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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. 50-269
ET AL.)
(Three Mile Island, Unit 1))

NRC STAFF RESPONSE TO AAMODT
LETTER OF DECEMBER 15, 1980

On December 19, 1980, Intervenor Marjorie Aamodt distributed a copy of a letter dated December 15, 1980 ("letter") to the Board and to certain parties in this proceeding. In that letter, Mrs. Aamodt moved the Board to: (1) extend the time for submittal of testimony on her contention 2 until February 2, 1981, and (2) provide assistance to her in the form of obtaining experts in the field of human engineering for the hearing. The Staff's response to these requests is set forth below, concluding: (1) although there is no legitimate excuse for Mrs. Aamodt's "extension" request, the Staff would not oppose the extention of time to file testimony, based on its assumption that such an extension would not interfere with the conduct of the hearing on the management issues, and (2) the Staff does oppose the "assistance" motion, since there is no new reason that the Board should change its previous refusals to adopt Mrs. Aamodt's contention and obtain its own experts.

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Mrs. Aamodt's first request is that her deadline for filing testimony on training and testing (Aamodt Contention #2) be extended until February 2 at the earliest. The existing deadline for the filing of such testimony is January 15, 1981, as set forth in the Board's December 17, 1980 "Memorandum and Order on Management Issues." The reason given by Mrs. Aamodt for desiring the extension is that she had delayed preparing her case on the contention until issuance of the Staff's supplement to its Evaluation Report (ER) in November, 1980, hoping that the Staff's evaluation would address her concerns, thereby making any further effort on her part unnecessary. Letter, p. 2. Apparently the Staff's evaluation has not satisfied her concerns, and she is now preparing for the hearing.

The Staff considers the excuse offered by Mrs. Aamodt to be unacceptable in light of the fact that she has had her concern for over a year and has had schedules set by the Board for the conduct of discovery and the ultimate filing of testimony which necessarily contemplates the ongoing preparation of testimony by intervenors. (See, for example, the Board's schedules set forth in its Memoranda and Orders of May 22 and June 23, 1980.) None of the Board's schedules provided any suggestion that parties could sit back and wait for the Staff to publish its Safety Evaluation and supplements before starting their effort to prepare testimony. Mrs. Aamodt's excuse is further undermined by the fact that the Staff's ER, issued in

June, 1980, contained the Staff's evaluation of the operator training program for TMI-1, and she could have initiated her preparation upon receipt of that document. Although she could fairly have expected that the Staff may expand on its evaluation of the subject matter in a supplement to the ER, or possibly even modified its position regarding the adequacy of the Licensee's training and examination program, she was not justified in waiting for a supplement to the ER to start her preparation of testimony, in hopes that the Staff might alter its evaluation. The Staff is aware of nothing it did which would have reasonably lead to the inference prior to November, 1980, that it would be redoing this part of its evaluation of the management issue, nor has Mrs. Aamodt alluded to any.

Despite the lack of good cause raised by Mrs. Aamodt, the Staff submits that a delay in her filing of testimony would not upset the hearing on management issues. Mrs. Aamodt explains that her request is really to allow her to spend 3 weeks from January 5, 1981 to prepare her testimony (until January 26) and a full week after that to mail it to everyone. If Mrs. Aamodt could use express mail service for the distribution of her testimony, or personally serve the testimony on the parties at the hearing room in Harrisburg early in the week of January 26, 1981, then there could only be a week and a half delay from the Board's deadline of January 15 to the receipt of Mrs. Aamodt's testimony, if her request were to be granted by the Board. Further, there is a strong likelihood that Mrs. Aamodt will not have any prefilled expert testimony, as she expressed to the Staff and

counsel to the Licensee in the December 10, 1980 conference call referenced in her letter. This would indicate that it is not likely that she will cause the Board or the parties to further delay the hearing of her contention in order to study or prepare for cross-examination of her testimony. The Staff would also assume that she would know soon after January 15 if she would be filing testimony, and could notify the Board and parties of this decision at that time. Finally, even if the Board were to take up the management issues starting with the last week of January or the first of February, there would appear to be no major inconvenience to the parties to place Mrs. Aamodt's Contention #2 toward the end of that segment of the hearing.

In sum, the Staff would not oppose Mrs. Aamodt's request for an extension of time to file testimony, based on its assumption that such an extension would not interfere with the conduct of the hearing on management issues.

Mrs. Aamodt also moves the Board to provide assistance to her by taking up her contention and obtaining expert witnesses. Letter, pp. 3, 4. This is the same request that she has raised several times. (See, for example, her request during the prehearing conference held on August 12 and 13, 1980.) The Board has previously refused to adopt her contention as a Board question, and Mrs. Aamodt has not offered any new information which would indicate that the Board should now do so and obtain its own experts. Accordingly,

the Staff submits that there exists no reason for the Board to change its position and now provide experts on Aamodt Contention #2 and therefore opposes the motion.^{1/}

CONCLUSION

For the reasons set forth above, the Staff does not oppose Mrs. Aamodt's request for an extension of time for filing her testimony on her Contention #2 but does oppose her motion for the Board to provide assistance on this contention in the form of obtaining expert witnesses.

Respectfully submitted,

Daniel T. Swanson
Daniel T. Swanson
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 12th day of January, 1981

^{1/} To the extent that Mrs. Aamodt's request for assistance constitutes a request for financial assistance, it is of course, prohibited. See, Memorandum from Chairman Ahearn to the Secretary and the EDO dated December 4, 1980, with the attached letter from the Comptroller General to the Chairman, dated December 3, 1980, in which the Chairman ordered the Secretary and the Staff to immediately cease the intervenor procedural assistance program.

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
ET AL. }
(Three Mile Island, Unit 1) }

CERTIFICATE OF SERVICE

I hereby certify that copies of, "NRC STAFF RESPONSE TO AAMODT LETTER OF DECEMBER 15, 1980," dated January 12, 1981, in the above-captioned proceeding, have been served on the following, by deposit in the United States mail, first class, or, as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 12th day of January, 1981:

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