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March 25, 1985

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
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NOTICE TO COMMISSION, APPEAL BOARD
LICENSING BOARD AND PARTIES

In the Matter of)

METROPOLITAN EDISON COMPANY)

(Three Mile Island Nuclear
Station, Unit No. 1))

Docket No. 50-289 SP
(Restart)

In CLI-85-2, the Commission afforded Charles Husted the opportunity to request a hearing. Enclosed is a copy of Mr. Husted's request of this date. Licensee does not anticipate providing to the restart proceeding service list additional documents from the Husted proceeding.

Respectfully submitted,

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WRITERS DIRECT DIAL NUMBER

March 25, 1985

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Commissioner Thomas M. Roberts
Commissioner James K. Asselstine
Commissioner Frederick M. Bernthal
Commissioner Lando W. Zech
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Opportunity for Hearing Provided to
Mr. Charles Husted in CLI-85-2

Dear Chairman Palladino and fellow Commissioners:

In its February 25, 1985 Order in the Three Mile Island, Unit No. 1 restart docket, the Commission provided to Mr. Charles Husted, an employee of GPU Nuclear Corporation and formerly an operator and training supervisor at TMI-1, an opportunity to request a hearing. CLI-85-2 (Feb. 25, 1985), slip op. at 54. Mr. Husted hereby formally requests that such a hearing be convened.

The issue identified for hearing in CLI-85-2 is "whether the Appeal Board's condition barring [Mr. Husted] from supervisory responsibilities insofar as the training of non-licensed personnel is concerned should be vacated." Id. Mr. Husted requests that, in addition to addressing Mr. Husted's serving as a non-licensed training supervisor, the Commission specify that

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Commissioner Nunzio J. Palladino
Commissioner Thomas M. Roberts
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the hearing will address "whether Mr. Husted is barred by concerns about his attitude or integrity from serving as an NRC licensed operator, or a licensed operator instructor or training supervisor." Consideration of the same factual issues^{1/} that ultimately led to the Appeal Board's condition on Mr. Husted's employment also pertain to the adequacy of Mr. Husted's integrity and attitude to serve as a TMI-1 licensed operator, and a licensed operator training instructor and supervisor. This is because the questions that were raised about Mr. Husted's ability to serve in a licensed capacity at TMI-1 are what subsequently resulted in the Appeal Board's decision to not allow Mr. Husted to serve as the supervisor of non-licensed operator training. See ALAB-772, 19 N.R.C. 1193, 1223-24 (1984). Thus, consideration of the Appeal Board's condition on Mr. Husted necessarily entails consideration of these other matters, as well. Furthermore, while the scope of the hearing and commitment of Commission resources would be the same, the potential benefit to Mr. Husted of including this second issue in the proceeding would be substantial. Fundamental fairness suggests that Mr. Husted be afforded the opportunity to completely clear his name and to fully establish his professional and personal integrity, particularly when the request is likely to necessitate no additional commitment of agency time or resources and its genesis is an NRC proceeding.

Mr. Husted has discussed this matter with GPU Nuclear Corporation and with the Commonwealth of Pennsylvania, each of whom signed a Stipulation on July 6, 1983, in which it was agreed that Mr. Husted would not be utilized to operate TMI-1 or to train TMI-1 operating license holders or trainees.

Prior to the Stipulation, GPU Nuclear Corporation had been supportive of Mr. Husted. GPU Nuclear now has indicated to Mr. Husted that it has no objection to the scope of the hearing as requested herein by Mr. Husted.

^{1/} The issues raised during the restart proceeding about Mr. Husted were: (1) whether Mr. Husted solicited an answer to an exam question from another operator during the April, 1981 NRC written examination; (2) whether Mr. Husted gave testimony before the Special Master that was not forthright; (3) whether Mr. Husted displayed an unacceptable attitude towards the hearing; and (4) whether Mr. Husted failed to cooperate with NRC investigators. See LBP-82-34B, 15 N.R.C. 918, 957-61 (¶¶ 101-111), 1045-46 (¶¶ 316-317); LBP-82-56, 16 N.R.C. 281, 315-20 (¶¶ 2148-2168).

Commissioner Nunzio J. Palladino
Commissioner Thomas M. Roberts
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Prior to the Stipulation the Commonwealth's position was that Mr. Husted ought not be permitted to operate TMI-1 or to teach licensed operators or trainees "pending a hearing" on Mr. Husted's ethical and attitudinal qualifications to do so, expressly endorsing Mr. Husted's "due process" rights with respect to removal of his operator license. Commonwealth of Pennsylvania's Brief in Support of Exceptions to the Atomic Safety and Licensing Board Partial Initial Decision Dated July 27, 1982 (Reopened Proceeding - Operator Cheating), September 30, 1982, at 32-33; Commonwealth of Pennsylvania's August 20, 1982 Comments on the Immediate Effectiveness of the ASLB Partial Initial Decision (Reopened Proceeding), July 27, 1982 at 2, 5-6. That is the hearing Mr. Husted now requests. Mr. Husted understands that it is the Commonwealth's position now, however, that while it has no objection to a proceeding which would allow the NRC to resolve the issues which led to the Appeal Board's condition concerning Mr. Husted, it cannot agree in advance of the proceeding that the outcome would control its view as to the continued need for the Stipulation concerning Mr. Husted.

Respectfully submitted,

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Deborah B. Bauser
Counsel for Mr. Charles Husted

DBB:jah

cc: Mr. Philip R. Clark, President, GPU Nuclear Corporation
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Mr. Samuel J. Chilk, Secretary, Nuclear Regulatory Commission

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