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August 5, 1979

Dear Chairman F. ...:

My enclosed "Letter to the Editor" includes
a number of points that have never been
raised before in any discussions of Three
Mile Island, Pa.

The political, economic and legal
impact of these points are immense.

Sincerely yours,
J. R. Spang

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A MINORITY VIEW

Dear Editor:

I am a concerned private citizen regarding the situation caused by the accident at Three Mile Island (TMI). As you know, the continued viability of the General Public Utility Company (GPU) as reflected in the price of the stock raises a serious question concerning the use of nuclear energy as an energy option. Many people and organizations have called for an end to the production of electrical energy generated by nuclear power which could conceivably result in relatively large destruction of local property values.

All of this, of course, is history. The fact often overlooked is that public utilities are quasi public corporations. They are not only approved to operate in particular localities, but their activities are carefully monitored by public oversight agencies including the dollar amounts they are permitted to charge for their product. The decision by the Metropolitan Edison Company (a subsidiary of GPU) to produce electrical energy through nuclear power was not a decision made in isolation, but was a decision based on the best available evidence that had been widely debated throughout America and had the approval of all major governmental agencies of which the Pennsylvania Public Utility Commission (PUC) and the national Nuclear Regulatory Commission are an integral part.

Since TMI, we have been subjected to the undignified scramble of some politicians seeking to divorce themselves from any responsibility for the accident and to scapegoat the offending utility that had the misfortune of embarrassing their former judgment. In this unseemly scramble to exonerate guilt, the PUC has also been hard pressed. Among other things,

the question has been raised as to who should pay for the cost of the replacement power: the ratepayers who use the electricity, or the Company's stockholders. If the consequences of the answer were not so serious, the question would be humorous. Put another way, the question would be: Who should pay the cost of your electricity? I believe the answer is obvious. Let me explain.

In terms of public utilities, the stockholders serve the general public by providing the private capital necessary for plant and equipment. For this funding service, the stockholders (as represented by the Company) are permitted by the PUC to receive a modest return on their investment that is in keeping with other, heretofore, "safe" investments and the demands of the capital market. Generally speaking, it makes no difference to the stockholders whether the energy product is produced by such exotic means as geothermal dynamics, the winds, the tides, or the sun; or, by more conventional and proven means such as oil, gas, coal, or the splitting of the atom. The stockholders' principal economic concern will always be whether there is reasonable assurance that the cost of the energy will be acceptable to the consumer in terms of his ability and willingness to pay, and that the PUC will permit a level of charges to the consumers that will, in time, return the principal invested and a reasonable profit. The PUC, on the other hand, as servants and protectors of the public interest, establish rate schedules that insure service and reward efficiency. The utility companies respond to these rewards by continuously improving plant and equipment: hence, nuclear power.

Now lets suppose for just a moment that a moratorium were declared by the federal government on the use of atomic power for the production of electrical energy. A number of events would be likely to happen. Number one, in accordance with the fifth Amendment to the Constitution of the United

States, the federal government would have to compensate the utilities for the cost of the power plants which at this point is well over 100 billion dollars. If they did, ^cthan the loss would be spread over all the people in the United States. If the government refused to do so, and the Courts upheld their position, the interest and amortization costs of the plants would have to be passed on to the ratepayers by the public utility commissions. Also, and in either case, substitute power plants would have to be built whose cost would have to be borne by the ratepayers. If neither of these scenarios occurred, then the cost would have to be borne by the stockholders and the mortgageholders. Since tens of billions of dollars have been borrowed from the banks, the banks would demand their money, the utility companies with inadequate source of income would default and file for bankruptcy, the banks could not sustain these losses and would also fold, the weaker first which would quickly create a domino effect that would shake the financial underpinnings of America. Obviously, no responsible official is going to allow this to happen.

Unfortunately, as a result of TMI, the PUC has been subjected to tremendous pressure by well meaning but uninformed publics to turn from its responsibility to establish an equitable rate structure in accordance with the law and the rules of the PUC and, instead, to act as an instrument for social change. In discharging its' duty, the PUC has held a number of public hearings. The results of these hearings were frequently marred with highly emotional, but irrelevant testimony. Many of the publics who testified insisted that the PUC pursue a course of action that would punish (if not destroy) the offending utility company by establishing rates at a level below which the Company could successfully operate. They apparently did not fully appreciate the consequences of their testimony, or realize that the fifth Amendment to the Constitution clearly prohibits the taking

of property "without due process of law". The Amendment further states, "nor shall private property be taken for public use without just compensation". Therefore, to force an electric utility company to produce and sell electrical energy for less than it costs, is clearly a taking of the stockholders' equity without compensation. If the PUC had pursued such a course of action, it could only have resulted in (1) a Company action against the PUC, and (2) a stockholders' suit against the Company seeking a Court injunction to stop the Company from supplying electrical energy at rates that would in fact result in the confiscation of their remaining equity.

Fortunately, the PUC rose to the occasion by establishing a responsible schedule of rates and made other orders related to plant safety that are in the best interests of the general public, the ratepayers, the Company and the stockholders. Hopefully, this experience will teach us that in dealing with quasi public corporations, such as utility companies, all of us are responsible. Rather than seeking a sacrificial lamb to exonerate our guilt, we should be willing to recognize and accept our joint responsibility, analyze what went wrong, and take corrective action. Many options are available to us. Among these options, I would recommend that: (1) TMI be brought on line as soon as possible consistent with all recommended safe guards, (2) that the law and regulations governing atomic power plants be equally applicable to all public utilities without fear, prejudice, or favor, (3) New atomic power plants be located in more remote areas, (4) the time period for building atomic power plants be cut from the present 12 year average to 6 years, (5) local taxing authorities which host atomic power plants be given the full benefit of the utility's tax payments, and (6) any loss sustained by the general public be shared equally by all the people through full funding from the general revenues.

James R. Spang
Camp Hill, Pa.
August, 1979

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