

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE NUCLEAR REGULATORY COMMISSION



\_\_\_\_\_  
In the Matter of )  
 )  
METROPOLITAN EDISON COMPANY, )  
 et al., )  
 )  
(Three Mile Island Nuclear )  
Station, Unit No. 1) )  
\_\_\_\_\_ )

Docket No. 50-289  
(Restart)

UNION OF CONCERNED SCIENTISTS  
OPPOSITION TO LICENSEE'S MOTION  
TO REQUIRE FURTHER  
SPECIFICATION OF CONTENTIONS

The licensee has asked the Board to establish a deadline of June 30 by which "further specificity" must be supplied with respect to certain identified questions. It then lists the contentions, which include UCS contentions 9, 10 and 13. Although the second portion of the request is not entirely clear, the licensee apparently also asks the Board to rule that intervenors will be limited at the hearing to proof of the facts which are contained in the written bases for the contention or "expressly identified and provided as support for the contention in the course of discovery." This requested restriction on the ability of intervenors to prove their cases goes far beyond accepted practice and confuses duties under discovery with the standard for admissibility of a contention.

UCS notes at the outset that we recognize our obligation to meet the directives of the Board with respect to contentions

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9, 10 and 13 after the close of discovery. We will need some reasonable period of time thereafter in which to do so. There is no justification, however, for requiring this showing to be made before discovery is completed, as the licensee has requested. We also note that we have not yet received the staff's filing on Class 9 accidents, nor do we have the SER. Nor, indeed, have we received full answers to all of our interrogatories.

However, UCS objects most strongly to the licensee's attempt to limit proof at the trial to facts specifically given as part of the written basis for the contentions or in response to discovery. The purpose of the requirement of a factual bases for contentions is to determine litigability of the issue. The purpose of the requirement of reasonable specificity is to provide notice to adversaries of the issues they will be required to meet. The process of discovery provides an expanded opportunity to define issues and learn the elements of the opposition's case.

In this proceeding, no party has been entirely satisfied with discovery. Because the positions of all involved, including the staff and licensee, have been evolving in the aftermath of the TMI accident and because some information has been slow in being developed,<sup>1/</sup> discovery has not been optimally

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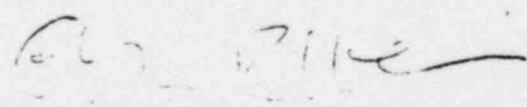
<sup>1/</sup> For example, UCS has requested specification of equipment which failed in the accident environment. This has not yet been provided.

satisfactory. The licensee has chosen to respond to this by, in effect, seeking an extension of discovery without affording other parties the same opportunity. Moreover, the licensee asks the Board to take the unprecedented step of limiting proof to facts specifically included in the written basis and/or answers to discovery. In essence, the licensee seeks to compel the direct testimony of the intervenors to be filed months before its own is due.

The licensee has had ample opportunity to seek relief in cases where answers to discovery have not been to its satisfaction. It has done so on more than one occasion. There is also the duty to supplement responses. The licensee will have the direct testimony of the parties and ample opportunity to rebut that testimony. Indeed, the legal and technical resources available to the applicant ensure that it will be in a far better position than the intervenors to cope with the exigencies of this proceeding.

UCS urges the Board to deny the motion.

Respectfully submitted;

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DATED: June 5, 1980

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

\_\_\_\_\_)  
In the Matter of )  
 )  
METROPOLITAN EDISON )  
COMPANY, et al., )  
 )  
(Three Mile Island )  
Nuclear Station, Unit )  
No. 1) )  
\_\_\_\_\_)

Docket No. 50-239  
(Restart)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Union of Concerned Scientists Opposition to Licensee's Motion to Require Further Specification of Contentions," was mailed first class postage pre-paid this 5th day of June, 1980 to the following parties:

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