

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONDOCKETED
USNRCBEFORE THE COMMISSIONERS

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Nunzio J. Palladino. Chairman
Victor Gilinsky
Thomas Roberts
James Asselstine
Frederick Bernthal

In the Matter of
Metropolitan Edison Company
(Three Mile Island Nuclear
Generating Station, Unit 1

Docket 50-289

AAMODT COMMENTS TO PROPOSALS OF DECEMBER 5, 1983
CONCERNING RESTART OF TMI-UNIT 1Abstract

This document deals with two proposals presented to the Commission at its meeting on December 5, 1983. These proposals forwarded by the Union of Concerned Scientists and the Nuclear Regulatory Commission Staff described means by which open issues concerning management competency/integrity (principally the Hartman matter) could be resolved by the Commission to allow restart of the Unit 1 plant at Three Mile Island. The Commission had stayed a hearing of the Hartman matter in order to consider alternative proposals for resolving this matter.

We discuss the merits of the UCS and NRC Staff proposals and then discuss, in our conclusions, the inappropriateness of the Commission's consideration of these or similar proposals, in the framework of the proceeding initiated by the Commission's August 9, 1979 order.

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Introduction

At the Commission meeting on December 5, 1983, two parties, the Union of Concerned Scientists and the NRC Staff, presented proposals which would, if adopted by the Commission, allow the reactor to be restarted prior to the resolution of management issues. The UCS proposal was a restatement of an opinion expressed earlier by Commissioner Gilinsky that the Commission make a pre-emptive decision to require the removal of GPU management in order to restart the reactor. The NRC Staff recommendation was that the reactor be restarted at 25% of full power with round-the-clock NRC inspectors when the reactor is judged by the Staff to be physically ready for operation. The Staff would have all open management integrity/competency issues, except their investigation of leak rate falsification at Unit 1, separated from the Commission's restart decision.

Chairman Palladino expressed interest in hearing the parties' opinions concerning the UCS/Gilinsky proposal.

The parties were invited informally by both the Chairman and Commissioner Asselstine to present their opinions concerning a principle by which the Commission could draw the line between management (who ordered, had knowledge of, or were responsible for leak rate falsification at Unit 2) and the "working people".

On December 9, 1983, UCS requested the Commission for the opportunity to respond to the Staff's proposal of December 5. The NRC Staff, the only party to reply (by service of December 29, 1983), did not oppose UCS's request. In the event that the Commission should act to grant UCS's request and extend it to all parties, we have included our comments concerning the Staff's proposal at this time.

1. UCS/Gilinsky Proposal for Pre-emptive Commission Decision to Remove GPU Management in order to Restart Unit 1 Reactor.

Our viewpoint remains, as expressed by Judge Milhollin in his report of April 27, 1982, that the entire operations staff was compromised by the cheating on tests. The matters of the falsification of leak rates at both units are further evidence of wide-spread compromise among the operations staff. All except Harold Hartman have withheld their information concerning the leak rate falsification despite numerous opportunities to provide information relevant to the TMI-2 accident and to the cheating at Unit 1.

While we have been concerned that management's responsibility for the cheating on tests not be absolved, (since management allowed "open book" tests despite the Commission's directive in 1980 to Henry Hukill (from Collins)), we never excused the cheating and lying of the operators.

We felt that in making the operators "scapegoats", the Commonwealth and others were allowing the culpability of GPU and plant management to go unaddressed. Several illustrative

sentences from our response to the Commonwealth and Staff's positions concerning Operator G, who lied about his cheating on company tests, are provided:

We do not condone the false testimony of Operator G, nor do we understand why the Commonwealth or the Staff would find G's elective termination a suitable resolution of this serious crime.

We find, however, the roots of Operator G's false testimony of more concern. These roots were Licensee's lack of responsibility in administering tests according to the traditional and Commission standards...

Aamodt Reply, January 18, 1983

We believe that the TMI-1 organization, as a whole, has been involved in wide-spread cheating. The evidence is clear concerning cheating on tests, operation of the plants in violation of technical specifications, falsified reports provided to the NRC, and in withholding and distorting information during the Restart Proceeding. New management personnel -- those who have joined since the TMI-2 accident -- have been enjoined into the compromised organism, which until this day seeks to cover its knowledge and responsibility for the Hartman matter.

Other new individuals in positions of lesser responsibility and knowledge can only be expected to follow the example of the organization. In fact, compromise of new employees may proceed their hiring. According to a candidate engineer, Thomas Quinn, GPU management supplied information through an employment agency which enabled him to pass a psychological screening which he had previously failed. NRC Staff's recent attempt to dismiss the Quinn allegations as an isolated incident is simply not credible nor responsive. (See Board Notification

83-08, February 1, 1983; Faegre & Benson Report, September, 1983; NRC Investigation Report. Case Number 1-83-003. October 12, 1983 and December 23, 1983 letter Starostecki to Hukill),

2. The NRC Staff's Proposal for Restart at 25% of Full Power with Round-the-Clock NRC Inspectors.

Even if the Staff could obtain capable inspectors who were knowledgeable of B&W plants, as promised by Mr. Murley of Region I, we have little confidence, based on past Staff performance, in the capability of these individuals to regulate. NRC resident inspectors did not prevent falsification of leak rate data at TMI, Unit 1 or 2. They did not prevent the operation of these plants in violation of technical specifications. They were either unaware of the true operating conditions of these plants or they withheld information. The inspectors either never observed the administration of tests with "open books" and cooperation among examinees or never reported what they observed.

Mr. Murley made the point that the inspectors are "to watch the operators because they have not operated the plant". (Tr. 127) In view of the point NRC made throughout the hearing concerning the site-specific design of the TMI-1 plant, we are at a loss to understand how NRC inspectors can have intimate knowledge of Unit 1 which exceeds that of licensed operators who have participated in the TMI-1 training program.

NRC Staff's proposal is extremely weak. A policing action by NRC is not an acceptable alternative to a competent and trustworthy management or experienced and trained operators. In addition, the issue of who would serve as emergency director is left open. The single management person with experience on and knowledge of the unique TMI-1 reactor is Michael Ross, the Supervisor of Operations, who is under investigation concerning falsification of leak rates at Unit 1, who was involved with the operation of Unit 2 and who was considered by Judge Milhollin and us to have been involved in the cheating on the NRC licensing exams. According to the record evidence, Messrs. Hukill, Clark and Kintner would not have site-specific knowledge of the design and operation of Unit 1 as needed by an emergency director.¹

Conclusion

Neither the UCS/Gilinsky nor the NRC Staff proposal for restart of Unit 1 is acceptable. These proposals are, in addition, inappropriate considerations for the Commission in the context of the proceeding initiated by the Commission's August 9, 1979 Order. The Commission's task, under that order, was to decide whether Licensee had met its burden of

^{1/} See Tr. 11,520-21 (Arnold). Licensee management personnel who make on-the-spot safety decisions during emergency conditions need detailed personal knowledge of the design and operation of TMI-1.

proof concerning the issues of the proceeding.

We believe that the Commission has strayed from the course set by the August 9 and subsequent March 3, 1980 orders. These orders, structured by commissioners with the events of the TMI-2 accident freshly in mind, precisely stated short and long term items which Licensee was required to address if it was to obtain a favorable Commission decision for restart. The NRC Staff fleshed out the particular requirements for meeting those items. Now, the Staff, in the persons of Harold Denton and Thomas Murley, have informed the Commission that their respective organizations, NRR and Region I, have independently concluded (what was painfully apparent to us as early as February, 1981²) -- that Licensee has failed to comply with identified requirements in a timely fashion.³

2/ Concerning the training program in response to the Commission's August 9 order.

3/ My judgment is that the organization has not been effective at bottom line. They have not cleaned up Unit 2. They have not moved aggressively to put this plant at the top of the list with regard to things like simulators and post-TMI fixes and those sorts of things. They have -- in that sense, they've not been an effective organization if you look at them from the big picture. They've done what we've ordered, but I think if you look back over all the years, there's been plenty of opportunity so that we wouldn't still be debating today whether we can certify that all the post-TMI fixes are in.

Denton. Tr. 123-4. Commission Meeting. December 5, 1983

Well, you know, prior to my going to Region I in June, I had very little involvement in TMI; in fact, almost none. So last week in preparation for this meeting I got my senior staff together and residents, everyone from the region who's pretty closely in touch with TMI, and we asked ourselves some basic questions. How do we really feel about this plant, about the operators and about the management, and we hammered it out all last week. And we came down basically where Harold did. independently, I might add. Murley. Tr. 126-7. Id.

We believed in 1981 that Licensee had had sufficient time to exercise its opportunity for a second chance to operate a nuclear reactor at TMI. We could not excuse Licensee's inability to administer a model training program to teach the TMI-2 events.⁴ Can the Commission be as permissive, as the Licensing Board was in 1981 and trust the Licensee to undertake and adequately implement commitments in training that have not already taken place?⁵

In the matter of augmentation of operator training, the Licensee has only now defined criteria for qualifications of instructors of licensed operators, and in June 1983 an order for an exact replica simulator was placed which will not be available for training use until 1986. The necessity for the immediate address of these two training matters was made imminently clear to Licensee soon after the accident. The quality of instruction was the subject of a meeting with the Staff on June 14, 1979 and the Commission referenced the memorandum of the meeting in its August 9, 1979 order. The value of an exact replica simulator, on site, was explained in the Eytchinson report of October 1979, which was highly critical of the B&W simulator program presently used by Licensee.

GPU has had the opportunity to meet all burdens of proof, including disproof of the evidence of criminal management

4/ Licensee's own experts reported misgivings about the credentials of the instructors and the limitations of training on the B&W simulator. Licensee Ex. 27, Review of OARP.

5/ See recommended conditions, August 27, 1981 and July 27, 1982 Partial Initial Decisions.

and employee actions in falsifying leak rates at both units. Not only has Licensee reluctantly and inadequately met its burden on identified issues, the Licensee has brought about the present situation, where numerous matters which challenge management competency/integrity have recently surfaced. These matters were deliberately concealed by Licensee -- some for over four years. Investigation of these matters, which Licensee had the choice to openly air and address in the Restart Proceeding in 1980 - 1981, could postpone the Commission's decision until 1985 according to the NRC Staff's estimates. We find the delay unacceptable in view of Licensee's deliberate withholding of critical information and the Commission's order for an expeditious hearing. We believe that the Commission is compelled to act, without further delay, on the basis of the preponderance of extra-record and record evidence which challenges any prior Licensing Board decisions which approve management competency and integrity.

We remind the Commission of our motion of October 27, 1983 (amended on November 11, 1983) that moved the Commission to deny the license of GPU to operate TMI-1 on the basis of the evidence that already exists, some of which was presented in ten attachments to these documents.

No party, except the Licensee, has disputed the evidence provided in the attachments to our motion. Except for the Licensee, all parties have recently made statements which support the merits of our motion. UCS emphatically stated to the Commission during the December 5, 1983 meeting that

GPU management is unfit to run the TMI-1 plant. Although UCS has been a veteran intervenor in licensing proceedings, rarely has it become involved with management issues. UCS now considers plant design and procedure matters which it has litigated in the restart proceeding as jeopardized by the gravity of the incompetency of GPU management.

The very position of the NRC Staff, presented to the Commission on December 5, 1983, demonstrates little, if any, confidence in GPU management. The Staff must believe that management of the plant needs 24 hour policing to make such a recommendation. In addition, the Region I staff considered the operators too inexperienced to go unwatched.

It is not the responsibility of the Commission to find some way to get Unit 1 restarted. The Commission does not have the responsibility to protect the investments of GPU stockholders nor should it concern itself with demand or cost of electricity. The Commission's sole responsibility is to regulate, to license or to deny license to those who seek permission, for whatever reason, to use nuclear materials. The Commission must act now to fulfill that responsibility by denying the GPU license to operate nuclear facilities. The characteristics of the GPU nuclear operations at TMI and Oyster Creek (both, incidently, ranked in the bottom-half of operating reactors by recent INPO evaluation) should convince any reasonable mind that the Commission's continued forbearance with GPU as a Licensee would be a reckless and

willful act which would continue to endanger the lives of
the people living in the vicinity of these plants.

Respectfully submitted,

Norman O. Aamodt

Norman O. Aamodt

Marjorie M. Aamodt

Marjorie M. Aamodt

January 7, 1984

cc: Docketing & Service
Atomic Safety and Licensing Appeal Board
Atomic Safety and Licensing Board
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DOCKETED
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BOX 428, R.D. 5, COATESVILLE, PENNSYLVANIA 19320

'84 JAN -9 PM2:13

January 7, 1984

OFFICE OF SECRETARY
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C.

Senator Arlen Specter
United States Senate
Washington, D. C.

Dear Senator Specter:

The Aamodts appreciated your interest in the TMI-Unit 1 proceeding. However, we are troubled concerning what appears to be some confusion concerning the purpose of the proceeding and the Commission's role. (We refer to your interest in the bias -- for or against nuclear power -- of those who participated in the hearing, and in a Philadelphia television interview, ^{where} you stated your intent to introduce a bill to expedite licensing decisions since the delay in restarting TMI-Unit 1 was having adverse impact on the development of nuclear power.)

Unlike the Congress, the NRC cannot be in the business of promoting nuclear power. We trust the enclosed document will be helpful to you in its attempt to define the purpose of the restart proceeding and our role as intervenors. (See the Conclusions, in particular.) In addition, excerpts from a Senate Subcommittee meeting (Udall, February 24, 1981) and a letter and related document of the Appeal Board are attached because of their relevance to the matter of what you view as unreasonable delay.

We would be disappointed if the Senate would seek to undermine a legal process which it has established, simply because the desired results are not forthcoming.

Respectfully yours,

Marjorie Aamodt

Marjorie M. Aamodt

cc: same as for Comments, January 7, 1984



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING APPEAL PANEL
WASHINGTON, D.C. 20555

DOCKETED
JUNRC

'83 AUG -9 P12:17

August 8, 1983

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Mr. Donald E. Hossler
501 Vine Street
Middletown, Pennsylvania 17057

RE: METROPOLITAN EDISON COMPANY, ET AL.
(Three Mile Island Nuclear Station,
Unit No. 1)
Docket No. 50-289

Dear Mr. Hossler:

Mr. Edles has asked me to respond to your August 3, 1983, letter commenting on the use of the term "estart" in the title of the Three Mile Island case.

The use of the term is simply a means of describing the type of proceeding involved (the terms "operating license," "construction permit," and "license amendment" are used to describe other types of proceedings). The term is not intended to suggest the eventual outcome of the case one way or the other. Indeed, in its first major appellate opinion in the case, ALAB-697, involving issues of emergency planning, the Board observed that the Commission ordered the hearings "to determine whether Unit 1 should be permitted to resume operation and, if so, under what conditions." (emphasis added) I have enclosed the first few pages of ALAB-697; the reference is at page 1268.

Mr. Edles has asked me to send your letter and a copy of this response to the Public Document Room so that the public will be aware of the exchange of correspondence. A copy of your letter and this response will also be served on all parties to the case.

Very truly yours,

C. Jean Shoemaker

C. Jean Shoemaker
Secretary to the
Appeal Board

Enclosure

cc: Docketing and Service Branch

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repeat it here. In essence, after the accident that occurred at Unit 2 of the Three Mile Island nuclear facility on March 28, 1979, the Commission ordered Unit 1 of that facility to remain in a cold shutdown condition. (Unit 1 was, by coincidence, coming up to full power after a refueling outage and was immediately shut down by the licensee following the TMI-2 accident.) The Commission at that time indicated that, based on its preliminary review of the Unit 2 accident chronology, it lacked the necessary reasonable assurance that the Unit 1 facility could be operated without endangering the health and safety of the public. Thereafter, the Commission ordered that a hearing be held to determine whether Unit 1 should be permitted to resume operation and, if so, under what conditions.¹ At issue are the licensee's management capability and technical resources, the adequacy of Unit 1 design and procedures, separation of Units 1 and 2, and emergency preparedness.² Hearings on these matters lasted nearly two years and produced a transcript of over 27,000 pages, as well as hundreds of exhibits. The Licensing Board has issued three separate partial initial decisions, plus companion orders dealing with environmental concerns and the monitoring of improvements found to be required; together, they comprise over 1,300 typewritten pages. Now before several Appeal Boards are various appeals from those decisions.

The Licensing Board issued its decision in parts to allow the maximum time for Commission review.³ On August 27, 1981, the Board issued its first partial initial decision on licensee's management competence but retained jurisdiction over management issues to inquire into allegations of cheating on examinations given to licensee's reactor operators.⁴ Then, on December 14, 1981, the Board issued its second partial initial decision concerning plant design and procedures, separation of units, and emergency planning.⁵ A separate decision dealing with environmental matters was issued a day later.⁶ The final partial initial decision on management capability, addressing the cheating inquiry, was issued on July 27, 1982.⁷

¹ See *Metropolitan Edison Company* (Three Mile Island Nuclear Station, Unit 1), LBP-81-32, 14 NRC 381, 386-99 (1981) (procedural background and management issues, ¶¶ 1-558, at ¶¶ 1-36).

² See CLI-79-8, 10 NRC 141 (1979).

³ The operating license for Unit 1 (now suspended) lists GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company as licensees. For convenience, we refer to them collectively as "the licensee" throughout this decision.

⁴ See LBP-81-32, note 1, *supra*, 14 NRC at 399 (PID ¶ 36). The Commission originally intended to review the Licensing Board's decision itself but later directed that an Appeal Board be designated to hear initial appeals. See CLI-81-19, 14 NRC 304 (1981). Whether, or when, TMI-1 is permitted to restart, however, is before the Commission as part of its immediate effectiveness review. CLI-81-34, 14 NRC 1097 (1981). In an order served on October 6, 1982, the Commission announced its intent to rule by December 10 on whether to lift the immediate effectiveness of its order that TMI-1 remain in cold shutdown.

⁵ LBP-81-32, note 1, *supra*, 14 NRC at 402-403 (PID ¶¶ 44-45).

⁶ LBP-81-59, 14 NRC 1211 (plant design, procedures, and separation, PID ¶¶ 539-1329; emergency planning, PID ¶¶ 1330-2028).

⁷ LBP-81-60, 14 NRC 1724 (1981).

⁸ LPS-82-56, 16 NRC 281 (PID ¶¶ 2029-2425).

Subcommittee Meeting

NAME: HII055010

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3274 That is just an emotion, a reaction.

3275 Dr. Plesset. It is clear our Chairman is more charitable
3276 than the past-Chairman.

3277 Dr. Mark. I am not sure. But there are differences in
3278 plant and you meet this face to face at the ACRS when they
3279 come and bring their own people to discuss a construction
3280 permit or operating permit or a problem and some of them are
3281 just very much in touch with what is needed to be in touch
3282 with and in command of it; and others are calling in their
3283 vendors and saying, ''Well, hey, I don't really know, but
3284 Mr. so-and-so is here from Babcock & Wilcox, perhaps he
3285 does.''

3286 The Chairman. Let me touch on one other thing then I
3287 rally have to close the hearing. I raised a question this
3288 morning of whether there is a valid reason why TMI-1 which
3289 was an operating reactor, apparently had some history of
3290 operating safely in any event, why it should still be closed
3291 down after 2 years? Is there something special about that
3292 relationship or would we always close it down, that is, if
3293 you got a pair of them should you always close down one if
3294 you have a LOCA or severe event in the other?

3295 Dr. Plesset?

3296 Dr. Plesset. I think this relates to the point just
3297 discussed. I think that both Three Mile Island-1 and TMI-2
3298 represent a management that was incredibly incompetent and

3299 maybe even dishonest. I think that means that you have a
3300 different attitude towards that license or re-license than
3301 you would towards continued operation of, for example,
3302 Rancho Seco or Davis-Bessie. I think it's quite different.
3303

3304 Dr. Mark. I think the technical features of that plant,
3305 if in trusted hands, and in a politically possible climate,
3306 are such that there is no reason why that plant could not
3307 have been turned on in the summer of 1979, except for these
3308 very real reasons. But they are not mechanical.

3309 The Chairman. Gentleman, you do good work, and I think
3310 the country is glad, as I am, that you are on the job and
3311 giving of your time at the ACRS and I thank you for giving
3312 of your time here today. We will no doubt have you back
3313 here again.

3314 Thank you very much.

3315 The subcommittee is adjourned.

3316 Whereupon, at 2:36 p.m., the subcommittee adjourned to
3317 the call of the Chair.