

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE COMMISSION

'83 APR 18 P2:59

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

TMIA'S COMMENTS ON B&W TRIAL TRANSCRIPTS

In mid-March, 1983, TMIA received notification that the Commission had "decided to permit" the parties to comment on the staff's analysis of the B&W trial record, "not later than 15 days after service of the staff's analysis." TMIA can not at this time provide the Commission with substantive comments on the staff's analysis of the trial record. The comments submitted herein are merely meant to notify the Commission of TMIA's strenuous objections to the process by which the Commission is handling the B&W trial record review, including its reliance on the staff report to determine the record's impact on restart issues, and the failure to provide the parties with sufficient time to review the record and comment, or even provide them with access to the complete trial record and other relevant evidence developed in the course of litigation. TMIA hereby requests at least another two months to complete its review, and requests that all trial exhibits and depositions be made available to the intervenors.

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I. The Review Process

TMIA objects to the prohibitive conditions which the Commission has imposed on the intervenors in their attempt to exercise their legal right to provide comments to the Commission on the B&W trial record, after a party to the restart proceedings has already done so. The intervenors have been denied access to the entire trial record which the NRC staff has already reviewed. No exhibits have been provided to the intervening parties, or to the public document rooms containing the trial transcripts. Obviously, the trial exhibits are independently significant and an integral part of the record. Moreover, it is practically impossible to extract anything substantive from the trial transcript without an ability to read and reference the exhibits being discussed.

In addition, given that the trial was settled before B&W could present most of its direct case, it is simply unreasonable to conclude, as did the staff at the April 6 staff briefing, (Transcript at pp. 32-33), that the record as it stands contains all the significant evidence developed during the course of litigation which could support B&W's position at trial, let alone as such evidence could impact on restart issues with which the Commission is concerned. If the Commissioners are sincerely interested in obtaining full knowledge of all relevant evidence which could impact on either the NRC's understanding of the accident or restart issues, it is incumbent upon the Commissioners to insure

that all parties have access to at least the additional B&W exhibits and depositions which are not part of the record.

Further, intervenors are under a tremendous handicap in accomplishing this review task by not having any of these materials in their possession, forced to rely upon the limited access provided by the public document room, located in Harrisburg in the State Library, open only on weekdays from 9 to 5. Even in those instances where an intervenor can arrange to get to the PDR at those inconvenient times, the transcripts themselves must be shared with other individuals reading the same material. Clearly, if the Commission refuses to provide the parties with copies of these documents, it has a responsibility to alleviate the burden by providing them with a reasonable period of time to review to record. The Staff has testified that it took them at least 10 weeks to read the record. Therefore, the intervenors should be granted at least that amount of time, plus an additional several weeks to adjust for the limited access they have to it. TMIA is quite certain that if given sufficient time and access to the materials, the intervenors' comments with regard to restart issues will be significantly more useful to the Commissioners than the Staff's comments.

With regard to the staff review itself and the April 6, 1983 staff briefing, TMIA can only wonder whether the Commission has any real desire to learn the true impact of the trial record. As appropriately put by Congressman Morris K.

Udall, in his April 13, 1983 letter to the Chairman, "[n]ot only was the staff a party to the proceeding, but the individuals who conducted the review had themselves participated in previous investigations. Prior to the review, the staff had a well-established position on TMI-1 restart and the reviewers had in the course of previous investigations assumed positions on certain of the key issues addressed at the trial." Moreover, the staff testimony to the Commissioners during the April 6 meeting violated the most fundamental precepts of administrative due process, i.e., that testimony be presented only in the context of a full adjudicatory hearing with an opportunity for cross examination by all parties. TMIA reiterates the identical due process objections made in January 13, 1982 comments on a similar December 21, 1981 staff briefing concerning information flow problems during the accident.

During this most recent April 6 meeting, however, the Commission went a step further and took testimony from licensee's President, Robert C. Arnold, who made substantive comments on issues such as the accident's sequence of event report. (Transcript pp. 67-68). This is a clear violation of the intervenors' due process rights, and has left TMIA with serious doubts as to whether the Commission or the General Counsel is even cognizant of the fact that there are other parties in the restart proceedings besides the licensee and the NRC staff.

II. Substantive Matters.

A mere cursory review of the the staff report and a limited amount of trial transcript reveals that the staff has no appreciation of the restart issues or of the vast amount of evidence gathered during the restart hearings on a myriad of issues, or an ability to detect conflicts in testimony between the trial and "restart" records. In its brief review so far, TMIA has already spotted what appears to be significant new information in the trial transcripts with regard to maintenance issues, which TMIA litigated during the hearings. However, most of this new information relates to exhibits which TMIA does not have.

For example, Exhibit 360, identified on p.1657 of the trial transcript as "a transcript ... of an interview by Mr. Keaton [who headed an internal GPU accident investigation] ... with Gary Miller, station superintendent at Unit-2," contains statements by Miller concerning inadequate maintenance staffing, and discussions of maintenance budget cuts which impact on safety. Miller states in this interview, "[w]e just can't do it with the size of this plant. You were just kidding yourself. You were going to develop more work requests than you were going to do and at the same time we were cutting the contractor out and we were trying to cut some of the budget down," and, "[t]he thing was really squeezing us before the accident. Squeezing me in the elimination of the contract." (Transcript at 1658, 1662-3).

The safety consequences of the proposed 1979 mainten-

ance budget cut was a significant aspect of TMIA Contention 5. At the restart hearings, testimony was elicited from GPU witnesses on dramatic cuts proposed in the maintenance budget, including cuts for outside contractors, corrective maintenance work, and preventive maintenance work, (See, Tr. at 4052 et seq.). While Gary Miller as Station Superintendent was in a unique position to appreciate the safety implications of maintenance budget cuts and inadequate maintenance staffing, which the licensee has always maintained did not impact on safety, he never testified at the restart hearings on this issue. Also, the trial deposition of Daniel Shovlin, Manager of Maintenance, which TMIA has never seen but is discussed at p. 1660 of the trial transcript, reveals plans for maintenance budget cuts from late 1977 through 1979. Clearly, this is all significant new information.

Also, highly significant to TMIA's issues is Exhibit 32, which TMIA has never seen but is described at p. 1666 as an organizational study done in the summer and fall of 1979 by a Mr. Glickman, submitted to GPU President Herman Dieckamp. This study apparently contains a section called "Station Maintenance Effectiveness," which reports that "maintenance is lacking in advance planning, is done on an ad hoc basis. No preventive maintenance done by Met Ed, not enough people to do it, therefore all maintenance is done as 'correcting work.'... Maintenance is the weakest area on site." "Only repetetive comments [were] reflected [in this

study]." (Transcript at p. 1673). It is obvious that this document could be highly probative not only of the company's actual maintenance performance, but of whether management responded with proper steps to correct these recognized problems.

Similarly, at p. 1688 et seq of the trial transcripts is a discussion of a 1978 "management audit," Exhibit 843. TMIA has been able to briefly review a copy of this audit, and among the findings bearing directly on management competence and integrity issues are the following:

"[S]tatements were made to the effect that an audit like this is performed to give the personnel at TMI the feeling that "management is concerned", only to eventually "whitewash" the report in the end;" "Most supervisors feel we do not hold our people accountable, which in turn creates a "buck-passing" atmosphere and allows weak supervision to continue to perform in such a fashion." The study contains a number of significant findings charging management with unsatisfactory and demoralizing performance, and since neither this study nor any prior management audit was revealed during the restart hearings, no findings were made by the Licensing Board as to whether performance has improved.

Further, the study dealt with maintenance and overtime issues, both of which were litigated by TMIA during the restart hearings and virtually dismissed by the Licensing Board as important issues. The study reveals that "overtime

compensation policy and the extended hours, by far, have the greatest negative impact on morale. It is becoming an increasingly serious problem, especially with the upcoming refueling and start-up activities." To someone familiar with the restart record, these findings are highly significant, in light of the fact that the Licensing Board specifically ordered the Licensee and the Staff to submit additional testimony during the hearings on the auditability of safety-related maintenance practices during the year 1978, with which they found little fault. Yet this management study never came to light until the trial.

In addition, with regard to the 1979 cheating episode involving VV and O, Judge Richard Owen's comments at p. 1742 are themselves quite revealing, where he states, "the trier of fact ... could draw the conclusion that there was a coverup of incompetence at the supervisory level here which might very well have had an effect upon the quality of operations in the control room on the day of the accident,"


III. Conclusion

Thus, it takes very little in-depth review of this record to see that there are a number of new and significant items in the trial record which could impact on restart issues. It serves no one's purpose other than the licensee's to prevent the intervenors from making proper analysis of

this record. TMIA will continue its review of the record available to it, and whether or not an appropriate time extension is granted, will attempt to provide the Commission with additional comments when its review is complete.

Respectfully submitted,

April 18, 1983


Louise Bradford
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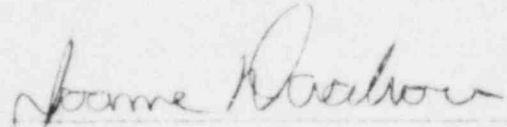
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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Comments on BSW trial transcript dated April 18, 1983 were served this 18th day of April, 1983, by deposit in the U.S. Mail, first class, postage prepaid, or hand delivered, to those on the attached mailing list.


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