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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

LICENSEE'S RESPONSE TO UCS OBJECTION  
TO EX PARTE COMMUNICATIONS

On November 5, 1982, UCS filed with the Commission an Objection to Exparte Communications. The communications of which UCS complains are two SECY papers (SECY-82-384 and SECY-82-111) considered by the Commission in announced public meetings, one dealing with NUREG-0737 implementation schedules for TMI-1 and the other dealing generically with plans for establishing implementation schedules for all licensed nuclear power plants with respect to upgrading their emergency response capability. With respect to one of the NUREG-0737 items, UCS also requests a reopening of the TMI-1 restart hearing before the Commission, the Appeal Board or the Licensing Board. Licensee opposes the UCS objections and motion as totally devoid of merit.

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SECY-82-384

SECY-82-384 contains both a status report on NUREG-0737 schedules for TMI-1 and Staff recommendations with respect to the extension of completion dates for five items. With respect to four items previously scheduled for completion prior to restart the Staff recommended that completion dates be set at restart or at March 31, 1982, whichever is later. With respect to a fifth item relating to plant shielding modifications (the only item discussed substantively by UCS) the Staff reported that implementation of a portion of the NUREG-0737 requirements was complete and that Licensee had requested an extension of time until the first refueling after restart to complete the remainder of the item. As to the latter, the Staff reported that it had not yet completed its review of Licensee's request and recommended that the Commission defer action on the matter.

UCS' principal complaint appears to be that the Staff has made recommendations for the extension of NUREG-0737 completion dates outside the hearing process. It simply overlooks the fact that the Staff's recommendations are precisely in keeping with the Commission's own orders in this proceeding.

On February 3, 1981, Licensee filed with the Commission several motions, one of which anticipated the procedural problem which might arise if it became necessary

after the close of the record before the Licensing Board to extend any of the completion dates which had been presented to the Board. Licensee urged the Commission to modify its Order and Notice of Hearing of August 9, 1979, to make clear that in this situation the Commission itself retained jurisdiction, upon the recommendation of the Staff, to alter scheduled completion dates. In granting Licensee's motion by Order dated March 23, 1981 (CLI-81-3) the Commission explained and paraphrased Licensee's motion as follows:

In its February 3 motion, licensee asserted that it is prepared to meet the same implementation schedules that are required for operating reactors, but expressed the concern that developments subsequent to the close of the hearing record (for example, delays in the procurement of necessary materials and equipment) may make it impossible for it to meet present schedules on all action items. It therefore requested the Commission to modify the August 9, 1979 Order to make clear that the Commission retains the flexibility to defer until after restart, upon the recommendation of the Director of the Office of Nuclear Reactor Regulation, licensee's implementation dates for NUREG-0737 action items where such deferral is consistent with implementation schedules for operating reactors.

The Commission Order granting the motion specified that the Commission would retain its flexibility to consider on a case-by-case basis developments which affect the ability of Licensee to comply with requirements recommended by the Licensing Board.

Licensee's February 3 motion was served on all parties to the proceeding. Neither UCS nor any other party filed any objection.

UCS also appears to complain that the Staff's recommendations were not served on UCS as a party to the restart proceeding. We note at the outset that the Commission's March 23 Order, reserving to itself the flexibility to adjust NUREG-0737 completion dates after the close of the hearing, made no provision for serving staff recommendations to parties in the restart hearing. In any event, however, in the present circumstances UCS' complaint rings a hollow note. UCS had every opportunity to be aware, and was in all probability actually aware, of the Staff's recommendations. To begin with, the Commission gave public notice (47 F.R. 43485) of its intent to hold a public meeting on October 6, 1982, on the status of Staff certification on Licensee's compliance with TMI-1 restart requirements. SECY-82-384 was a handout to attendees at that meeting. UCS was represented at that meeting by Mr. Robert Pollard, who presumably received the same handout as did Licensee and others. Even before the October 6 meeting, however, UCS was or should have been aware of Licensee's proposal to extend the completion date for modifications to the decay heat removal (DHR) valves and controls which are the subject of UCS' complaint. The Status Report attached to the Appeal Board's Order of July 14, 1982 (taken from SECY-82-250,

June 16, 1982) noted that there were "procurement problems" associated with completion of this item and that Licensee estimated completion during the first refueling outage after restart. Similarly, our response to the July 14 Order noted that the DHR system modifications were only 30% complete, and would be completed by Cycle 6 startup. Response at 4.

Finally, UCS is simply wrong in asserting that the Staff has recommended Commission consideration of a delay in a NUREG-0737 item which was the subject of a UCS contention. UCS' only contention (Contention 2c) with respect to plant shielding was concerned solely with adequate shielding for radioactive water bled from the primary system during feed and bleed cooling. Shielding additions which the Licensing Board found to be a satisfactory response to this issue have, as reported in SECY-82-384, already been completed. Modifications to the DHR valves and relocation of their controls, designed to avoid possible overexposures in different circumstances, have nothing to do with feed and bleed cooling.

#### SECY-82-111

UCS' complaints about SECY-82-111 have even less merit. SECY-82-111 is a paper prepared by the Staff proposing a procedure for completing the emergency planning upgrade at all nuclear power plants. The Staff proposed that unfinished items (primarily the guidance in NUREG-0696) be negotiated



between individual plants and their NRC project managers, and the agreements be reflected in binding orders issued to each plant. The requirements and schedules for individual plants, including TMI-1, were not discussed. Further, unlike the requirements of NUREG-0654 referenced in the Commission emergency planning regulation, the requirements and schedules of NUREG-0696, dealing with emergency response facilities, were not in issue in the restart hearing and were not the basis for any Licensing Board findings or conditions.

It is ridiculous to suggest that UCS or any other party needed special notice of SECY-82-111. The Staff briefed the Commission on SECY-82-111 at an April 15, 1982 public meeting. On May 11, 1982, the ACRS issued a letter commenting on SECY-82-111. A second Commission meeting on SECY-82-111 was held on June 22, 1982. The Commission was at that time again briefed by the Staff. On July 16 the Commission directed the NRC Staff to negotiate implementation of the NUREG-0696 guidance.

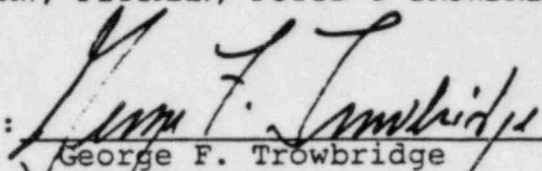
Substantial publicity surrounded the release and consideration of SECY-82-111. In addition to the public meetings, reports on SECY-82-111 have appeared throughout the trade press. E.g., Inside N.R.C. March 8 (p. 7), March 22 (pp. 1-2), May 31 (pp. 4-5, 12-13), June 28 (p. 5) and July 26

(pp. 9-10). For anyone following emergency planning,  
SECY-82-111 was a major event.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:

  
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Counsel for Licensee

Dated: November 22, 1982

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

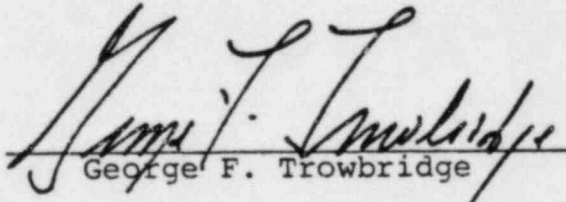
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to UCS Objection to Ex Parte Communications" were served upon those persons on the attached Service List by deposit in the United States mail, postage pre-paid, this 22nd day of November, 1982.

  
George F. Trowbridge



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METROPOLITAN EDISON COMPANY )

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Docket No. 50-289  
(Restart)

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