UNITED STATES OF AMERICA

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

WCH

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

PEOPLE AGAINST NUCLEAR ENERGY RESPONSE TO LICENSEE'S MOTION WITH RESPECT TO PSYCHOLOGICAL HEALTH ISSUE

On May 24, 1982, the Licensee moved that the Nuclear Regulatory Commission ("NRC" or "Commission") move as quickly as possible to complete the evaluation of psychological health damage at Three Mile Island that was mandated by the United States Court of Appeals for the District of Columbia Circuit, and that the Commission, in reaching a final decision on the restart of Unit 1, deviate from its normal practice of considering NEPA issues in adjudicatory, trial-type hearings. Specifically, the Licensee asked that the Commission (1) set a firm early date of approximately June 15, 1982, for a decision on whether "significant new circumstances or information have arisen with respect to the potential psychological health effects of operating TMI-1," (2) set a firm early date of approximately July 15, 1982, for a draft

D503
s
1/1

Supplemental Environmental Impact Statement (SEIS) if one is required, and (3) deny the residents of the TMI area the adjudicatory hearings to which they are entitled prior to a final Commission decision in the restart proceeding.

People Against Nuclear Energy (PANE) urges the Commission to deny the Licensee's Motion. For the reasons set out below, we urge the Commission to establish deadlines, if at all, only after careful consideration of the type and extent of studies and analyses that must be performed by the NRC Staff in order to fulfill the Court's mandate. We also urge the Commission to hold that PANE and all others who have raised the issue of the psychological effects of restart have a right to an adjudicatory hearing prior to a final Commission decision.

I. The Commission Should Set a Reasonable Deadline Based on the Facts

The Licensee asks the Commission to set two deadlines, one for the determination of whether an SEIS is required, the other for the completion of a Draft SEIS. PANE does not object to establishing reasonable deadlines, but the Licensee has presented no basis for either of the ones that it proposes.

Essentially, the Licensee's argument is that the Commission must set deadlines so that the process can be completed by the time the Licensee is physically able to restart TMI-1. This reasoning is fundamentally flawed by the fact that it would require the Commission to prejudge the outcome of its deliberations by placing virtually complete

reliance on the proposed restart date rather than on the amount of time needed to do the required analysis. Contrary to the assumption underlying this argument, it is not the mission of the NRC to assure the restart of TMI-1 whenever the Licensee is ready. Rather, it is the mission of the NRC to assure that no reactor is licensed or allowed to operate until all of the statutory requirements have been fully complied with in good faith. Any time estimates or proposed deadlines must be based on an evaluation of the amount of time reasonably needed to comply with NEPA, not on the projected restart date.

The Licensee suggests June 15, 1982, as the date by which the Commission should decide whether an SEIS is required. PANE has no objection to this deadline, but we believe this to be a non-issue. There is simply no question that

> since the preparation of the original environmental impact statement for the nuclear facility at Three Mile Island Unit 1 (TMI-1), significant new circumstances or information have arisen with respect to the potential psychological health effects of operating the TMI-1 facility.

People Against Nuclear Energy v. U.S. Nuclear Regulatory Commission, Docket No. 81-1131 (filed May 14, 1982), Sl. op., Amended Judgment, at 2. All of the studies of the issue, from the Kemeny Commission to the present, support that conclusion. PANE itself has demonstrated in information provided to the NRC Staff not only that the TMI-2 accident had severe psychological effects, but that the restart of

TMI-1 can be expected to do so as well.[1] A decision that there are no significant new circumstances or information concerning the psychological impact of operating TMI-1 would be arbitrary and capricious in the extreme. We urge the Commission to announce as soon as possible that an SEIS is required. We see no reason that it cannot make such an announcement by June 15, 1982.

The Licensee's proposed deadline for completion of the draft SEIS is another matter. As previously discussed, it has no relationship to the time needed to comply with NEPA. Any estimated deadline depends upon the work that the Staff has done to date and the progress that has been made in the studies that are necessary to evaluate the psychological health effects of restart. Since we are not privy to the work the Staff is doing, we cannot propose a specific deadline. However, we can state the principles and provide the Commission with the facts on which a proposed deadline must be developed.

---

[1] See Holt, Robert R., "A Selective Review of Research on Health Effects of the Accident at Three Mile Island;" Titchener, James L., "Report of the University of Cincinnati Study of Psychological Impact and Long Term Consequences of the Accident at Three Mile Island;" and Vyner, Henry M., "The Psychological Effects of Ionizing Radiation in the Three Mile Island Area;" which PANE submitted to the NRC Staff for consideration in preparing the SEIS.

Dr. Holt has estimated that a predictive study could be completed "within a few months."[2] Accordingly, the Commission could establish a deadline that is two or three months after a date on which the Staff begins (or began, if it has already done so) a well designed predictive study. At the same time, the Commission or the Staff should evaluate the reports by Drs. Titchener and Vyner in order to determine whether additional time would be necessary in order to undertake the sort of clinical evaluations that are essential to a valid prediction. Assuming that adds another month, the deadline would be three to four months from the date the Staff's studies began. If the Staff started its studies on May 1, for example, a reasonable deadline would be August 31. Of course, any such deadline would be subject to change if need be to allow the completion of necessary studies and a thorough evaluation of the study results.

II. The Commission Is Required to Provide an Adjudicatory Trial-Type Hearing with Respect to Psychological Health Issues.

The Licensee presents various legal arguments in an attempt to support the proposition that the Commission need not provide adjudicatory hearings with respect to the psychological health impacts of restarting TMI-1.

---

[2]Holt, Robert R., "Comment on Psychological Stress Workshop," in Proceedings of the Workshop on Psychological Stress Associated with the Proposed Restart of Three Mile Island, Unit 1, NUREG/CP-0026, at 89.

The fundamental flaw in the Licensee's analysis is its argument that there is no requirement for an adjudicatory hearing if one is requested prior to restart. Since such a hearing is required, the Licensee's arguments are largely irrelevant.

A. The Atomic Energy Act Requires a Hearing Prior to the Restart of TMI-1.

In its Order of August 9, 1979, Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), CLI-79-8, 10 NRC 141 (1979), the Commission reiterated its conclusion of July 2, 1979, that it "lack[ed] the requisite reasonable assurance that the . . . Licensee's Three Mile Island Unit No. 1 Facility . . . can be operated without endangering the health and safety of the public," and it directed that TMI-1 be shut down pending completion of various required short-term actions and demonstration of reasonable progress on various long-term actions. The Commission also stated that "hearing and decision with review thereof . . . on the issues specified in this order is required," and that

> On the basis of that hearing the Commission will determine whether any further operation will be permitted and, if so, under what conditions.

Id. at 142. (Emphasis supplied)

It is arguable that the Commission at that point was simply instituting an investigation to determine whether the suspension of the operation of TMI-1 could be lifted without endangering the public health and safety. Had the

Licensing Board found that none of the short-term or long-term actions needed to be met, that no new license conditions or other actions were required of the Licensee, and that the Licensee met its pre-existing license requirements, this could be viewed as a simple question of whether to lift a license suspension, as the Licensee would have the Commission view it.

That is not what happened, and that analysis is inconsistent with the Commission'er Order of August 9, 1979. In fact, as noted, the Commission itself believed that the hearing was required, and it clearly contemplated that various short-term and long-term actions would be required of the Licensee as a condition of restart. While the Commission left open the question of precisely what short-and long-term actions would ultimately be required, there can be no serious argument that it expected and intended to impose some additional requirements on the Licensee.

The Licensing Board's Partial Initial Decision, Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit. No. 1), LBP-81-59, 14 NRC 1211 (1981) demonstrated that the Commission was correct in its expectations. Based on the hearings, the Licensing Board determined to impose a broad range of commitments, requirements, and conditions on the Licensee beyond those that were contained in the Licensee's license prior to the TMI-2 accident. Id. at

1413-1422. According to the Licensing Board, TMI-1 suffered from

> various deficiencies in design, procedures and planning which must be corrected before restart. These corrections in the form of Licensee commitments, NRC Staff requirements, and Board-imposed conditions provide reasonable assurance that, with respect to the issues decided in this Partial Initial Decision, Three Mile Island Unit No. 1 can be operated in the short term without endangering the health and safety of the public.

Id. at 1711. At the direction of the Board, the NRC Staff submitted a proposed breakdown of various commitments, requirements, and conditions, in which it stated that

> The Staff proposes prior to restart to include in the body of the license for TMI-1 the specific license conditions listed below . . . (There followed a long list of important license conditions.)

Staff's Response to Licensing Board's Directive to Report Details of its Enforcement Plan In the Form of a Supplemental Initial Decision," filed February 1, 1982.

Accordingly, the conclusion of the Licensing Board and the Staff is that restart should be allowed only after the TMI-1 license is modified or amended to include the new license conditions. This is not simply the reinstatement of a suspended license.[3] It is the issuance and approval of a substantially modified or amended license.

---

[3]This might be avoided if the "discretionary" proceeding held by the Licensing Board could simply be dismissed. However, such a dismissal would not be allowed at this late stage in the process. See Minneapolis Gas Co. v. F.P.C., 294 F. 2d 212, 215 (D.C. Dir. 1961), and the discussion in the NRC Staff Response to General Public Utilities Letter Dated December 1, 1980, filed January 6, 1981, at 9-19.

The language of Section 189(a) of the Atomic Energy Act, 42 USC 2239(a), is clear on this point. The Commission must grant a hearing if requested

> [i]n any proceeding under this chapter for the granting, suspending, revoking, or amending of any license . . . .

One of the developing line of adverse precedents arising out of the Commission's handling of Three Mile Island confirms that a hearing is required for license modification even where it is claimed that the modification does not involve a serious hazard consideration. Sholly v. U.S. Nuclear Regulatory Commission, 651 F. 2d 780 (D.C. Cir. 1980), cert. granted, 101 S. Ct. 3004 (1981). Indeed, Sholly confirms that an NRC action that involves amending a license is not a simple case of lifting a license suspension, and it does require a hearing. Id. at 790-791.

The only question now is whether to play foolish games with that hearing right. The Commission has two choices. It can recognize the restart proceeding that has lasted since late 1979 as the license modification hearing required by the Atomic Energy Act, or it can now offer hearings on proposed license amendments before those amendments are allowed to become effective. Logic and efficiency dictate the former. The Licensee's arguments would appear to require the latter. In either case, however, the Atomic Energy Act requires a hearing prior to restart.

B. The Hearing Required by the Atomic Energy Act is the "Existing Agency Review Process" under NEPA, In Which the SEIS Must Be Considered.

The Licensee's first major argument is that no adjudicatory hearing is required here because the term "existing agency review process" in Section 102(c) of NEPA, 42 U.S.C. 4332(c) extends only to hearings that are required by statute or regulation and does not reach discretionary hearings. According to the Licensee, this distinction is established by Aberdeen & Rockfish Railroad Co. v. Students Challenging Regulatory Agency Procedures (S.C.R.A.P.), 422 U.S. 289 (1975) ("SCRAP II") and Cross-Sound Ferry Services, Inc. v. United States, 573 F. 2d 725 (2d Cir. 1978). In particular, the Licensee emphasizes the holding of Cross-Sound Ferry Services that NEPA does not require a hearing unless another statute or regulation requires a hearing as part of the existing agency review process. 573 F. 2d at 732 n. 4.

The Licensee is hoisted with its own petard. The Commission's Order of August 9, 1979, proposed that restart be permitted subject to certain conditions to be determined based on Licensing Board recommendations. Both the Licensing Board and the Staff would permit restart only after the license is modified or amended to incorporate a range of new conditions. PANE is entitled to a hearing on those amendments prior to restart. The only question is whether the Commission views the restart proceeding to date as the hearing on the amendments,

or whether it intends to offer another hearing now that the amendments have been determined. One of the two is required by the Atomic Energy Act prior to restart, and whichever one is chosen is the "existing agency review process" for NEPA purposes under all of the precedents cited by the Licensee.[4]

C. The Proposed Restart is the Commission's "Proposal" for NEPA Purposes.

The Licensee performs semantic gymnastics in its attempt to argue that the Commission's proposed restart of TMI-1 is not a "proposal" for major federal action under NEPA. The Licensee's position is preposterous in the wake of the D.C. Circuit decision in PANE v. NRC, supra. It ignores the differences between the Commission's actions here and the agency actions in the cases on which the Licensee relies. And, once again, it ignores the fact that a license amendment or modification proceeding is required prior to the restart of TMI-1.

---

[4]PANE considers the rational approach to be acceptance of the restart hearing as the required license amendment or modification hearing. However, from an abundance of caution, PANE has filed an accompanying hearing request in case the Commission chooses not to view the restart hearing as the "existing agency review process."

The requirement for an SEIS is triggered only when there is a "proposal" for major federal action. 42 U.S.C. 4332(c). The D.C. Circuit found that an SEIS would be required here if there were significant new information concerning the psychological impacts of the operation of TMI-1, and it originally ordered that any restart be delayed until the NEPA analysis was completed. In its amended judgment, the Court lifted its injunction, but it directed the Commission to provide the Court and PANE with 30 days' notice of a final restart decision if that decision is to precede full compliance with NEPA. Although the Court did not address the "proposal" issue as now presented by the Licensee, there is no question that it viewed the restart as a Commission proposal.

The Licensee relies primarily on SCRAP II, supra, for the proposition that there is no agency proposal until the adjudicatory hearing is completed. The case is irrelevant. There, the ICC suspended a rate increase filed by the railroads and held an investigatory hearing to determine what action it should take, if any, with respect to the increase. The ICC took no position with respect to the rate increase when it instituted the hearing and took no action that could be construed as a proposal to institute, revoke, or modify the increase. Its hearing was truly an investigation to determine what action to take, if any. This Commission's Order of August 9, 1979, cannot be so construed. The

Commission proposed the restart of TMI-1 subject to whatever conditions might be developed in the course of the restart hearing. The Order reads as if the Commission had tentatively adopted the conditions developed by the Staff and was itself proposing restart if those conditions were met. As in any licensing proceeding, such non-regulatory conditions were left open to challenge, but that does not detract from their status as part of the Commission's proposal.

However, it is unnecessary to decide whether or not the Commission proposed the Staff's conditions. Whatever conditions might ultimately be developed, the Commission undoubtedly proposed the restart of Three Mile Island Unit No. 1. The Licensee's arguments that the various conditions of restart were too uncertain to constitute a proposal are beside the point. The fundamental action to be taken by the Commission was the restart of TMI-1, and that proposal was sufficiently clear to allow an evaluation of its environmental impacts, in this case its impacts on psychological health.

This reading of the Commission's Order and of the "proposal" language of NEPA is consistent with the regulations of the Council on Environmental Quality and all prior precedents, including those of the Supreme Court. 10 CFR 1502.5(c) provides that

> The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize of (sic) justify decisions already made . . . . For instance:

* * *

> (c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

The second sentence of 10 CFR 1502.5(c) implements the SCRAP II ruling by permitting an EIS to follow a hearing where the hearing is for the purpose of gathering information. That was true in SCRAP II, where the ICC was gathering information to determine whether it would make any proposal. Here, the Commission proposed the restart, and the most that can reasonably be argued is that the purpose of the hearing was to gather information concerning the conditions to be imposed on the restart, not about whether restart itself should be proposed.

The situation here is analogous to that in Kleppe v. Sierra Club, 427 U.S. 390 (1976), where the need for an EIS of national scope was clearly recognized, and the question was whether an EIS of narrower regional scope should be prepared although there was no proposal for regional action. Similarly, the Commission's restart proposal was fully recognized and could be evaluated from the beginning. Arguably, the various conditions and short- and long-term requirements were not yet certain, so they could not yet be evaluated. In the context of the psychological health issue, however, the restart proposal was on the table. See, also, State of California v. Bergland, 384 F. Supp. 465, 480-481 (E. D. Cal. 1980).

This case is distinct from New England Coalition on Nuclear Pollution v. Nuclear Regulatory Commission, 582 F. 2d 87 (1st Cir. 1978) for the same reasons. There, the final environmental impact statement had been completed for the basic proposal to construct and operate a nuclear facility at Seabrook. It had also been fully considered in the adjudicatory hearing. Only a minor modification of the design was considered in the hearing without the preparation of a supplemental impact statement, and even then the modification was at least considered in the adjudicatory hearing. Thus, the Commission had complied with the fundamental requirement that the environmental issues be considered during the decisionmaking process. Similarly here, compliance with NEPA, and particularly with 10 CFR 1505(c), would be achieved by preparing an SEIS on the impacts of the proposed restart, considering those impacts in the reopened restart hearing, and considering any minor modifications that might arise during the hearing process without preparing an additional SEIS on those issues.

Another precedent arising from Three Mile Island is conclusive here:

> The Supreme Court in Kleppe held that once the agency, here the NRC, is presented with a proposal, as in the instant case, then the impact statement must be prepared.

Susquehanna Valley Alliance v. Three Mile Island, 619 F. 2d 231, 241 (3rd Cir. 1980) (NRC presented with proposal to treat and dispose of contaminated water), citing SCRAP II. That

decision, and this one, are distinct from SCRAP II in that both involve firm proposals for specific action on which the agency must rule. In SCRAP II, there was no requirement for ICC action to approve the proposed rate, and there was literally no proposal for ICC action. Under that statutory scheme, no proposal could exist for ICC action until after the initial investigatory hearing. Here, the proposal exists when the Licensee requests a given action, or when the Commission dockets a proposed action for consideration, as it did on August 9, 1979.

Once again, the Commission must address the question of whether the restart hearing itself is the forum in which the proposed license amendments and conditions for restart will be heard, or whether a subsequent hearing should be held now that the specific conditions have been developed. In either case, the statutorily required hearing is the existing agency review process in which the proposed restart, accompanying license amendments and conditions, and psychological impacts must be considered. It is frivolous to suggest that neither the restart nor the license amendments have been proposed.

As we have stated, we believe the logical and efficient approach is to treat both the restart and the license amendments as proposals that were considered in the restart proceeding, and so avoid a duplicative hearing. Consideration of psychological issues would simply be undertaken in a final phase of the

restart hearing. If, however, the restart and accompanying license amendments and modifications are not considered to have become proposals until after the completion of the discretionary restart proceeding, PANE and all other parties have full rights under the Atomic Energy Act to an additional adjudicatory hearing and to consideration of NEPA issues in that process.

We urge the Commission to heed the admonition of the D.C. Circuit that agencies may not,

> by manipulating the time at which they actually develop recommendations or reports on proposals, seek to avoid or perniciously to delay preparing an impact statement.

Defenders of Wildlife v. Andrus, 627 F. 2d 1238, 1244 (D.C. Cir. 1980). That is precisely what the Licensee would have the Commission do here.

D. The Commission's Regulations Require an Adjudicatory Hearing.

With good reason, the Licensee attempts to denigrate the requirements of the Commission's regulations. They are directly on point, and they explicitly require a consideration of NEPA issues in adjudicatory hearings.

10 CFR 51.56 provides that Part 51 is applicable to all draft and final environmental impact statements. 10 CFR 51.52(a) provides that

> In any proceeding in which a draft environmental impact statement is prepared pursuant to this part, the draft environmental impact statement will be made available to the public at least fifteen (15) days prior to the time of any relevant hearing.

(Emphasis supplied). The relevant hearing here, whether statutorily required or not, is the restart proceeding.

10 CFR 51.52(b) further provides that

> (1) In a proceeding in which a hearing is held for the issuance of a permit, license, or order, or amendment to or renewal of a permit, license, or order, covered by §51.5(a), and matters covered by this part are in issue, the staff will offer the final environmental impact statement in evidence. Any party to the proceeding may take a position and offer evidence on the aspects of the proposed action covered by NEPA and this part in accordance with the provisions of Subpart G of Part 2 of this Chapter.

This license amendment proceeding will be covered by §51.5(a)(12) by virtue of the Commission's imminent decision that significant new information has arisen concerning psychological health impacts at Three Mile Island.[5] Finally, should the Commission determine that the impacts are not so great as to require an SEIS, PANE is entitled to an adjudicatory hearing under §50.52(d).

---

[5]The Licensee argues that Part 51 deals only with NEPA procedures where a hearing is otherwise required. There is no such limitation in §51.52. If anything, the reference in §51.56 to "any relevant hearing" indicates that the SEIS is to be considered in the hearing if one is held, regardless of whether one is required. The argument is irrelevant here, however, since a hearing is required for these license amendments and modifications.

The Licensee has requested a waiver of the regulatory requirements pursuant to §51.4. We address below the policy reasons that the request should be denied. It suffices here to note that the waiver may not be granted with respect to §51.52(b)(1) because NEPA itself requires that the SEIS be considered in the existing agency adjudicatory hearing review process. As a matter of law, the waiver request can be granted only if the Commission decides that an SEIS is not required.

III. The Commission Should Provide An Adjudicatory Hearing as a Matter of Policy.

The Licensee cites its various concerns, including its own dismal corporate failure to obtain funding for the clean-up of TMI-2, as reasons that the people of Three Mile Island should be denied the full hearing rights to which they are entitled. In support, the Licensee cites SCRAP II, Environmental Defense Fund v. Marsh, 651 F. 2d 983 (5th Cir. 1981), and City of Willcox v. F.P.C., 567 F. 2d 394 (D.C. Cir. 1977), cert. denied, 434 U.S. 1012 (1978).

SCRAP II is no help to the Licensee here. It dealt with a situation where the relevant hearing was not required by statute or regulation. As a result, the ICC could look at the issue later than might otherwise be required and could fold NEPA concerns into its final decision. Here, the hearing is required, so the SCRAP II rationale does not apply. Moreover, this is not a matter of "starting over." Rather, it is a matter of finishing up by undertaking the final phase of the restart proceeding.

Environmental Defense Fund v. Marsh, 651 F. 2d 983 (5th Cir. 1981) is also inapposite. There, the Court narrowed the injunction pending a supplemental EIS to those areas that would be addressed in the supplement. The comparable relief here is to prevent restart since the psychological effects of restart are the precise matters at issue. The case has no bearing on whether an adjudicatory hearing should be provided as a policy matter.

The same is true to an even greater degree of City of Willcox v. F.P.C., supra, which involved a challenge to a proposed gas curtailment plan. There the hearings did not have to be restarted for the EIS because the Administrative Law Judge had the authority to revise the plan, and the interim plan would not finally control. In addition, implementation of the plan apparently did not give rise to major environmental concerns that could not be alleviated as the hearing progressed. By contrast, the restart itself will cause the damage that is now to be evaluated by the NRC. Unlike the situation in City of Willcox, the hearing must be completed prior to any implementation of restart by the NRC.

The single most important policy matter that the Commission must consider is the likely effect both on the psyches of the people of Three Mile Island and on the credibility of the Commission itself if it should once again deny meaningful participation rights to PANE and others who are concerned about

these issues. These people have already had to live through the accident itself. They have been forced to go to Court when the NRC decided that it would not listen to their concerns, and now that they finally are entitled to have their say after already having exhausted their resources and their emotions, they face the prospect of being thrown out once again. Such an action by the Commission would be intolerable to them, and it would not doubt contribute to the strong feelings that already have resulted in an overwhelming rejection of restart in the recent local elections. It is difficult to imagine a more callous action by the Commission or a more monumental public relations blunder.

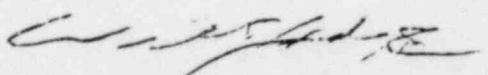
More important, however, is the fact that such treatment by the Commission would itself contribute significantly to the psychological damage now suffered by many people in the area. It would directly compound the feelings of lack of trust, helplessness, anger, and rage that were found by Dr. Titchener in his studies and that are central to the psychological condition of area residents.

We urge the Commission to recognize the humanity and the needs of the people whose lives it effectively controls. The least the Commission can do is give those people their day in court.

Conclusion

For these reasons, we urge that the Commission (1) rule that an SEIS is required on psychological health issues, (2) set a reasonable date for completion of the SEIS, taking into account the time needed to complete the studies necessary for a thorough evaluation of the issues, and (3) rule that those parties with psychological health related contentions are entitled to an adjudicatory hearing before the final restart decision is reached. We also urge that the Commission order PANE's contentions admitted in the restart proceeding and recognize PANE as a formal intervenor.[6]

Respectfully submitted,



Date: June 3, 1982

William S. Jordan, III

Counsel for People Against Nuclear Energy

HARMON & WEISS

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

(202) 833-9070

---

[6]The Licensee finds some significance in the fact that the Court did not issue such an order. The Licensee is incorrect. The issue was not argued in any detail to the Court, and it is hardly surprising that the Court left it to the Commission to review its procedures in light of the substantive ruling and to decide what sort of hearings or other actions were required. These pleadings are the first time that those details have been addressed.