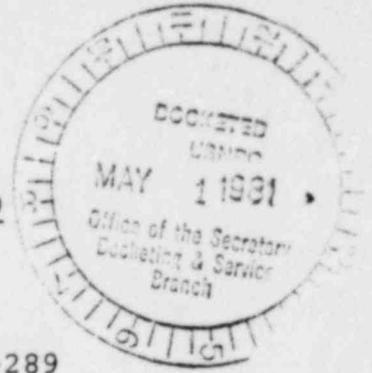


SHOLLY, 5/1/81

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. 50-289  
(RESTART)

INTERVENOR STEVEN C. SHOLLY MOTION TO  
THE ATOMIC SAFETY AND LICENSING BOARD  
TO TAKE OFFICIAL NOTICE OF CERTAIN  
FACTS AND DOCUMENTS

Pursuant to 10 CFR §2.743(i), Intervenor Steven C. Sholly hereby requests the Atomic Safety and Licensing Board to take Official Notice of the following facts and relevant portions of the following documents. The relationship between each such fact and document is explained:

1. On 20 December 1979, Victor Stello, Director of the NRC's Office of Inspection and Enforcement issued an Order Imposing Civil Monetary Penalty to R. C. Youngdahl of Consumers Power Company, imposing a civil penalty of \$450,000 for 476 items of noncompliance related to locked open containment purge bypass line valve during power operation, thus defeating containment isolation (copy attached). NRC Staff witness Peter C. Hearn testified (Tr. 7384) that it is possible to have the reactor building purge line locked open (on an operating or maintenance bypass) while the reactor is operating at power, and thereby have containment isolation fail even in

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the presence of a reactor trip isolation signal. The Board should notice the fact that through inadvertent human error, a nuclear power plant's Technical Specifications can be violated resulting in the defeat of containment isolation on the reactor building purge line, as the example of the civil monetary penalty against Consumers Power Company clearly demonstrates.

2. Pursuant to Freedom of Information Act request FOIA-81-149, this Intervenor obtained from the NRC a copy of the draft report prepared by the Instrumentation and Controls Division of Oak Ridge National Laboratory which reviewed the Babcock and Wilcox report "BAW-1564, Integrated Control System Reliability Analysis." NRC Staff witness Dale F. Thatcher, from whom the draft ORNL report was ultimately obtained (see copy of letter from J. M. Felton to this Intervenor dated 4/24/81) could not, under cross-examination by Administrative Judge Little, explain whether changes made from the draft report to the final report were "editorial or substantive." The witness stated, "What I really should do is go back and get the copy of the draft. I would imagine that I have it somewhere around in my office. Then I should be able to tell whether they were editorial or substantive. I tend to think that they may have been more along the editorial line."

The Staff has not produced the draft ORNL report, nor has the Staff reported further on this matter.

Upon reviewing the draft against the final ORNL report, this Intervenor has discovered some subtle but very crucial changes which were made from the draft to the final report (a copy of the draft ORNL report is attached to this motion). These changes are elaborated below, and the Board is requested to take official notice of each change:

LANGUAGE IN THE DRAFT REPORT

Item 1, page 4.

"In summary, the report deals only with a very limited scope of failures, essentially within the ICS cabinets, with the only significant measure of response being whether or not reactor trip occurred. Because of this limited scope, the results are necessarily of very limited value." (Emphasis added)

LANGUAGE IN THE FINAL REPORT

Item 1, page 4.

"In summary, the report deals only with a very limited scope of failures, essentially within the ICS cabinets; the only significant measure of response is whether a reactor trip would occur. Because of this limited scope, the results are necessarily of limited value."

EXPLANATION OF THE CHANGE:

The Board will note that the word very, which is underlined in the draft report, has been deleted from the final report. The Board will also note that in the copy of the final report which was provided to the parties by the NRC Staff (a copy from Dale F. Thatcher's copy as indicated by the check preceding Mr. Thatcher's name on the cover letter distribution list) has the sentence with the word "very" deleted underlined.

Webster's New Collegiate Dictionary (1977) defines very in the adverb sense as "to a high degree" or "exceedingly". Although the words "limited value" clearly imply less value than if the ICS was defined more broadly, the words "very limited value" in the draft report imply a much greater degree of value than the language in the final report. This subtle alteration permits the Staff to give a degree of importance to the results of the B&W reliability analysis which the draft report would not have permitted.

This is clearly not an "editorial" change, but one which changes the substance of the draft.

LANGUAGE IN THE DRAFT REPORT

LANGUAGE IN THE FINAL REPORT

Item 2, page 12.

Item 2, page 9.

"The methodology selected cannot evaluate the propensity of the ICS to participate in feedwater oscillations."

"The methodology that was selected cannot evaluate the possible involvement of the ICS with FW oscillation."

EXPLANATION OF THE CHANGE:

Webster's New Collegiate Dictionary (1977) defines propensity as "an intense and often urgent natural inclination". The language appearing in the draft clearly indicates a greater degree of involvement of the ICS with feedwater oscillations than does the language in the final report. Again, this can hardly be construed as an "editorial" change. The language in the draft clearly and unequivocally states that the ICS participates in FW transients, while the language in the final report implies that there is some doubt about whether this involvement occurs.

LANGUAGE IN THE DRAFT REPORT

LANGUAGE IN THE FINAL REPORT

Item 3, page 15.

Item 3, page 11.

"The B&W report asserts that ICS actions have averted more trips than it has caused. Although this assertion is not pertinent and may be true, the data presented does not substantiate the assertion."  
(emphasis added)

The B&W analysis asserts that ICS actions have averted more trips than they have caused. Although this assertion is not pertinent and is probably true, the data presented do not substantiate the assertion."  
(emphasis added)

EXPLANATION OF THE CHANGE:

The underlined passages indicate a clear change from the draft report to the final. The draft report language implies that there is some chance that the assertion by B&W is true. The final report, on the

other hand, implies something far more certain. Webster's New Collegiate Dictionary (1977) defines something which is probable as "supported by evidence strong enough to establish presumption but not proof." This is a contradiction in terms with the last part of the sentence in the draft which states that the data presented do not substantiate the assertion made by B&W. Again, this is no mere editorial change, but rather a substantive change.

LANGUAGE IN THE DRAFT REPORT

LANGUAGE IN THE FINAL REPORT

Item 4, page 16.

Item 4, page 11.

"The evaluation of power supply failures was very limited."

"The evaluation of power supply failures was limited."

EXPLANATION OF THE CHANGE:

Again, this change reflects a change in the degree to which the evaluation of power supplies was limited. Referring again to the definition of very as "exceedingly" or "to a high degree" as cited in Item 1, it is clear that this again is no editorial change.

I have this date filed another FOIA request with the NRC to have the NRC produce written copies of comments made by the NRC Staff on the draft ORNL report. I believe that these comments will shed more light on how the draft report came to be altered as demonstrated above. There were other changes, as the Board will see if it compares the draft with the final report. Most interesting and most important is the exclusion of Appendix B from the final report. Appendix B in the draft report deals with the so-called "light bulb" incident at the Rancho Seco plant. This appendix is relevant to the matter of

ICS/NNI power supply reliability. It also indicates at page 36 of the draft that the capability exists to make the power supplies for the ICS fully redundant, and that the capability can be implemented without substantial cost. The Board is requested to take Official Notice of Appendix B to the draft report (pages 32-36).

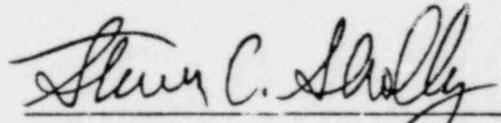
3. The Board is requested to take official notice of the document entitled "NRR Status Report on Feedwater Transients in B&W Plants", dated April 25, 1979. This document was relied upon by the NRC Staff in its testimony (Ross and Capra, ff. Tr. 15,855, at 2). Witness Capra served as editor of NUREG-0565 (Staff Report on the Generic Assessment of Feedwater Transients in Pressurized Water Reactors Designed by Babcock and Wilcox Company, May 1979) and NUREG-0667 (Transient Response of Babcock & Wilcox-Designed Reactors, May 1980) and authored the B&W section of the final report of the Bulletin and Orders Task Force (NUREG-0645) (Capra statement of professional qualifications, ff. Tr. 15,855). The "Status Report" is also referenced in the August 9, 1979, Commission Order which provided opportunity for a hearing in the matter of TMI-1 Restart (10 NRC 143, 1979). The "Status Report" contains much information relevant to the ICS and its relationship to feedwater transients. A copy of the full "Status Report" is enclosed.

4. The Board is requested by take Official Notice of a memorandum from Rodney M. Satterfield to Paul S. Check dated 9 May 1980. This memorandum was written by NRC Staff ICS witness Dale F. Thatcher (Tr. 7285-7285) and signed by Mr. Rodney M. Satterfield, Mr. Thatcher's branch chief. The memo was relied upon by Mr. Thatcher in his testimony (Tr. 7283-7285) and was distributed to the parties by the Staff, but never offered into evidence. The memorandum was also relied upon by Witnesses Ross and Capra (Ross and Capra, ff. Tr. 15,855, at 3-4). The memorandum has direct relevance to the ICS issue and should be officially noticed by the Board. Again, a copy of the memorandum is enclosed.

On the basis of the facts set forth herein and in the attachments hereto, Intervenor Steven C. Sholly requests that the Board grant this motion.

DATED: 1 May 1981

RESPECTFULLY SUBMITTED,



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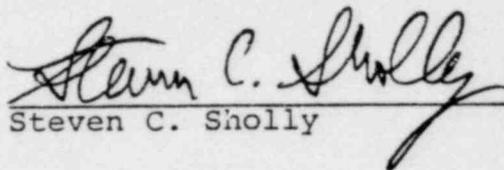
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CERTIFICATE OF SERVICE

I hereby certify that single copies of INTERVENOR STEVEN C. SHOLLY MOTION TO THE ATOMIC SAFETY AND LICENSING BOARD TO TAKE OFFICIAL NOTICE OF CERTAIN FACTS AND DOCUMENTS were served on those persons on the service list below. The attachments were served only on the members of the Board, the NRC Staff counsel, counsel for the Licensee, and counsel for the Commonwealth. Those attachments will be provided to other parties upon request, but are not being provided now due to the expense of copying and mailing these extensive documents. As noted above, the documents were served by placing them in the U.S mail, postage paid, first class, this 1st of May 1981.

  
Steven C. Sholly

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