related to Cheating, Appointing a Special Assistant, and Scheduling a Conference of the Parties, September 14, 1981.

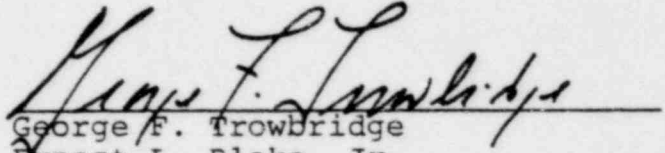
For the reasons specified above, Licensee does not believe that the Aamodt Family comments provide any basis for the Commission declining to lift its July 2, 1979 immediately effective suspension Order. The Aamodt Family identifies no issues which the Licensing Board failed to carefully analyze in accordance with the Commission's mandate. The only matter left unresolved by the PID is operator cheating. That issue is currently pending before the Licensing Board, which will hear evidence on the subject and, most assuredly, issue an initial decision in the future which reflects the



Board's findings and conclusions on operator cheating.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

A handwritten signature in dark ink, appearing to read "George F. Trowbridge", is written over a horizontal line.

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Dated: September 25, 1981

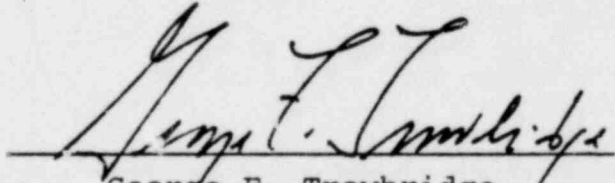
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Reply to Comments Filed by the Aamodt Family on Whether the Partial Initial Decision on Management Competence Should be Made Immediately Effective," dated September 25, 1981, 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, upon those persons on the attached Service List, this 25th day of September, 1981.

  
George F. Trowbridge

Dated: September 25, 1981

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 SP
	)	(Restart)
(Three Mile Island Nuclear	)	
Station, Unit No. 1)	)	

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