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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE DIRECTOR OF NUCLEAR REACTOR REGULATION

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

Docket No. 50-289
(10 CFR 2.206)

UNION OF CONCERNED SCIENTISTS REPLY TO LICENSEE'S RESPONSE
TO SUPPLEMENT TO UNION OF CONCERNED SCIENTISTS PETITION
FOR SHOW CAUSE CONCERNING TMI-1 EMERGENCY FEEDWATER SYSTEM

GPU's Positions are Inconsistent With the Environmental Qualification Rule,
Disingenuous and Internally Contradictory.

Licensee's Response of June 11, 1984 evinces its continuing ignorance and/or evasion of the substantive requirements of the NRC's environmental qualification rule as well as an attitude which virtually precludes reliance on the accuracy of GPU's factual assertions.

GPU's first general defense is that the deficiencies were in "documentation" only and that "the Commission itself has stated that such documentation deficiencies 'do not necessarily mean that the equipment is unqualified.'" Licensee's Response, p. 5. The quoted statement appears in the Commission's decision in CLI-80-21, rendered in early 1980. Since then, as a result of an environmental qualifications program ongoing since 1977, the

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situation has altered in a crucial respect: all licensees, including GPU were required to demonstrate as to each covered component either a) that the component is fully qualified (and that documentation exists to support that claim) or b) that a valid justification for continued operation exists pending full qualification. Each licensee, including GPU, was determined, on the basis of its own claims, to have met this requirement as of June 30, 1982. The 8 components audited by the staff were not covered by justifications for continued cooperation, but were instead consistently claimed to be fully qualified by GPU. The audit, however, found inadequate support for this claim in 8 out of 8 cases.

GPU's response shows that it still fails to comprehend the requirements of the environmental qualification rule; the time has passed when licensees could hide behind the argument that their deficiencies were only lack of "documentation." The rule itself explicitly requires detailed documentation to be in the qualification file to fully support claims of qualification. 10 CFR 50.49(d). The only exception is in cases where a valid justification for continued operation has been presented and JCO's were not presented for these components, which were instead claimed to be qualified.^{1/} Thus, when UCS characterized the audit as disclosing that vital safety components "are not qualified as required by 10 CFR 50.49...", we were fully correct. Indeed, the staff now agrees; on May 25, 1984, D. Eisenhut, Director of the Division of Licensing, sent a letter to H.D. Hukill, Director, TMI-1, stating:

We have therefore been unable to conclude that you are presently in compliance with 10 CFR 50.49, as stated in your letter of February 10, 1984 (as modified).

GPU fails to mention this letter.

^{1/} These requirements of course, apply to all licensees. Thus, this is not a case where GPU can claim it is being treated more strictly than others.

GPU's second general defense is equally revealing. It claims that "licensees of operating reactors have been provided with only vague guidance as to the scope of documentation and degree of detail required to be maintained in the environmental qualification files...." Licensee's Response at 6. It then cites a 1979 IE Bulletin which it claims is illustrative of the vagueness. GPU fails to mention, except in a footnote discussed below, that a component-by-component Technical Evaluation Report on TMI-1 environmental qualification was prepared in 1982 by Franklin Research Center which unambiguously documented many of the precise deficiencies which were found in the audit to persist 1-1/2 years later. UCS pointed these out in our May 9, 1984 supplement. See Supplement to Union of Concerned Scientists' Petition for Show Cause Concerning TMI-1 Emergency Feedwater System, May 9, 1984, at 3, 4, 5. It is therefore disingenuous in the extreme for GPU to claim that "it was not until the Staff's recent audit that licensee had a complete understanding of the exact nature and detail of the documentation which the Staff judges to be required to be maintained in the EQ files." Licensee's response at 7.

GPU implies that it could not have understood that its claims of qualification would be found to be unsupported in the documentation. Besides having been specifically told so in the 1982 TER, a reasonably competent utility would have known without being told that the documentation should at least establish similarity between the TMI-1 component and the tested component, a deficiency noted repeatedly for a number of the audited components.

Moreover, even if one believes GPU's latest assertions (UCS has not been provided the documentation necessary to evaluate them), at least one set of components among the eight audited is unqualified (the terminations on the EFW

motors) and will have to be replaced. One out of eight is over 12% and does not inspire great confidence in the status of the remainder of the unaudited components.

GPU's final defense is that its claim to the NRC to have "responded to the outstanding concerns raised by the Staff SER and the Franklin Research TER" is not false because the adequacy of the response is a matter of "opinion and judgement." Licensee's Response at 8-9. GPU claims that the fact that it did respond, adequacy aside, is "unassailable." Id. at 9.

Here, GPU has caught itself in a contradiction. In the earlier portion of its response to UCS, when it tries to deny culpability for failing to correct the deficiencies identified in the audit which track deficiencies found in the 1982 TER, GPU argues that the TER "did not serve to communicate to the licensee anything more than FRC's [Franklin Research Center's] final judgments." Licensee's Response n.4 at 7. In other words, GPU admits that it did not accept the judgments contained in the TER and did not act on them. The fact that GPU did not act on the TER is "unassailable," since the same deficiencies were noted in the audit.

It follows ineluctably then, that GPU did not "respond to the outstanding concerns" raised in the TER, contrary to its written statements, unless ignoring those concerns qualifies as a response. UCS reiterates our request that OI immediately investigate whether GPU has made material false statements to NRC in connection with the environmental qualification program. See Supplement to UCS Petition, p. 11.

EFW Pump Motors

With respect to the Westinghouse EFW pump motors, GPU again reveals its misunderstanding of the obligations of any licensee under the environmental qualification program. It admits that the staff identified to GPU many

deficiencies in the qualification data for these motors in early 1981 and called upon GPU to review the deficiencies and their ramifications and to determine, considering these, whether the plant could safely operate. GPU claims that it undertook an "engineering evaluation," (Licensee's Response at 12), although it provides no documentation of such an evaluation, and claims further that it determined that the plant could operate safely because analyses were "underway" and because there existed qualified equipment capable of mitigating the failure of these pump motors. Id. at 13. GPU does not suggest what this substitute equipment could be, presumably because there is no qualified, safety grade, redundant equipment at TMI-1 capable of performing the safety function of the EFW pumps while preserving the single failure criterion. Thus, GPU's "determination" was fallacious.

The fact is that GPU never even requested until March, 1984, written material from Westinghouse demonstrating similarity between the TMI-1 components and those tested and when it did come, it was inconsistent with GPU's previous claims.

QA Review

GPU disputes CS's assertion that it represented to the Staff that its "independent" QA review of the EQ files "fully supported GPU's claims of qualification." Licensee's Response at 14. We simply repeat the pertinent quote:

MR. LE [NRC]: Any deficiency identified in this [TER], page by page, we expect that you have answer to those deficiencies. When the inspector goes out there, the TER will serve as a guide to inspect.

MR. MAUE [GPU]: That has been our premise. That is what we tried to do, to be sure we had the information in the file.

MR. LE: Did you make that commitment? If you made that commitment, then we will proceed.

MR. MAUS: We even had a trial assessment on our file by our own QA to make sure that this kind of information is in there. We had independent verification if you will.

MR. HARDING [GPU]: I am not sure how independent.

MR. MAUS: It is independent, believe me. We even had a trial run to make sure. We might say yes, we have it, but we are prejudiced so we let somebody else take a look at it, saying hey, do they really have it. Okay?

Transcript of March 8, 1984, Meeting with GPU, TMI-1
Environmental Qualification, pp. 25-26, emphasis added.

It is obvious from this language that GPU represented that it had answered the TER deficiencies, page by page, that the answers were in its EQ files, and that an "idependent" QA review had confirmed this.^{2/} The NRC staff member stated clearly that the NRC would only proceed with the audit if given GPU's assurance that it had "made that commitment." GPU responded affirmatively and the audit did, in fact, take place, at which time it was revealed that the files did not approach adequacy. Thus, the persons responsible for the EQ program, the QA personnel and GPU management are all implicated in this failure of competence.

Relief Requested by UCS

GPU argues that UCS's request for independent staff verification of the qualification of all EFW components has already been fulfilled. Licensee's Response at 15. It states that "supplemental audits" were conducted on May

^{2/} GPU's claim that it "could not have meant to convey the substance of the final QA findings ... because the findings were not completed" (Licensee's Response at 14), is specious. Mr. Maus stated: "We even had a trial assessment on our file by our own QA to make sure that the kind of information is in there. We had independent verification if you will. * * We even had a trial run to make sure." Id., emphasis added. The use of the past tense unambiguously conveys that the review was done and that Mr. Maus knew that the results were favorable. Given the context of the conversation, it is absurd to imagine that he would have urged NRC to come to do the audit if the results were negative or incomplete.

7-8 and 24 and in June and implies that these satisfy the request. In fact, it is our information that the "supplemental" audits cover the same components as the original audit, with only a few additions, primarily cable, where deficiencies similar to those already identified were noted by the staff. The four days of supplemental audit (another is expected in July) consist of reviewing the same files over and over again with GPU. It is astonishing that it has taken this level of staff effort to achieve compliance of so few equipment items with the environmental qualification rule - and the task is still not done! Contrary to GPU's assertion, this situation is far from reassuring with respect to all safety-related components outside the scope of the audit. Indeed, one need not have a crystal ball to predict that the level of compliance of such equipment is very low indeed.

GPU responds to UCS's call for an investigation of whether it has made material false in claiming to have responded to all outstanding environmental qualification issues. It argues that the staff asked for "more" after it had responded and that its statements reflected "disagreements" of "technical judgment and opinion..." Licensee's Response at 16. Neither defense is convincing. The staff has not asked for "more;" the requirements for a demonstration of environmental qualification have been known since at least CLI-80-21. GPU's lack of understanding approaches the wilful, especially its attitude towards the 1982 TER. As discussed above, the deficiencies in the EQ files were fundamental ones which a competent utility that took its obligations seriously should have recognized.

Second, putting aside the question of the content of the requirements, GPU claimed to have responded to all outstanding concerns contained in the TER and this it manifestly did not do. It now attempts to explain this by differentiating between the NRC contractor's views and the staff's views and

arguing that it never knew what the staff's views were until the audit. Licensee's Response, n.4 at 7. This excuse is a feeble post-hoc rationalization which, even if accepted, does not aid GPU. The fact is that it claimed in writing to the NPC to have responded to the "concerns" identified in the TER and that it did not. At best, GPU is now providing an explanation for its non-response; that does not rebut the fact that its claim to have responded to the TER concerns was untrue.

GPU attaches its formal response to the staff's March audit.^{3/} The document contains little that can be meaningfully reviewed, since it is composed primarily of generalized undocumented assertions that cannot be verified. As to the three generic concerns, GPU essentially states that it is in the process of addressing them. The claim is not even made that they are resolved. We are intrigued by GPU's response to the staff's generic concern over failure of the handwritten material to contain indication that it has "ever been verified.... or approved." GPU states that it is in the process of having that material "signed, dated and approved." Licensee's Response, enclosure 1 at 1-1. It should be noted that no commitment is made to "verify" it, but only to "approve" it. While this could be an unintentional omission, one cannot be sure, given GPU's practice of interpreting its commitments narrowly. (See the discussion supra, pp. 3-4, 7-8).

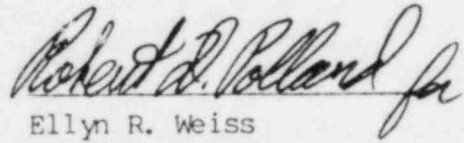
UCS has requested from the staff the results of the May and June audits. Until these can be evaluated, GPU's claims cannot be verified and are certainly entitled to no presumption of accuracy given the inaccuracy of its prior claims.

^{3/} Further, GPU criticizes UCS for making its supplemental filing without waiting for GPU's Response to the audit. Licensee's response at 4. For one thing, GPU does not send UCS its EQ submittals to the staff and did not send this one until it came as an attachment to the pleading. Having read it, we see nothing to have been gained by waiting a month.

CONCLUSION

GPU's response is wholly inadequate. Indeed, it reinforces the necessity for the relief requested by UCS.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert D. Pollard for".

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Dated: July 31, 1984

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NUCLEAR REGULATORY COMMISSION

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(Three Mile Island Nuclear)
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CERTIFICATE OF SERVICE

I hereby certify that copies of "UNION OF CONCERNED SCIENTISTS REPLY TO LICENSEE'S RESPONSE TO SUPPLEMENT TO UNION OF CONCERNED SCIENTISTS PETITION FOR SHOW CAUSE CONCERNING TMI-1 EMERGENCY FEEDWATER SYSTEM" have been served on the following persons by deposit in the United States mail, first class postage prepaid, this 31st day of July 1984.

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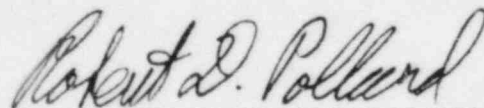
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