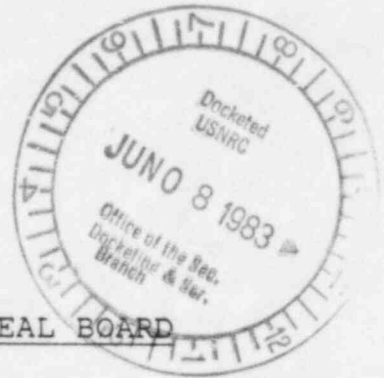


June 7, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



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

LICENSEE'S RESPONSE TO
THREE MILE ISLAND ALERT
MOTION TO REOPEN THE RECORD

I. Introduction

On May 23, 1983, Three Mile Island Alert (TMIA) filed with the Appeal Board a motion to reopen the record on the issue of Licensee's management competence and integrity, alleging that information which has come to light as a result of the review of the GPU v. B&W trial record, as well as from two recent GPU consultants' reports and other recent developments warrants reopening the record in this proceeding.^{1/} Within the broad

^{1/} TMIA characterizes this information as so important that the NRC Staff has withdrawn its endorsement of Licensee management's competence and integrity. TMIA Motion at 1. This simply is not true. The very Staff memorandum which TMIA cites as support concludes "The Staff can draw no conclusion regarding management integrity at this time." Dircks'

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rubric of management competence and integrity, TMIA has identified the following eight specific topics^{2/} on which it seeks a reopening:

1. The veracity of the Hartman allegations being addressed by the DOJ. (This matter is still pending with the Department of Justice.)
2. Statements in the record of the GPU v. B&W court proceeding, except for "NRC Staff Comments on the Analysis of GPU v. B&W Transcript", April 18, 1983.
3. The Parks and King allegations.
4. Any concerns raised by the contents of GPU consultant reports (BETA and RHR) which were not considered by the staff in revalidating its position (because of the absence of a direct nexus to the Hartman allegations] but which possibly could affect the staff's position (or Commission decision) on Licensees' management competence or integrity.
5. The issue of whether the Licensee failed to promptly notify the Commission or Appeal Board of relevant and material information contained in the BETA or RHR reports or any other documents, which failure may reflect on the Licensee's management integrity.

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Memorandum of May 19, 1983 (attached to TMIA's Motion). At most, the Staff has withdrawn support on the issue of integrity. TMIA's Motion, on the other hand, seeks to reopen on competence issues.

^{2/} The first five identified issues are listed as open issues in the Staff's revalidation effort regarding its position on Licensee's management integrity. See Dircks' Memorandum of May 19, 1983.

6. The credibility of Region I's Inspection Report No. 50-289/83-10, particularly with regard to the Hartman allegations and the BETA and RHR management audits.
7. The credibility of Victor Stello's report(s) on the impact of the GPU v. B&W trial record on restart issues.
8. The management implications regarding allegations made by other "whistleblowers" besides Parks and King, and the significance of the Department of Labor finding that Parks was retaliated against by management for reporting safety violations.

TMIA Brief at 5.

Of the eight-listed issues, however, TMIA's motion discusses only the fourth issue -- concerns raised by the BETA^{3/} and RHR^{4/} reports and certain related topics, including alleged conflicts between BETA's 1981 testimony before the Licensing Board and its 1983 report. Because TMIA has not even attempted to meet the heavy burden borne by the proponent of a motion to reopen the record (see Section II, infra) as to issues 1 through 3 and 5 through 8, Licensee responds herein only to the concerns expressed by TMIA regarding the BETA and RHR reports.

^{3/} "A Report on A Review of Current and Projected Expenditures and Manpower Utilization for GPU Nuclear Corporation", Basic Energy Technology Associates, Inc. (February 28, 1983).

^{4/} "Priority Concerns of Licensed Nuclear Operators at TMI and Oyster Creek and Suggested Action Steps", Paul F. D'Arcy, Ph.D. and John R. Sauer, Ph.D., Rohrer, Hibler & Replogle, Inc. (March 15, 1983).

II. Standards for Reopening

The standards for reopening the record in an NRC evidentiary hearing are well established and have most recently been summarized as requiring "that (1) the motion be timely,^{5/} (2) significant new evidence of a safety question exist, and (3) the new evidence might materially affect the outcome". Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-728, 17 N.R.C. _____ (May 18, 1983), slip op. at 34 n.66 (emphasis added). The proponent of a motion to reopen has a heavy burden and where, as here, an initial decision has been rendered, the movant must establish that a different result would have been reached initially had the material submitted in support of the motion been considered. Kansas Gas and Electric Company, et al. (Wolf Creek Generating Station, Unit No. 1), ALAB-462, 7 N.R.C. 320, 338 (1978). See also, Public Service Company of Oklahoma, et al. (Black Fox Station, Units 1 and 2), ALAB-573, 10 N.R.C. 775, 804 (1979) (where issue already fully litigated there was no need to reopen absent a showing that the outcome of the proceeding might be affected thereby) and Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-81-05, 13 N.R.C. 361, 362-363 (1981) (bare allegations or simple

^{5/} Licensee does not contest the timeliness of TMIA's motion with respect to issues raised by the BETA and RHR reports.

submission of new contentions is not sufficient; only "significant new evidence" requires reopening).

As will be discussed in detail below, TMIA has failed to make a sufficient showing to warrant a reopening of this proceeding -- the majority of the concerns raised by the BETA and RHR reports were considered below by the Licensing Board and in no event do they raise significant new safety questions sufficient to overturn the Board's decisions.^{6/}

III. The BETA and RHR Reports

TMIA cites a number of findings from the BETA and RHR reports as the basis for their motion to reopen. TMIA has also, in many instances, quoted partial statements from the consultants' reports which, when viewed standing alone, could

^{6/} The Licensing Board's ruling below on motions to reopen by intervenors Sholly and UCS may be instructive here. Mr. Sholly and UCS had sought to reopen the record based upon a report by the members of the I&E team which investigated the accident at TMI-2 which intervenors contended supported their contentions and were in conflict with the testimony presented by the Staff in the design phase of the restart proceeding. There the Board held that it would be "virtually impossible" to justify a reopening based solely on bare conclusions from the report which were at variance with conclusions reached by earlier staff witnesses; rather, the Board required the intervenors to specify and identify any new technical bases for the I&E personnel's conclusions. See Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), LBP-82-34A, 15 N.R.C. 914 (1982). Similarly, Licensee contends that TMIA must show new, significant information relating to a safety issue as the basis for the BETA and RHR findings which was not previously considered by the Board below.

appear to raise issues of import. However, as discussed below, many of these statements are taken out of context and Licensee therefore urges the Appeal Board to review the statements cited by TMIA in conjunction with the overall findings made by BETA and RHR. Further TMIA has, to a great extent, ignored the purposes of the reports and the limitations inherent in the findings made by BETA and RHR. Therefore, prior to addressing the specific findings relied on by TMIA, Licensee believes it is important to recount generally the nature and purpose of the two consultants' reports.

BETA was commissioned by GPU Nuclear in January 1982 to conduct an independent review of the TMI-1 and Oyster Creek nuclear plants to identify areas where improvements could be made resulting in more efficient performance at less overall expense. BETA Report at 1. Thus, the BETA Report must be viewed in terms of its purpose, i.e., to assess cost-effectiveness and manpower utilization. To the extent that BETA's review touched on issues such as nuclear safety, operator training and compliance with regulatory requirements, it did so only as incidental to its central purpose of evaluating efficiency. See BETA letter of May 13, 1983 to Robert C. Arnold^{7/} at 1; NRC Inspection Report No. 50-289/83-10 at

^{7/} This letter was provided to the Appeal Board and parties by Licensee's counsel on May 16, 1983, together with the BETA Report itself.

13-7, 15-1. Further, as noted by the Staff, BETA's review was not based upon compliance with industry standards or regulatory requirements, but upon a "standard of excellence" based upon BETA's extensive nuclear experience in supervising the naval nuclear program. Id. at 15-1.

Rohrer, Hibler and Roplogle, Inc. (RHR) was requested by GPU Nuclear to provide consultation services with respect to the attitudes, opinions and frustrations of GPU's licensed operators. See RHR Report, "Introduction"; RHR letter of May 13, 1983 to Robert Arnold^{8/} at 1; NRC Inspection Report No. 50-289/83-10 at 15-3. In view of the scope of RHR's mandate, their March 15, 1983 report is necessarily one-sided and provides the subjective perceptions of operators (and consultant impressions) rather than objective performance data. RHR letter of May 13, 1983 at 2. Further, this report reflected merely the initial step in what was envisioned as an extended consultation project and was undertaken as more of a pilot study than a fully scientific study from which conclusions could be drawn.^{9/} Id. at 1; NRC Inspection Report No.

^{8/} Provided to the Appeal Board and parties by counsel for Licensee by letter dated May 16, 1983, together with the RHR Report itself.

^{9/} The NRC I&E review of the RHR report also noted the following shortcomings: it was difficult to separate which operator views originated at TMI-1 versus Oyster Creek (NRC Inspection Report No. 50-289/83-10 at 13-8); the responsible consultant had little prior experience in the nuclear industry

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50-289/83-10 at 15-3.

Licensee views the TMIA motion as raising three somewhat broad areas relating to the BETA and RHR reports: adequacy of licensed operator training and testing; conflicts between testimony presented by Mr. Wegner of BETA before the Licensing Board in 1981 and the current BETA report; and other, miscellaneous management capability concerns. The issue of training and testing, which TMIA refers to as perhaps the most important issue, is addressed immediately below. Mr. Wegner's testimony and perceived differences in the most recent BETA Report are also addressed below; observations on other miscellaneous management capability concerns raised by TMIA are contained in Appendix A hereto.

A. Training and Testing

TMIA, at pp. 17-18 of its motion, cites four RHR findings and four findings by BETA regarding the TMI-1 licensed operator training and testing program which it claims "conflict directly with the conclusions of the management PIDs" and therefore warrant a reopened hearing before the Appeal Board. While certain of the RHR and BETA findings may indeed conflict with

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and did not fully understand some of the survey's terminology (id. at 15-4); the survey had many potentially misleading and confusing questions (id.).

the ultimate conclusions reached by the Licensing Board, the substance of most of the consultants' findings were placed before, and taken into consideration by, the Licensing Board; the substance of other cited findings, discussed individually below, do not represent "significant safety" information. In some instances the findings are neither new nor significant.

RHR(1). -- only 60% of those who responded agreed that the content of the last exams was job relevant and only 1/3 agreed that the oral portion of the exam tested how one would act in an emergency.

TMIA Motion at 17.

The subject of the validity -- or perceived validity -- of the NRC exams cannot properly be considered a "new" issue sufficient to form the basis for a motion to reopen. This issue has previously been considered by the Licensing Board in response to the Aamodts' Proposed Findings (§§ 26-36) and to a portion of the Special Master's Report. See Management PID at § 268-272; Cheating PID at §§ 2369-2371.^{10/} Further, many of the operators who testified during the reopened proceeding were

^{10/} The Licensing Board recognized that the substantive adequacy of the NRC examination was beyond the scope of the Reopened Proceeding. Cheating PID §§ 2363-2366. However, because this issue was reviewed in connection with the Board's consideration of the nature of the examination questions, the Board provided observations on the NRC exam and recommended that the Commission give high priority to the continued efforts to upgrade the adequacy of the license examinations. Id. at §§ 2370, 2371.

questioned on their views of the adequacy of the NRC licensing exam as a predictor of their ability to operate the plant. Generally, most operators stated that while the NRC written exam alone is not an accurate measure of their ability to operate the plant, it is viewed as one test of their capabilities. Additionally, a number of the operators who testified viewed the NRC oral exam as a fairly accurate portrayal of an individual's response to various plant conditions, including emergencies. See, e.g., Tr. 25,860 (Mr. HH: oral exam measured ability to respond to emergency conditions); Tr. 26,045-052 (Mr. A: exam by itself not fair measure of operator's ability to operate safely; NRC operational (oral) exams are a better measure of individual's reaction, ability to function under stress); Tr. 26,412 (Shipman: October 1981 oral exam was a fair measure of ability to react to transients); Tr. 26,467 (Mr. WW: NRC exams, especially the oral exams, are getting better at determining whether a person is a good operator or not). TMIA never sought to pursue this issue before the Licensing Board or now in its appeals of the two Licensing Board decisions.

The adequacy, or validity, of the NRC license examinations is not, in any event, relevant to the scope of the supposed subject of the instant motion -- i.e., Licensee's management competence. Obviously, Licensee has no control over the structure or substance^{11/} of the NRC examinations; it follows,

^{11/} Beyond, of course, providing plant information to the NRC for their use in constructing the licensing examinations.

therefore, that the adequacy of the NRC examination can have no impact upon the determination of Licensee's management competency. Further, as recognized by the Licensing Board, if there is a problem with the substance of the NRC license examinations, it is a generic problem not unique to TMI-1. Cheating PID at ¶ 2370.

RHR(2). -- most considered the training department is not oriented to the needs of the operators.

TMIA Motion at 18.

As with many other statements taken from the RHR Report, one cannot determine, from this finding alone, the applicability of the statement to the TMI-1 control room personnel. See also n. 9, supra. This is particularly true here, where the report then goes on to state that

[a]n overall majority agree that training has been improving although a substantial minority disagree. Here again, there is a difference between TMI and Oyster Creek. There is more satisfaction at TMI with training although they are less satisfied with the staff.

RHR Report, Part II, "Satisfaction with Training" (emphasis added).

The RHR finding of TMI-1 operators' satisfaction with the present training program adds little to the existing knowledge of this subject based the testimony of the control room personnel during the Reopened (Cheating) Proceeding. Virtually

every operator who testified during the Reopened Proceeding was asked to evaluate the adequacy of the TMI-1 operator training program, including the adequacy of the trainers' methods and the quality of training. As one might expect from any group of students, training received mixed reviews. Of importance, however, the testimony elicited during that hearing showed that, while there were criticisms of the pre-accident training, most of the operators were complementary of, or at least satisfied with, the training they received in preparation for the April and October 1981 NRC examinations. The operators further believed that the exams were an indicator of their ability to operate TMI-1. See Tr. 25,724-25 (Mr. G); Tr. 25,858-59 (Mr. HH); Tr. 25,866 (Mr. H); Tr. 26,049 (Mr. A); Tr. 26,276-78 (Mr. O); Tr. 26,410-413 (Shipman); Tr. 26,464B-66 (Mr. WW); Tr. 26,524 (Mr. KK); Tr. 26,674-75 (Mr. VV); Tr. 26,704-705 (Mr. GG). The recent RHR survey suggests that mixed reviews still exist -- hardly a startling revelation.

RHR (3) -- there is ... strong agreement that there is not enough training on plant conditions.

TMIA Motion at 18.

This, again, is an example of an unexplained statement taken from the RHR Report: the Report neither indicates the applicability of the statement to TMI-1 nor does it explain what is meant by the phrase "plant conditions".^{12/} In so far

^{12/} The subject quote is preceded by the statement that "[m]ore were satisfied than not with the relative emphasis

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as it relates to TMI-1, it may simply reflect the practical inability to undertake the normal amount of on-the-job training with operating equipment that is possible in an operating plant.

However, as is clear from a brief review of the Licensing Board decisions, the adequacy of the content of Licensee's training programs has been the subject of scrutiny during both the initial management hearing and the Reopened Proceeding. See, generally, Management PID at ¶¶ 177-195; Cheating PID at ¶¶ 2321-2347. Indeed, as discussed above, the testimony of most of the operators themselves during the Reopened Proceeding was complementary of the training program after the TMI-2 accident. See pp. 11-12, supra; see also Cheating PID at ¶¶ 2334 (content of training program in compliance with 10 C.F.R. Part 55), 2347 (license conditions imposed as to program administration, not content). In any event, there is no suggestion from the RHR Report that training requirements are not being met -- this preference by the operators appears simply to be one of emphasis and prioritization within training's various objectives.

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given to emergency and normal operations. Only a small minority considered there to be too much training in specific procedures." The Report then goes on to discuss the inclusion of reactor theory and political/policy issues in the training program. RHR Report, Part II, "Content of Curriculum".

RHR(4) -- operators complained of a lack of convergence between training, testing and ability to operate the plant. 3 out of 4 denied that training prepared individuals to pass exams and is successful at this but it doesn't prepare them sufficiently to operate. To compound this, what is taught in training is different from what they experience in the plant.

TMIA Motion at 18.

Initially, it should be noted that TMIA here has misquoted a portion of the RHR findings and has deleted other portions of the findings. In the interest of clarity, Licensee provides below the entire findings made by RHR under the subject of "Training, Testing and Ability to Run Plant":

Operators complained of a lack of convergence between training, testing and ability to operate the plant. Three out of four denied that training prepared them for what they actually do. In their perception training prepared individuals to pass exams and is successful at this but it does not prepare them sufficiently to operate. This is particularly true at TMI where many Trainees have not seen the plant in full operation.

By policy the one who gives the training is different from the one who makes up the exams. Consequently the examiner asks different questions from what has been covered in training.

To compound this, what is taught in training is different from what they experience in the plant. For this reason they want trainers with operational experience and this experience needs to be kept up-to-date. Efforts are made at keeping trainers up-to-date on the plant but these are not as effective in practice as they appear in principle. The shift supervisor should be used on shift to give hands on training to shift members.

This, however, is not a high priority with the shift supervisor.

The only direct reference to the opinions of the TMI-1 operators is to the TMI-1 trainees, who apparently expressed an opinion that training does not prepare them sufficiently to operate the plant. As the RHR report points out, this opinion is due, no doubt, to the fact that the trainees have yet to see the plant in operation. Obviously, until these trainees have had the opportunity to experience the plant in operation, they are not in a very good position to judge the effectiveness of training in teaching them how to operate the plant.

Beyond this, the RHR Report provides little insight into the opinions held by the TMI-1 operators on this subject^{13/} and therefore these RHR findings, by themselves, do not rise to the level of "significant new evidence" required to reopen the record. See Section II, supra, and cases cited therein. In any event, as we have discussed previously, the testimony of the operators in the Reopened Proceeding encompassed this subject matter and was considered by the Licensing Board in reaching its decision.

^{13/} The somewhat related issue of the extent to which the training programs merely "coached" the operators to pass the required licensing exams was examined in great detail during the reopened proceeding. In sum, the Licensing Board found that, while there were weaknesses in instruction, there was not a failure of instruction. Cheating PID at ¶ 2341. The Board then imposed specific conditions to deal with these weaknesses. Id. at ¶ 2347; see also pp. 18-20, infra.

In sum, then, it is clear that the cited RHR findings cannot provide an appropriate or sufficient basis for a motion to reopen the record on the issue of training. Further, in order to put these findings in the proper perspective, Licensee believes that RHR's explanation of the TMI-1 operators' views of training bears repeating here:

Quality of training program. Expectations of operators for training are extraordinarily high at TMI because of the relation of training to license reception and maintenance and as a result, job security. Complaints about training should be evaluated in the light of their extraordinarily high set of expectations. Operators at TMI strongly concur that GPU Nuclear has a major commitment to training (weighted mean 2.00). A majority concur that training has been improving (weighted mean 2.12).

RHR letter of May 13, 1983 at 3-4.

As noted above, the BETA Report concentrated primarily on cost-efficiency issues and, as BETA explained, they did not review the quality of training, i.e., whether or not the students received the proper training.^{14/} BETA letter of May 13, 1983 at 2. Licensee believes it is important for the

^{14/} BETA's effort in this regard should be contrasted with other assessments of training quality per se, such as the SALP report (provided to the Appeal Board and parties by NRC Staff (Eisenhut) on February 7, 1983), the Data Design Laboratories, Inc. (DDL) report (provided to the Appeal Board and parties by Licensee's counsel on October 5, 1982) and the INPO evaluation (provided to the Appeal Board and parties by Licensee's counsel on November 3, 1981), none of which prompted motions to reopen.

Appeal Board to bear this limitation in mind as it reviews the BETA comments.

BETA (1) -- inefficiencies in the TMI training program are brought about due to the lack of a realistic schedule. P. 56.

TMIA Motion at 18.

In its report BETA states that this inefficiency is particularly evident in the case of security training but does not indicate the extent to which it is evident in the training of licensed operators.^{15/}

Licensee views TMIA's reliance on this finding as a prime example of the inappropriateness of TMIA's Motion. A review of this section of the BETA Report makes clear that this finding goes to inefficiencies in the Training Department, not to safety questions or inadequacy of training. See BETA Report at 56. Licensee cannot be faulted for attempting to ferret out inefficiencies in its programs. Nor, having done so, should Licensee now be subjected to reopened hearings on perceived inefficiencies alone.

BETA (2) -- too much emphasis is being placed on proving to the world that the training program is good and not enough on doing what should be done to produce a competent operator. P. 57.

^{15/} In either event, Licensee fails to see how training scheduler inefficiencies alone can rise to the level of a significant safety question, particularly where the amount of training far exceeds the NRC requirements. See Management PID at ¶ 191.

TMIA Motion at 18.

This statement is prefaced by a recognition that all elements within GPU Nuclear concerned with training have been placed under a great deal of pressure over the last three years as a result of the TMI-2 accident and the exam cheating incident and that most of the auditing, reviewing and analyzing of the training program could not have been avoided.^{16/} BETA also notes that it did not attempt to make a first-hand determination of the quality of the training effort. See p. 16, supra.

As discussed above, the Licensing Board has heard extensive evidence on Licensee's training and testing program. See pp. 12 and 13, supra. The quality of instruction was explicitly addressed by the Board in its Cheating PID. The Board did not find that there was a failure of instruction, but it did find weaknesses identified which should be pursued. Cheating PID at ¶ 2341. The Board then went on to place four license conditions on TMI-1 to remedy the identified weaknesses. Id. at ¶ 2347. The concerns expressed are already being considered. See pp. 19-20, infra.

^{16/} This statement may also reflect the frustration of the operators' inability to operate the plant and train practically on equipment. See pp. 12, 14-15, supra. That the training program is inadequate or misdirected for trainees is hardly supported by the extremely high pass rates on NRC examinations. See in this regard, Licensee counsel's letter of May 6, 1983 (nine out of ten ROs pass February NRC exam).

BETA (3) -- there exists a lack of supervision of instructors in the TMI Training Department. It would seem that this finding should be unnecessary considering the seniority and experience level of the training staff ... [B]ased on the observations made, there should be concern over classroom performance. P. 58.

TMIA Motion at 18.

TMIA has deleted several sentences from the report in setting forth this finding, including a sentence noting that BETA did not observe the instructors' performance in the classroom. The observations noted were made outside the classroom. (BETA had been previously alerted to the possibility of this condition by comments of Licensee employees outside the training department. BETA Report at 58.)

BETA's concern for classroom performance has already been addressed by the Board in its Cheating PID. As noted above, the Board imposed four conditions on TMI-1. Three of those relate to instructors and their performance, including classroom performance:

- (1) There shall be a two-year probationary period during which the Licensee's qualification and requalification testing and training program shall be subjected to an in-depth audit by independent auditors, approved by the Director of NRR, such auditors to have had no role in the TMI-1 restart proceedings.
- (2) Licensee shall establish criteria for qualifications of training instructors to ensure a high level of competence in instruction, including knowledge of subjects taught, skill in presentation of knowledge, and preparation, administration, and evaluation of examinations.

- (3) Licensee shall develop and implement an internal auditing procedure, based on unscheduled ("surprise") direct observation of the training and testing program at the point of delivery, such audits to be conducted by the Manager of Training and the Supervisor of Operator Training and not delegated.

Cheating PID at ¶ 2347. Obviously, any classroom performance inadequacies will be encompassed by Licensee's compliance with these conditions.^{17/}

BETA (4) -- more attention is being paid to the "trappings" of training rather than to a concerted effort on obtaining an effective end product. P. 59.

TMIA Motion at 18.

This statement is contained in BETA's discussion of the Oyster Creek training program and specifically relates to Oyster Creek. However, the sentence includes the phrase "as in the case of TMI-1" which indicates it is referring to the previous discussion of TMI-1 training. TMIA has set forth the applicable TMI-1 finding above (see BETA 2) and Licensee has responded thereto.

In sum, each of the concerns cited by TMIA prove to be non-safety-related or matters which have previously been

^{17/} Licensee has proposed an independent auditor (DDL) for NRC Staff approval in compliance with condition (1). Additionally, Licensee has developed the criteria and procedures called for by conditions (2) and (3) and has submitted these programs for Staff review and approval.

considered and are being acted upon. Licensee therefore contends that the training issues raised by TMIA are insufficient to form the basis of a motion to reopen.

B. BETA Testimony

As TMIA correctly notes, the initial management phase of the Restart Proceeding included direct testimony presented by representatives of the BETA firm, regarding BETA's review of Licensee's management capability in several distinct areas. See generally Wegner, ff. Tr. 13,284; Tr. 13,283-327 (Wegner, Miles). TMIA then goes on to allege that the 1983 BETA report findings conflict with the BETA testimony in 1981 in two main areas: radiological control capabilities and technical/managerial capabilities. TMIA Motion at 10-13 (¶¶ 15, 16). In making these comparisons between the 1983 BETA report and the prior BETA testimony, however, TMIA has overlooked some very basic differences between the most recent BETA review and the earlier assessments upon which the BETA testimony was based.

BETA was originally requested to perform an independent review and assessment of the management capability and technical resources of GPU as related to the restart of TMI-1. The detailed assessment required for this review was begun by BETA in October 1979, continued through January 1981 and included interviews of over 150 GPU organization employees. This

wide-ranging review was to assess GPU's capability to own, operate and be responsible for TMI-1 in such a way as to protect the health and safety of the workers and the public Wegner, ff. Tr. 13,284, at 4. In other words, it is clear that BETA's earlier review of Licensee's management capability was addressed primarily to the issue of whether Licensee could safely operate the plant. Contrary to this purpose, the 1983 BETA review was not aimed at determining whether Licensee could safely operate TMI-1, but whether cost efficiencies could be realized in the operation and management of the GPU Nuclear system plants. See BETA Report at 1; BETA letter of May 13, 1983, at 1, 4; see also p. 6, supra.

The 1983 BETA findings cited by TMIA at ¶ 15 of its Motion have been the subject of questioning by the Staff. Based upon discussions with BETA, the Staff has learned that the thrust of BETA's criticisms in Finding III-F (p. 26 of the BETA Report) is based upon a standard of excellence above industry norms. NRC Inspection Report No. 50-289/83-10 at 15-2. As BETA states in its report, there is heavy management support for a strong radiological control program -- both in terms of money and manpower allocation -- but TMI-1 has not yet achieved the objective of being among the best in the industry. Rather, BETA views TMI-1 as average in comparison with other utilities.^{18/} BETA Report at 26. Neither BETA nor the NRC

^{18/} BETA's earlier review of the TMI-1 radiological controls program found that while top management was committed to a

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Staff found any violations of NRC regulatory requirements in the area of radiological controls.^{19/} See id. at 26-28; NRC Inspection Report No. 50-289/83-10, Sections 13.5, 13.6, 13.7 and 15.1.3.2.

Read as a whole, then, the BETA and Staff reviews of the TMI-1 radiological control programs show that the programs, while meeting all regulatory criteria, need additional improvement to reach the high standards which Licensee is seeking to achieve. Certainly the BETA Report does not identify any significant new information regarding a safety problem which would require a reopening of the record and Licensee should not be faulted for seeking ways to improve upon an already adequate radiological control program.

TMIA's second area of alleged conflict between the 1983 BETA Report and Mr. Wegner's earlier testimony deals with Licensee's technical capabilities and cites, as support, a number of findings made by BETA regarding the GPU Nuclear Technical Functions (T/F) Division.^{20/} See TMIA Motion at 12,

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strong program, site personnel perceived many deficiencies. Identification of these deficiencies led to various management actions to improve the program. See Wegner, ff. Tr. 13,284, at 20-27.

^{19/} Indeed, BETA found that few of the TMI-1 radiological deficiencies are significant enough to be noted by NRC inspectors. BETA Report at 26.

^{20/} A number of the findings cited by TMIA are taken out of context or fail to include BETA's explanations of its state-

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13. Contrary to TMIA's implications, however, BETA did not find the T/F Division to be technically incapable. Rather, BETA generally found inefficiencies in T/F's performance of their assigned duties. As pointed out by BETA, the T/F Division did not exist prior to the accident -- it was created whole-cloth by drawing upon the engineering resources of the GPU system companies and by hiring a large number of outside engineers. BETA Report at 64. Because of the heavy engineering demands placed upon T/F from the moment of its inception, the Division did not have the luxury of time to put in place routine methods of operation which would allow a smooth operation. Obviously, as BETA notes, additional time will be required for T/F "to mature into an effective, smooth running organization". Id. at 64-65. These findings regarding inefficiencies in T/F's conduct of its business do not, however rise to the level of safety concerns. BETA explained that its findings on T/F address, for the most part, the lack of timely engineering support to the plants and

(Continued)

ments. For example, TMIA quotes BETA Finding VI-A (p. 65) that "the overall effectiveness of T/F ... is lacking" but fails to include BETA's subsequent statement that "[t]here has been a noticeable improvement in this situation ... and further evidence of improvement can be seen ... as T/F matures, BETA expects to see continued improvement." Because of TMIA's selective use of quotations, Licensee urges the Appeal Board to review the entire section of the BETA Report on the T/F Division rather than relying solely on TMIA's characterizations of the BETA findings. See also Appendix A hereto.

[a]s pointed out in the report, this situation is improving. The issue here is the timeliness and completeness of the engineering support. Work at the plant which requires engineering does not proceed without it. If it takes weeks to get the necessary engineering input instead of days, that is an inefficient delay. If, when the plant receives the engineering input and checks it out in the plant as it is required to do and finds it incomplete, then further delays are encountered. BETA found no examples where improper engineering had been performed to the point where the work in the plant had been accepted.

BETA letter of May 13, 1983, at 2.

Additionally, these findings do not conflict with Mr. Wegner's earlier testimony cited by TMIA. TMIA Motion at 12. While Mr. Wegner viewed the GPU Nuclear reorganization, particularly the concentration of technical resources, as favorable, his direct testimony also noted that it was "too early to judge the long-term overall effectiveness of this type of arrangement ...". Wegner, ff. Tr. 13,284, at 10. The 1983 BETA Report does not conclude that the decision to form the T/F Division was wrong, untimely or resulted in any unsafe conditions, nor does it contradict Mr. Wegner's 1981 testimony. See BETA Report at 65; BETA letter of May 13, 1983 at 2-4. Rather, as Mr. Wegner has stated, "[t]he predictive nature of my 1981 testimony was in almost all cases fully substantiated by the 1982 review. Where expectations fell short it was in the area of efficiency rather than matters relating to safety or competence." BETA letter of May 13, 1983 at 4.

Based on the foregoing, Licensee contends that the 1983 BETA Report findings on radiological controls and on the Technical Functions Division have not identified any significant safety concern which warrants a reopening of the record. Further, BETA's 1981 testimony on Licensee's management capability cannot be viewed as "misleading" or in conflict with the conclusions reached in the 1983 BETA Report. Thus, TMIA's motion to reopen the record on these issues must be denied.

IV. Conclusion

As we have demonstrated above, TMIA has failed to meet the standards required for reopening the record on the issue of management competence and integrity. The TMIA motion offers no support for its inferences that there exist significant safety questions associated with the restart of TMI-1 that have not been considered below by the Licensing Board or that would mandate a change in the decisions reached by that Board.

Therefore, Licensee asserts that the Appeal Board must reject the TMIA motion.

Respectfully submitted,

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Dated: June 7, 1983

APPENDIX A

In addition to the RHR and BETA findings addressed in the body of this response, TMIA has also cited a number of other statements from these reports dealing with a variety of miscellaneous management issues. Licensee does not believe that any of these miscellaneous findings, when read in context, constitute significant safety issues which warrant reopening the TMI-1 record. However, in view of TMIA's penchant for citing incomplete statements or disregarding explanations of findings, Licensee herein provides its views on these issues.

- o "inaccuracies in warehouse inventory records", TMIA Motion at 9.

BETA finding III-G-1, referenced by TMIA, states that nomenclature inaccuracies in warehouse inventory records are sufficient to degrade efficiency. BETA explains that the fact that stock is not properly defined impaired the efficiency of maintenance job planning. BETA Report at 28, 29. BETA does not note any safety implications with respect to this issue and further notes that an inventory of stock on hand has been undertaken and should resolve the problem. Id. at 29.

- o "feelings that the TMI Human Resources group is unresponsive to site needs," TMIA Motion at 9.

BETA's review of the TMI Human Resources group concluded that the group is probably overstaffed and suggested that a review be performed of the needed manning level. BETA also noted that, while the situation is improving, additional improvements need to be made in the area of the group's responsiveness to site needs. BETA does not provide any explanation of the manner in which the Human Resources group is deemed unresponsive and merely recommends that this topic be explored further with the TMI-1 Director.

- o "insensitivity of top management to an individual's personal well-being," TMIA Motion at 9.

This statement is taken from the BETA Report section on Corporate Human Resources in the discussion of Finding VIII-1, "There is a need to reduce the time it takes to complete a personnel action". BETA notes that some personnel actions (i.e., hiring, termination, pay status, etc.) take too long to be completed, resulting "in the feeling down within the organization, that top management is insensitive to the gut issues that affect an individual's personal well-being". BETA Report at 94 (emphasis added). There is no finding that top management is indeed insensitive to these needs. To help mitigate these feelings, BETA recommends that attention be given to expediting personnel actions.

- o "upper management [does] not give [supervisors] enough authority to make decisions and are involved in too much detail," TMIA Motion at 9, 10.

TMIA cites this finding from a 1978 in-house management audit and claims that "BETA finds the same situation today". Id. at 10. This is incorrect -- BETA makes no finding that supervisors or lower-line management lack the authority to make decisions. Rather, BETA notes that the "phenomenon" of decisions being made at too high a level extends linearly through the organization, from the Office of the President down. BETA Report at 112. BETA states that this practice may be due to the relative newness of some of the management, which leads them to rely on more experienced upper level management. Id. at 113. While BETA finds that this practice decreases the efficiency of the decision-making process, there is no finding that the practice adversely impacts safety. See id. at 112-113.

- o "the [five "engineers" presently reporting to the TMI-1 Manager, Plant Operations] are not performing functions which could be truly called engineering," TMIA Motion at 10.

TMIA attempts to link this statement by BETA to a finding from the 1978 in-house audit to the effect that supervisors do not know what their responsibilities or job descriptions are. Id. However, a reading of the BETA report on this issue shows that the two statements are not at all similar: BETA does not state that these personnel do not understand their responsibilities or the scope of their duties. Rather, BETA felt that the duties being performed by these personnel, if truly

engineering duties, would be more properly assigned to the Plant Engineering staff and conversely, if they were not performing engineering duties, that the positions be evaluated and redesignated (i.e., this "may be a problem in nomenclature"). BETA Report at 22-23. Again, this BETA finding goes to increasing manpower efficiency and does not address a safety problem.

- o "problems such as the steam generator leak problem, the psychological stress issue, the cheating scandal, and restart requirements prevented key GPUN people from devoting their full attention to the task of making the new organization work," TMIA Motion at 13.
- o "while it could be argued that now, after three years, [the accident] should not still have an unsettling effect on the organization, its people, and how work is performed, this is not the case," TMIA Motion at 13.

In the discussion of its method of approach to its review, BETA lists several situations existing within GPU Nuclear that it felt had to be given constant recognition during the review period. It is in this context that these statements are made, and they are more observations than they are "findings". The first item, loosely paraphrased, is contained in BETA's discussion of the creation of GPU Nuclear and the critical issues regarding TMI-1 restart which GPU continued to face during the BETA review. Certainly even TMIA must recognize that the amount of resources devoted to the hearing and other restart preparations would have a negative impact upon the time

needed to create a smooth-running organization. The second item is contained in a discussion of the "uniqueness" of GPU Nuclear, the fact that it was created from company elements which had experienced the accident and its resulting desire "to create the best nuclear organization in existence." BETA found Licensee to be in the "forefront of all the utilities" in achieving in-house technical capabilities. Id.

- o "the Office of the President [should evidence] a greater sensitivity of instances where the functional organization breaks down," TMIA Motion at 13.

Finding III-A of the BETA Report states that "[t]he role of the Director, TMI-1 needs to be clarified and strengthened with respect to his over-all site responsibilities." BETA Report at 20. In that regard, BETA makes several recommendations, one of which is that, as an ongoing effort, the Office of the President needs to reinforce the understanding not only of the various Directors, but also of lower levels in the organization of just how a functional organization is supposed to work. These actions should include the item TMIA has taken out of context, i.e., being aware of organizational breakdowns and using these instances as examples to be avoided in the future. Id. at 21. In this instance, BETA's finding relates to the Director, TMI-1, not the Office of the President, and again does not suggest, much less find, a safety concern.

- o "weaknesses still exist which tend to degrade the quality, quantity, and efficiency of maintenance work." TMIA Motion at 14.

This statement is prefaced by the statement that TMI-1 maintenance performance "has improved significantly during the last two years. However, weaknesses still exist ...". BETA Report at 23. These statements are made in support of BETA Finding III-C that maintenance can improve its support of the plant. Id. BETA also states that the current maintenance program is adequate to support restart. Id. at 24.

- o "the BETA interviews of site people concerning maintenance at TMI-1 had a repeating theme that: "Problems do not get solved." Engineering has not been brought into the solution of the problem. This failure to obtain engineering support is a problem in proper supervision, both in the Maintenance Department and Plant Engineering," TMIA Motion at 14.

This partial quote fails to include pertinent qualifications to the effect that, while needed repairs are effectuated, the source of the initial maintenance problem is not solved because Plant Engineering is not always brought into the solution. BETA Report at 24. While this failure obviously degrades efficiency, BETA makes no adverse safety findings.

- o "maintenance deficiencies in the chemistry program at TMI-1 were identified two years ago. Corrections have been slow," TMIA Motion at 14.

The finding is that "major deficiencies" not "maintenance deficiencies" in the chemistry program at TMI-1 were identified

two years ago. However, in its related recommendation, BETA notes that it considers TMI-1 is on the right track to upgrade its chemistry program. BETA Report at 25.

- o "there are at least 21 different section level groups having engineers at the TMI-1 site reporting to five different Division Directors. This leads to confusion in some cases as to which group will handle a given problem. P. 25. (These types of concerns were also raised by "whistleblower" King)." TMIA Motion at 14.

This statement is contained in BETA's discussion of its Finding III-E that the "number of different engineering groups at the site is contributing to loss of efficiency." BETA Report at 25 (emphasis added).

- o "we frequently encountered senior people in GPUN who felt that the QA Department was not responsive to the absolute need for QA support. The opinion was expressed that the QA Department was not urgently concerned with resolving problems and clearing deficiencies ... Some felt that QA was unnecessarily interfering with the accomplishment of work ... [I]t was disconcerting to encounter these feelings and opinions in important people ... It is important ... that such feelings do exist, and they must be overcome," TMIA Motion at 14.

TMIA has, here again, deleted important language from the remainder of the statement they set forth in their motion to the effect that "progress is being made in disabusing people of such concepts of the QA Department." BETA Report at 63. Further, based upon their dealings with QA personnel, BETA could not confirm that opinions expressed of the QA Department actually existed. Id.

- o "having 36 people to perform ["communications"] tasks is excessive ... [they] are sometimes performing questionable tasks," TMIA Motion at 14.

On a few occasions BETA observed the day to day functioning of the communications group and, based on those observations, believed "that a number of people are under-utilized, lack supervision and are sometimes performing questionable tasks". BETA Report at 105. Read in context "questionable tasks" refers to usefulness and efficiency rather than to anything devious as TMIA seems to suggest. Licensee fails to see how inefficiencies in the Communications Division could possibly impact safe operation of TMI-1.

- o "too many senior managers want to create the impression that they are "good guys," and that their people "love" them."
- o "there is a reluctance for GPUN managers/supervisors to flag poor supervision on the part of contractors."
- o "supervisors are not sensitive to, and are not reacting to, poor working conditions at the work site."

TMIA Motion at 14.

These are three out of a list of seventeen possible contributing causes "as surmised by BETA" for the supervision deficiencies BETA found in varying degrees at all levels in all divisions of GPU Nuclear. See BETA Report at 106-108.

Further, with respect to the second item above, TMIA fails to include the second sentence: "There is the perception that for

contractual reasons, GPUN people are not permitted to move into this area." Id. at 108. In general, however, it must again be noted that these BETA observations are geared toward improving productivity by improving supervision and do not address safety questions.

- o "[paper generation is not only] a constant source of complaint, but our observations indicate that it is real. (Interestingly, paperwork confusion was an issue in the 1978 audit, and one of TMIA's strongest criticisms regarding the new maintenance work request system at TMI)," TMIA Motion at 15.

BETA does not indicate that the overabundance of paperwork leads to confusion. Rather BETA is concerned with the inefficiency it causes, and states that tighter control of paper would lead to more efficient use of manpower. BETA Report at 110.

- o "writing a procedure seems to be the easy way to solve a problem. Then once a procedure is written, supposedly the problem is solved and the burden shifts to the person at the bottom who is supposed to follow it," TMIA Motion at 15.

This excerpt is included in BETA's discussion of the overabundance of division procedures brought about by the creation of the GPUN functional organization (i.e., each division creating procedures to formalize its way of doing business). BETA Report at 110-111. BETA found that the approvals and concurrences needed for these procedures added to the paperwork burden. Id. BETA specifies that plant operating procedures are not meant to be included in this discussion.

- o "there appears to be a reluctance within the GPUN system to take action either to improve the performance of poor performers or to terminate their employment." TMIA Motion at 15.

BETA Finding XII-D, quoted above, addresses the GPU system as a whole and finds that supervisors' reluctance to take action with respect to poor performers again adversely impacts cost-effectiveness. BETA Report at 114. While BETA recommends that certain actions be taken to ensure that poor performers are properly dealt with (id. at 114, 115), it is important to remember that, with respect to control room operators, on-the-job performance plays a major role in Licensee's certification process. See Ross, ff. Tr. 24,127, at 7-9; Tr. 24,229-230 (Ross). Further, the NRC Staff has specifically investigated this BETA finding and "determined that this comment applied to poorly motivated employees whose productivity was less than expected rather than to a problem of employees failing to follow directions." NRC Inspection Report No. 50-289/83-10 at 15-2. The Staff further found Licensee's disciplinary practices with respect to the latter issue to be adequate. Id. at 5-1, 15-2.

TMIA also cites a number of statements from the RHR Report in support of its motion. For ease of response, certain of these statements will be grouped together by subject matter.

- o only 6 out of 10 consider the objective of GPU's "safety" mission to be valid.

- o a slight relative majority agree that top management is more concerned about public safety than about generating electricity (including a substantial majority of Trainees).^{1/} "Since this ties in with the primary objective of the corporation, there should be more consensus than there is," and "[w]hile precisely articulated by top management, [these safety goals] are only vaguely recollectible by operators.
- o a majority of operators would not put efficiency second to safety.

TMIA Motion at 15-16.

Here again, TMIA has conveniently overlooked other findings made by RHR in the "Operator and Safety" section of its report. For example, RHR's survey showed that 95% of all respondents disagreed that safety gets too high of a priority and that, while a slight majority of respondents would not put efficiency second to safety, a majority of TMI-1 RO's place safety above efficiency. RHR Report, Pt. II, "Operator and Safety".

Licensee agrees with the RHR statement that, in view of the somewhat conflicting responses received to the RHR questionnaire, there appears to be some confusion on the part of the operators regarding the company's safety goals. Licensee believes that part of the confusion may result, however, from

^{1/} TMIA's quote here is incorrect: while the RHR statement is rather confusing, Licensee understands the report to find that a substantial majority of TMI Trainees disagreed with this statement. RHR Report, Pt. II, "Safety as primary mission."

the wording of the questionnaire itself rather than from a failure to properly communicate safety objectives. See NRC Inspection Report No. 50-289/83-10 at 15-4.2/

- o regarding the GPU structure, there are multiple problems of coordination between the newly created departments.
- o a slight majority agree that the constructive benefits made since the accident are more than offset by the cumbersome procedures and organizational structure. Most agree that they are required to do too many things on the job which are not productive.
- o there is strong disagreement that the concept of support departments is working out in practice. The source of the problem was credited by a majority of responding operators to both structure and management, with a little more weight to the later The consultants see the present structure as requiring exceptionally strong management talent to make it work. As a result, the structure may need modification.
- o 2/3 of the operators felt other departments didn't have the same sense of urgency as they did ... the majority of operators concur that they do not get action fast enough on their problems. In the perception of 2 out of 3 operators, other departments do not have the good of the organization in mind when they go about their daily work.
- o at TMI, there was greatest dissatisfaction with Rad-Con policies and after that, equally with Training and Material Management.
- o only one in five believe that GPU Nuclear management is as concerned about its

2/ See also RHR letter of May 13, 1983 at 3 ("That there may have been confusion is suggested by the high priority given to safety evidenced in our interviews with and the surveys of the operators.")

employees and organizational issues as it is about public relations and technical issues Two out of three deny that management has committed to an accountable organization which resolves problems at the correct level. (This was a recognized problem in the 1978 audit also. The auditors suggested that weak supervisors developed from lack of accountability.) Even more disagree that management sees to it that there is cooperation between departments.

- o they are concerned about management's design of an organizational structure which creates multiple problems of coordination and lack of management effort in bringing about coordination within this structure. They keep saying "there is no one in charge"...Some are scandalized by what they consider waste of money and wrong priorities on spending. (These are some identical issues raised by "whistleblower" King in particular). They cite dead wood in the management ranks and reward of managers for significant failures for which they would have been severely censured. They see a lack of a formal program of training to improve the skills of supervisors and managers.
- o 55% agreed to having adequate support (facilities, procedures, equipment, etc.) for doing their job. However, 45% disagreed and some of these strongly.

TMIA Motion at 15-17.

Licensee views the above statements as relating generally to concerns regarding the GPU Nuclear organizational set-up and, particularly, the changes made to the organization since the TMI-2 accident.^{3/} These statements, however, represent

^{3/} The second statement listed above is found in Part II, "Changes since TMI-2 and Safety", of the RHR Report. As noted there, TMI-1 RO's disagreed with the statement that they are required to do too many things on the job which are not productive.

only a small fraction of what is an extensive discussion in the RHR Report on "Working Relationships Between Departments".

Further, as pointed out by RHR, these opinions must be viewed in relation to the situation of the operators: attempting to adapt "to significant structural changes in their organization which are frustrating for them". RHR letter of May 13, 1983, at 2. As such, these comments must be recognized as encompassing solely the operators' views of the corporate organization, which opinions were not validated by RHR through interviews of management or personnel in other departments. Id.

Beyond these general comments, the following specific points in the RHR Report should be taken into account by the Board in reviewing TMIA's motion:

- In creating the GPU Nuclear organization, a "degree of tension between functions (such as between Rad-Con and Operations and between Quality Assurance and Operations) was anticipated and was a concept of the organizational design [as] a system of checks and balances". RHR Report, Pt. II, "Working Relationships Between Departments".
- Over two-thirds of the respondents agree that the new departments were installed to promote safer operation and this agreement is stronger at TMI than at Oyster Creek. Id., "Impact of New Departments on Safety and Workload".
- A majority of operators at TMI feel better off with the corporate reorganization, despite the inherent frustrations. Id., "Problem of Cooperation Between Departments".
- A strong majority at TMI agree that there is sufficient on-site authority to both handle emergencies and to coordinate daily

activities. Id., "Adequacy of On-site Authority".

- The TMI operators have confidence in both corporate and plant management. Id., "Management and Supervision".
- TMI is farther along in the process of accepting the management structure; there is more alienation from management at Oyster Creek than at TMI. Id.
- Two out of three respondents agreed that they had management support in helping them do their job. Id., "Support".
- o many operators feel that detailed procedural instructions are a hinderance in day-to-day operations. There is also considerable feeling that emergency procedures need to be simplified.
- o they complain of working in a paperwork jungle.

TMIA Motion at 16.

As RHR noted in its clarification letter, opinions regarding procedural compliance differ between Oyster Creek and TMI and must be taken into account in interpreting the report. RHR letter of May 13, 1983 at 2. With respect to TMI-1, there is agreement that the policy on procedural compliance is clearly communicated, that the compliance to procedures that operators are held to is reasonable and a majority disagreed with the statement that there are so many cumbersome procedures that policy on procedural compliance is disregarded. Id. at 2-3; see also NRC Inspection Report No. 50-289/83-10 at 15-4,

5.4/ Further, RHR points out that, at the time the survey was constructed, the need for differentiation between types of procedures (i.e., operating vs. administrative) was not apparent. RHR letter of May 13, 1983 at 3; NRC Inspection Report No. 50-289/83-10 at 15-4.

It must also be noted that TMIA has again failed to include the entire RHR statement cited as item 1 above. The entire RHR finding reads

The operators feel that detailed procedural instructions are valuable for training but are a hindrance in day-to-day operations. They should be simplified to take into account the operator's command of his art. For example instead of going through several steps, they should merely tell the operators to turn on the pumps.

RHR Report, Pt. II, "Procedural Compliance". Obviously, this finding does not assert that procedures are inadequate, but that, from the viewpoint of experienced operators, the procedures could be simplified.

On a final note, while it is undisputed that operators are subjected to extensive paperwork and regulatory requirements, RHR found that the majority of TMI operators have made the adjustment to living in a regulatory environment. See RHR Report, Pt. II, "Regulatory Environment".

4/ The Staff specifically reviewed two RHR Report statements regarding known deviations from procedures and found that the statements were applicable only to Oyster Creek. NRC Inspection Report No. 50-289/83-10 at 15-5.

- o a majority ... agree that when it comes to disciplinary practices there are two standards: a tough set for operators and an easier set for top management.

TMIA Motion at 16.

The RHR Report states that while disciplinary standards are not a major priority concern of operators, they did raise "a lot of emotion at TMI when stiff sanctions were promulgated for those discovered bringing mind altering substances into the parking lots at TMI ... [However,] [t]here is strong acceptance of regulations on mind altering substances." RHR Report, Pt. II, "Disciplinary Sanctions for Violating Regulations".

In this regard, it should also be noted that the Staff has recently audited Licensee's policies on disciplinary measures, partially in response to a finding made by BETA. The Staff review found that disciplinary measures had been applied to bargaining unit, supervisory and contractor personnel and that Licensee's management is firm in its actions and is willing to pursue the full grievance process. NRC Inspection Report No. 50-289/83-10 at 5-1, 15-2.

- o there is a perception among operators that their uniform was imposed by management without consulting the operators, and without sufficiently researching radiation safety aspects of the material.
- o operators, more so at TMI, disapprove of top managements' handling both of regulatory agencies and of the attacks of anti-nuclear activists.

TMIA Motion at 16, 17.

Licensee views these last two statements from the RHR Report cited by TMIA as perhaps most demeaning of the process which allows for reopening a record for significant new safety concerns. With respect to the uniform issue, RHR reports that "a modest majority accept the uniform but there is strong and vehement minority disagreement ... RO's at TMI are fairly strongly in favor of it... Those who appear to be fastidious about their appearance are dissatisfied with the fit and quality of the garment" RHR Report, Pt. II, "Operator Uniform". Licensee fails totally to see the safety significance of this issue.

The second finding listed above cited by TMIA goes on to state that "[t]he demands and criticisms of these groups annoy them [the operators] and they would like to see their management take a more aggressive stand." RHR Report, Pt. II, "Management and Supervision". With respect to the operators' feelings towards dealings with regulators, Licensee acknowledges the resentment expressed earlier by the operators regarding the re-examination requirement. Id.; see Cheating PID at ¶ 2239. Licensee, however, utterly fails to comprehend the reasoning behind TMIA's reference to handling of anti-nuclear groups.

June 7, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to Three Mile Island Alert Motion to Reopen the Record" were served this 7th day of June, 1983, by deposit in the United States mail, first class, postage prepaid, to the parties identified on the attached Service List.

Ernest L. Blake, Jr.
Ernest L. Blake, Jr., P.C.

DATED: June 7, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of)	
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METROPOLITAN EDISON COMPANY)	Docket No. 50-289 SP
)	
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Station, Unit No. 1))	

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