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October 15, 1979

David Evans, Esq.  
NRC/TMI Special Inquiry Group  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dear Mr. Evans:

During the course of Mr. Dieckamp's deposition on October 3, 1979, there was reference to the following documents and requests by the Special Inquiry Group that these documents be furnished to you. These documents, which are enclosed, are:

1. A transcript of the tape recording (made by some one that I cannot now identify but who I understand was not a Met-Ed or GPU employee and may have been a Pennsylvania State employee) during the course of the briefing of Senators Hart and Simpson at the TMI Observation Center on March 29, 1979; and
2. The report, dated March 27, 1979, by Mr. R. C. Arnold presented to the GPUSC Board meeting on that date presenting the results of a TMI-1/Oyster Creek comparison of operations and maintenance costs on various basis, both as between the two plants and with the average and individual pressurized water and boiling water nuclear units during various periods during 1975-1978.

At the conclusion of that deposition, I offered to furnish you with copies of the schematic diagrams for the TMI-2 test program to which Mr. R. J. Toole had referred during the course of his deposition and you expressed an interest in receiving those diagrams. I am, therefore, enclosing copies of the following:

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gave to  
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3. Zero Power Physics Test Program, Three Mile Island Nuclear Station Unit No. 2, Drawing No. 9459-007, Revision 1, dated March 3, 1979; and

4. TP 800/21 Power Escalation Test Sequence, Three Mile Island Nuclear Station Unit No. 2, Drawing No. 9459-007, Revision 2 dated August 18, 1979.

I also mentioned to you on October 3, 1979 that I had been informed that the utility that was the subject of the so-called "private ruling" (actually an IRS National Office Technical Advice Memorandum) referred to in the December 28, 1978 memorandum of Messrs. Daley and Thren was protesting the adjustment of its taxable income based upon that private ruling and that I expected to receive a copy of that protest. You expressed an interest in seeing a copy of that protest. I have since received a copy of the protest, and I, therefore, enclose the following:

5. Protest, dated May 19, 1979, of Northwestern States Power Company (Minnesota) to the District Director of Internal Revenue Service, St. Paul, Minnesota.

We had also discussed in our earlier meetings that rate regulatory commissions generally expect utilities to take income tax deductions and credits at the earliest dates and in the largest amounts that such deductions and credits are available. (The series of proceedings and litigation which Pacific Telephone and Telegraph Company has had with the California Public utility Commission with which you may be familiar, which involves hundreds of millions of dollars, is an example of this general rate regulatory policy.) However, I don't believe that I furnished you with any examples of the Pennsylvania Public utility Commission statement of views on that subject. In that light, I enclose copies of the following:

6. An excerpt (pages 492 and 506) from Order, dated May 23, 1978 of the Pennsylvania Public Utility Commission in Pennsylvania Public Utility Commission v. West Penn Power Company, 25 PUR 4th 492; and

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7. An excerpt (cover page and pages 18, 36 and 83-86) from the decision of the Pennsylvania Public Utility Commission in the Philadelphia Electric case in R.I.D. 438, approved by that Commission on December 28, 1978, which refers, at page 18, to the fact that the Salem Nuclear Unit No. 1 was "placed in commercial operation" on June 30, 1977 after some precommercial operation and, at page 36, that Philadelphia Electric had the benefit of accelerated depreciation for income tax purposes since July 1, 1976. You will also note that in that case, the Pennsylvania Commission reduced Philadelphia Electric's rate base by deferred income taxes associated with liberalized depreciation for the 18-month period July 1, 1976-December 31, 1977. Finally, you will note from pages 83-86 of that Decision that the Pennsylvania Commission emphasized that a utility has an obligation to take advantage of all available tax deductions.

Very truly yours,

  
James B. Liberman

JBL:RD  
ENCS.

cc: John F. Wilson, Esq.  
Ernest Blake, Esq.

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