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RELATED CORRESPONDENCE

August 15, 1984
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 AGO 16 P12:51

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
METROPOLITAN EDISON COMPANY) DOCKET NO. 50-289 SP
(Three Mile Island Nuclear) (Restart Remand
Station, Unit No. 1) on Management)

LICENSEE'S MOTION FOR PROTECTIVE ORDER

On July 31, 1984, Intervenor Three Mile Island Alert (TMIA) served on Licensee by mail TMIA's first request for production of documents and first set of interrogatories. All of the document requests and interrogatories purport to concern the Dieckamp mailgram designated as an issue in this proceeding in the Licensing Board's Memorandum and Order Following Prehearing Conference, dated July 9, 1984.

Licensee intends to object to a number of TMIA'S discovery requests on the ground that they are unreasonably burdensome and oppressive or otherwise objectionable but does not now seek a protective order on those grounds. This motion seeks only at this time a ruling by the Board that certain identified discovery requests exceed or lie entirely outside the scope of the mailgram and of this proceeding.

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In accordance with the Board's July 9 Memorandum and Order the Dieckamp mailgram issue is principally concerned with the questions of (a) whether anyone interpreted the pressure spike and initiation of containment spray, at the time, in terms of core damage, (b) whether, when and how any interpretation of core damage was communicated to Mr. Dieckamp, and (c) who or what was the source of the information that Mr. Dieckamp conveyed in the mailgram. The Board's Memorandum and Order also identified several subissues relating to Mr. Dieckamp's knowledge and actions with respect to the mailgram. Thus the mailgram issue is confined to the subject matter of the mailgram, i.e. the occurrence and interpretation of the pressure spike and initiation of containment spray.^{1/} Licensee has no objection to otherwise proper discovery requests which inquire as to these events or to the obviously related generation and subsequent combustion of hydrogen which gave rise to those events.

^{1/} Mr. Dieckamp's mailgram stated that there was no evidence either that anyone interpreted the pressure spike and the spray initiation in terms of reactor core damage at the time of the spike or that anyone withheld any information. In the context of the entire mailgram and the New York Times article which prompted the mailgram Mr. Dieckamp's statement as to withholding of information clearly referred to information concerning the interpretation of the pressure spike and spray initiation in terms of core damage.

TMIA's discovery requests, however, go far beyond the subject of the mailgram and seek to inquire in some cases into all accident events or in other cases to specified accident events unconnected to the pressure spike or initiation of containment spray. Illustrative examples of such requests are document requests Nos. 1 and 2 and interrogatory No. 16. Document request No. 1 asks for all documents which "constitute, relate to, mention or refer in any way to . . . communications made on March 28, March 29 or March 30, 1979, between GPU and the NRC; GPU and B&W and the Commonwealth of Pennsylvania." In other words TMIA requests all documents whenever produced relating to communications on any subject between or among GPU, B&W, NRC and the Commonwealth of Pennsylvania during the first three days of the accident. Document request No. 1, only somewhat less sweeping in scope, asks for "all reports, studies, investigations, inquiries or research" on a number of specified accident events most of which (subitems (b) through (i)) deal with events outside the scope of the mailgram.

Interrogatory No. 16 combines the objectionable features of both document requests Nos. 1 and 2. It first inquires into all communications from or to Mr. Dieckamp on the first three days of the accident "concerning the TMI accident,

or any conditions of the reactor or events occurring during the accident." It then proceeds to list (without limiting the scope of the interrogatory) accident events as to which, in particular, the communications request is addressed. Again, most of the accident events (sub-items (b) through (j)) are outside the scope of the mailgram.

We do not believe that either the Appeal Board or the Licensing Board intended in this remanded proceeding to reconstruct all of the events which occurred in the first three days of the accident or to invite unlimited discovery with respect to them. The purpose of the proceeding is to determine whether the Dieckamp mailgram casts any shadow on GPU's management competence and integrity. The pertinent portion of the mailgram is Mr. Dieckamp's statement that there was no evidence that anyone interpreted the pressure spike and spray initiation in terms of core damage at the time of the spike. The relevant inquiry in this proceeding is whether there existed at the time of the mailgram evidence that such an interpretation had been made at the time of the spike or whether there was reason for further inquiry by Mr. Dieckamp as to the existence of such evidence.

Licensee anticipates an argument by TMIA that the information which it seeks on other accident events goes

somehow to the credibility of statements by TMI personnel that they did not at the time understand the significance of the pressure spike or initiation of containment spray. But the question in this proceeding is not the credibility of their statements. The question is whether Mr. Dieckamp had, or should have inquired further as to the existence of, any evidence that anyone interpreted the pressure spike or initiation of spray in terms of core damage at the time of the spike.

Listed below are the document requests and interrogatories which Licensee contends either exceed or are entirely outside the scope of this proceeding, followed in each case by the protective order sought by Licensee.

A. Document Requests

Document Request No. 1: That Licensee's response may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Document Request No. 2: That the events listed in subparagraphs (b) through (i) are outside the scope of the mailgram and of this proceeding and that documents requested relating to same need not be produced.

Document Request No. 3: That documents relating to the briefing of the Pennsylvania Lt. Governor may be limited to those relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Document Request No. 4: That documents relating to the briefing of other Commonwealth of Pennsylvania officials may be limited to those relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Document Request No. 5: That documents relating to interviews of Mr. Dieckamp may be limited to those relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Document Request No. 6: That documents may be limited to those relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Document Request No. 9: That operator logs may be limited to logs recording conditions or events relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

B. Interrogatories

Interrogatory No. 2: That Licensee's response shall include a description of all lines and methods of communication and/or reporting between the NRC and GPU which existed on March 28, 1979, but that the information sought by items (b) through (h) with respect to particular communications may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 3: That Licensee's response to the last paragraph of this interrogatory be limited to activities or tasks occasioned by recognition of the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 4: That Licensee's response shall include a description of all lines and methods of communication and/or reporting between the NRC and B&W which existed on March 28, 1979, but that the information sought by items (b) through (g) with respect to particular communications may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 5: That Licensee's response shall include a description of all lines and methods of communication and/or reporting between GPU and the State of Pennsylvania which existed on March 28, 1979, but that the information sought by items (b) through (g) with respect to particular communications may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 6: That Licensee's response shall include a description of all lines and methods of communication and/or reporting between GPU and B&W which existed on March 28, 1979, but that the information sought by items (b) through (g) with respect to particular communications may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 7: That Licensee's response shall include a description of all lines and methods of communication and/or reporting between B&W and the State of Pennsylvania which existed on March 28, 1979, but that the information sought by items (b) through (g) with respect to particular communications may be limited to communications relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 14: That Licensee's response may be limited to investigations, inquiries or reports relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 15: That Licensee's response may be limited to communications, discussions, conversations and briefings relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 16: That Licensee's response to the first two paragraphs of this interrogatory may be limited to communications from or to Herman Dieckamp relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray; that the items of information particularized in items (b) through (j) of the last paragraph are outside the scope of the mailgram and of this proceeding; and that Licensee need not furnish the information requested in items (b) through (j).

Interrogatory No. 17: That knowledge of the PORV being open is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatory No. 18: That knowledge of the throttling of HPI is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatory No. 19: That knowledge of the hot leg temperatures is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatory No. 20: That knowledge of the core temperatures is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatory No. 21: That knowledge as to the adequacy of core cooling is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatory No. 22: That knowledge as to whether the reactor was in a condition not covered by emergency procedures is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatories Nos. 27 through 31: That depressurization and repressurization strategy is outside the

scope of the mailgram and of this proceeding and that Licensee need not respond to these interrogatories.

Interrogatory No. 34: That Licensee's response may be limited to conversations and discussions between or among the named individuals relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 37: That the location of the in-core thermocouple data is outside the scope of the mailgram and of this proceeding and that Licensee need not respond to this interrogatory.

Interrogatories Nos. 38 and 39: That Mr. Miller's recorded comments to Mr. Troffer at 9:30 a.m. on March 28, 1979, are outside the scope of the mailgram and of this proceeding and that Licensee need not respond to these interrogatories.

Interrogatories Nos. 40 and 41: That the events listed in items (a) through (h) of Interrogatory 40 and referenced in Interrogatory 41 are outside of the scope of the mailgram and of this proceeding and that Licensee need not respond to the interrogatories with respect to these items.

Interrogatory No. 48: That Licensee's response may be limited to I&E interviews and communications concerning same

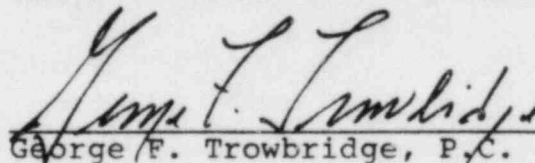
which relate to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatories Nos. 49 through 51: That Licensee's response may be limited to interviews relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Interrogatory No. 58: That Licensee's response may be limited to information and knowledge held by Mr. Dieckamp relating to the generation and subsequent combustion of hydrogen, the pressure spike and the initiation of containment spray.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



George F. Trowbridge, P.C.
1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1026

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