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BURT C. PROOM, CPCU

President

May 6, 1980

Mr. Jerome Saltzman, Deputy Chief  
Office of Antitrust & Indemnity  
Directorate of Licensing  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

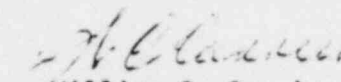
Subject: Three Mile Island

Dear Mr. Saltzman:

Herewith copy of the most recent complaint filed in an action in the U.S. District Court for the Middle District of Pennsylvania identified as The Oddfellows Home of Pennsylvania v. Metropolitan Edison, et al, Civil Action #80 6268. The matter is being defended on behalf of the insurers by Pepper, Hamilton & Scheetz of Philadelphia.

The magistrate has entered an order consolidating this case with the consolidated class action for pre-trial and trial purposes.

Yours very truly,

  
William C. Carrier  
Claim Counsel

WCC/ljs  
Enclosure

Mo 12  
5/11

THE ODD FELLOWS HOME OF PENNSYLVANIA

Versus

METROPOLITAN EDISON COMPANY, ET AL

Filed: March 12, 1980

Civil Action Number: 80 6268

Attorney for Plaintiff

Robert E. Yetter, Esq.

Metzger, Wickersham, Knauss & Erb  
111 Market Street  
P. O. Box 93  
Harrisburg, PA 17108

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

Jury Trial Demanded  
Plaintiffs

The Odd Fellows Home of Pennsylvania at: 999 West Harrisburg Pike,  
Middletown, Pennsylvania.

Summary of Complaint

Plaintiff is a non-profit corporation with its principal place of business  
in Middletown, Pennsylvania where it owns and operates a nursing home.

Defendants

- A. Metropolitan Edison Company, Muhlenberg, PA  
50% owner of TMI
- B. Babcock & Wilcox Company, New York, NY  
Designer and constructor of Three Mile Island
- C. J. Ray McDermott & Company, Inc., New Orleans, LA  
Parent and controlling owner of Babcock & Wilcox Company
- D. General Public Utilities, Parsippany, NJ  
Parent corporation of Metropolitan Edison Company
- E. Jersey Central Power and Light Company, Morristown, NJ  
25% owner of TMI
- F. Catalytic, Inc., Philadelphia, PA  
Responsible for the maintenance of TMI facility
- G. Pennsylvania Electric Company, Johnstown, PA  
25% owner of TMI

H. Dressler Industrial Valve and Instrument Division of Dressler Industries, Inc., Texas  
Designed, manufactured and supplied valves and other fittings used in the construction of TMI

Jurisdiction

Based on 42 U.S.C.A. 22.10

The following allegations as to negligence are set forth in the complaint:

- 1) The operation of the Three Mile Island nuclear facility is an ultra-hazardous risk for the reason that
  - a) Release of radioactive material
  - b) Use of TMI is calculated to cause the release of huge amounts of nuclear energy with attendant risk of explosion, fires and/or nuclear fallout

It is alleged the defendants designed, constructed, maintained and operated TMI in a conscious disregard of the high-known degree of risk, of bodily harm and injury.

The following allegations of previous unplanned events at the TMI facility are as follows:

- 1) In March of 1978 unplanned generation stoppage occurred.
- 2) On January 15, 1979 facility was closed because of mechanical malfunction.

The following specific allegations of negligence appear in Paragraph

- a) Improper design
- b) Inadequate design
- c) Inadequate cooling system
- d) Inadequate safety or backup system
- e) Inadequate safety system to avoid the unreasonable risk of overheating with attendant risk of radioactive contamination
- f) Failing to take proper measures to avoid overheating of the nuclear facility on March 28, 1979
- g) Failing to provide proper and adequate training and testing of personnel operating TMI
- h) Improper inspection

- i) Faulty and/or defective component material in construction
- j) Failure to warn plaintiffs of defects

Paragraph 9 alleges a cause of action based on Restatement of Torts, Section 402A and 402B.

Paragraph 10 alleges a miscarriage of an ultra-hazardous activity.

Paragraph 11 alleges the following releases:

- a) The release of radioactive steam into the atmosphere
- b) The release of radioactive water into the Susquehanna River
- c) Development of conditions within the reactor creating a threat of
  - (i) Nuclear explosion from a hydrogen bubble
  - (ii) Overheating of nuclear material leading to a meltdown.
  - (iii) Other miscarriages

Paragraph 12 alleges violation of the terms of the U.S. Nuclear license.

Paragraph 13 alleges that the events occurring March 28, 1979 resulted in an extraordinary nuclear occurrence.

Paragraph 14 alleges incident of March 28 constituted a nuclear incident under U.S.C.A. Section 2014.

Paragraph 15 alleges exclusive control of the TMI utility at location designated above.

Paragraph 16 alleges evacuation by reason of recommendation of the Governor.

Paragraph 17 - Plaintiff incurred the following expenses:

- a) The sum of \$1,380.00 covering transportation costs of patients to Harrisburg State Hospital
- b) \$42,790.44 covering the cost of the care provided to patients at the Harrisburg Hospital.

Plaintiff seeks damages in excess of \$10,000.00 including witness fees and reasonable attorney fees.

WCC/ljs  
5/6/80

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

THE ODD FELLOWS HOME OF  
PENNSYLVANIA  
999 West Harrisburg Pike  
Middletown, PA 17057

v.

METROPOLITAN EDISON CO.  
2800 Pottsville Pike  
Mullenberg, PA 19605

and

BABCOCK & WILCOX COMPANY  
161 East 42nd Street  
New York, NY 10017

and

J. RAY McDERMOTT & COMPANY, INC.  
1010 Common Street  
New Orleans, LA 70112

and

GENERAL PUBLIC UTILITIES  
260 Cherry Hill Road  
Parsippany, NJ 07054

and

JERSEY CENTRAL POWER AND  
LIGHT CO.  
Madison and Punch Bowl  
Morristown, NJ

and

CATALYTIC, INC.  
1500 Market Street  
Center Square West  
Philadelphia, PA 19102

and

PENNSYLVANIA ELECTRIC CO.  
1001 Broad Street  
Johnstown, PA 15907

and

DRESSLER INDUSTRIAL VALVE AND  
INSTRUMENT DIVISION OF DRESSLER  
INDUSTRIES, INC.  
Texas

CIVIL ACTION NO.

80 0268

FILED  
HARRISBURG, PA.

MAR 10 1980

THOMAS R. LERRY, CLERK  
BY \_\_\_\_\_

JURY TRIAL DEMANDED

COMPLAINT

1. The plaintiff The Odd Fellows Home of Pennsylvania, is a non-profit corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal place of business at 999 West Harrisburg Pike, Middletown, Dauphin County, Pennsylvania, and at all times relevant hereto owned and operated a nursing home at the aforesaid location providing residential, intermediate, and skilled nursing care, within three (3) miles of the Three Mile Island nuclear powered electrical generating facility.

2. (a) The defendant, Metropolitan Edison Co., is a Pennsylvania corporation doing business within the Commonwealth of Pennsylvania with offices located at 2800 Pottsville Pike, Mullenberg, Pennsylvania, 19605. Metropolitan Edison Co. is engaged in the production and sale of electricity, is a subsidiary of General Public Utilities Corp., is a 50% owner of the Three Mile Island nuclear powered electrical generating facility, and is the operator of said facility.

(b) The defendant, Babcock & Wilcox Co., is a New York corporation with offices located at 161 East 42nd Street, New York, New York, 10017. Babcock & Wilcox Co. is a subsidiary of J. Ray McDermott & Company, Inc., and is engaged in the business, inter alia, of designing and constructing nuclear powered electrical generating facilities, and did so with respect to the Three Mile Island facility.

(c) The defendant, J. Ray McDermott & Company, Inc., is a Delaware corporation with offices located at 1010 Common Street, New Orleans, Louisiana, 70112. J. Ray McDermott & Company, Inc., is the parent and controlling company of Babcock & Wilcox Company.

(d) The defendant, General Public Utilities Corp., is a Pennsylvania corporation with offices located at 260 Cherry Hill Road, Parsippany, New Jersey, 07054. General Public Utilities Corp. is a public utility holding company, and it is the parent company of Metropolitan Edison Co.

(e) The defendant, Jersey Central Power and Light Co., is a New Jersey corporation with offices located at Madison and Punch Bowl, Morristown, New Jersey. Jersey Central Power and Light Co. is engaged in the business of producing and selling electricity, is a subsidiary of General Public Utilities Corp., and is a 25% owner of the Three Mile Island facility.

(f) The defendant, Catalytic, Inc., is a Pennsylvania corporation with offices located at 1500 Market Street, Center Square West, Philadelphia, Pennsylvania, 19102. Catalytic, Inc., is responsible for the maintenance of the Three Mile Island facility.

(g) The defendant, Pennsylvania Electric Co., is a Pennsylvania corporation having an office located at 1001 Broad Street, Johnstown, Pennsylvania, 15907. Pennsylvania Electric Co. is engaged in the business of producing and selling electricity, is a subsidiary of General Public Utilities Corp., and is a 25% owner of the Three Mile Island facility.

(h) The defendant, Dressler Industrial Valve and Instrument Division of Dressler Industries, Inc., is a Delaware corporation with its principal place of business in Texas. Dressler Industrial Valve and Instrument Division of Dressler Industries, Inc., is engaged in the business, inter alia, of designing, manufacturing and supplying valves and other fittings used in the construction, operation and

maintenance of nuclear powered electrical generating facilities and did so with respect to the Three Mile Island facility.

3. Jurisdiction is based upon 42 U.S.C.A. 2210 et seq and the amount in controversy exceeds \$10,000.

4. Service of process upon the defendants herein has been made pursuant to F.R.C.P. 4(e) and Title 42 of the Pennsylvania Consolidated Statutes Annotated, Sections 5321 and 5323.

5. The operation of the Three Mile Island nuclear generating facility is an ultra-hazardous activity and that necessarily involves a risk of grave and serious harm to surrounding persons, land and chattels for the following reasons:

(a) Radioactive materials are used in the routine operation of the facility. If exposed to human beings, these radioactive materials will cause cancer, death, disfigurement, genetic damage, burns, respiratory ailments, and other injury and disease;

(b) The operation of the Three Mile Island nuclear generating facility involves the use of radioactive material in a manner calculated to cause the release of huge amounts of nuclear energy with the attendant risk of explosions, fires, or nuclear fallout, so huge in magnitude as to be potentially destructive to all human and animal life within at least a 60 mile radius of the Three Mile Island nuclear generating facility.

6. Acting through its duly authorized agents, workmen, servants and employees, defendants designed, constructed, maintained and operated the Three Mile Island nuclear generating facility in conscious disregard of a known high degree of risk of grievous bodily harm, and injury to the land,



chattels, business and property of those persons located within at least a 60 mile radius of the facility. Specifically defendants continued operation of the Three Mile Island nuclear generating facility, without alteration or modification of its design, construction or operational routine, after the following occurrences:

(a) In March of 1978 an unplanned generation stoppage occurred;

(b) On January 15, 1979, the facility was shut down for two weeks because of "mechanical malfunction."

7. At all times relevant hereto, defendants knew or should have known that inasmuch as the Three Mile Island nuclear generating facility routinely required the process of nuclear fission to radioactive materials, there was a substantial and a reasonable risk that a malfunction of the facility would cause explosion, fires, nuclear fallout, radioactive emissions and bodily harm, death and damage to persons, land and chattels within the vicinity of the Three Mile Island nuclear generating facility and a 60 mile radius therefrom.

8. Defendants failed to exercise reasonable care for the protection of plaintiff from the risks of harm enumerated in the immediately preceding paragraph in that, among other things:

(a) The design of the Three Mile Island nuclear generating facility is not such as to preclude the unreasonable risk of a major nuclear accident due to human error;

(b) The design of the Three Mile Island facility is inadequate in that it fails to provide adequate safeguards against the unreasonable risk of nuclear catastrophe caused by sabotage or terroristic acts;

(c) The defendants failed to provide a cooling system for the nuclear reactor at the Three Mile Island nuclear generating facility which was adequate to prevent the unreasonable risk that the radioactive materials in the core of the reactor would melt, destroying the reactor and escaping into the atmosphere;

(d) The defendants failed to provide adequate safety or backup systems to avoid the unreasonable risk that the reactor would malfunction in the manner which would lead to a meltdown of the radioactive core of the nuclear reactor, radioactive emissions, fires or explosions;

(e) The defendants failed to provide an adequate safety system to avoid the unreasonable risk that the nuclear reactor at the Three Mile Island nuclear generating facility would overheat with the attendant risk that the radioactive material contained therein would melt, causing fire, explosion, and extremely dangerous radioactive emissions;

(f) On March 28, 1979, defendants' agents, workmen, servants and employees, acting within the scope of their authority, failed to take proper measures to avoid overheating the of nuclear reactor when a red warning light flashed in the computer control room of the Three Mile Island nuclear generating facility. In particular, they turned off the cooling system for the nuclear reactor which caused temperature inside the reactor to rise to unreasonable high levels, failed to take proper measures to detect and prevent escaping radiation and failed to initiate appropriate safety measures to prevent the reactor from becoming overheated, catching on fire, or exploding;

(g) Defendants failed to provide proper and adequate training and testing of personnel responsible for operating the Three Mile Island nuclear generating facility;

(h) Defendants failed to properly inspect and test the Three Mile Island facility and its component parts;

(i) Defendants used faulty and defective component materials in the construction of the Three Mile Island facility;

(j) Defendants failed to warn the plaintiff of the defects in the Three Mile Island facility.

9. There were defects in the manufacture, design, or installation of the nuclear reactor at the Three Mile Island nuclear generating facility, in violation of Restatement (Second) of Torts, Section 402A and 402B.

10. There was a miscarriage of an ultra-hazardous activity, namely, the activity of operating a nuclear facility.

11. On or about, and continuing after March 28, 1979, an accident occurred at the Three Mile Island nuclear generating facility which resulted in:

(a) The release of radioactive steam into the atmosphere above said facility;

(b) The release of radioactive water into the Susquehanna River;

(c) The development of conditions within the reactor creating a real and immediate threat of at least:

(i) A nuclear explosion resulting from the formation of a large hydrogen bubble in the reactor;

(ii) The overheating of the nuclear material to such a point that they would have burned or melted through the floor of the reactor building and down into the ground ("meltdown") resulting in a further massive discharge of radioactivity into the atmosphere, the water and the ground surrounding the facility, and;

(iii) Other miscarriages resulting in the further discharge of radioactive material into the atmosphere, water and soil around said facility.

12. Defendants violated the terms and conditions of the license issued by the United States Nuclear Regulatory Commission for the Three Mile Island nuclear generating facility, which license (and the statute requiring its issuance) was intended to protect and benefit individuals and businesses within the vicinity of such facility, including the plaintiff and its patients and residential guests.

13. The events which occurred on March 28, 1979, and the resulting release of radioactive material constitute an "extraordinary nuclear occurrence" within the meaning of the Atomic Energy Act, 42 U.S.C. Section 2014 et seq and rendered defendants liable under such Act.

14. The events which occurred on March 28, 1979, and the resulting release of radioactive material constitute a "nuclear incident" within the Atomic Energy Act, 42 U.S.C. Section 2014 et seq and rendered defendants liable under such Act.

15. The Three Mile Island facility and its component or compositional parts were under the sole and exclusive possession and control of the defendants, while it was being engineered, composed, designed, constructed and operated.

16. As a direct and proximate result of the situation at the Three Mile Island facility, as hereinbefore set forth, the Governor of Pennsylvania advised all pregnant women and all children under five years of age to evacuate the area within five miles of the Three Mile Island nuclear generating facility and advised persons within ten miles of the Three Mile Island nuclear generating facility to remain

indoors. In addition, schools were closed in the surrounding area and numerous persons did not report for work throughout the area. State and local governments began developing plans for the evacuation of people from the area within a radius of 20 miles surrounding the Three Mile Island nuclear generating facility. Although no such massive evacuation was carried out, plaintiff believes and therefore avers that as a result of the above described nuclear accident, and its potential for causing a massive release of radioactivity throughout the area, it was compelled to evacuate its patients and residential guests to the Harrisburg State Hospital, Harrisburg, Pennsylvania, on March 31, 1979. Said patients and guests remained at the Harrisburg State Hospital in Harrisburg, Pennsylvania, until April 9, 1979, when they were returned to its nursing home.

17. By reason of the aforesaid, plaintiff incurred the following expenses:

(a) The sum of \$1,380.00 paid to River Rescue for transporting patients and residential guests to the Harrisburg State Hospital, Harrisburg, Pennsylvania;

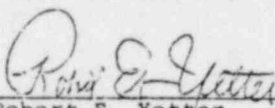
(b) The sum of \$42,790.44, representing the total cost for the care provided to its patients and residential guests by the Commonwealth of Pennsylvania, Department of Public Welfare, Harrisburg State Hospital, Harrisburg, Pennsylvania.

WHEREFORE, the plaintiff claims damages of the defendants, jointly and/or severally, in an amount in excess of \$10,000.00,

exclusive of interest and cost of this suit, including  
witness fees and a reasonable attorney's fee.

METZGER, WICKERSHAM, KNAUSS & ERB

By

  
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Attorneys for Plaintiff

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Phone: (717) 238-8187

January 9, 1979