Met-Ed / GPU

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Writer's Direct Dial Number

July 14, 1980
TLL 332

Utility Finance Branch
Attn: J. Saltzman, Chief
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sir:

Three Mile Island Nuclear Station, Units I and II (TMI-1 and TMI-2)
Operating License Nos. DPR-50 and DPR-73
Docket Nos. 50-289 and 50-320
Financial Protection Requirements

This letter is in response to your letter of June 13, 1980 requesting additional material with respect to the compliance with the financial protection provisions of the Atomic Energy Act for Three Mile Island Unit II.

With respect to the insurance available from the pools, you requested a copy of the endorsement proposed by the pools. By letter of June 12, 1980, Mr. John L. Quattrocchi of ANI forwarded the proposed endorsement to you for your consideration. This had apparently not arrived when you wrote to us. I am enclosing a copy of that letter and the proposed endorsement in the event you did not receive your copy.

With respect to your comment as to the pools' having limited this endorsement so as to apply only where a new accident at TMI-II were declared to be an "extraordinary nuclear occurrence" (ENO), we would, of course, prefer that the endorsement not be so limited. For reasons we will describe, however, we do believe this endorsement, even with the limitation, meets the statutory criteria by providing the maximum insurance available at reasonable cost and on reasonable terms from private sources.

If TMI-II were to be permitted to continue to be licensed with the liability insurance provided by the pools, the only way in which the limitation could become significant is if there were to be another nuclear accident at TMI-II which, when combined with the effects of the March 28, 1980 accident, resulted in liability which exceeded $140 million. In that event, in our view, the secondary financial protection layer would come into play at this $140 million level. The licensees would simply contribute to their share of the damages at a lower amount than would be the case if the accident had occurred at some other site which did not have this limitation. If, then, both the primary and secondary protection layers were to be exceeded, the potential governmental indemnity would make up the $20 million. The total protection for the public would be unchanged. We believe this discussion to be particularly relevant to the statement in your letter of June 13 that the endorsement "could be viewed

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as providing the public with less protection at Unit II than at any other reactor in the country...".

It is relevant to the consideration of the endorsement that TMI-II is not now operating and will not be operating for the foreseeable future. The Commission could review the availability of additional coverage in the future when the unit is again ready for operation.

It would be possible for the Commission to require the licensee to provide a bank instrument, such as a letter of credit, or to segregate $20 million of its existing credit to provide protection in the event of a non-ENO for which liability exceeds $140 million. In the case of the GPU Companies, this would be exceedingly burdensome and, perhaps, impossible to accomplish. As the Commission knows from material submitted to it, the GPU Companies have a limited amount of credit available in the form of a Revolving Credit Agreement under which there is a limit for the GPU System and sublimits applicable to each of the three operating companies (which are the joint owners/licensees to TMI-II). That credit is necessary to support the ongoing utility activities of the Companies, so as to be able to continue to provide safe and adequate service to their customers, while, at the same time, continuing to support the clean-up activities at TMI-II. While the Companies are in a significantly better cash position as a result of rate orders received in the spring of this year and have better prospects with respect to their cash position, the Companies continue to be limited with respect to the availability of credit and will be limited in their access to long term capital markets. It is unlikely that the Companies could both segregate and reserve $20 million of credit and know that they could continue their necessary utility and clean-up activities with an adequate margin of bank credit available. If the companies were, for instance, to attempt to segregate some of their limited credit for this purpose at this time, it could impact their ability to continue to protect the public health and safety through their clean-up activities at TMI-II.

The licensees are continuing to explore the insurance markets to attempt to provide a better protection for this purpose. One avenue which is being reviewed is to provide insurance for some or all of the secondary financial protection layer of $30 million. The Commission has already, by letter dated April 8, 1980, determined that the anticipated cash flow of Metropolitan Edison Company individually and General Public Utilities Corporation consolidated is satisfactory to meet the requirements of 10 CFR Section 140.21. If insurance can be obtained for the secondary financial protection retrospective assessment, the Companies would view the cash flow, previously determined to be satisfactory to meet this obligation, as being available in the event it were necessary to deal with its uninsured liability for non-ENO liability at TMI-II in excess of $140 million up to $160 million if the secondary financial protection provided by assessment of other licensees were not available for this purpose. We will continue to explore this possibility and will report to you on its progress.

In the light of the above discussion, and the materials submitted to you on May 30, 1980 advising as to the efforts of our insurance brokers, we believe the insurance policies proposed to be made available by the licensees from the pools provide the maximum protection to the public that is available from private

sources and that no additional protection in some other form is more appropriate. In the light of the above, we believe the proposed policy should be accepted by the Commission to meet the financial protection requirements of its regulations.

Sincerely,

J. G. Herbein
Vice President
TMI-I

JGH:DGM:hah

Attachment

cc: R. W. Reid
B. H. Grier
D. DiIanni
H. Silver
J. T. Collins
B. J. Snyder

Nuclear Energy Liability Insurance

NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

RESTORATION OF LIMIT OF LIABILITY ENDORSEMENT
(Extraordinary Nuclear Occurrence)

It is agreed that:

1. On or about March 28, 1979 a nuclear incident originated (hereinafter called the March 28, 1979 incident) in connection with the ownership, operation, maintenance or use of the Unit 2 nuclear reactor situated at the location designated in Item 3 of the declarations.

2. Payments made by the companies under this policy with respect to the March 28, 1979 incident have reduced by $1,700,000 the limit of the companies' liability stated in Item 4 of the declarations, as amended.

3. The original limit of liability stated in Item 4 and the respective amended limits of liability stated in Endorsements 15, 20 and 31 are hereby restored to the amounts shown below but only with respect to obligations assumed or expenses incurred because of bodily injury or property damage caused by the nuclear energy hazard due to an extraordinary nuclear occurrence which happens during the period from the effective date of this endorsement to the date of termination of the policy and arising out of the ownership, operation, maintenance or use of one or more of the two nuclear reactors situated at the location designated in Item 3 of the declarations; provided however, that such extraordinary nuclear occurrence is determined by the Nuclear Regulatory Commission to be an "extraordinary nuclear occurrence" pursuant to the provisions of its regulations and the Atomic Energy Act of 1954, as amended, and in effect on May 1, 1979:

Original limit stated in Item 4	$ 1,000,000
Limit stated in Endorsement 15	85,200,000
Limit stated in Endorsement 20	96,875,000
Limit stated in Endorsement 31	103,500,000

4. The limits of liability, as described above and as restored to the extent provided by this endorsement, shall not be cumulative; and each payment made by the companies after the effective date of this endorsement for any loss or expense covered by the policy shall reduce by the amount of such payment each of such limits of liability, regardless of which limit of liability applies with respect to the bodily injury or property damage out of which such loss or expense arises.

Effective Date of This Endorsement June 1, 1980, 12:01 A.M. Standard Time, which forms a part of Policy No NF-230

Issued to Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company

Date of Issue

For the Subscribing Companies

By

General Manager

Endorsement No 43

Countersigned by

NUCLEAR ENERGY LIABILITY INSURANCE
NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

SUPPLEMENTAL LIMIT OF LIABILITY ENDORSEMENT
(Applicable Under Certain Conditions)

Whereas, there are two nuclear reactors at the location designated in Item 3 of the declarations known respectively as the Unit 1 nuclear reactor and the Unit 2 nuclear reactor; and

Whereas, the limit of liability stated in Item 4 of the declarations of the policy as amended by Endorsements No. 15, 20 and 31 applies jointly and not severally to bodily injury and property damage caused by the nuclear energy hazard and arising out of the ownership, operation, maintenance or use of both nuclear reactors, together with all of the premises, land, buildings, and structures comprising the facility described in Item 3 of the declarations of the policy and all property and operations at the locations designated therein; and

Whereas, such limit of liability, as amended, is reduced by each payment made by the companies for any loss or expense covered by the policy, all as more particularly provided by Condition 3 of the policy and Endorsements No. 15, 20 and 31; and

Whereas, on or about March 28, 1979 a nuclear incident originated (hereinafter called the March 28, 1979 incident) in connection with the ownership, operation, maintenance or use of the Unit 2 nuclear reactor; and

Whereas, the companies are willing to supplement under certain conditions such portion of such limit as may now or in the future be available with respect to bodily injury or property damage caused by the nuclear energy hazard after giving affect to the provisions of Condition 3 and Endorsements No. 15, 20 and 31.

NOW, THEREFORE, IT IS AGREED THAT:

1. In the event the past or future payments by the companies for loss or expense covered by the policy exhaust the limit of liability stated in Item 4 of the declarations, as amended by Endorsements 15, 20 and 31, and as restored by Endorsement 43, with respect only to obligations assumed or expenses incurred because of bodily injury or property damage caused during the period from May 1, 1979 to the date of termination of the policy by the nuclear energy hazard, the limit of the companies' liability shall be increased by $15,500,000; provided, however, that this increase in the limit of the companies' liability shall not apply to bodily injury or property damage arising out of the ownership, operation, maintenance or use of the Unit 2 nuclear reactor unless such bodily injury or property damage results from a nuclear incident which is determined by the Nuclear Regulatory Commission to be an "extraordinary nuclear occurrence" pursuant to the provisions of its regulations and the Atomic Energy Act of 1954, as amended, and in effect on May 1, 1979.

2. Each payment made by the companies after the effective date of this endorsement shall reduce such limit of liability and each of the companies' limits of liability, as restored by Endorsement 43, by the amount of such payment in the manner provided in Condition 5.

Effective Date of this Endorsement June 1, 1980, 12:01 A.M. Standard Time which forms a part of Policy No. NF-220

Issued to Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company

Date of Issue _____

For the Subscribing Companies

By: _____
President

Endorsement No. 44

Countersigned by _____