

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD
DOCKETED
USNRC
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In the Matter of)
METROPOLITAN EDISON COMPANY)
(Three Mile Island Nuclear)
Station, Unit No. 1))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
Docket No. 50-289
(Restart)

UNION OF CONCERNED SCIENTISTS'
SUPPORT OF AAMODT MOTION TO REOPEN
RECORD ON UNIT 1 LEAK RATE FALSIFICATION

The Union of Concerned Scientists supports the Aamodts motion to reopen the record to consider evidence of leak rate falsification at TMI Unit 1.

The NRC Staff has for all practical purposes admitted the incorrectness of its position during the restart proceeding that there was "no evidence" of leak rate falsification at TMI-1. There was "evidence" even then of some instance of falsification", but the staff chose not to reveal it and to disregard it. Now, there is apparently more evidence, which the Staff has under investigation.

The fact that the investigation is not yet completed is not a reason to deny the Aamodt's motion, as the Board recognized in the case of the TMI-2 leak rate charges. Moreover, since the Commission has now stated that, for purposes of its so-called "immediate effectiveness" review, the conclusion of the Staff's investigation of Unit 1 leak rate falsification will constitute the trigger for TMI-1 restart, the intervening parties would be gravely prejudiced by delay in reopening the

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record. Moreover, while the Commission seems to believe that Unit 2 leak rate falsification can be severed from Unit 1 restart even the Commission recognizes that Unit 1 questions must be "resolved" prior to restart. However, it intends to "resolve" them on an ex parte basis. By the time the Aamodts and the other intervenors get a chance to present evidence and question witnesses, the plant could be in operation for months.

The fact that the Commission has chosen to consider ex parte evidence as the basis of its immediate effectiveness review does not affect the Appeal Board's legal obligation to resolve contested issues on the basis of an adjudictory record and to afford the parties the requisites of due process. Nor does the Commission's still unexplained "suspension" of the hearings on Unit 2 leak rate falsification affect the Appeal Board's mandate. The fact is that the newly revealed evidence bearing on Unit 1 leak rate falsification has the clear potential, alone or in combination with the Hartman allegations, to cause the Appeal Board to rule unfavorably on the management integrity issues. Unless it is considered, the record will be misleading and incomplete.

The motion to reopen should be granted.

Respectfully submitted,

Dean R. Lousley for

Ellyn R. Weiss
General Counsel
Union of Concerned Scientists

Dated: February 9, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
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METROPOLITAN EDISON COMPANY)	
)	Docket No. 50-289-SP
(Three Mile Island Nuclear)	ASLBP 79-429-09-SP
)	(Restart Remand on)
Station, Unit No. 1))	Management)
)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the UNION OF CONCERNED SCIENTISTS' SUPPORT OF AAMODT MOTION TO REOPEN RECORD ON UNIT 1 LEAK RATE FALSIFICATION have been served on the following by first class mail, postage prepaid this 9th day of February, 1984, or as otherwise indicated.

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