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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. R. Thal, Chairman  
Dr. W. R. Johnson  
Jerome E. Hoffman

In the Matter of )  
METROPOLITAN EDISON COMPANY, et al. )  
(Three Mile Island Nuclear Station, )  
Unit No. 2) )

Docket No. 50-320

MEMORANDUM AND ORDER

August 16, 1978

This Board today held a second telephone conference with the parties to this operating license proceeding. The principal purpose of the conference was to continue the discussion respecting the scheduling of the further evidentiary hearing on the aircraft crash probability issue called for by ALAB-486, 8 NRC \_\_\_ (July 19, 1978). <sup>1/</sup>

During the course of the conference, counsel for the applicants and the NRC staff outlined the steps which are being taken by their respective clients to obtain the data

1/ The scheduling matter had been preliminarily discussed in a telephone conference on July 27, 1978. See this Board's memorandum issued on that date.

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specified in ALAB-486 (slip opinion, pp. 72-76), as well as indicated some of the difficulties which have been encountered in that regard. It is the present assessment of counsel that, in the exercise of due diligence, it will not be possible to complete the preparation of their written testimony much (if at all) prior to the end of October. Having been given no reason to question this assessment, the Board indicated that it would establish October 30, 1978 as the deadline for the filing of prepared testimony.<sup>2/</sup>

As the parties had been advised in the earlier telephone conference, the Board believes that it is imperative that the prepared testimony be filed and served at least three weeks prior to the start of the evidentiary hearing, so as to insure adequate advance opportunity for its study by the other parties and the Board. Accordingly, it is the present intention of the Board to schedule the commencement of the hearing for Monday, November 27, 1978 in Harrisburg, Pennsylvania. As soon as the Board has absolute

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<sup>2/</sup> It is the impression of the Board that neither the intervenors (Citizens for a Safe Environment and York Committee for a Safe Environment) nor the Commonwealth of Pennsylvania proposes to submit affirmative evidence. Should they decide to do so, however, the October 30 filing deadline is to be observed by them as well.

In the event that a party should encounter unexpected difficulties which might imperil its ability to file its prepared testimony by October 30, this Board is to be promptly so advised.

assurance that all prepared testimony will be filed and served by October 30, it will enter an order firmly establishing the commencement date and the precise Harrisburg location.

The representative of the intervenors raised a question respecting whether the Board might retain at public expense an independent expert for the purpose of evaluating the data compiled by the applicants and the staff and then testifying at the hearing as (presumably) a Board witness. The Board expressed some doubt regarding both its authority to undertake that step and, assuming such authority existed, the justification for doing so. The intervenors' representative was informed, however, that he was free to file a written motion asking for such relief.

The intervenors' representative also inquired as to whether he would be permitted to attend any meetings which might be held between the applicants and the staff to discuss the data which they have compiled and the approaches being utilized for the appraisal of those data. He was informed by staff counsel that, under existing Commission policy, he would be provided advance notice of any such meeting and would be free to attend the meeting if he so desired. It was agreed that notice to the representative's

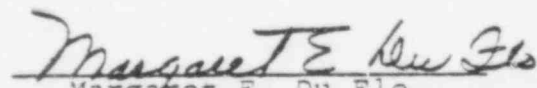
address of record in State College, Pennsylvania would suffice unless staff counsel should receive prior word from him that correspondence during a specified period should be sent to him at a different address.

Finally, the intervenors' representative reached an understanding with the applicants' and the staff's counsel to the effect that compiled data would be made available to him before the prepared testimony is filed.

The Board does not now anticipate that it will be necessary to confer further with the parties prior to the receipt of the prepared testimony on or before October 30. Should some supervening development in the interim require a further discussion with the parties, another telephone conference will be scheduled upon due notice.

It is so ORDERED.

FOR THE APPEAL BOARD

  
Margaret E. Du Flo  
Secretary to the  
Appeal Board

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this  
17<sup>th</sup> day of Aug 1978.

Peggy T. Downing  
Office of the Secretary of the Commission

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SERVICE LIST

Edward Luton, Esq., Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Gustave A. Linenberger  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Ernest O. Salo, Professor  
Fisheries Research Institute, WH-10  
College of Fisheries  
University of Washington  
Seattle, Washington 98195

Counsel for NRC Staff  
Office of the Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

George F. Trowbridge, Esq.  
Shaw, Pittman, Potts & Trowbridge  
1300 "M" Street, N.W.  
Washington, D.C. 20006

Chauncey P. Kepford  
433 Orlando Avenue  
State College, Pennsylvania 16801

Honorable Karin W. Carter  
Assistant Attorney General  
Department of Environmental Resources  
709 Health and Welfare Building  
Harrisburg, Pennsylvania 17120

Miss Mary V. Southard  
Citizens for a Safe Environment  
P.O. Box 405  
Harrisburg, Pennsylvania 17108