

477
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Commission

'85 APR 10 P3:18

In the Matter of)
METROPOLITAN EDISON COMPANY)
(Three Mile Island Nuclear)
Station, Unit 1))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
Docket No. 50-2895P
(Steam Generator
Repair)

TMIA'S FORMAL REQUEST TO MAKE ORAL PRESENTATION

TMIA hereby respectfully requests an opportunity, equal to that of the NRC Staff's, to address the Commission on the issue of TMI-1's steam generators at the scheduled April 18 Staff briefing before the Commission. The safety issues involved with the TMI-1 steam generator repairs are the subject of on-going, hotly contested proceedings, and it would be a violation of the Commission's ex parte rules to allow only the Staff to address the Commission on this issue.

The Appeal Board is currently considering TMIA's Appeal and Motion to Reopen the Record which was submitted in light of new information suggesting that the steam generator tubes at Unit 1 are continuing to corrode. Oral arguments were held on April 3. A review of the transcript of that argument will reveal that the Appeal Board explicitly directed the parties to focus their arguments on the motion to reopen due to apparent concern on Board's part with the Licensee's and the Staff's technical evaluation of these new tube indications.

In TMIA's view, there is a real possibility the record will be reopened. But whether or not this occurs, TMIA believes it is imperative that the Commission hear views contrary to those of

8504120355 850409
PDR ADOCK 05000289
G PDR

D503

the Staff, which has attempted to downplay the significance of these new indications in opposing the motion to reopen. It is also important that the the Union of Concerned Scientists be permitted to discuss its views with the Commission, in light of UCS's recent submittal to the Commission outlining its safety concerns with the steam generators.

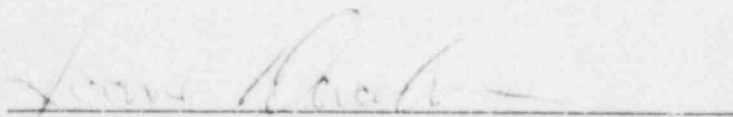
Moreover, TMIA notes the recent admonition by the U.S. Court of Appeals for the District of Columbia in denying a motion for stay of operation of the Waterford nuclear facility. (See Attachment). The Court warned,

The pendency of these motions [to reopen the record before the Appeal Board], which involve significant safety issues, raise troublesome doubts about the Commission's decision to authorize full-power operation of the plant. An Appeal Board decision to grant either motion to reopen the record on a contested safety issue would directly conflict with the Commission's issuance of the full power license.

The Court's concerns are equally relevant to the instant situation where the Commission appears to be considering authorizing TMI-1's operation before the Appeal Board has ruled on TMIA's motion to reopen. TMIA requests assurance from the Commission that it will not consider authorizing restart until the Appeal Board has ruled.

Respectfully submitted,

THREE MILE ISLAND ALERT



Joanne Doroshow
Louise Bradford

Dated: April 9, 1985

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 85-1182

September Term, 19 84

Oystershell Alliance, et al.

Petitioners

United States Court of Appeals
For the District of Columbia Circuit

v.

United States Nuclear Regulatory
Commission and United States of
America,

FILED APR 3 - 1985

GEORGE A. FISHER
CLERK

Respondents

Before: Wald and Mikva,* Circuit Judges and McGowan,
Senior Circuit Judge

ORDER

Upon consideration of petitioners' motion for stay, and the responses and reply thereto, it is

ORDERED by the court that the motion is denied. The balance of equities does not favor the grant of a stay. See Virginia Petroleum Jobbers Association v. FPC, 259 F.2d 921 (D.C. Cir. 1958); Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841 (D.C. Cir. 1977). In reaching this decision, the court assumes that the agency's Appeal Board will act expeditiously in resolving petitioners' two motions to reopen the record which have been pending before that Board since December 12, 1983, and November 8, 1984, respectively. The pendency of these motions, which involve significant safety issues, raise troublesome doubts about the Commission's decision to authorize full-power operation of the plant. An Appeal Board decision to grant either motion to reopen the record on a contested safety issue would directly conflict with the Commission's issuance of the full power license. At the present time, however, we do not believe the tension created by the procedural status of these motions is sufficient to warrant a stay. It is

FURTHER ORDERED by the court that Respondent's (Louisiana Power and Light Company) motion for leave to file response to petitioners' April 1 reply is denied.

Per Curiam

*Circuit Judge Mikva did not participate in this order.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'85 APR 10 P3:18

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

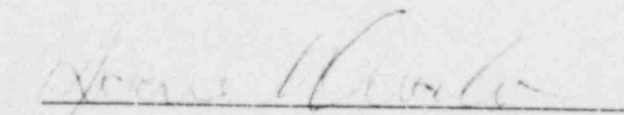
METROPOLITAN EDISON COMPANY)

(Three Mile Island Nuclear)
Station, Unit 1))

Docket No. 50-289
(Steam Generator
Repair)

CERTIFICATE OF SERVICE

I hereby certify that copies of TMIA'S FORMAL REQUEST TO MAKE ORAL PRESENTATION was served this 10th day of April, 1985, by deposit in the U.S. mail, first class, postage prepaid, or hand-delivered where possible, to all parties on the attached service list.



Joanne Doroshow

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Service List

Nunzio J. Palladino, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas M. Roberts, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James K. Asselstine, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gary J. Edles
Administrative Judge
Chairman, Atomic Safety and
Licensing Appeal Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. W. Reed Johnson
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Reginald L. Gotchy
Administrative Judge
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Sheldon J. Wolfe
Administrative Judge
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Frederick Bernthal, Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Lando W. Zech, Jr., Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. James C. Lamb, III
Administrative Judge
Atomic Safety and Licensing
Board
313 Woodhaven Road
Chapel Hill, N.C. 27514

Mary E. Wagner, Esq.
Office of Executive Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. David L. Hetrick
Administrative Judge
Atomic Safety and Licensing Board
College of Engineering
Dept. of Nuclear and Energy Engr.
The University of Arizona
Tucson, Arizona 85721

Thomas Y. Au
Assistant Counsel
Commonwealth of Pennsylvania
Department of Environmental
Resources
Bureau of Regulatory Counsel
Room 505 Executive House
P. O. Box 2357
Harrisburg, PA 17120