

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
DATE

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

02 JUL-83 11:26

WIA

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

Docket No. 50-289  
(Restart)  
(Reopened Proceeding)

TMIA'S REPLY COMMENTS TO COMMENTS OF  
LICENSEE, NRC STAFF, GARY MILLER, O, W, AND MM  
ON REPORT OF THE SPECIAL MASTER

TMIA herein submits reply comments to comments of the Licensee, NRC Staff, Gary Miller, O, W, and MM on the Special Master's Report pursuant to the Licensing Board's Memorandum and Order dated May 5, 1982. With reference to the comments submitted by Gary Miller, O, W, and MM, TMIA reiterates its original objection to the Board's solicitation of written comments from these actual or potential witnesses, as stated in TMIA's initial comments on the Special Master's Report (SMR) dated May 24, 1982.

TMIA will not comment on the substance of Miller's, O's, W's, or MM's initial comments. With regard to their legal arguments, TMIA is mystified by O and W's claim that as a matter of law, the Special Master has no authority to make recommendations on relevant topics on which he heard evidence. Neither O nor W's counsel cites caselaw to support this view and TMIA has certainly been unable to find any. Clearly, neither the statute, regulations, nor scope of the proceedings within the broad issue prohibited Judge Milhollin from making recommendations concerning O and W, particularly when the NRC staff investigation

0503  
0/1

failed to follow through with warranted recommendations based on their own investigation.

With respect to the comments of the Licensee and NRC Staff, TMIA refers to Chairman Smith's Memorandum dated May 25, 1982 describing a phone conversation with Louise Bradford on behalf of TMIA. TMIA did not receive the Licensee or NRC comments until May 25, 1982. TMIA requested more than one week to reply to initial comments submitted in this case, because of the number and length of comments. Chairman Smith stated that based on his initial reading of 60 pages of the Licensee's comments, he did not see the need for more time but would consider a renewed request if a particular need could be demonstrated.

TMIA's request for more time stemmed from a simple desire to reply adequately to all initial comments. As all parties know, producing reply comments requires time to read, assimilate, check legal and transcript citations and analyses of the initial comments, and write. TMIA had extreme difficulty doing this in less than one week. In fact, TMIA had not time to even consider the NRC Staff comments. Thus, the substance of TMIA's reply comments are limited only to Licensee's initial comments. Further, TMIA was only able to specifically respond to those paragraphs which appeared blatantly incorrect or unsupported. Otherwise, TMIA stands by its initial comments, its references to the SMR, and its proposed findings.

Licensee comments, paragraphs 2-4.

Judge Milhollin's conclusions regarding the extent of cooperation on exams are based on a wide range of factors,

including credibility determination. If Judge Milhollin concluded that a memory lapse was not credible or failed to disprove cooperation, he did so based on other direct or circumstantial evidence as well as his observation of the witness's demeanor, not on arbitrary evaluation. Thus, the Licensee's assertion in paragraph 4 that "to infer from this lapse of memory that witnesses were lying under oath" mischaracterizes the thorough and reasoned analysis of the SMR.

Licensee comments, paragraph 9.

Licensee's analysis of G and H's parallel answers are extremely weak for which we offer no comment. We note that in paragraph 9, Licensee argues that no instructor who testified was asked about the G and H matter. It seems quite obvious that if the Licensee, through its instructors, could have presented direct testimony to support Mr. Wilson's investigation, Licensee would have presented such testimony. It failed to do so.

Licensee comments, paragraph 63.

Licensee mischaracterizes the SMR. Judge Milhollin does not "appear to suggest that the addition 'for adequate cooling' requested by Licensee's reviewers was to the answer for the second portion of the question concerning the effect on the seal. Report at paragraphs 155-157." To the contrary, Judge Milhollin states, "one purpose of the by-pass line (according to Mr. Wilson) was to cool the radial bearing. Thus, an answer mentioning cooling would respond to the first part of the question." SMR paragraph 156. TMIA stands by the SMR and its comments regarding the Mike Ross issues.

Licensee comments, paragraph 108.

Licensee here misses the obvious point. Mr. Wilson admitted in testimony that he had perused the exams, Tr. 24,510 (Wilson), and that he did not then and does not now regard these as parallel answers. Tr. 24,511(Wilson). Thus, his failure to notice or regard these as parallelisms only bolsters Judge Milhollin's conclusions regarding the inadequacy of Mr. Wilson's investigation.

Licensee comments, paragraph 110.

Licensee here mischaracterizes G and H's testimony. G states several times that he had memorized Bernoulli's equation from a textbook, Tr. 25,815-19, 25,944-5(G); and H was positive he had memorized it from a blackboard Tr. 25,883, 25,938(H). Their statements were not vague or ambiguous. Rather, they were contradictory.

Licensee comments, paragraph 122.

The Board should note that a major point here is that VV made no attempt to disguise his action, that the training department graded the exam in the face of two distinctly different handwritings, and that the incident came to light only because the grades were below that required for licensee renewal. This clearly points up the fact that this type of behavior was considered acceptable, and in light of Licensee's continued insistence that VV did not cheat, it appears that the Licensee has learned absolutely nothing from the incident.

Respectfully submitted,

Dated: June 1, 1982

Louise Bradford

Louise Bradford, TMIA

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD'82 11-5 A11:26

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

Docket No. 50-289  
(Restart)  
Reopened Proceedings)

CERTIFICATE OF SERVICE

I hereby certify that copies of TMIA's reply comments dated June 1, 1982 were served on parties on the attached service list by deposit first class in the United States Mail, postage prepaid, on June 1, 1982, except by hand delivery on June 1, 1982 to those persons with one asterisk (\*) appearing before their names.

*Louise Bradford*  
\_\_\_\_\_  
Louise Bradford

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)

)  
) Docket No. 50-289  
) (Restart)  
)

SERVICE LIST

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

\* Ivan W. Smith, Esquire, 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  
881 West Outer Drive  
Oak Ridge, Tennessee 37830

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

George F. Trowbridge, Esquire  
Shaw, Pittman, Potts & Trowbridge  
1800 M Street, N.W.  
Washington, D.C. 20006

James A. Tourtellotte, Esquire  
Office of the Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Ellyn R. Weiss  
Harmon & Weiss  
1725 Eye Street, N.W., Suite 506  
Washington, D.C. 20006

Ms. Marjorie M. Aamodt  
R.D. #5  
Coatesville, Pennsylvania 19320

Ms. Gail Bradford  
Anti-Nuclear Group Representing York  
245 West Philadelphia Street  
York, Pennsylvania 17404

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

Mr. Steven C. Sholly  
Union of Concerned Scientists  
1346 Connecticut Avenue, N.W.  
Dupont Circle Building, Suite 1101  
Washington, D.C. 20036

\* Robert W. Adler, Esq.  
Assistant Attorney General  
505 Executive House  
P.O. Box 2357  
Harrisburg, PA 17120

Jordan D. Cunningham, Esquire  
Attorney for Newberry Township  
T.M.I. Steering Committee  
2320 North Second Street  
Harrisburg, Pennsylvania 17110



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

\* David E. Cole, Esquire  
Smith & Smith, P.C.  
2931 North Front Street  
Harrisburg, Pennsylvania 17110

Henry D. Hukill  
Vice-President  
GPU Nuclear Corporation  
Post Office Box 480  
Middletown, Pennsylvania 17057

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

John Clewett  
Christic Institute  
1324 North Capitol Street  
Washington, D.C. 20002