

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

DOCKETED
USNRC

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

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Docket No. 50-289-S2
(Restart)

OFFICE OF SECRETARY
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COMMONWEALTH OF PENNSYLVANIA'S ADDITIONAL COMMENTS
ON THE COMMISSION'S ORDER DATED JUNE 1, 1984

By order dated June 1, 1984, the Commission requested the parties to this proceeding to file comments on whether the Commission should lift the immediate effectiveness of its July 2, 1979 shutdown order. Under the terms of the Commission's order issued August 9, 1979, certain "short-term" actions required to protect the public health and safety were required to be completed prior to lifting the immediate effectiveness of the shutdown order.¹ On June 15, 1984, the Commonwealth of Pennsylvania filed initial comments, opposing lifting the immediate effectiveness of the shutdown order, and expressed its intent to file additional comments on or before the Commission's deadline.

The Commonwealth of Pennsylvania continues to oppose lifting the immediate effectiveness order until a thorough review has been conducted by the Commission and its Boards of several important outstanding issues related to restart authorization.

¹ On July 17, 1984, the NRC staff notified the Atomic Safety and Licensing Board that not all of the short-term actions required by the Commission's order of August 9, 1979 had been completed. Among the items that have not yet been completed is the approval by FEMA and the NRC of emergency preparedness communications drills.

Five years ago, the Commission determined that the public interest required that TMI-1 remain shut down until hearings were held to resolve safety concerns. CL1 79-4, 10 NRC 141 (1979). Despite five years of intermittent hearings, and great expenditure of resources by the NRC staff, the Commonwealth, and other parties, these concerns remain unsatisfied. The public interest requires that all critical safety issues be resolved prior to TMI-1 restart, including the following major issues that are of vital interest to the Commonwealth:

1. TMI-2 Leak Rate Falsification.

A former TMI-2 licensed operator, Harold Hartman, has alleged willful falsification of leak rate testing at TMI-2 prior to the TMI-2 accident. Almost a year ago, the Atomic Safety and Licensing Appeals Board ordered the hearings to be re-opened concerning the Hartman allegations. ALAB-738, 18 NRC 183-92. These hearings were stayed by order of the Commission on October 7, 1983, apparently at the request of the Department of Justice. (See Transcript of Commission meeting, January 10, 1984). Since criminal proceedings involving these allegations have been concluded by virtue of Metropolitan Edison's guilty plea, there is no valid reason for either continuing the stay or delaying re-opening the hearings concerning the TMI-2 leak rate testing. A fundamental question has yet to be answered in a public forum: whether the deliberate manipulation of leak rate tests at TMI-2 was directed or condoned by any members of the current TMI-1 management. A review of the transcript of the Court hearing of February 28, 1984 indicates a decision at TMI-2 to manipulate TMI-2

leak rate tests and to hide unfavorable test results from the NRC. (Statement of Prosecutor, Court Transcript, February 28, 1984, at 21-35).² Until hearings are held by the Atomic Safety and Licensing Board, neither the Commission nor the public will be able to determine the full extent of involvement by the current management in this serious wrongdoing.

2. The TMI-1 Leak Rate Testing Program.

In its recent management phase decision, the Atomic Safety and Licensing Appeal Board granted a Motion to Re-Open the hearing to examine allegations of falsification of leak rate test data at Unit 1. ALAB-772, decided May 24, 1984. At the time of its decision, the Board had before it the recently released Office of Investigation report concerning Unit 1 leak rate tests (No. 1-83-028). Although the Office of Investigation report did not specifically conclude that there was systematic falsification of the leak rate tests at TMI-1, the Board concluded that the report does not dispose of all the concerns related to leak rate testing. At the minimum, the Board concluded, the investigation report should be the subject of an adjudicatory hearing, where testimony and facts can be scrutinized. ALAB-772, at 149-155. An adjudicatory

² The NRC staff investigation on the Hartman allegations, released on July 13, 1984, does not resolve the question of responsibility for this central issue and raises additional issues.

decision on this matter before rescinding the shutdown order is essential to give the Commonwealth adequate assurances that TMI-1 can be safely operated.³

CONCLUSION

The Commission should not depart from the course that it laid out in 1979 - to provide adjudicatory hearings concerning all significant safety issues - simply because the course has been a hard one and because it may have delayed restart of TMI-1. Information critical to the safety of TMI-1 has developed over the past five years through the adjudicatory process - complete with discovery, cross-examination, and the full presentation of testimony by the affected parties. In order to maintain public confidence, this basic process must be continued until it can be conclusively established that restart of Unit 1 will not jeopardize the public health and safety. The interests of public health and safety far outweigh the short-term benefit that can be gained by an ill-considered decision.

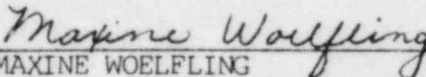
For these reasons, and for the reasons set forth in its initial comments of June 15, 1984, the Commonwealth of Pennsylvania opposes any plan by the Commission to vote to authorize restart of Unit 1 at this time, and requests

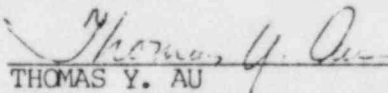
³ The Commonwealth wishes to reiterate its position, set forth in Governor Thornburgh's June 2, 1983 letter to the Commission, that any action by the Commission to allow restart of Unit 1 must be preceded by adequate assurances that Unit 1 can be operated safely. Among the matters in which the Commonwealth may need assurances are questions surrounding GPU's handling of the Keaten Report. The Keaten Task Force was formed by GPU in 1979 to investigate facts leading to the TMI-2 accident. The NRC Office of Investigations conducted a detailed inquiry into whether upper level management improperly influenced the drafting of the Keaten Task Force Report. The results of the investigation are contained in seven volumes of documents, numbering several thousand pages. At this time, the Commonwealth simply has not had the time to digest the information available, or to form any conclusions concerning the allegations. The Commonwealth does not wish to prejudge the matter but reserves the right to raise issues arising from the Keaten Report later in this proceeding.

that the Commission postpone any vote to authorize restart until the short-term conditions set forth in the August 9, 1979 order of the Commission have been resolved satisfactorily.

Respectfully submitted,

FOR THE COMMONWEALTH OF PENNSYLVANIA


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