

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

1/8/80

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

METROPOLITAN EDISON COMPANY, et al.

(Three Mile Island, Unit 1)

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Docket No. 50-289

NRC STAFF RESPONSE TO REVISED CONTENTIONS

By filings served on or before December 19, 1979, UCS, Steven Sholly, and ANGRY have submitted revisions to their original emergency planning contentions. The Newberry Township Intervenors served a similar filing on December 21, 1979. The ANGRY submittal also sets out a revised Contention VI relating to Class 9 accidents and assertedly revised in light of the Report of the President's Commission. The NRC Staff position on these revised contentions is set forth below.

Union of Concerned Scientists

The revisions submitted by UCS to "specify and modify" its Contention 16 do not, in fact, alter the fact that "the assumption of such an unspecified Class 9 accident upon which the contention depends is too vague, of insufficient basis and lacks nexus to the accident at TMI-2." First Special Prehearing Conference Order (December 18, 1979) at 24. The reference to a "weather-dependent worst case analysis of . . . consequences" neither adds specificity of the accident assertedly appropriate for emergency planning nor brings the

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contention within the scope of this proceeding. In its discussion of the contention, UCS does identify particular elements of emergency planning which it apparently thinks appropriate, e.g., "the administration of potassium iodide at distances beyond which evacuation is impractical." However, these particulars are apparently not intended by UCS as contentions of inadequacy of the plan except insofar as the plan fails to take account of these particulars in light of the worst-case accident discussed in the contention itself. Therefore, we see nothing in UCS's revised submittal which renders their Contention 16 litigable.

Steven Sholly

We have no objections or clarifying discussion with respect to Mr. Sholly's revised Contentions (8)(A), (B), (E)-(P), (R)-(Y), (AA)-(DD), (FF), or (GG). The remaining subcontentions are discussed below.

Sholly Contention (8)(C). This subcontention, like certain of those submitted by other intervenors, challenges the adequacy of emergency planning beyond a 10 mile radius from the facility. Unlike the Licensee,^{1/} we do not regard the Commission's issuance of a policy statement endorsing NUREG-0396 and the 10-mile EPZ's described there to constitute a bar to contentions alleging that the 10-mile radius for evacuation planning is inadequate. We understand the Commission's August 9, 1979 Order to expressly permit challenges to the sufficiency of the "long-term" requirement at page 8 (slip op.) of that Order, viz., that the Licensee "extend the capability to take appropriate emergency actions for the population around the site to a distance of ten miles."

^{1/} Licensee's Response to Emergency Planning Contentions, January 2, 1980 at 3-6.

However, contentions which challenge the adequacy of the 10-mile radius must identify specific reasons why or ways in which that distance is inadequate. Only with that specification can the Board and other parties determine what is sought to be litigated and whether it falls within the scope of this proceeding. For example, contentions which assert that the 10-mile radius is inadequate because it fails to provide protection from the consequences of "worst case core melt" accidents would be too vague, of insufficient basis, and lacking nexus to the TMI-2 accident, hence beyond the scope of this proceeding. First Special Prehearing Conference Order, December 18, 1979 at 24.

Mr. Sholly's Contention 8(C) recites a number of features which he asserts render the 10 mile distance inadequate, such as access and egress routes. It is unclear from the contention how he believes these factors affect evacuation or why extending the radius is warranted because of these factors. However, we believe this information can be explored during discovery and that the contention can be admitted for the present.

Sholly Contention 8(D). This contention essentially asserts that all unspecified "Class 9" accidents must be considered in emergency planning. It is, therefore, too vague and outside the scope of this proceeding.

Sholly Contention 8(Q). This contention is overly vague, failing to specify how or why the plan "lacks sufficient provisions" to remain effective throughout the reactor's lifetime.

Sholly Contention 8(Z). This contention appears to attack the provision of 10 C.F.R. §100.2(a) permitting licensees to arrange for control of waterway traffic within an Exclusion Area without ownership of the waterway. If the contention sought to challenge the adequacy of arrangements to assert control over the area in case of an emergency, then it would be proper.

Sholly Contention 8(EE). This contention appears essentially identical to 8(D) and is, therefore, both impermissibly vague and beyond the scope of the proceeding.

Newberry Township TMI Steering Committee

We have no objections to or discussions of the Newberry Intervenors' Contentions (3)(b)(1)-(21) and (3)(c)(1)-(7). The remaining subcontentions are discussed below.

Newberry Contention (3)(a)(1). This contention asserts that the 10-mile radius is inadequate for evacuation planning but gives no reasons why beyond the statement that "radioactive plumes can travel more than 10 miles." Without some indication of the specific reasons why this distance is alleged inadequate, the contention lacks basis and specificity. Further, the basis, if articulated, could be beyond the scope of the proceeding. Therefore, the contention is not presently litigable.

Newberry Contention (3)(a)(2). This contention appears to be based upon a misunderstanding of the phrase "low population zone" as it is used in the Commission's regulations. 10 C.F.R. §100.3(b) and §100.11(a)(2). Because it

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appears to be so unrelated to that regulatory term, it lacks meaning as a contention. It is so difficult to determine how the contention relates to the term as used in the regulations that we cannot say that it actually attacks the regulations, but it is certainly impermissably vague.

Newberry Contention (3)(a)(3) and (3)(a)(4). We do not object to these sub-contentions, but we note that the focus of the subcontentions appears to be upon siting rather than emergency planning. To the extent that the subcontentions may seek to raise siting issues, they are, of course, beyond the scope of this proceeding.

Newberry Contention (3)(a)(5). This contention is wholly redundant to others and therefore need not be separately considered.

Newberry Contention (3)(c)(8). The sentence "The Dauphin County Emergency Plan is inadequate because it is not based on a weather dependent worst case analysis of the potential consequences of a core melt down with breach of containment" should be struck for the reasons argued above in connection with revised UCS Contention 16.

Newberry Contention (3)(c)(9). This subcontention contains reference to evacuation "outside of a 20-mile radius" without any specific basis which would warrant consideration of that question within the scope of this proceeding.

ANGRY

In their October 22, 1979 filing of Final Contentions, ANGRY submitted two contentions relating to emergency planning. Their December 18 filing of revised contentions does not address their original Contentions II or III(C) and our position on those contentions remains as set forth on page 15 of our October 31, 1979 Brief in Response to Contentions. ANGRY has filed revisions to parts A and B of Contention III. We have no objections or discussion relating to ANGRY Contentions III(A)(b)-(j) and III(B)(b)-(e). Our position on the remaining subcontentions is set forth below, along with our position on Revised Contention VI, relating to accident analysis.

ANGRY Contentions III(A)(a) and III(B)(a). These subcontentions assert, without elaboration, that evacuation planning to a ten-mile radius is not acceptable to ANGRY. Absent specificity of the sort discussed above in connection with similar contentions, these subcontentions are not litigable.

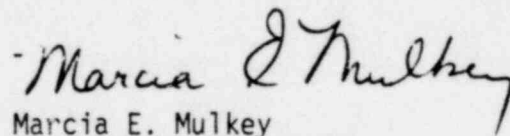
ANGRY Contention VI. ANGRY's original Contention VI was rejected by this Board as "a generalized contention the essence of which would require that all safety related systems in TMI-1 must be subjected to thorough analysis and modification to withstand hypothetical accident scenarios that reflect all conceivable combinations of human and mechanical failures." First Special Prehearing Conference Order (December 18, 1979) at 37. Nothing in the revised submittal changes this basic character of the contention. Accordingly, the ruling on the revised contention should be the same.

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CONCLUSION

The NRC Staff position on revised emergency planning contentions and ANGRY's revised contention on accident analysis is set forth above. Basically, we support admission of those subsections of all of the emergency planning contentions which identify specific allegations of deficiencies in the emergency plan.

Respectfully submitted,


Marcia E. Mulkey
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 8th day of January, 1980.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO REVISED CONTENTIONS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 8th day of January, 1980.

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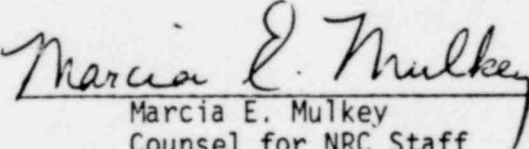
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