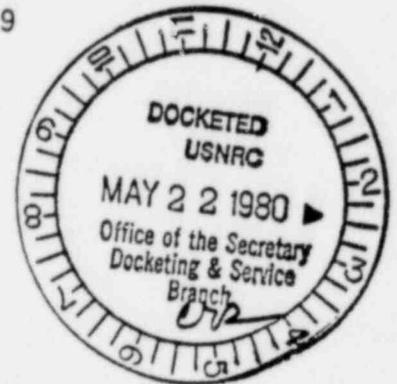


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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))



MEMORANDUM OF TMIA IN SUPPORT OF
THE RESPONSES TO INTERROGATORIES
PROVIDED TO LICENSEE

At the Board's pre-hearing conference of May 13, 1980, the Board expressed in strong language its displeasure with the responses provided to date by TMIA to Licensee's interrogatories 5-1, 5-2, 5-3, 5-4 and 5-6 (except 5-6 (a)). Further, in its Memorandum and Order on Licensee's Second Motion to Compel Discovery of TMIA, the Board stated: "We expected TMIA to be of assistance in developing the record by presenting specifics in support of its Contention 5. We are disappointed that TMIA has chosen not to timely respond to discovery on this subject (without making timely objection), and then, when a response is finally made, it in effect fails to respond substantively."

While TMIA can fully appreciate the concern and frustration of the Board in what it considers to be a failure on TMIA's part, we believe it necessary to state in some detail what TMIA has attempted to accomplish in discovery so as to

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obtain the necessary documentation and information to support its contention, what progress has been made and why the responses made to date (together with the supplemental responses filed simultaneously with this memorandum) should not be construed to be evidence of bad faith or lack of respect or concern for the Board's Orders.

Contention 5 basically alleges a pattern of systematic neglect of basic maintenance and repair procedures on the part of the Licensee that demonstrates managerial incompetence, or negligence, or willful disregard for the health and welfare of all those potentially affected by the operation of the nuclear facilities at TMI. At the time the contention was developed, it was based primarily on a lengthy report contained in the Philadelphia Inquirer of April 16, 1979. Since that time, reports have been filed by the President's Commission on Three Mile Island that provide further substance to the contention and, most recently, a federal criminal investigation appears to have begun that allegedly relates directly to this area of concern. With the Staff's disclosure that its SER on this subject will be delayed to some unspecified date, it is not possible at this time to determine what other information will ultimately become available for consideration in this proceeding. It is possible to state that the issue appears to be a very serious one that needs to receive full and careful consideration before the Licensee is allowed to restart Unit 1.

TMIA may have been somewhat naive in believing that it could carry out to a satisfactory conclusion the fact-finding that was necessary so as to adequately

deal with this issue. TMIA, through its counsel and with the help of lay volunteers, devoted itself to an intense discovery effort during the months of January and February. During the month of March this effort slowed down, and on March 21, 1980, TMIA informed the Board that it was "crippled by its lack of (financial) resources." That situation continues to the present day. After a hiatus where very little at all could be done, a group of unpaid volunteers, assisted by a law student, have attempted to resume the discovery effort. In particular, they have been attempting to review the information provided by Licensee in response to Sets 5 and 7 of TMIA's interrogatories. TMIA has been unable to obtain the technical backup it needs in reviewing this material and, for that reason, is seriously hampered in trying to determine upon what specific facts, persons and documents it will rely in presenting its case to the Board in support of Contention 5. It is for that reason that it has faced a dilemma in attempting to respond to Licensee's interrogatories, i.e., it has identified a large number of documents which contain information that it believes supports its contention; in addition, information obtained through depositions and other sources has also yielded information which it believes supports the contention; but it has not yet been able to cull and evaluate all the information obtained so as to present it in a systematic fashion.

To further clarify the problem, it is essential that the Board understand the magnitude of the task that TMIA has undertaken and what progress has been achieved.

In response to initial interrogatories, TMIA was informed that over 40,000 Work Requests and Job Tickets relating to Unit 1 existed and contained the information we wished on the maintenance and repair that has been carried out since the plant began operation. Boxes of these tickets were placed in the Discovery Room for our inspection. Laboriously, TMIA began to review them on a ticket-by-ticket basis. Much later, after additional discovery, we learned of the existence of certain summaries and computer print-outs which made it possible to do a more comprehensive review. However, the Licensee has steadfastly refused to further facilitate prompt discovery by programming its computer to provide specific information we have requested. If the program does not exist, TMIA is forced to pursue its time-consuming ticket-by-ticket search. (While it is possible that TMIA, through a Motion to Compel, might be able to get an order directing Licensee to prepare new computer programs providing such information, TMIA determined up to now that it could not afford to spend precious resources in such a battle.) TMIA has had a similarly difficult experience in obtaining the necessary information on overtime hours worked by maintenance personnel. Again, we have been inundated with huge amounts of material located in Reading, and only after persistent questioning, became aware of computer summaries. Even with these computer summaries, it will take many man-hours to sort this information. Only after the sorting is done, can evaluation begin. Given these circumstances, we believe it should be understandable why TMIA has not been able to provide the kind of detailed and specific responses that the Board desires. That is not to

say that TMIA will not be able to do so. In a supplemental response filed together with this memorandum, we have indicated our intention to provide a detailed account of the facts, documents and persons which we believe will support our contention at trial. In light of the announced delay in obtaining the SER on this subject and in light of the fact that trial on this subject must be correspondingly delayed, it is difficult to see how the Licensee would be prejudiced by obtaining all the information requested no later than June 30, 1980. (It is our hope to provide the information in installments beginning in early June.) Since there will apparently be additional time available before testimony is due on Contention 5, we would hope that the Board will see fit to allow the parties to use this time in a productive way.

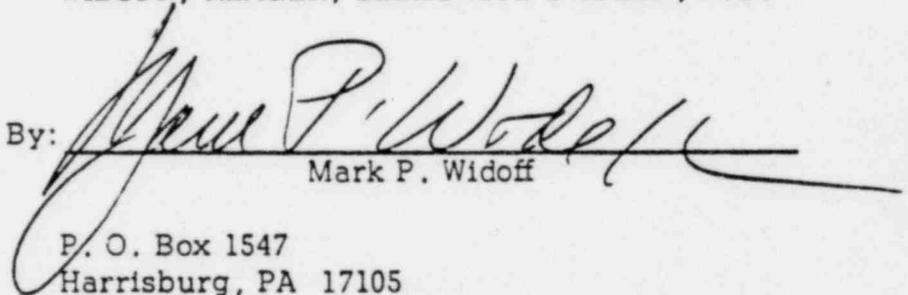
When all is said and done, however, it is obvious that TMIA faces terrible problems in presenting its case as it had hoped to do. It is a sad commentary on our system of regulation that, in a proceeding of such unprecedented importance, where it is critical that public confidence in the integrity of the nuclear regulatory process be re-established, funds cannot be made available to intervenors who have demonstrated that they can contribute to a better and more complete record. We believe that TMIA has demonstrated this in this case. As discovery is cut off and as deadlines approach, it is becoming painfully obvious that, even if allowed to present the evidence it will have collected, TMIA will not be able to provide the kind of careful, detailed and comprehensive case that it hoped in support of its contention. In its Memorandum of April 24, 1980, the Board expressed its own

sense of frustration at this reality. For its efforts in this regard, however unsuccessful, TMIA is grateful. We must question, however, the fundamental fairness of a system that permits the expenditure of hundreds of thousands of dollars by Licensee in these proceedings, but cannot find a way to allow intervenors to make a decent record on issues of critical importance to the residents of the area surrounding TMI and, indeed, to the citizenry of the entire United States.

Respectfully submitted,

WIDOFF, REAGER, SELKOWITZ & ADLER, P.C.

By:



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Dated: May 20, 1980

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document, Memorandum Of TMIA In Support Of The Responses To Interrogatories Provided To Licensee, to be placed in the United States mail, first-class, postage prepaid, addressed to the persons listed below:

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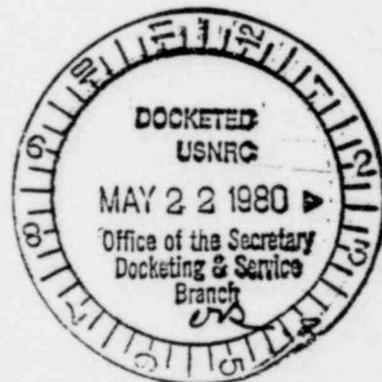
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Informational copies sent to the following persons:

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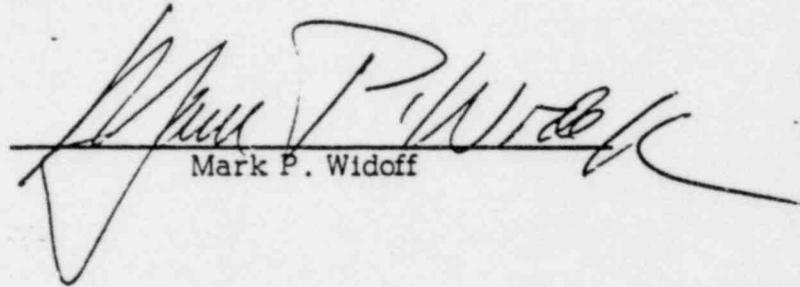


The Honorable Victor Gilinsky
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Mark P. Widoff

Dated: May 20, 1980