

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:

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

COMMONWEALTH OF PENNSYLVANIA'S
COMMENTS ON THE LIST OF INTEGRITY
ISSUES IN THE RESTART PROCEEDING

In a memorandum dated January 20, 1984, the Nuclear Regulatory Commission ("Commission") requested that the parties to the TMI-1 restart proceeding provide their comments regarding a list of management integrity issues appended to the memorandum. Specifically, the parties were requested to comment whether an issue was resolved or unresolved, and, if unresolved, to state their views why resolution of an issue was important to the restart decision and to describe what actions were necessary to resolve an issue. The Commonwealth of Pennsylvania ("Commonwealth") herewith submits its response to the January 20, 1984 memorandum.

The Commonwealth, like Chairman Palladino, was troubled, and indeed, amazed by the Commission's imposition on the parties of the burden of informing the Commission of the status of the management integrity issues enumerated in the January 20, 1984 memorandum. While Chairman Palladino's concern with the Commission's approach stemmed from providing the parties with background to assist them in preparing comments, the Commonwealth's concern stems from its beliefs regarding the primary responsibility for structuring and resolving the issues relating to

restart. The Commonwealth's concerns regarding this responsibility were stated in its response to the Atomic Safety and Licensing Appeal Board's Order of June 16, 1983, and are also applicable to this situation:

The NRC has preempted the area of health and safety. It is the NRC's statutory responsibility to undertake all necessary staff analysis and reviews, to impose all necessary conditions on licenses and to decide all disputed issues related to the safe design and operation of a nuclear generating unit. When the NRC Staff raises issues of safety as it has done here, the NRC Staff should work to focus and resolve the issues. Neither intervenors nor interested states should have to carry the burden of organizing or focusing relevant safety and legal issues for hearing and resolution.

Again, it is the responsibility of neither the Commonwealth nor any other interested party to organize and focus the relevant management integrity issues and to delineate a mechanism for resolving them. That responsibility is the Commission's alone.

With this as a caveat, the Commonwealth provides these comments which are limited in scope. The Commonwealth does not presume to suggest to the Commission procedures to resolve these issues, as that is the exclusive responsibility of the Commission. Item II-D, which concerns the training and testing program at TMI-1, was the subject of a stipulation between the Commonwealth and GPU dated July 6, 1983, and approved by the Commission. Licensee's compliance with that stipulation must be ascertained before that item may be considered resolved. Items III-A through F must also be resolved for the reasons stated in the Commonwealth's June 30, 1983 comments to the Atomic Safety and Licensing Appeal Board's Order of June 16, 1983, and the Commonwealth's January 24, 1984 Comments on the NRC Staff Report on the GPU Management Proposal, both of which are attached.

The competence and integrity of operators of nuclear power facilities are directly and critically related to the safety and welfare of the public, the assurance of which is the primary responsibility of the Commission.

Respectfully submitted,

FOR THE COMMONWEALTH OF PENNSYLVANIA

Maxine Woelfling

MAXINE WOELFLING
Assistant Counsel
Pennsylvania Department of
Environmental Resources

Dated: February 8, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of:

METROPOLITAN EDISON COMPANY, :

(Three Mile Island Nuclear :
Station, Unit No. 1) :

Docket No. 50-289
(Restart)

COMMONWEALTH OF PENNSYLVANIA'S
COMMENTS TO ATOMIC SAFETY AND LICENSING
APPEAL BOARD'S ORDER OF JUNE 16, 1983

In its Order of June 16, 1983, concerning the motions to reopen the record filed by the Amodeis and Three Mile Island Alert, the Atomic Safety and Licensing Appeal Board ("the Board") solicited comments on three matters which, although not specifically raised in the motions, potentially bear on their disposition. These three issues involve: 1) comments by an NRC Staff member that since 1980 the Staff had been aware that leak rates were falsified; 2) the NRC Staff's proposal to separate the issue of past performance of individuals from that of management competence in determining whether restart should be immediately effective; and 3) GPU's informing NRC Chairman Palladino of various management changes which will be effected prior to restart. The Commonwealth of Pennsylvania ("Commonwealth") filed with the Commission on June 2, 1983 Supplemental Comments on the Immediate Effectiveness of Partial Initial Decisions Regarding Management Issues ("Supplemental Comments") in response to the Commission's anticipatory order of May 23, 1983, requesting comments on the May 24, 1983 briefing of the Commission by the Staff. The Commonwealth's Supplemental Comments focused specifically upon the five issues raised, but not resolved by the Staff, in its

Dope 8307060190

review of GPU's management integrity and competence. The Commonwealth's comments raise the same generic concerns as the issues on which the Board is now soliciting comments and, therefore, those comments, a copy of which is attached, will serve as the basis of the Commonwealth's response to this Board's June 16, 1983 Order. In particular, the Commonwealth stated in the first paragraph of its Supplemental Comments that:

The Commonwealth urges herein that the Commission defer consideration of the immediate effectiveness of the Licensing Board's management decision[s] pending a complete review by the Appeal Board of the open issues raised by the Staff.

As stated consistently by Governor Thornburgh, the Commonwealth believes that the Commission must provide adequate assurances that TMI Unit 1 can be operated safely before the Commission authorizes any resumption of operations. The Appeal Board now has before it for review the management competence and integrity issues in at least the following four different contexts:

1. The final results of the NRC Staff "Program to Revalidate NRC Staff Position Supporting TMI-1 Restart in Light of Management Integrity" including those contained in the GPU v. B&W transcript and the Inspection Report No. 50-289/83-10.
2. The five issues identified by William J. Dircks in his memorandum of May 19, 1983, to the Commission as not having been addressed by the NRC Staff in its revalidation effort, and the supplemental comments regarding these five issues transmitted by Mr. Dircks to the Commission by memorandum dated June 7, 1983.
3. The three Motions to Reopen the Record and the "three matters not expressly raised in the motions [which] may have a bearing on this disposition" as contained in the Appeal Board's June 16, 1983 Order.

4. The specific remaining outstanding issues raised by the Commonwealth in its Exceptions to the Partial Initial Decision (Reopened Proceeding) on management competence and integrity filed on August 20, 1982.

The Commonwealth believes that the Appeal Board should review and decide or otherwise establish a process to bring to a close and decide all of these and other issues related to GPU management competence and integrity. The public is entitled to a coherent disposition and explanation of all these issues by the Commission in any decision regarding GPU's management integrity and competence. To the extent that the Appeal Board can simplify and structure the outstanding issues for the Commission, it will be doing an enormous service, not only for the parties, but also for the public.

The NRC has preempted the area of health and safety. It is the NRC's statutory responsibility to undertake all necessary staff analysis and reviews, to impose all necessary conditions on licenses and to decide all disputed issues related to the safe design and operation of a nuclear generating unit. When the NRC Staff raises issues of safety as it has done here, the NRC Staff should work to focus and resolve the issues. Neither intervenors nor interested states should have to carry the burden of organizing or focusing relevant safety and legal issues for hearing and resolution.

In summary, it is the responsibility of the NRC, in all of its component parts--the Staff, the Atomic Safety and Licensing Board, the Atomic Safety and Licensing Appeal Board, and the Commissioners themselves--to assure the public that a licensed facility has been safely designed and can be safely operated by the licensee. The NRC has taken a first step toward focusing these issues by deciding on June

28, 1983: (1) to postpone voting on restart of TMI Unit 1 until issues of management competence and integrity have been resolved and (2) to consider issues of employee wrongdoing and management integrity together rather than separately. It is incumbent upon the component parts of the NRC to now follow the NRC's initiative.

Conclusion

The present record and related decisions do not assure the public in Central Pennsylvania and elsewhere that TMI Unit 1, if allowed to restart by the Commission, will be safely operated and pose no threat to its neighbors. The Commonwealth urges the Appeal Board to take whatever action it deems necessary to foreclose the risk of any hazard and to assure the public that, if TMI Unit 1 is allowed to restart, it will pose no risk to the health and safety of the community surrounding it.

Respectfully submitted,

FOR THE COMMONWEALTH OF PENNSYLVANIA

Douglas R. Blazey / mmw
DOUGLAS R. BLAZEY
Chief Counsel
Department of Environmental Resources

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of:

METROPOLITAN EDISON COMPANY,

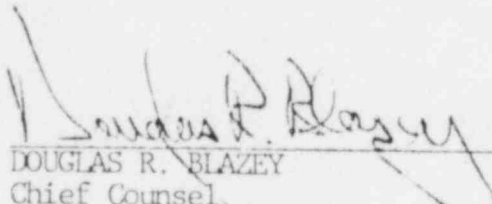
(Three Mile Island Nuclear
Station, Unit No. 1)

:
:
:
:

Docket No. 50-289
(Restart)

CERTIFICATE OF SERVICE

This is to certify that the foregoing "Commonwealth of Pennsylvania's
Comments on the Atomic Safety and Licensing Appeal Board's Order of June
16, 1983" was served on the persons on the attached service by deposit
in the U.S. mail, first class postage prepaid.



DOUGLAS R. BLAZEY
Chief Counsel
Department of Environmental Resources

Date: June 30, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:

METROPOLITAN EDISON COMPANY,

(Three Mile Island Nuclear
Station, Unit No. 1)

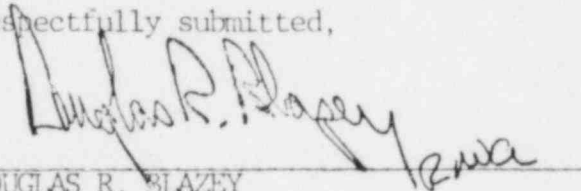
)
)
)
)

Docket No. 50-289
(Restart)

COMMONWEALTH OF PENNSYLVANIA'S
COMMENTS ON NRC STAFF REPORT ON GPU MANAGEMENT PROPOSAL

The attached letter, dated January 24, 1984, from the Honorable Dick Thornburgh, Governor, Commonwealth of Pennsylvania, to Chairman Palladino constitutes the Commonwealth's comments on the NRC Staff Report on the GPU Management Proposal.

Respectfully submitted,



DOUGLAS R. BLAZEY
Chief Counsel
Pennsylvania Department of
Environmental Resources

January 24, 1984



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

THE GOVERNOR

January 24, 1984

Dr. Nunzio J. Palladino
Chairman
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Chairman:

The Commonwealth is in receipt of NRC staff's response to GPU's management proposal and I want to take this opportunity to reiterate my views concerning the question of restart of Three Mile Island Unit 1.

As you know, I have repeatedly stated that I will remain opposed to the restart of TMI Unit 1 until and unless I receive adequate assurances that Unit 1 can be operated safely, and until and unless there is a funding mechanism in place for completing the radiation cleanup at TMI Unit 2.

In my letter to you of June 2, 1983, I expressed my view that a variety of questions, including those related to management competence and integrity, should be resolved prior to restart, not the other way around.

In your written response dated July 14, 1983, you provided assurances that the NRC would make no decisions regarding the restart of Unit 1 until such issues had, indeed, been addressed.

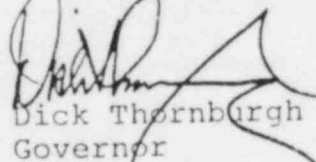
I believe that the NRC staff's recommendation, which would permit the conditional restart of TMI-1 in the face of unresolved issues related to competence and integrity, would be inappropriate and inconsistent with the spirit of your statement of July 14.

Del
8401270217

Dr. Nunzio Palladino
Page two

Public safety must be the primary concern and principal objective of the operators and regulators of nuclear power facilities. In the interest of public safety, the NRC should reject any proposal to separate competence and integrity issues from TMI-1 restart, but rather resolve these issues prior to any decision on the future of Unit 1.

Sincerely yours,



Dick Thornburgh
Governor

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:

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

CERTIFICATE OF SERVICE

This is to certify that the foregoing "Commonwealth of Pennsylvania's Comments on the List of Integrity Issues in the Restart Proceeding" was served on the persons on the attached service list by deposit in the U.S. mail, first class postage prepaid, on February 8, 1984.

Maxine Woelfling

MAXINE WOELFLING
Assistant Counsel
Department of Environmental Resources

Dated: February 8, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of:

METROPOLITAN EDISON COMPANY,
(Three Mile Island Nuclear
Station, Unit No. 1)

)
)
)
)

Docket No. 50-289
(Restart)

SERVICE LIST

Nunzio L. Palladino, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

John F. Ahearne, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas M. Roberts, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Victor Gilinsky, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James K. Asselstine, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Judge Gary J. Edles, Chairman
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Judge John H. Buck
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Judge Reginald L. Gotchy
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Sheldon J. Wolfe
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gustave A. Linenberger, Jr.
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Joseph R. Gray
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

Karin P. Sheldon, Esquire (PANE)
Harmon & Weiss
1725 Eye Street, N.W., Suite 506
Washington, D.C. 20006

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

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

ANGRY/TMI PIRC
1037 Maclay Street
Harrisburg, Pennsylvania 17103

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

Ms. Louise Bradford
IMI Alert
1011 Green Street
Harrisburg, Pennsylvania 17102

John A. Levin, Esquire
Assistant Counsel
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 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
133 New Hampshire Ave., N. W. Suite 1100
Washington, D. C. 20036

David E. Cole, Esquire
Smith & Smith, P.C.
2931 N. Front St.
Harrisburg, Pennsylvania 17110

Michael W. Maupin, Esquire
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

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