

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

RELATED CORRESPONDENCE

DOCKETED
USNRC

'84 OCT 22 A11:13

Docket No. 50-289 SP

(Restart - Management Phase) CH

THREE MILE ISLAND ALERT'S RESPONSE TO
LICENSEE'S FIFTH SET OF INTERROGATORIES

Interrogatory No.1

Three Mile Island Alert ("TMIA") objects to production of information responsive to this interrogatory in that it requests information that is not relevant to the issues in this proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

TMIA and Licensee have entered into a stipulation, which has been approved by the Nuclear Regulatory Commission ("NRC") Staff and this Board concerning the Report prepared by the House Committee on Interior and Insular Affairs entitled "Reporting of Information Concerning the Accident at Three Mile Island" (March 1981) ("Udall Report"). In the Mailgram Stipulation the parties agree that certain reports and interviews conducted in the course of those reports will be admitted into evidence and the Board may give the reports and interviews such weight as it determines they deserve. The parties also agree in the stipulation that the testimony of Henry Myers, proposed as a witness by TMIA, will not be heard and that interrogatories inquiring into his testimony and his investi-

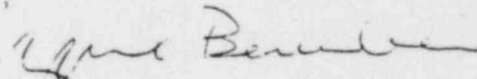
gation would be withdrawn.

Now Licensee attempts to circumvent this stipulation by inquiring once again into the Udall Report and the investigation which led to the Udall Report. TMIA believes that licensee's attempted discovery is in violation of the clear intent and spirit of the stipulation which was intended in part to avoid problems in discovering information from the Congressional branch of the government. Licensee as well as TMIA was informed by the chief counsel for the House of Representatives that it could not provide information or testimony regarding the internal processes of the House or House Staff, including evidence about the method by which the Udall Report was compiled. Given that representation, licensee chose to enter into a stipulation which admits into evidence the Udall Report. Now licensee is attempting to circumvent that stipulation and ask new discovery questions about the Udall Report.

Secondly, the information requested by licensee is not relevant to this proceeding. This hearing is not intended to focus on the adequacy of all investigations into the TMI Accident which led to NUREG-3600 nor the adequacy of the other investigations such as the Senate investigation, the Special Inquiry Group investigation, or the Kemeny Commission investigation. All these investigative reports and the interviews underlying these investigations, are included within the Mailgram Stipulation. Given that fact TMIA does not believe discovery on these investigations, investigative reports or the underlying interviews would produce information relevant to

this proceeding. Although evidence concerning the manner in which these investigations were conducted may provide the Board with some marginally useful information about the weight it should give to individual interviews, TMIA believes the minimal assistance to the Board such evidence would provide is outweighed by the collateral broadening of this hearing.¹ TMIA believes that in this event discovery on the reports, investigations and interviews underlying the investigations is outweighed by the burden to the parties and to this Board, and unduly expensive and burdensome. See Rule 26(b)(1), Fed. R.Civ.P.

Respectfully submitted,



Lynne Bernabei
Government Accountability Project
1555 Connecticut Ave., N.W.
Suite 202
Washington, D.C. 20036
Telephone: 202/232-8550

Dated: October 17, 1984



Joanne Doroshow
The Christic Institute
1234 North Capital Street
Washington, D.C. 20002
Telephone: 202/797-8106

¹The NRC Staff has stated that it will present the testimony of Mr. Moseley on this issue. After the Staff announced that it would call Mr. Moseley, TMIA announced that it would call as a witness Mr. Gamble, who participated in the investigation and in the writing of the NRC Staff Report into licensee's reporting failures, NUREG-0760. Therefore, TMIA believes that NUREG-0760 stands on a different footing than the other reports included within the Mailgram Stipulation in that the

(Footnote 1, continued)

NRC Staff has stated that through its presentation of Mr. Moseley's testimony it intends to make its report, NUREG-0760, an issue in this proceeding. NUREG-0760 is already admitted into evidence in this proceeding and is included once again within the Mailgram Stipulation as evidence to be admitted in this proceeding and to be given such weight as this Licensing Board believes appropriate.