1/21/80

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

LICENSEE'S MOTION TO CLARIFY OR MODIFY
SECOND SPECIAL PREHEARING CONFERENCE ORDER

In its Second Special Prehearing Conference Order of January 11, 1980, the Board admitted, inter alia, Sholly Contention 16 concerning internal security at TMI-1. Licensee moves the Board to clarify, or alternatively to modify, this aspect of its Order.

The Board ruled that Sholly Contention 16 is within the scope of this proceeding because it raises as a concern the potential threat to Unit 1 security due to the decontamination and recovery activities at Unit 2, and Licensee is required by the Commission's August 9 Order to "demonstrate that decontamination and/or restoration operations at TMI-2 will not affect safe operations at TMI-1."* The Board further ruled that Contention 16 was timely filed because

---

*The Board did not rule on the question whether Contention 16 would also come within the ambit of other issues set forth by the Commission and referenced by Mr. Sholly. We note, however, that of the four issues cited by Mr. Sholly, two are related to Unit 1/Unit 2 interface upon which the Board rested its ruling, the third is emergency planning which is totally irrelevant, and the fourth involves only management capabilities and technical resources.

1841 354

8001310 306

a document recently released by the Kemeny Commission discloses that a study done for the Kemeny Commission staff "expressed concern over the internal security situation on Three Mile Island, due to Unit 2 decontamination and restoration activities."

Mr. Sholly's Contention 16, however, may be read as far broader than merely raising a concern over the problems posed to Unit 1 industrial security by the activities underway at Unit 2. It can be read as questioning the adequacy of internal security measures at TMI-1 independent of the impact of additional activities at TMI-2. It is this ambiguity which Licensee seeks to avoid.

Prompt resolution of the scope of Contention 16 is necessary in connection with discovery as well as preparations for the evidentiary hearing. If, as admitted, Contention 16 raises as the sole issue the threat posed to Unit 1's security from the ongoing activities at Unit 2, then Licensee believes the proprietary problems associated with the release of detailed security plan information through discovery and hearings open to the public can be avoided or minimized. Licensee's case could rely primarily or exclusively on the physical separation of the units, separate security organizations, and separate badging requirements. If, on the other hand, Contention 16 is more broadly construed to challenge generally the adequacy of security at Unit 1,** in addition to the unique concerns connected

---

**Such a construction would not, in Licensee's view, be consistent with the Board's rationale for rejecting TMIA Contention 4 as explained by the Board at pages 10-11 of its Second Special Prehearing Conference Order dated January 11, 1980.

with activities at Unit 2, then proprietary problems are evident during both discovery and the evidentiary hearings. Faced with a general attack on the adequacy of internal security at TMI-1, we cannot now envision a case using non-proprietary discovery and evidence alone.

Accordingly, Licensee requests that the Board now clarify or alternatively modify its Second Special Prehearing Conference Order of January 11, 1980, to specify that Contention 16 is limited to the industrial security threat posed to Unit 1 by the decontamination and recovery activities underway at Unit 2 of the Three Mile Island Nuclear Generating Station.

Respectfully submitted,

Ernest L. Blake, Jr.

Ernest L. Blake, Jr.
Counsel for Licensee

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing LICENSEE'S MOTION TO CLARIFY OR MODIFY SECOND SPECIAL PREHEARING CONFERENCE ORDER was served upon those persons on the attached Service List by mail, postage prepaid, this 21st day of January, 1980.

Ernest L. Blake, Jr.

Ernest L. Blake, Jr.

Dated: January 21, 1980.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

SERVICE LIST

Ivan W. Smith, Esquire
Chairman
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Walter H. Jordan
Atomic Safety and Licensing
Board Panel
881 West Outer Drive
Oak Ridge, Tennessee 37830

Dr. Linda W. Little
Atomic Safety and Licensing
Board Panel
5000 Hermitage Drive
Raleigh, North Carolina 27612

James R. Tourtellotte, Esquire
Office of the Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section
Office of the Secretary
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

John A. Levin, Esquire
Assistant Counsel
Pennsylvania Public Utility Comm'n
Post Office Box 3265
Harrisburg, Pennsylvania 17120

Karin W. Carter, Esquire
Assistant Attorney General
505 Executive House
Post Office Box 2357
Harrisburg, Pennsylvania 17120

John E. Minnich
Chairman, Dauphin County Board
of Commissioners
Dauphin County Courthouse
Front and Market Streets
Harrisburg, Pennsylvania 17101

Walter W. Cohen, Esquire
Consumer Advocate
Office of Consumer Advocate
14th Floor, Strawberry Square
Harrisburg, Pennsylvania 17127

Jordan D. Cunningham, Esquire
Attorney for Newberry Township
T.M.I. Steering Committee
2320 North Second Street
Harrisburg, Pennsylvania 17110

Theodore A. Adler, Esquire
Widoff Reager Selkowitz & Adler
Post Office Box 1547
Harrisburg, Pennsylvania 17105

Ellyn R. Weiss, Esquire
Attorney for the Union of Concerned Scientists
Sheldon, Harmon & Weiss
1725 Eye Street, N.W., Suite 506
Washington, D.C. 20006

Steven C. Sholly
304 South Market Street
Mechanicsburg, Pennsylvania 17055

Gail Bradford
Holly S. Keck
Legislation Chairman
Anti-Nuclear Group Representing York
245 West Philadelphia Street
York, Pennsylvania 17404

Karin P. Sheldon, Esquire
Attorney for People Against Nuclear Energy
Sheldon, Harmon & Weiss
1725 Eye Street, N.W., Suite 506
Washington, D.C. 20006

Robert Q. Pollard
Chesapeake Energy Alliance
609 Montpelier Street
Baltimore, Maryland 21218

Chauncey Kepford
Judith H. Johnsrud
Environmental Coalition on Nuclear Power
433 Orlando Avenue
State College, Pennsylvania 16801

Marvin I. Lewis
6504 Bradford Terrace
Philadelphia, Pennsylvania 19149

Marjorie M. Aamodt
R. D. 5
Coatesville, Pennsylvania 19320

1841 359