

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))	

LICENSEE'S RESPONSE TO TMIA'S
MOTION TO COMPEL FOLLOW-ON
DISCOVERY OF LICENSEE

By motion dated May 29, 1980, TMIA has moved to compel responses by Licensee to ten follow-on interrogatories filed by TMIA on May 13, 1980. In its May 15, 1980 response to TMIA's follow-on discovery request, Licensee objected to the request on two grounds -- untimeliness and irrelevancy. Licensee now opposes TMIA's Motion to Compel.

Licensee's position on the untimeliness of TMIA's interrogatories, which were filed more than six weeks after TMIA had knowledge of the subject-matter upon which the interrogatories were based, remains as stated in its earlier objection:

"Licensee first objects to the untimeliness of TMIA's Follow-Up Interrogatories. In its Fourth Special Pre-hearing Conference Order of February 29, 1980, the Board noted that in the case of discovery responses filed after February 25, 1980, follow-on discovery should be served not later than ten days from the date of service of the discovery response occasioning the need for follow-on discovery. The response date for depositions is not explicitly set out in the

Commission's Rules but has been established for other purposes in this proceeding as the date scheduled for the deposition to be taken. TMIA's counsel took the deposition of Diane Kay Gee on March 31, 1980. Counsel for TMIA have acknowledged receipt of the reporter's transcript of that deposition in early April 1980, at the same time the transcript was provided to the deponent for corrections and verification. TMIA was in receipt of the information upon which it bases its Follow-Up Interrogatories, then, in late March at the time of the deposition and, again, in early April 1980. To have waited to file the follow-on interrogatories -- not following the deposition, and not following the receipt of the transcript of the deposition -- until receiving the typographical corrections and signature page of that transcript on May 6, 1980, is contrary to the discovery schedules established in this proceeding."

Licensee notes, in addition, that TMIA's regard for the discovery schedules established by the Board and the parties in this proceeding is also manifest in its late filing of the instant Motion to Compel. The Board has specified that motions to compel responses to follow-on discovery requests must be filed within five days of service of objections. See Board Memorandum and Order of May 5, 1980. Licensee's objections to TMIA's follow-on discovery request were filed on May 15, 1980. TMIA's Motion to Compel was therefore due by May 25, 1980. TMIA's Motion to Compel is dated May 29, 1980 and is filed without explanation or request of the Board for leave to file late. Licensee opposes the Motion to Compel as itself untimely.

Licensee's second objection to TMIA's follow-on interrogatories was on the grounds of irrelevancy. All of the follow-on interrogatories were prompted by the deposition of Ms. Diane Gee which was conducted

by TMIA on the subject-matter of its Contention 5. TMIA's Contention 5 is concerned with Licensee's alleged improper and unsafe deferral of necessary maintenance during periods of routine plant operations to periods of scheduled reactor outages. Since there have been no periods of routine plant operations since the TMI-2 accident, Contention 5 is obviously concerned with Licensee's maintenance practices prior to March 28, 1979. The information which TMIA now seeks is related to post-accident matters.

TMIA's follow-on interrogatories inquire about post-accident reorganization and "cracking of pipes in the borated water system." As Ms. Gee states in her deposition, the organizational changes to which she refers occurred "subsequent to the accident." See Gee deposition at page 10. TMIA admits this is the case when it states at page two of its Motion to Compel: "The thrust of TMIA's interrogatories is that Licensee neglected critical quality assurance staffing and subsequent reorganizations after the accident occurred." Nor does Licensee see the relevance of potential intergranular stress corrosion cracks in stainless steel piping of the TMI-1 spent fuel cooling system identified after the accident at a period in time during which neither reactor at TMI was operational, to the issue of improper and unsafe deferral of necessary maintenance during periods of routine plant operations prior to the TMI-2 accident. See attached Licensee Event Report (LER) 79-011/03X-1, dated May 16, 1979, that reports the discovery of leaking during a routine inspection on April 5, 1979, which led to recognition of the

"cracking" problem.*

Finally, TMIA claims that Licensee is somehow estopped from arguing relevancy because no such objection was raised at the time of the deposition. Licensee does not disagree with TMIA that this objection was not raised during the Gee deposition. TMIA's argument that Licensee therefore has waived relevancy of the subject matter, however, is baseless. Licensee would simply refer TMIA to 10 CFR § 2.740a(d), which countenances this practice.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By Ernest L. Blake, Jr.
Ernest L. Blake, Jr.

Counsel for Licensee

Dated: June 4, 1980.

* TMIA's position (Motion to Compel, at 2) is: "Furthermore, despite Licensee's assertion that the cracking of pipes at TMI-1 is a 'post-TMI-2 accident matter,' Ms. Gee's deposition indicates that the problems were identified 'before the accident. . . .'" (citing page 9 of Ms. Gee's deposition). In its entirety, Ms. Gee's statement at page 9 was: "I believe it was before the accident when the problem was identified. I am not certain of that." Her complete statement taken in context with the description of her qualifications (no technical background) and her responsibilities (reviewing documents for grammatical accuracy and readability as an administrative assistant) is hardly compelling. See Gee Deposition at pages 5 and 6.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to TMIA's Motion to Compel Follow-On Discovery of Licensee" were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 4th day of June 1980.

Ernest L. Blake, Jr.

Ernest L. Blake, Jr.

Dated: June 4, 1980.

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LICENSEE EVENT REPORT

CONTROL BLOCK:

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 (1) (PLEASE PRINT OR TYPE ALL REQUIRED INFORMATION)

1 P A T M I 2 0 0 0 0 0 - 0 0 3 4 1 1 1 1 1 8
9 LICENSE CODE 14 16 LICENSE NUMBER 28 30 LICENSE TYPE 32 34 CAT 58

REPORT SOURCE 1 L 8 0 1 5 0 0 0 0 2 8 9 7 0 4 0 5 7 9 8 0 5 1 6 7 9 9
DOCKET NUMBER EVENT DATE REPORT DATE

EVENT DESCRIPTION AND PROBABLE CONSEQUENCES 10
During a routine tour of the Auxiliary Building, Spent Fuel Pool Cooling System piping was discovered to be leaking. Subsequent inspections identified an additional five leaks in the system piping. This event, reportable per TS 6.9.2.B.(4), posed no threat to the health and safety of the public.

SYSTEM CODE CAUSE CODE CAUSE SUBCODE COMPONENT CODE COMP. SUBCODE VALVE SUBCODE
F C 11 B 12 C 13 PIPE EX X 14 C 15 Z 16

17 LER/RO REPORT NUMBER 18 19 20 21 22 SEQUENTIAL REPORT NO. 23 24 OCCURRENCE CODE 25 26 REPORT TYPE 27 28 REVISION NO. 29 30

ACTION TAKEN FUTURE ACTION EFFECT ON PLANT SHUTDOWN METHOD HOURS ATTACHMENT SUBMITTED NRC-4 FORM USE PRIME COMP. SUPPLIER COMPONENT MANUFACTURER
X 18 Y 19 Z 20 Z 21 0 0 0 0 22 Y 23 N 24 A 25 G 2 5 7 26

CAUSE DESCRIPTION AND CORRECTIVE ACTIONS 27
Preliminary metallurgical analysis indicates the cause to be an intergranular stress corrosion cracking. The areas of leakage were isolated without affecting system operation. The highly stressed areas of the system piping will be radiographed, and stress analyses to verify proper pipe supporting will be performed. A followup to this report will be submitted by June 30, 1979. The followup report (continued on separate sheet)

FACILITY STATUS % POWER OTHER STATUS 30 METHOD OF DISCOVERY DISCOVERY DESCRIPTION 32
G 28 0 0 0 29 NA 31 Operator Observation

ACTIVITY CONTENT RELEASED OF RELEASE AMOUNT OF ACTIVITY 35 LOCATION OF RELEASE 38
Z 33 Z 34 N/A 35 N/A 38

PERSONNEL EXPOSURES NUMBER TYPE DESCRIPTION 39
0 0 0 37 Z 38 N/A

PERSONNEL INJURIES NUMBER DESCRIPTION 41
0 0 0 40 N/A

LOSS OF OR DAMAGE TO FACILITY TYPE DESCRIPTION 43
Z 42 N/A

PUBLICITY ISSUED DESCRIPTION 45
Y 44

Weekly News Release

NRC USE ONLY
NAME OF PREPARER D. G. Mitchell PHONE 215-921-6579

will include the results of the radiography and stress analyses, and the schedule for repairing or replacing the piping as necessary. The affected piping is 8", schedule 40, 304SS at 55 psig/100°F borated water conditions.

POOR ORIGINAL