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May 28, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
DOCKETING & SERVICE

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

GARY P. MILLER'S REPLY TO
TMIA's COMMENTS ON THE
SPECIAL MASTER'S REPORT

TMIA contends that (a) the Board erred in inviting certain of Licensee's employees, including Mr. Miller, to comment on the Special Master's Report (the Report) and (b) the Board should recommend that Mr. Miller be criminally prosecuted for his role in the 1979 episode involving VV and O. The Aamodts also submitted contention (a).

1. The Board acted properly in inviting Mr. Miller's Comments on the Report. The Report is potentially quite damaging to him, yet he was not a party to the proceeding. TMIA's argument that it is prejudiced by the Board's action is without merit. With one exception, every factual contention in Mr. Miller's Comments is based on the record of the proceeding before the Special Master. TMIA was a party to that proceeding and had every opportunity to participate fully in the development of the record. The exception, of course, is Mr. Miller's reference to the original Section A of VV's

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reexamination papers. That original is not in the record. But the Board may ignore the reference to the original Section A. If the Board simply compares the handwriting of VV and O on the duplicate copy of Section A that is in the record, Staff Ex. 26, Enclosure (3) at page 3, it will have ample evidence--without regard to the colors of ink used by VV and O--that VV could not have intended to deceive the Licensee and that Mr. Miller's conclusion to that effect was reasonable.

2. TMIA would have the Board recommend criminal prosecution for Mr. Miller on account of the 1979 episode.

The Special Master, despite his otherwise unfavorable conclusions with respect to Mr. Miller, declined to do so, and the Board plainly should not.

Mr. Miller's Comments, filed on May 19, 1982, show that on the merits there is no basis for suggesting criminal prosecution of Mr. Miller. But quite aside from the merits, we believe for reasons set out by O on page 5 of his Comments filed on May 21, 1982, that such a recommendation by the Board with respect to Miller would be "fundamentally inappropriate." The Board should reject TMIA's suggestion.

Respectfully submitted,

GARY P. MILLER

By: /s/ Michael W. Maupin
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DATED: May 28, 1982

CERTIFICATE OF SERVICE

I hereby certify that I have this day served Gary P. Miller's Reply to TMIA's Comments on The Special Master's Report upon the persons named below by (a) deposit of four copies with Federal Express for delivery to the Chairman and (b) deposit of one copy (or the number indicated) in the United States mail, postage prepaid, addressed to each other person listed below:

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DATED: May 28, 1982