

GEORGE W. GEKAS
17th DISTRICT PENNSYLVANIA

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES

CRIMINAL JUSTICE—RANKING MINORITY MEMBER

CONSTITUTIONAL AND CIVIL RIGHTS

SELECT COMMITTEE ON AGING



Congress of the United States

House of Representatives

Washington, D.C. 20515-85 PG:16

February 12, 1985

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Mr. Nunzio Palladino
Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Chairman Palladino:

The Nuclear Regulatory Commission has scheduled a public meeting on Wednesday, February 13, 1985 -- tomorrow -- to consider and affirm an order on the importance and impact on the possible restart of the Unit One reactor at Three Mile Island of those TMI hearings presently in progress or under review by the NRC.

While this matter before the Commission on Wednesday certainly represents one of the most important of the TMI saga to date, one issue of greater preeminence has appeared which must receive your immediate attention: the disqualification of administrative law judge Ivan W. Smith.

Judge Smith's recent letter to Judge Sylvia H. Rambo requesting leniency for James R. Floyd was an admission of bias which certainly cannot go unnoticed. By expressing his "personal" desire about the outcome of the Floyd case, Smith discarded the robes of judicial impartiality. But, even though his actions now show the tint of his personal, not judicial, opinion, Smith still maintains judicial stature in the Three Mile Island review.

The fact of Smith's letter to Judge Rambo is enough to cast a cloud over the entire TMI proceeding in which Smith participated. The absence of any action -- by the NRC or Smith himself -- to remove him from the hearing board after such an appearance of bias jeopardizes the validity of any future -- and past -- hearings on Three Mile Island. Any future actions by Smith as the administrative law judge considering the restart of TMI Unit 1 would be called into question. Both sides of the issue, and especially the general public, are being dealt a great disservice by this lack of proper action.

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Mr. Nunzio Palladino

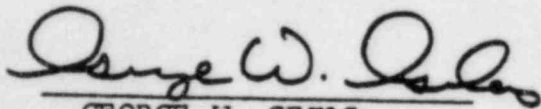
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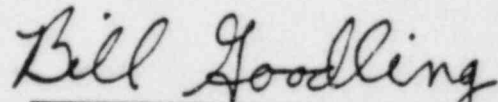
We, as representatives from the towns and counties surrounding Three Mile Island, beseech you to resolve the Ivan Smith question before continuing with any other aspect of consideration. And, following the resolution of that matter, we feel that the Nuclear Regulatory Commission should consider the question of restart only and not until the full and satisfactory completion of all hearings and matters related to Three Mile Island now pending before the Nuclear Regulatory Commission.

Thank you for your time and consideration of our views.

Very truly yours,



GEORGE W. GEKAS
Member of Congress



WILLIAM F. GOODLING
Member of Congress

GWG/wac

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

Notice to Commission, Appeal Board
Licensing Board and Parties

The Commission is aware that Licensee is having an investigation conducted by Mr. Edwin H. Stier of pre-accident reactor coolant inventory balance tests at TMI-2. That investigation is continuing and the results will be provided to the Commission.

Enclosed is a letter which Licensee has recently sent to a number of its present employees who were licensed operators at TMI-2 during the period under investigation. As the letter states, Mr. Stier has briefed Licensee management on his initial conclusions regarding the conduct of these tests and the likely extent of knowledge by those involved. The letter advises the individual employees that they will be subject to intensified supervisory performance review pending the outcome of the investigation and that full, truthful cooperation with Mr. Stier in completing his investigation is expected.

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Licensee has not publicly released the names of these individuals because of the preliminary nature of Mr. Stier's determination upon which this action is based. None of the individuals is a licensed operator at TMI-1 nor involved in those functions that provide an overview assessment, analysis or audit of TMI-1 activities which Licensee addressed in personnel reassignments reported to the Commission by letter of June 10, 1983.

Respectfully submitted,

Ernest L. Blake Jr.

Ernest L. Blake, Jr., P.C.
Counsel for Licensee

Dated: February 8, 1985

cc: Service List
Enclosure

February 7, 1985

By memorandum dated February 1, 1984, Mr. Clark described the investigation being undertaken for the company by Mr. Edwin H. Stier, Esq. regarding the reactor coolant inventory balance tests at TMI-1 and TMI-2. His memorandum dated February 27, 1984 emphasized to each company employee the lessons from what was then known of the TMI-2 leak rate situation.

The investigation regarding TMI-1 was completed and published in June of 1984.

While the investigation of TMI-2 is not yet complete, this past week Mr. Stier briefed company management on its status. He advised us that he has reached some initial conclusions on the patterns of behavior that existed with regard to the TMI-2 reactor coolant inventory balance tests in the months prior to March, 1979. The patterns of behavior he described are not acceptable. In addition, Mr. Stier advised that he believes the behavior was a general pattern and likely known by most, if not all, of those involved in the TMI-2 leak rate tests.

Based on the information developed to date, there is reason to believe that you were one of those who may have taken part in or may have been aware of improper conduct of TMI-2 leak rate tests. The determination of whether or not this was the case, of the extent of your involvement, and of any extenuating or mitigating circumstances has not been made pending completion of Mr. Stier's investigation and review and analysis of his report by management. Mr. Stier now expects to complete the investigation and provide his report in April.

In the interim:

1. In accordance with our policy on, "Assignment of Employees While Questions on Their Performance or Conduct are Being Resolved" and in recognition of your performance since 1979, the company has decided to continue you in your present assignment. However, we will intensify supervisory review of your performance especially your understanding and implementation of the company's position requiring full compliance with all requirements.

2. The company continues to expect your full, truthful cooperation with Mr. Stier in completing his investigation including expression of your recognition and acknowledgement of prior improper behavior, if any.

I want to review this matter with you personally. Please read the attachments in preparation for that discussion with me.

Very truly yours,

Robert L. Long
Vice President/Director
Nuclear Assurance

Richard F. Wilson
Vice President/Director
Technical Functions

Attachments

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

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