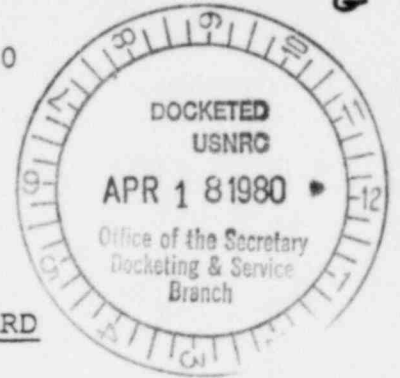


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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 OPPOSITION TO LEWIS MOTION FOR
ADDITION OF A NEW CONTENTION

On April 3, 1980, Mr. Lewis filed a motion seeking addition of a new contention. This proposed new contention states:

In the event of a repeat of the TMI #2 3-28-79 accident, these same systems [i.e., all systems which have had to operate unattended] will have to operate unattended for over a year.

These same systems must be qualified at TMI #1 to operate unattended for over one year before restart of TMI #1.

Licensee opposes Mr. Lewis' motion to add this new contention for the reasons stated below.

In its First Special Prehearing Conference Order (December 18, 1979), the Board held that Mr. Lewis had not demonstrated standing to intervene in the TMI-1 restart proceeding (slip op. at 58). Nonetheless, in an exercise of its discretion, the Board admitted Mr. Lewis as "an intervenor on a strictly limited basis pursuant to 10 C.F.R. 2.714(e)" (slip op. at 59). This "strictly limited basis" restricted Mr. Lewis' participation to discovery

and hearing activity on a single, isolated contention relating to filters and filter preheaters (id.). The Board specifically ruled that, since Mr. Lewis had not demonstrated his interest in this proceeding, he would not be allowed to cross-examine witnesses on the contentions of other intervenors or on Board-initiated issues (id.).

Mr. Lewis' present attempt to add a new contention is contrary to the Board's earlier rulings on his limited status as a hearing participant. Indeed, even if judged by the Commission's standards for the late filing of contentions (10 C.F.R. §§ 2.714(a)(1)(i)-(v)) -- and due to his limited status Mr. Lewis should be held to a significantly higher standard -- it is readily apparent that Mr. Lewis' motion is insufficient.

(a) Good cause -- Mr. Lewis asserts that his motion is timely because it is based on information (i.e., a letter from Herman Dieckamp and NUREG-0662) only recently available to him. This is untrue. The reference to Mr. Dieckamp's March 4, 1980 letter is in error. The discussion at page 3 on loss of effective poison relates not to the lack of preventative maintenance but to the very low flow rates in the reactor coolant system and the potential that coolant samples are thus not representative of actual system chemistry. And while the information cited in NUREG-0662 does relate to the proposed new contention, such information certainly is not new; it has been publically available for some time. For example, the Report of the Technical Assessment

Task Force on Recovery: TMI-2 Cleanup and Decontamination, released along with the Kemeny Commission Report in October 1979, includes a description of the increased risk of uncontrolled radioactive release to the environs from the continued presence of radioactive materials in the TMI-2 facility dispersed in the large volumes of air and water present.

(b) Other means to protect petitioner's interest -- Given that the Board has been unable to find that Mr. Lewis has a legally cognizable interest in this proceeding, Mr. Lewis obviously cannot satisfy this criterion.

(c) Extent to which petitioner's participation may assist in record development -- Mr. Lewis' motion contains no information which might indicate that he has any special expertise in the areas of environmental qualification of equipment or preventative maintenance. Nor does Mr. Lewis have available to him technical resources that might contribute to the development of a sound record in those areas.

(d) Extent to which Petitioner's interest will be represented by existing parties -- For the purpose of argument, even if "interest" is interpreted to mean a concern, Licensee notes that Union of Concerned Scientists Contention No. 12 covers the area of equipment qualification with respect to "equipment important to safety in the containment building and auxiliary building." Specifically included in this contention is the allegation that "the length of time the equipment must operate in the environment has been underestimated." Thus, Mr. Lewis' concerns in this area are adequately being pursued by UCS.

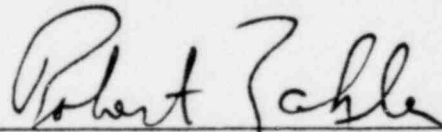
(e) Extent to which Petitioner's participation will broaden the issues or delay the proceeding -- While Mr. Lewis' participation is not likely to broaden the issues of this proceeding, it would likely delay the proceeding. This is because Mr. Lewis contemplates that at this late date, as general discovery comes to a close, he be afforded a "period of discovery to determine all systems which have had to operate unattended for over a year." This not only would extend a proceeding that already has become protracted, but would duplicate discovery being conducted by UCS.

For all these reasons, the motion of Mr. Lewis to add a new contention should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:


Robert E. Zahler

Dated: April 15, 1980

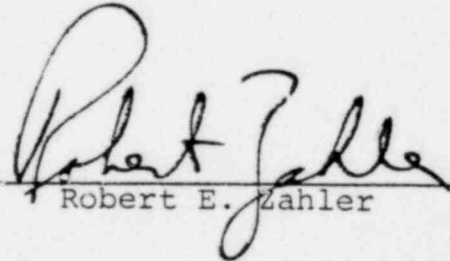
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Opposition to Lewis Motion for Addition of a New Contention", were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 15th day of April, 1980.



Robert E. Zahler

Dated: April 15, 1980

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