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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE NUCLEAR REGULATORY COMMISSION

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

UNION OF CONCERNED SCIENTISTS' COMMENTS ON DIRCKS'  
MEMORANDUM, "COMPLETION OF TMI-1 RESTART REVIEW",  
JUNE 7, 1983

UCS is in receipt of the Executive Director's proposal to allow TMI restart on the basis of reassigning certain "impacted individuals" (unspecified) to tasks presumably not directly involved in direct day-to-day operation of TMI-1. Memorandum from William J. Dircks to the Commissioners, "Completion of TMI-1 Restart Review", June 7, 1983. It constitutes a transparent attempt to paper over the grave issues concerning GPU's integrity. As such, it is the latest manifestation of the Staff's obdurate refusal to act as an arms-length regulator when the result might interfere with operation of TMI-1.

One hardly knows where to begin in discussing this proposal. Its

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central premise is that one can "separate out the corporate institution from corporate employees." Id. at 3. NRC proposes to judge the corporate institution simply by its "stated policies and procedures." Since one can confidently predict that GPU has no stated policy in favor of lying or cheating, and even has stated policies prohibiting such activity, NRC is presumably satisfied with the integrity of the corporate institution. This convenient mechanism provides a spurious rationale for defining the issues so narrowly that they may be "resolved" without ever considering in one place at one time all of the questions which have come to light concerning GPU's management competence and integrity. So long as the issues are atomized in this fashion, their cumulative impact is never considered. The question before the Commission is the integrity and competence of GPU as manifested by all of the relevant conduct of its employees and management.

Having separated the "corporate" institution, the Staff addresses the question of the "past performance and current competence" of the "impacted employees." Management would be completely excluded from review by the Staff on the grounds that their "competence" has already been found acceptable by the Staff. Dircks' Memo., p. 4. By this device, the Staff at a single stroke and without any investigation or evidence whatever exonerates all GPU management from involvement in the leak rate falsification and thus "resolves" what may be the crucial question in this whole issue. To the extent that this is based on the rationale presented in Investigation Report 50-289/83-10, which was the subject of the Commission's briefing on May 24, 1983, it is utterly without support in logic or fact. As UCS previously pointed out in our comments on that briefing, all upper level management personnel, including Robert Arnold, were arbitrarily excluded at the threshold on the grounds that they were "not likely" in the Staff's speculation to have had knowledge of the

leak rate falsification because they were not "directly" involved in the "day-to-day operations" of TMI-2. This overlooks the following: 1) The falsification went on over a period of months and must have involved a large number of people either directly or indirectly. 2) The underlying problem was whether the plant would have to shut down because it was in violation of its license. It strains credulity to believe that a matter of such grave consequences and such long duration would not have come to the attention of management. 3) If management were unaware of this situation, they had lost control of their own operation. Incompetence is surely not acceptable grounds for permitting restart. 4) Upper level management, including Mr. Diekamp, still insists, despite the report of its own consultants, Faegre and Benson, that the leak rates were not falsified. Management has taken no action against any person involved and, indeed, severely restricted the Faegre and Benson review by refusing to make any employees available for interviews.

Under these circumstances, no reasonably unbiased investigator would exclude management from consideration at the threshold without any investigation.

Concerning the non-management employees who are not automatically excluded by the Staff, first we challenge that the relevant question is the "competence" of individuals; on the contrary, the question is the honesty and integrity of the GPU organization as manifested by the conduct of its management, agents, and employees. The Staff's proposal provides no basis for finding reasonable assurance prior to restart that GPU possesses the requisite integrity to be entrusted with an operating license.

Second, the Staff gives no identification of the "impacted individuals." If this category includes only those whom the Staff believes had day-to-day operational responsibility at TMI-2, based solely on the Staff's perusal of

job titles (the selection process the Staff used during its inspection), there is no basis for believing that all persons below management level involved in or knowledgeable of the leak rate falsification are included.

The Staff proposes to temporarily remove certain unspecified persons "from safety related activity at TMI-1 absent a satisfactory demonstration by Licensee that one or more of those individuals may be retained for an interim period while they are under inspection." Id. at 4. No definition of "safety related activity" is given. Since the Staff has already concluded, as reported in Inspection Report 50-289/33-10, that no bar to restart would be presented by allowing persons who may be implicated in the leak rate falsification to hold such jobs as Manager of Maintenance and Construction Planning, Manager of Plant Maintenance, Radiation Training Manager, Safety Reviewer, Manager of Radwaste Operations, start-up and test group personnel, training department personnel (See UCS Comments on Commission Briefing of May 24, 1983..., p.4), one can only assume that the same narrow view is implicit in the Staff's use here of the term safety related activities.

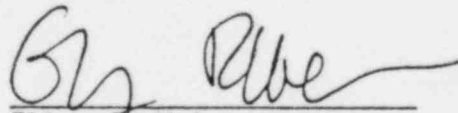
Finally, persons who have been assisting Mr. Stello in his review of the GPU trial transcript should not be used to resolve the issue of GPU management competence and integrity. It seems likely to us that Mr. Stello has known since 1980 that the leak rate falsification was a fact, not an allegation. To believe otherwise is to accept that neither Mr. Martin nor any of his colleagues conveyed their conclusions to their superior, the head of I&E, Mr. Stello. If he knew and took no action to inform the Licensing or Appeal Boards, Mr. Stello has a conflict of interest in this matter.

It is, unfortunately, quite clear that the NRC Staff is not in a position to provide an objective analysis of this situation. The Staff is subject to serious charges of malfeasance due to its deliberate failure to

inform the ASLB, Appeal Board or Commission that GPU had systematically falsified leak rate calculations for a period of months prior to the TMI-2 accident. For the Staff to admit at this time that GPU's leak rate falsification has implications so serious as to bar restart would be conceding that its failure to inform the ASLB and Appeal Board was a material omission of fact. The Staff therefore has a strong self interest in downplaying this issue. Its proposals must be viewed in that light. In this connection, we believe that the Commission might profitably inquire as to whether the Staff has had any recent communication with GPU on this matter. It would not be surprising to UCS if GPU has already "agreed" to the Staff's suggested approach.

Mr. Dircks' proposal is manifestly unacceptable for the reasons enumerated and because it would allow restart without addressing the questions arising out of operator cheating and GPU's response to that cheating, the BETA and RHR reports and the other issues which the Staff claimed as recently as May 24, 1983 necessitated reconsideration of its previous endorsement of GPU's competence and integrity.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Ellyn F. Weiss', written over a horizontal line.

Ellyn F. Weiss  
General Counsel,  
Union of Concerned Scientists

June 14, 1983



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CERTIFICATE OF SERVICE

I hereby certify that copies of "UNION OF CONCERNED SCIENTISTS' COMMENTS ON DIRCKS MEMORANDUM, 'COMPLETION OF TMI RESTART REVIEW, JUNE 7, 1983," have been served on the following persons by deposit in the United States mail, first class postage, this 14th day of June, 1983.

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