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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE COMMISSION

In the Matter of)	
)	
GPU Nuclear)	50-289RA
)	50-289EW
(Three Mile Island Nuclear)	
Station, Unit No. 1))	(Special Proceeding)

SERVED JAN 28 1986

COMMENTS ON CLI-85-19

On December 19, 1985, the Commission invited the parties to the TMI-1 restart proceeding, and other interested persons, to comment on the culpability of Robert Arnold and Edward Wallace in connection with the material false statement contained in GPU's December 5, 1979 response to the NRC's October 25, 1979 Notice of Violation (NOV).

In July of 1984, the NRC staff released Supplement 5 to NUREG-0680. The staff came to the following conclusions regarding licensee's response to the October 25, 1979 NOV:

1. The staff concludes that the licensee did willfully violate the pertinent emergency procedure and that statements were made by the licensee in its response to the NOV that were neither accurate nor complete and that were contrary to other information in the possession of the licensee.
2. The licensee also stated in its response to the NOV that there is "no indication that this procedure or the history of the PORV

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discharge line temperatures delayed recognition that the PORV had stuck open during the course of the accident." The staff's review of the lawsuit documents led it to call into question the validity of this statement.

Supp. 5, 8-19.

3. On the basis of the information from the GPU v. B&W lawsuit documents and from OI's investigation, the staff concludes that the licensee's response to the NOV Section 4A was inaccurate and incomplete.

Supp. 5, 8-21.

The Commission encouraged commentators to respond to three questions:

- (1) Does any part of the following statements in licensee's December 5, 1979 NOV response constitute a material false statement:

Metropolitan Edison believes that Emergency Procedure 2202-1.5, "Pressurizer System Failure", [sic] was not violated during the period from October 1978 through March 28, 1979 notwithstanding the temperatures of the discharge line from the pilot operated (electromatic) relief valve ("PORV"). Although this procedure was understood by the plant staff, it is not clearly written and does not reflect actual plant conditions. It will be changed. However, although Metropolitan Edison is concerned about the issue, there is no indication that this procedure or the history of the PORV discharge line temperatures delayed recognition that the PORV had stuck open during the course of the accident.

- (2) If there was a material false statement, what knowledge and involvement, if any, did Arnold and Wallace have in making that statement?
- (3) If Arnold or Wallace knew of or were involved in making a material false statement, does that knowledge or involvement indicate willful or reckless conduct by either of them.

CLI-85-19 at 5.

In response to the Commission's order, the undersigned submits the following comments.

On April 23, 1978, TMI-2 experienced a transient. During the transient the PORV was cycled about 50 times in a 24-hour period. GPU v. B&W, Keaton dep. at pp. 171-176. In April 1978, prior to the April 23 transient, the PORV tailpipe temperatures ranged from 127.3°F - 132.9°F. GPU v. B&W Exh. 4040; Tr. 5846-47 (Sieglitz).

The plant was brought to cold shutdown following the April 23, 1978 transient and remained in that condition until September 1978. GPU v. B&W Tr. 5848-49 (Sieglitz). When the plant was restarted in September 1978, elevated PORV tailpipe temperatures were immediately obvious. Id.

No maintenance was performed on the PORV, either during the four-month cold shutdown or at any time after the April 23, 1978 incident and before the March 28, 1979 accident. GPU v. B&W Tr. at 5781-83 (Sieglitz).

From October 1978 through the March 1979 accident, the plant operated with PORV tailpipe temperatures reading in the 170°F - 190°F range, despite the fact that plant procedures stated that tailpipe temperatures above 130°F were symptomatic of a leaking PORV.

A task force consisting of GPU Service Company employees plus one Met-Ed employee was assembled on April 24, 1978. They were tasked with investigating the April 23 transient.

The plant was again shut down in January 1979 for general maintenance. No maintenance was performed on the PORV, nor was it examined to determine whether the severe challenge it had suffered at the time of the April 23, 1978 incident had damaged the valve, and was responsible for the elevated tailpipe temperatures. GPU v. B&W Tr. 5815-5826. When the plant restarted after the January shutdown, PORV tailpipe temperatures were again in the 190°F range.

Despite the fact that plant management refused to recognize the possibility that the PORV was leaking, the majority of the plant staff believed that the PORV had been leaking since October 1978. Supp. 5, 8-17.

Both Arnold and Wallace stood at the center of the revelations of probable damage to the PORV. Similarly, the information regarding the elevated tailpipe temperatures was readily available to them when they were preparing their response to the NOV. It appears that Arnold and Wallace made a conscious decision to withhold information from the NRC in making their response to the NOV.

Furthermore, in his response, Arnold asserted that the emergency procedure was not clearly written. The emergency procedure states in plain language that the, "electromatic relief isolation valve PC-R2 be closed if, among other things, the valve discharge line temperature exceeds the normal 130°F." Oct. 25, 1979 NOV at 4. Possibly Arnold's

reference to lack of clarity pertained to the fact that high tailpipe temperatures is only one symptom of a leaking PORV. Any responsible corporate manager should and must know that when a symptom, albeit a single symptom, persists over a period of several months, that symptom alone is indicative of a problem and should trigger the emergency procedure. Arnold's averment to the contrary is simply an attempt to cover up Met-Ed's negligence.

The company had been charged with serious violations, and Arnold and Wallace had a responsibility to aggressively ferret out all of the facts surrounding the failure of the PORV on March 28, 1979. The NOV carried the risk not only of high fines, but of loss of license. If Arnold and Wallace did not know about the damage to the PORV and the subsequent high tailpipe temperatures, it can only be because they recklessly disregarded the circumstances (and thereby the truth of their representations) or willfully withheld the information.

It is not mere speculation, on the basis of the record, to ascribe to them the knowledge for which, as corporate officers and employees, they were formally and saliently responsible in a highly publicized matter of alleged safety violations. They cannot now portray themselves as naive bystanders in order to regain corporate capacity and public trust.

Additional Comment and Objection

CLI-85-19 enumerates four issues involving Arnold which potentially reflect negatively on his integrity and character:

- 1) involvement in TMI-2 leak rate falsifications.
- 2) involvement with regard to the false certification of Floyd.
- 3) involvement in the discrimination against Parks.
- 4) involvement in the material false statement in connection with licensee's response to the NOV.

The Commission has stated that no hearings will be held on issues 1, 2 and 3.

The undersigned objects to the Commission's dismissing issues 1, 2 and 3 without a hearing. The Commission's dismissal of these issues deprives the public of a full and fair consideration of Arnold's integrity and character, which is the basic issue and essential to the safety of the public.

All four of the issues enumerated in CLI-85-19 go to the integrity and character of Arnold. A hearing on the fourth issue, even if it were to clear Arnold, should not result in his reinstatement at TMI as long as issues 1, 2 and 3 are open.

Respectfully submitted,

Louise Bradford

LOUISE BRADFORD

January 23, 1986

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CERTIFICATE OF SERVICE

I hereby certify that copies of COMMENTS ON
CLI-85-19 were served on the persons listed below by deposit in
the U. S. mail, first class, on this, the 23rd day of January 1986.

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