

UNITED STATES OF AMERICA

BEFORE THE NUCLEAR REGULATORY COMMISSION '82 JUN-4 A10:26

In the Matter of

METROPOLITAN EDISON COMPANY

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

Docket No. 50-289
(Restart)

PEOPLE AGAINST NUCLEAR ENERGY
REQUEST FOR HEARING ON LICENSE AMENDMENTS
AND CONDITIONS REQUIRED PRIOR TO RESTART OF TMI-1

In the accompanying response to the Licensee's Motion with Respect to the Psychological Health Issue, People Against Nuclear Energy (PANE) discusses the Licensee's argument that the Three Mile Island Unit No. 1 restart hearing was discretionary, and therefore not part of the "existing agency review process" in which psychological health issues must be considered pursuant to the National Environmental Policy Act. We point out that both the Licensing Board and the NRC Staff have concluded that various license amendments are required prior to restart in order to assure the public health and safety.

Under Section 189(a) of the Atomic Energy Act, 42 U.S.C. 2239(a), PANE is entitled to a hearing on such license modifications if it requests one, assuming it meets all other standing requirements. We prefer to view the restart

DS03
5
1/1

proceeding as the hearing required by the Atomic Energy Act with respect to the various license modifications. The restart hearing should be treated as non-discretionary and as the existing agency review process in which NEPA issues are considered. If the restart hearing is treated in that manner, this hearing request is unnecessary.

If the restart hearing is considered to have been entirely discretionary, PANE and all other persons with standing have a right to a separate hearing under the Atomic Energy Act prior to implementation of the license amendments and modifications that are conditions of restart. In the event the Commission decides to treat the restart hearing as having been entirely discretionary, and if it rules that NEPA issues need not be considered in the restart hearing, PANE hereby requests a hearing under Section 189(a) of the Atomic Energy Act on all license amendments, conditions, or modifications arising out of the restart hearing.


In the resultant hearing, PANE expects to address the issue of the psychological health damage and community impact that would be caused if the license amendments, conditions, or modifications were granted and restart were allowed to proceed. Those issues were held to be cognizable under NEPA in People Against Nuclear Energy v. U.S. Nuclear Regulatory Commission, Docket No. 81-1131 (filed May 14, 1982).

In connection with this hearing request, PANE refers the Commission to its original Petition to Intervene in the restart proceeding and to its original contentions, both of which are attached (without affidavits). We also note that the restart Licensing Board has already ruled that PANE has satisfied the NRC's standing requirements. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-79-34, 10 NRC 828, 850 & n. 17 (1979).

Finally, we emphasize that we are not seeking to duplicate the restart hearing that has gone before. Rather, we are seeking recognition of the fact that since the Atomic Energy Act requires hearings, if requested, with respect to proposed license amendments, such hearings constitute the "existing agency review process" for NEPA purposes. In this case the restart proceeding may have begun as a discretionary hearing, but when the point was reached that license amendments, modifications, and conditions were at issue and became conditions of restart, all interested parties were entitled to a hearing as a matter of right, and they were entitled to litigate all relevant issues, including those arising under NEPA. The right to litigate those NEPA issues cannot be eliminated by the slight-of-hand of continuing to pretend that the restart hearing was discretionary.

PANE requests a prompt ruling from the Commission on this request and the accompanying filing in order to permit prompt judicial review should that be necessary.

Respectfully submitted,



William S. Jordan, III

Date: June 3, 1982

HARMON & WEISS

1725 I Street, N.W.
Suite 506
Washington, D.C. 20006

(202) 833-9070

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of,

METROPOLITAN EDISON COMPANY,
et al,

(
(Three Mile Island Nuclear
Station Unit No. 1)

Docket No. 50-289

PEOPLE AGAINST NUCLEAR ENERGY
DRAFT CONTENTIONS

Pursuant to 10 CFR 2.714(b) and the Atomic Safety and Licensing Board's Order of September 21, 1979, People Against Nuclear Energy (PANE) submits the following draft contentions:

- 1.) Renewed operation of Three Mile Island, Unit 1 (TMI 1) would cause severe psychological distress to PANE's members and other persons living in the vicinity of the reactor. The accident at Unit 2 has already impaired the health and sense of well being of these individuals, as evidenced by their feelings of increased anxiety, tension and fear, a sense of helplessness and such physical disorders as skin rashes, aggravated ulcers, and skeletal and muscular problems. Such manifestations of psychological distress have been seen in the aftermath of other disasters. The possibility that TMI Unit 1 will reopen severely aggravates these problems. As long as this possibility exists, PANE's

members and other persons living in the communities around the plant will be unable to resolve and recover from the trauma which they have suffered. Operation of Unit 1 would be a constant reminder of the terror which they felt during the accident, and of the possibility that it will happen again. The distress caused by this ever present spectre of disaster makes it impossible for the NRC to operate TMI 1 without endangering the public health and safety.

2.) Renewed operation of TMI 1 would cause severe harm to the stability, cohesiveness and well being of the communities in the vicinity of the reactor. Community institutions have already been weakened as a result of a loss of citizen confidence in the ability of these institutions to function properly and in a helpful manner during a crisis. The potential for a reoccurrence of the accident will further stress the community infrastructure, causing increased loss of confidence and a breakdown of the social and political order. Sociologists such as Kai Erikson have documented similar phenomena in other communities following disasters.

The perception, created by the accident, that the communities near Three Mile Island are undesirable locations for business and industry, or for the establishment of law or medical practice, or homes compounds the damage to the viability of the communities. Community vitality depends upon the ability to attract and keep persons, such as teachers, doctors, lawyers, and businesses critical to

economic and social health. The potential for another accident, should TMI 1 be allowed to operate, would compound and make permanent the damage, trapping the residents in disintegrating and dying communities and discouraging the influx of essential growth.

~~3.) Evacuation planning done by Metropolitan Edison and the Nuclear Regulatory Commission is inadequate to assure the safety of the public, particularly those persons living within a five mile radius of the plant. Operation of TMI 1 should not be resumed until a plan is in place for the evacuation of the public in the maximum area which could be affected by an accident.~~

Respectfully submitted,

Karin P. Sheldon

Karin P. Sheldon

William S. Jordan III

William S. Jordan, III
Sheldon, Harmon & Weiss
1725 "I" Street, N.W.
Suite 506
Washington, D.C. 20'

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

PEOPLE AGAINST NUCLEAR ENERGY
PETITION TO INTERVENE

By Order and Notice of Hearing dated August 9, 1979, the Nuclear Regulatory Commission ordered the Metropolitan Edison Company to maintain Unit 1 of its Three Mile Island nuclear power plant ("TMI-1") in a cold shutdown condition pending completion of hearings before a specially constituted Atomic Safety and Licensing Board. The purpose of these hearings is to resolve a series of issues identified by the Commission as determinative of whether resumption of operation at the plant would be consistent with the public health and safety.

The order establishes that the procedures in subpart A of 10 CFR Part 2 will govern the TMI-1 proceedings. Pursuant to 10 CFR 2.714, People Against Nuclear Energy (PANE) hereby petitions to intervene as a party.

(1) The Nature of PANE's Right Under the Atomic Energy Act to be Made a Party to the Proceeding.

PANE's right to intervene is established by Section 189a of the Atomic Energy Act, 42 U.S.C. 2239(a) which requires the

7710/80048

Commission to admit as a party "any person whose interest may be affected by the proceeding." In this proceeding, PANE seeks to intervene on behalf of the following named persons, all of whom are members of the organization and have specifically authorized PANE to represent their interests:

John M. Garver, Jr.
114 Park Circle Road
Middletown, PA.

James B. Hurst
617 Briarcliff Road
Middletown, PA.

Barbara G. Coates
360 High Street
Highspire, PA.

Donald E. Hossler
501 Vine Street
Middletown, PA.

Marcella J. Heicher
326 Second Street
Highspire, PA.

Morris Field
504 Hemlock Hall
Middletown, PA.

Genevieve Burner Emerick
489 Willow Street
Highspire, PA.

Donald H. Konkle
320 Elm Court
Middletown, PA.

Paola Louise Kinney
12 Ray Road
Middletown, PA.

Joyce Ann Corradi
2 South Nissley Drive
Middletown, PA.

Elizabeth Mae Chavey
114 Donald Avenue
Middletown, PA.

Affidavits which attest to these facts from the PANE members listed above are attached to this petition.

(2) The Nature and Extent of the
Petitioner's Property, Financial or Other
Interest in the Proceeding.

All of the named PANE members have a cognizable interest in the proceedings which may be affected by its outcome. They all live within 5 miles of the Three Mile Island facility. In the aftermath of the accident at TMI-Unit 2, Petitioner's mental and emotional health would be adversely affected by the operation of a nuclear power plant in such close proximity. Such a concrete, direct interest clearly establishes standing. Consumers Power Co. (Palisades Nuclear Plant) LBP-79-20 July 24, 1979.

(3) The Possible Effect of an Order
Which May be Entered in the Proceeding on
the Petitioner's Interest.

The effect of an order allowing the resumption of operations at TMI-1, even assuming implementation of the so-called "short term actions" identified on pages 5-8 of the Order and Notice of Hearing and commitment to the "long-term actions" contained on pages 7-8, would be to unreasonably threaten the physical, mental and emotional well being of the named PANE members.

(4) The Specific Aspects of the
Subject Matter of the Proceedings as to
Which Petitioner Wishes to Intervene

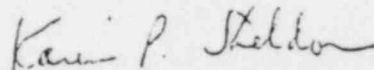
PANE will take the position that the Nuclear Regulatory Commission has the obligation, as part of its duty to protect the public health and safety, to prevent impairment of the mental health and stability of the communities in which nuclear plants are located. PANE will contend that its members and the

community surrounding Three Mile Island have suffered a unique trauma as a result of the accident at Unit 2 of the facility, and consequently, that operation of Unit 1 poses a threat to the stability and health of the area. For this reason, Unit 1 cannot be operated without endangering the health and safety of the public.

Respectfully submitted

People Against Nuclear Energy

By their Attorney:



Karin P. Sheldon
Sheldon, Harmon, Roisman & Weiss
1725 I Street, N.W.
Suite 506
Washington, D.C. 20006
(202) 833-9070

DATED: September 14, 1979

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))

'82 JUN -4 AIO:27
Docket No. 50-289 WEH
(Restart)

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of June, 1982, copies of the foregoing motions, PEOPLE AGAINST NUCLEAR ENERGY REQUEST FOR HEARING ON LICENSE AMENDMENTS AND CONDITIONS REQUIRED PRIOR TO RESTART OF TMI-1 and PEOPLE AGAINST NUCLEAR ENERGY RESPONSE TO LICENSEE'S MOTION WITH RESPECT TO PSYCHOLOGICAL HEALTH ISSUE, have been mailed, first class, postage paid, to the following:

Ivan W. Smith, Chairman
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Walter H. Jordan
Atomic Safety and Licensing
Board Panel
RR1 West Outer Drive
Oak Ridge, Tennessee 37830

Dr. Linda W. Little
Atomic Safety and Licensing
Board Panel
5000 Hermitage Drive
Raleigh, North Carolina 27612

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

Judge Gary J. Edles, Chairman
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Judge John H. Buck
Atomic Safety and Licensing
Appeal Board Panel
U. S. Nuclear Regulatory
Commission
Washington D.C. 20555

Judge Christine N. Kohl
Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Thomas Roberts, Commissioner
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Nunzio Palladino, Chairman
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Mrs. Marjorie Aamodt
R.D. #5
Coalsville, Pennsylvania 19320

Robert Adler, Esq.
 Assistant Attorney General
 505 Executive House
 P.O. Box 2357
 Harrisburg, Pennsylvania 17120

Louis Bradford
 Three Mile Island Alert
 325 Pepper Street
 Harrisburg, PA 17102

David E. Cole, Esq.
 Smith & Smith, P.C.
 2931 North Front Street
 Harrisburg, PA 17110

Jordan D. Cunningham, Esq.
 Fox, Farr & Cunningham
 2320 North Second Street
 Harrisburg, PA 17110

Thomas J. Germaine, Esq.
 Deputy Attorney General
 Division of Law - Room 316
 1100 Raymond Boulevard
 Newark, New Jersey 07102

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

Judge Reginald L. Gotchy
 Atomic Safety and Licensing
 Appeal Board Panel
 U.S. Nuclear Regulatory
 Commission
 Washington, D.C. 20555

John A. Levin, Esq.
 Assistant Counsel
 Pennsylvania Public Utility
 Commission
 P.O. Box 3265
 Harrisburg, Pennsylvania 17120

John Ahearne, Commissioner
 U.S. NRC
 Washington, D.C. 20555

Mr. Marvin I. Lewis
 6504 Bradford Terrace
 Philadelphia, PA 19149

Ms. Gail B. Phelps
 245 West Philadelphia Street
 York, Pennsylvania 17404

Mr. Robert Q. Pollard
 609 Montipelier Street
 Baltimore, Maryland 21218

Counsel for NRC Staff
 Office of Executive Legal
 Director
 U.S. Nuclear Regulatory
 Commission
 Washington, D.C. 20555

George F. Trowbridge, Esq.
 Shaw, Pittman, Potts &
 Trowbridge
 1800 M Street, N.W.
 Washington, D.C. 20036

Docketing and Service Section
 Office of the Secretary
 U.S. Nuclear Regulatory
 Commission
 Washington, D.C. 20555

Victor Gilinsky, Commissioner
 U.S. NRC
 Washington, D.C. 20555

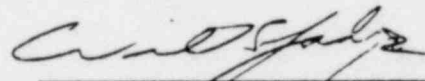
James Asselstine, Commissioner
 U. S. NRC
 Washington, D.C. 20555

Mr. Steve Brooks
Public Information and
Resource Center
1037 Maclay Street
Harrisburg, PA 17103

Michael F. McBride, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1333 New Hampshire Avenue, N.W.
Suite 1100
Washington, D.C. 20036

Mr. Henry D. Hukill
Vice President
GPU Nuclear Corporation
P. O. Box 480
Middletown, PA 17057

June 3, 1982


William S. Jordan, III