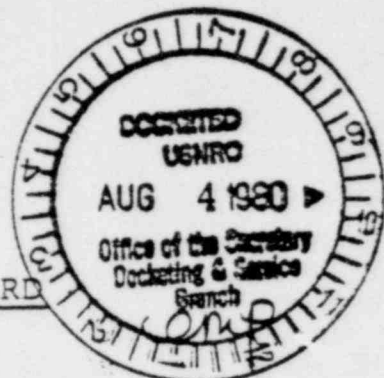


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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) )

TMIA'S RESPONSE TO LICENSEE'S  
MOTION FOR SANCTIONS

On July 16, 1980, Licensee filed its Motion For Sanctions Against TMIA. This Motion alleges that TMIA has not responded to Licensee's interrogatories. However, after looking past Licensee's sweeping allegations and analysing its basis, it becomes evident that Licensee's Motion is without merit and was submitted only to harass TMIA.

The "first glaring error of omission" that Licensee cites involves TMIA's failure to answer interrogatories concerning TMI-2. TMIA has responded repeatedly that because of temporal and financial restraints, it has had to limit the scope of its search to Unit 1. This was a truthful response on May 6 and June 30 and remains truthful today.\*

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\*TMIA filed a supplement response on July 26, 1980, stating that it will rely, for illustrative purposes, upon NRC's Office of Inspection and Enforcement Report 50-320/79-10.

8008070

596

G

DS03  
S 0/1

TMIA will not rely on negligent conduct at TMI-2 in presenting its case on the TMI-1 restart. However, it is manifestly unreasonable to conclude a priori that the entire contention should be dismissed. Also, to clear up any confusion, TMIA's revision of Contention 5 deletes any specific reference to Unit 2.

Licensee next alleges that TMIA has not provided Licensee with information "unique" to TMIA's allegations of avoiding shutting Unit No. 1 down to perform necessary maintenance and piling work orders up until refueling. Here, if a problem exists, it is not in TMIA's responses to Licensee's interrogatories but, rather, it is in the specificity of Contention 5. The "heart" of Contention 5 is not as Licensee characterizes it, "a series of distinct allegations concerning Licensee's maintenance practices" (Licensee's Motion, pg. 1). The "heart" of Contention 5 is that Licensee has pursued a course of maintenance conduct inimical to the health and safety of the public.

Of foremost importance is Licensee's practice of deferring maintenance and repair beyond the point established by its own procedures. To this end, TMIA's responses have provided adequate notice to Licensee of what it will rely upon; namely, the work requests that were deferred, regardless of the reason why, beyond the point established by its own procedures. Once again, TMIA's revision and further specification of Contention 5 clarifies TMIA's position on this point.

Likewise, Licensee contends that "TMIA has not cited even one specific instance supporting its allegations" (Licensee's Motion, pg. 9). Licensee later clarifies this allegation by drawing an untenable distinction between "instances"

and "documents." Quite simply, each work request cited by TMIA is a document that represents an "instance" where Licensee deferred maintenance and repair beyond the point established by its own procedures. It is wholly unreasonable to dismiss Contention 5 because Licensee has drawn an unrealistic distinction between "instances" and "documents."

TMIA has put Licensee on notice as to what TMIA will rely upon in proving Contention 5. TMIA should not be punished for Licensee's distorted analysis of Contention 5. It should be obvious to the Licensee that the "instances" are reflected in the "documents" and the "documents" represent and describe the "instances." TMIA, furthermore, has identified (in Attachment A to Installments 1 and 2) the specific information contained in the documents which support its contention.

Licensee additionally accuses TMIA of submitting "irrelevant" information in response to its interrogatories. Licensee states that 250 of the 1100 work requests (W.R.) submitted by TMIA failed to meet TMIA's own criteria.

First, it was made abundantly clear in TMIA's responses that TMIA was relying on Licensee's definition of "essential" maintenance in the form of its "Priority System." The "Priority System" incorporates a time frame for when maintenance should be performed. For example, in a letter from Daniel Shovlin dated November 30, 1979, concerning a Priority 1 stated "(m)aintenance personnel will be expected to work immediately and the procedure (if necessary) will be hand carried or telephoned through the approval circuit." By the Company's own criterion, immediate attention to these maintenance problems is required. Because

TMIA has (for practical reasons) primarily limited its search to items deferred "approximately one year" is no reason to preclude other obvious examples of deferred maintenance from consideration.

However, TMIA has analysed the "250" work requests cited by Licensee as obviously irrelevant and found that the vast majority of the "250" are in fact relevant and do meet the approximately one year criteria.

102 of the 250 work requests cited by Licensee were provided by TMIA in Attachment D of its second installment of information. In this response, TMIA gave no indication that the work requests provided in Attachment D should be analysed in the same way as the other work requests. TMIA explicitly stated that these work requests resulted from its search of the actual maintenance log. All work requests listed in Attachment D represent work requests that were neither canceled nor completed according to the maintenance log. In other words, these work requests were still "open" in the maintenance log.

Although TMIA evaluated as many work requests as possible in the extremely short period of time allowed by Licensee, \* TMIA still doesn't know if the work requests or the maintenance log are correct. If the work requests are correct, many will not represent "deferred maintenance," but if the maintenance log is correct, all will have been "deferred maintenance." However, one thing is abundantly clear, Licensee was put on notice that there are serious inconsistencies

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\*TMIA requested 541 work requests on May 23, 1980. Licensee provided only 126 by June 27, 1980.

between the actual maintenance log and the work requests. (Attachment A-1 contains the list of these 102 work request numbers.)

Attachment A-2 represents other work requests cited by Licensee as being irrelevant. At first glance, these work requests appear to have been completed within one year. However, the work had not been completed within one year from the time the problem was first identified. For example, Licensee cited W.R. 25453. Although TMIA readily admits that 25453 was originated on 9/30/78 and work performed on 10/22/78, TMIA believes 25453 represents "deferred maintenance." The problem was first identified on 9/26/77 in W.R. 21362. W.R. 21362 was canceled because of W.R. 25453. Therefore, one must "tack" W.R. 21362 and W.R. 25453 to determine how long it took to correct this particular problem. In this case, the problem was identified on 9/26/77 and work was not performed until 10/22/78.

Attachment A-3 lists other work requests cited by Licensee as extraneous. This list contains those work requests that although work may have been performed within one year, the Quality Control Department did not sign the work request until a year after the date of origination. For example, W.R. 17741 was a Priority 1 item originated on 11/9/76, and work was performed on 5/2/77. However, Quality Control did not sign off until 2/1/79.

Attachment A-4 represents still other work requests that were never tested, returned to normal use or signed off within one year from the date of origination.

Attachment A-5 represents the remaining work requests that TMIA will rely upon which are not irrelevant. The attachment contains an explanation of why they were included in TMIA's answer.

TMIA acknowledges that the following work requests have been erroneously included in its responses: CO178, 23825, 19431, 20423, 21335, 24248, 24687, C0070, 25552, 21132, C0426 and 20574.

It is evident that TMIA has, in good faith, responded to Licensee's interrogatories, that they were complete as of the date they were submitted, and that Licensee has failed to attempt a good faith analysis of TMIA's responses.

TMIA's responses have put Licensee on notice as to each fact supporting its allegations. This is even more clearly true now that Contention 5 has been revised to reflect specific evidence obtained through discovery -- all of which Licensee has had identified and described in TMIA's responses. To the extent Licensee finds a particular item to be irrelevant or lacking in probative value, it has a vehicle for objecting to its introduction into the record. But it would be manifestly unfair and inappropriate to require TMIA, at this stage of the proceedings, to analyze and defend each piece of evidence identified as supportive of its contention, or face dismissal of its contention. The Board, through its Orders, did not place such an unreasonable burden on TMIA. The Board has ordered that TMIA provide "information relied upon by TMIA in support of" its allegations (Board Order of April 11, 1980, pg. 2). TMIA submits that it has, through Installments 1 and 2, fulfilled this requirement.

TMIA fully intends to rely on the large numbers of documents identified and on the information contained therein. While Licensee apparently finds it difficult to believe that TMIA has such an intention, it must be remembered that anything

short of such a massive presentation might be inadequate to sustain TMIA's contention -- given the enormous number of maintenance tasks that are necessary to be performed at a nuclear power plant and the large number of people required to perform them.

If Licensee finds it difficult to deal with the large number of documents identified, it should be cognizant of how correspondingly more difficult it has been for TMIA to organize, review and identify the material. Nevertheless, TMIA believes the vast majority of the material will be found by the Board to be highly relevant to Contention 5, and that the Board will find that the documents speak eloquently -- in and of themselves -- to the inadequate, inconsistent and improper maintenance program at TMI.

Licensee's complaints about TMIA's response to Interrogatory 5-6 are likewise unjustified. Licensee states that 43 of the 155 employees listed "worked in areas which almost certainly do not involve maintenance activities, e.g. typists and stockkeepers" (emphasis added, pg. 16 and 17).

In James Bowman's deposition of February 22, 1980, he admitted, on page 58, that the warehouse did not always have supplies for maintenance. Stockkeepers working excessive hours may have contributed to this problem. Overworked typists may not route maintenance paperwork as promptly as they should. However, this is not the time or place to argue the quality of TMIA's evidence -- only as to whether it has been adequately noticed to Licensee.

TMIA has laboriously traced the overtime of each of the 155 hourly employees for 78 weeks. Attachment G of TMIA's second installment of information represents

what TMIA believes to be a complete answer to Licensee's interrogatory. If Licensee does not believe that 43 people named on the list have worked excessive overtime, it may express that opinion at the hearing. It is wholly unreasonable, however, to dismiss TMIA's Contention 5 because the Licensee does not agree with TMIA's proof of its allegations.

Finally, TMIA cannot help but question Licensee's efforts in analysing TMIA's responses. Licensee states at page 19 of Motion that TMIA has "incorporated by reference entire documents." Licensee cites as an example TMIA's response that it "will rely on Quality Control Surveillance Reports." However, Licensee failed to quote the next sentence: "A summary is included in Attachment E." Attachment E contains a precise summary of each Quality Control Surveillance Report that TMIA will rely upon. A copy of one page is included at Attachment B. Likewise, TMIA did not even mention a "NSSS contract."

In the final analysis, Licensee's Motion is devoid of merit. Licensee's only purpose in submitting this Motion was to harass TMIA so as to divert its precious few resources from preparing for trial. Therefore, TMIA requests that the Board deny Licensee's motion.

Respectfully submitted,

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

By: 

Mark P. Widoff

P. O. Box 1547  
Harrisburg, PA 17105  
(717) 763-1383

Dated: July 31, 1980



CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document, TMIA's Response To Licensee's Motion For Sanctions, to be placed in the United States mail, first-class, postage prepaid, addressed to the persons listed below:

Ivan W. Smith, Chairman  
Atomic Safety & Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555


Dr. Walter H. Jordan  
881 West Outer Drive  
Oak Ridge, TN 37830

Dr. Linda W. Little  
5000 Hermitage Drive  
Raleigh, NC 27612

George F. Trowbridge, Esquire  
Shaw, Pittman, Potts & Trowbridge  
1800 M Street, N.W.  
Washington, DC 20006

Docketing and Service Section  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

  
Mark P. Widoff

Dated: July 31, 1980

## ATTACHMENT A-1

<u>Job Ticket</u>	<u>Priority</u>	<u>Date Originated</u>	<u>Date Completed</u>
19281	2A	3/14/77	3/17/77
19506	1D	3/30/77	4/25/77
19576	1D	4/6/77	4/22/77
19989	3A	5/14/77	7/2/77
20118	3A	5/19/77	6/28/77
20376	1D	6/15/77	8/21/77
20404	2A	6/18/77	10/11/77
20461	2A	6/24/77	7/3/77
20472	2A	6/24/77	7/2/77
20487	2A	6/28/77	7/2/77
20521	2A	6/30/77	7/2/77
20687	2A	7/14/77	3/16/78
20770	3A	7/20/77	N
20803	2A	7/15/77	8/16/77
20970	3A	8/8/77	8/15/77
20972	3A	8/18/77	8/18/77
21001	2A	8/10/77	8/26/77
21240	2A	9/7/77	9/27/77
21263	2A	9/10/77	9/13/77
21635	2A	10/13/77	10/26/77
21651	2A	10/13/77	3/1/78
20210	1A	6/1/77	6/15/77
20376	1D	6/15/77	8/21/77
20521	2A	6/30/77	7/2/77
20631	2A	7/8/77	8/10/77
21197	1A	9/2/77	9/5/77
22038	2A	11/29/77	6/7/78
22202	3A	12/15/77	2/28/78
22298	1A	12/28/77	12/29/77
22404	1A	1/10/78	2/14/78
22729	2A	2/7/78	2/8/78
22799	1A	2/11/78	2/25/78
22995	1A	1/31/78	3/2/78
23051	2A	2/24/78	6/21/78
23138	1D	3/13/78	4/20/78
23514	2A	4/17/78	5/22/78
23636	1A	4/28/78	5/1/78
23637	1D	4/28/78	5/2/78
23638	1A	4/28/78	4/28/78
23693	2A	5/2/78	3/22/79
23701	1A	5/3/78	3/12/79
23720	2A	5/3/78	5/10/78
23805	2A	5/11/78	3/13/79
23809	2A	5/11/78	3/7/79
23812	1D	5/11/78	2/28/79
23867	2A	5/12/78	5/21/78
24087	2A	5/26/78	6/2/78
24729	1A	7/30/78	8/7/78
24838	2A	8/5/78	8/11/78

<u>Job Ticket</u>	<u>Priority</u>	<u>Date Originated</u>	<u>Date Completed</u>
24859	2A	8/9/78	8/10/78
24902	1A	8/8/78	8/19/78
25499	1D	10/5/78	2/28/79
25646	1A	10/15/78	3/13/79
25655	1A	10/16/78	3/13/79
25737	1D	10/23/78	3/1/79
25738	1D	10/23/78	3/5/79
25739	1D	10/23/78	3/5/79
25881	1D	11/8/78	3/4/79
25883	1D	11/8/78	3/4/79
25884	1D	11/8/78	3/3/79
25929	1D	11/14/78	3/5/79
25775	1A	11/16/78	8/24/79
25779	2A	11/16/78	3/8/79
26005	2A	11/18/78	3/16/79
22120	3A	12/16/77	N
22305	1A	12/21/77	11/6/78
24189	2A	6/12/78	6/14/78
24492	2A	7/9/78	3/8/79
24483	2D	7/6/78	3/11/79
24838	2A	8/5/78	8/11/78
25658	1A	10/16/78	3/11/79
25792	1D	10/26/78	3/13/79
<del>3269</del>	2		
3790	2	7/25/74	8/26/74
4320	1A	8/19/74	2/11/75
4826	2A	9/12/74	11/11/74
5474	1A	10/5/74	10/8/74
5564	2A	11/10/74	11/20/74
5944	1A	11/13/74	11/16/74
7549B	1A	12/3/74	12/3/74
7875	2A	2/25/75	2/28/75
11267	2A	3/14/75	6/24/75
11540	2A	9/10/75	11/11/75
11795	3A	9/25/75	N
12435	2A	10/12/75	10/13/75
13549	3A	3/1/78	N
14215	3D	1/19/76	N
15272	1D	2/29/76	4/22/76
15382	3A	5/5/76	N
15543	1A	5/13/76	5/13/76
15672	2A	5/23/76	6/9/76
15725	2A	6/2/76	12/17/76
16146	3A	5/26/76	N
16216	3A	7/9/76	N
16639	3D	7/18/76	N
17028	3A	9/2/76	CA
17453	1A	9/24/76	8/8/77
17439	2A	10/22/76	10/28/76
179271	2A	10/20/76	11/3/76
18538	3A	11/30/76	12/5/76
18744	1D	1/6/77	4/26/77
18950	2A	1/29/77	2/8/77
	3A	1/24/77	2/18/77

Attachment A-2

25869	19138	24357	24371	21024
25236	25236	19093	23109	22144
C0689	25651	24772	25509	C0372
23897	C0050	23786	C0516	25261
23799	25340	C0797	17928	21636
24319	25225	25112	24917	C0773
20365	C0151	25453	25053	25651

\*TMIA realizes that not all work requests in this group exceed one year even when "tacked" to other work requests. However, all of the work requests listed above represent instances where Licensee "tacked" work requests. TMIA believes that this procedure, in and of itself, endangers the health and safety of the public.

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Attachment A-3

17741	21440	23148	23199*
18032	21493	20856	23203*
18033	21677	22494	23206*
20960	21835	17998	23208*
21384	25563	22181	23652*
21432			

\*Although these work requests have not exceeded "one year", the QC was deferred approximately six to eight months.

Attachment A-4

23031  
23236  
22841

11346  
22844  
19394

21532  
15300  
20949

21865  
20837  
20811

20304  
20267

ATTACHMENT A-5

The following work request's completion date exceeded one year from origination on the Corrective Maintenance

Component History computer summary:	22183	23845
	20547	19845
	19535	23960
	22745	23840
	23769	21480.

The following work requests were deferred "approximately" one year:

19938	C0138	22602	25634
• 24198	24882	17075	17172
16493	11080	20856	19647
21923	23014	20616	17198
17075	22305	22157.	

The following work requests, although are number 3 priority items, TMIA still believes represent "deferred maintenance":

13165	20371	19418
20042	16837	19719
20550	15275	19418
03248	21995	21992
16914	19831	20100.

The following work requests are extraordinary items which TMIA Believes are relevant for the reasons given:

C0858- was cancelled on 7/5/79 and the work was performed 11/20/79.

22854- does not correspond in any way to the computer summary.

C2163- was "old mistreated" and rarely received maintenance.

C0622 - were "clean-up" work requests that received more prompt attention than other items.

18911  
C0965- there was no explanation for why it was cancelled  
21482(b)

21060

15349- were completed before origination.  
20040

18252- was labeled as a 4 priority on the computer summary but is a 2 priority item that is "deferred".

25673- was tested and returned to service before the work was performed.

19865- was a 2 priority item completed within 2 months

20423

C0135- represents inconsistent application in fixing  
22203 telephones; to wit, it took longer to fix one  
emergency reactor building telephone than it did  
to fix numerous phones throughout the plant.



79-64

Catalytic

Surveillance  
2/16/79 to  
3/20/79

Comments  
Modification of Feedwater Block Valves Operators. Purpose of work request "... to do all necessary modifications to make . . . valves shut within 30 seconds of main steam line rupture detection." "Backup feedwater isolation capability must be provided."

79-63

Catalytic

2/20/79 to  
3/09/79

RC-P-1(C) Motor inspections.

79-60

Catalytic

2/18/79 to  
3/12/79

RC-P-1(D) Inspect 1,2,3 seals.

79-36

Catalytic

3/07/79

Reactor Coolant; reinstallation of vent valve (CO 444). Under the direction of B & W's Roger Hollendes. Very hazardous and technical.

79-34

Catalytic

2/26/79

Fuel Handling; replacement of ten conductor cables (24889). Work done by Catalytic under Sterns-Rogers representative.

78-224

Catalytic

11/16/78

AH-E-1A air test per work request 25279.

78-211

Catalytic

11/13/78

Tested valves in Turbine Steam Chest.

78-210

Catalytic

11/14/78 to  
11/15/78

RC-V-6B Snubber seal for RC-P-1(B) replaced under the supervision of Paul Monroe representative.

78-117

Catalytic

5/15/78 to  
5/16/78

RC-P-2A Emergency situation manually tripped results in (1) oil drain line plugged; (2) pumps rotating in wrong direction; and, (3) flow detectors wired incorrectly.

78-79

Catalytic

4/03/78 to  
4/07/78

RC-P-1(C) Replacement of connectors. "...only job observed by this inspector during 1978 outage where a (neat) notebook was maintained, a compliment to these craftsmen."

78-58

Catalytic

3/29/78 to  
4/18/78

RC-P-1(C) motor inspection; work done without holding at Q C holdpoints. "Not satisfied with Allis-Chalmer's representative."