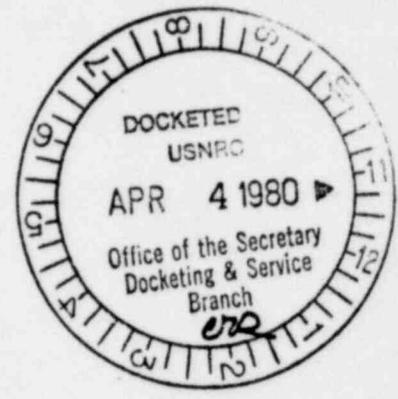


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Ivan W. Smith, Chairman
Dr. Walter H. Jordan
Dr. Linda W. Little



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

MEMORANDUM AND ORDER ON MARCH 19, 1980
LEWIS MOTION TO COMPEL NRC STAFF
TO ANSWER INTERROGATORIES
(April 3, 1980)

Mr. Lewis' March 19, 1980 motion to compel staff to answer interrogatories relates to his interrogatories NRC 23-25, 27-31 and 37. His motion brings into issue for the first time the scope of the Lewis contention which contention pertains to auxiliary building filters and filter preheaters; specifically, "... to mitigate a similar [to TMI-2] accident at TMI #1, preheaters on the filters on the auxiliary building at TMI #1 are necessary. There are many design errors in the filter system and design of same." Mr. Lewis' contention, however, goes on to say "I am presenting the above as examples of a larger problem."

His motion to compel discovery indicates that he may be undertaking to extend his contention to reach all filters in the TMI #1 facility. This was not the intention of the

board in accepting the Lewis contention. The contention will be limited to the example presented and not to the "larger problem" to which he refers. He has asserted no basis whatever for enlarging the contention, nor can we identify any basis.

Lewis interrogatories NRC 23 and NRC 24, he explains, are Freedom of Information Act requests which do not have to be presented as interrogatories. The staff in this instance agrees to send the request to the Freedom of Information Office. The staff is correct in its observation that parties should not seek Freedom of Information Act information through a discovery request. There is no need to bother the board and the parties for requests of this nature.

Interrogatory NRC 25 requests the curriculum vitae or professional qualifications of Dr. C. Gallina. The staff objected to providing the information concerning Dr. Gallina on the basis that it was not reasonably calculated to lead to the discovery of evidence which Mr. Lewis can use in his case. We agree with the staff. Mr. Lewis has not explained how information concerning Dr. Gallina can be useful in the litigation of his contention. Mr. Lewis states only that Dr. Gallina made measurements of releases and, being in the control room of TMI #1 during the accident, was privy to good

information on TMI-2 releases affecting the control room at TMI #1. The relationship of possible observations by Dr. Gallina to the Lewis contention is too remote. We decline to enforce interrogatory NRC 25.

The staff has agreed to respond to interrogatories NRC 27 and NRC 28 while maintaining its objection. There is no need for the board to rule on these requests.

Mr. Lewis' interrogatory NRC 29 complains that the staff's Status Report is larger than the 8½ x 11 inches ordered by the board and inquires as to the size of paper the staff will use in the future. This interrogatory is frivolous. No answer is required.

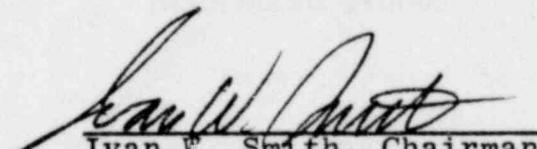
Interrogatory NRC 30 inquires of the staff if some means has been promoted to obtain anonymous tips from informants as to practices on the construction and maintenance of the TMI #1 facility. Mr. Lewis goes on to explain that he believes that the interrogatory can relate to the maintenance of the filters referred to in his contention. The interrogatory, although theoretically having some remote connection to Lewis' contention, is not reasonably calculated to lead to the discovery of admissible evidence. We do not require the staff to respond.

The staff has agreed to provide the information sought in Mr. Lewis' interrogatory NRC 31 if it is rephrased so that only information relevant to Mr. Lewis' contention is sought. The staff's position is reasonable. Interrogatory NRC 31 is

a very long and broad interrogatory dealing, inter alia, with low level waste sites, filters in the fuel handling building, and a reference to violations of "any GDC". Other portions of the interrogatory are incomprehensible to the board. Therefore the board will not require the staff to respond to interrogatory 31 but Mr. Lewis may resubmit a substitute interrogatory NRC 31 within five days following the service of this order. His substitute interrogatory NRC 31 will be considered by the board only if all of it is limited to the scope of his single contention.

In a single sentence Mr. Lewis in his motion to compel states "the board is requested to direct the staff to answer interrogatory NRC 37." Inasmuch as this sentence follows Mr. Lewis' discussion of NRC 31 the request to enforce interrogatory NRC 37 may be a typographical error. However we have examined interrogatory NRC 37 to determine whether it should be enforced. That interrogatory inquires whether the staff agrees with the dates and times of releases referred to in the Rogovin and Kemeny (main) reports. This interrogatory greatly exceeds the scope of Mr. Lewis' contention. The staff is not required to answer it.

THE ATOMIC SAFETY AND
LICENSING BOARD


Ivan W. Smith, Chairman

Bethesda, Maryland
April 3, 1980