SHOLLY, 9/23/80

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 RESPONSE TO LICENSEE OBJECTIONS TO REVISED EMERGENCY PLANNING CONTENTION

Licensee has responded to Intervenor Sholly's Revised Emergency Plan Contention in a filing dated 9/18/80. Intervenor Sholly herein responds to objections raised by Licensee to portions of the Revised Emergency Plan Contention (Contention #8).

Contention 8(I)(L)

Licensee objects to this contention on the basis that it is not based on new information, and has already been alleged by both the Anti-Nuclear Group Representing York and the Environmental Coalition on Nuclear Power. Unless I am mistaken, ECNP contention 2-13 was dismissed by the Board. ANGRY contention IIF(1) survives.

The genesis of my submitting this contention, which is admittedly not based entirely on new information, is an evolutionary process arising from discovery on Sholly Contention #4.

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Sholly Contention #4 alleges that the Licensee lacks on-site TLD processing capability, and that lacking this capability prevents timely communication of radiation exposure information to offsite authorities. The contention states, therefore, that onsite TLD processing should be made a precondition of restart of TMI-1.

In the course of discovery on this issue, it became clear that Licensee is not dependent on TLD's in the field for dose assessment, but rather uses field measurements made by monitoring teams to gather dose assessment information. I clearly made this known to the Licensee in the basis for the contention, and subsequently in response to interrogatories from the Licensee. In my response to Licensee's Interrogatory #1, filed 29 July 1980, I indicated that I no longer felt Contention #4 to be valid. I pointed out quite clearly, however, that I still had reservations about Licensee's capability to obtain offsite radiation readings within 30 minutes. This point was elaborated on at length in my response.

In response to an interrogatory from ANGRY (dated 21 January 1980), Licensee revealed that the following steps are necessary to dispatch a radiation monitoring team to an offsite area (SEE Licensee's Response to Interrogatories (First Set) From Intervenor ANGRY, 17 March 1980, pages 6 and 7):

(1) "Proceed to Processing Center and pick up emergency kits and radio."

(2) "Inventory and operationally check the instruments in the kit."

[redacted] communications with the Operations [redacted] Center."

[redacted] directions and proceed to vehicle."

[redacted] vehicle to monitoring point. Obtain [redacted] reading and call it in to the Radiological Assessment Coordinator."

[redacted] states further that this would take about 30 minutes. [redacted] period was also repeated in response to a Sholly interrogatory on the Revised Emergency Plan (Revision 2) of the Licensee.

I intend to make tests of the times involved for a variety of offsite locations, but it is my firm belief, based on living in the area of TMI for the past 27 years, driving in traffic which is experienced in this area, and given the rapidity with which offsite radiation exposure information is needed to assess the need for protective actions, that the 30 minute limit given by licensee for obtaining offsite radiation dose readings is unrealistic and underestimates the actual time required.

I have therefore concluded that a remotely-read, real-time radiation monitoring system is the most rapid and reliable means by which to obtain radiation dose readings from offsite areas during emergency conditions.

Contention 8(I)(L) contains two parts. First, the allegation is made: "Licensee's Emergency Plan fails to provide assurance that timely radiation dose readings can be obtained from offsite locations in the event of an emergency at TMI-1." Secondly, there is the conclusion based on the allegation and materials acquired during discovery: "The

most rapid and reliable means of accomplishing this goal is a remotely-read, real-time gamma dose monitoring system. Such a system would give instantaneous gamma dose readouts in each sector of the Plume Exposure EPZ out to a distance of 10 miles or the outer boundary of the Plume Exposure EPZ, whichever is greater. Such a system should be required as a condition of restart."

The fundamental question raised by Contention #4, whether Licensee can obtain offsite radiation dose readings in a timely manner, has not been resolved. Attempting to require onsite TLD processing capability was, on my part, a mistaken solution to the problem. It is clear to me that Licensee's reliance on hand-held field monitoring by teams which are dispatched to offsite areas by vehicles is insufficient assurance that timely results will be obtained. A remotely-read, real-time system eliminates the problem by providing instantaneous results. These results could still be supplemented by field teams if this proved necessary. It is clear that a real-time system combined with predictive models (using the real-time system to confirm projections of the predictive model) gives a clear picture of radiation doses in offsite areas in a very timely fashion.

I believe that Contention 8(I)(L) is legitimate and timely under the circumstances addressed above. It should be accepted by the Board for litigation.

Should the Board disagree, I would, alternatively, propose the following:

A. That Contention 8(I)(L) be split into two parts, as described above. The statement that "Licensee's

Emergency Plan fails to provide assurance that timely radiation dose readings can be obtained from offsite locations in the event of an emergency at TMI-1," is by itself a valid and timely contention, based on new information, which should be admitted to the proceeding for litigation.

B. That the remainder of the contention be treated as my adopting of the concerns raised by ANGRY Contention IIF(1) and Board Question 4a, which asks:

> "Has the Licensee considered stationing a limited number of dose rate meters near the site, with the data telemetered to the control room or the response center?"

Contention 8(I)(Q) and 8(I)(R)

Contention 8(I)(Q) derives directly from the new emergency planning rule, 45 FR 55412, in Appendix E, IV, D, 3, which states, in part:

> "3. A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the State/local officials have the capability to make a public notification decision promptly on being informed by the licensee of an emergency condition. By July 1, 1981, the nuclear power reactor licensee shall demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ. The design objective shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes."

Licensee objects on the basis that I have specified dates other than those found in the rule. I have specified simply that

Licensee should be required to meet this requirement as a condition of restart. I stated so, as is pointed out within the contention itself, that Licensee's own projections contained in its financial information submitted to the Staff on 8/14/80 point to 7/1/81 as the target restart date for TMI-1. I further point out that this proceeding will not likely be concluded before that date in time to permit restart before that date. Even if the Licensee's wildest dreams come true and restart is permitted in the Spring, by 7/1/81 the referenced capability will be a requirement. If the capability is lacking now, it is unlikely that it will be magically acquired before 7/1/81. In fact, the Commonwealth of Pennsylvania, in response to Interrogatories from ANGRY, stated as follows (SEE Commonwealth's Response to Interrogatories (Second Set) of ANGRY, dated 17 March 1980, page 7):

> Q--At the present is there a notification system in place in the TMI EPZ capable of satisfying the "design objectives" of Appendix 3 of NUREG-0654?
>
> A--No.
>
> Q--Does the Commonwealth have the means, financial or otherwise, for putting such a system in place?
>
> A--No.
>
> Q--Describe in detail any efforts currently underway to satisfy the notification requirements of NUREG-0654.
>
> A--The matter is being addressed by the nuclear fixed facility management in accordance with the provisions of NUREG-0654 which states on page 39: "It shall be the operators responsibility to insure that such means exist, regardless of who implements this requirement."

There has been no information forthcoming from either the Commonwealth or the Licensee on how the notification requirements are to be met. It is easily demonstrable that the local governments do not have the financial means to implement this requirement. According to Report to the President: State Radiological Emergency Planning and Preparedness in Support of Commercial Nuclear Power Plants, Federal Emergency Management Agency, June 198(, at page V-8, Pennsylvania has estimated that the cost of the 15-minute notification system is $1.6 million per site. A letter from Oran Henderson, PEMA, to Charles T. Johnson, FEMA, contained in the same report at page Ax73-76, states that the utility is providing the funds to meet the response criteria.

The 15-minute notification criteria has been known to the Licensee since NUREG-0654 was published. Licensee has been in opposition to this requirement from the start, and even commented that an EIS should be prepared on the new emergency planning rule, citing among other reasons that the cost of meeting the 15-minute rule were not adequately evaluated.

It is clear that the rule requires this design objective to be met by 7/1/81. It is equally clear that restart will not occur prior to that date. The contention should be accepted as drafted.

Should the Board, however, disagree, I propose the following, to be substituted for Contention 8(I)(Q):

> Licensee must, as a precondition to restart, demonstrate reasonable progress in achieving compliance with the new emergency planning rule (10 CFR Part 50, Appendix E, IV, D, 3) regarding prompt notification procedures and requirements. The new rule provides that by 7/1/81, the Licensee must demonstrate "that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure patnway EPZ." The rule further provides

> that "(t)he design objective shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes." If restart occurs on or after 7/1/81, Licensee must demonstrate full compliance with this requirement prior to restart.

Similarly for Contention 8(I)(R), the contention is based directly on the new emergency planning rule. The effective date of the rule is November 3, 1980. A provision of the new 10 CFR 50.54(u) is that licensees must submit plans for meeting the requirements of Appendix E to 10 CFR 50 within 60 days of the effective date. The Licensee is bound by law, therefore, to meet the requirements of Appendix E, IV, D,2 and 50.47(b)(7) by 1/3/81. It is quite clear that this proceeding will not be completed by that date and restart could not possibly occur by that date. The contention is therefore litigable and should be accepted. Should the Board disagree, I propose that the following be substituted for Contention 8(I)(R):

> The new emergency planning rule (10 CFR 50.47b7 and 10 CFR Part 50, Appendix E. IV, D, 2) imposes new responsibilities on the Licensee regarding dissemination of information to the public on a periodic basis on how they will be notified in the event of an emergency and what their initial actions should be. Provision is made in the new emergency planning rule that annual dissemination of such information to the public within the plume exposure pathway EPZ shall be made, and that signs be posted to disseminate such information to transients. Licensee's emergency plan lacks information on how these requirements will be met. As a precondition to restart, Licensee must be required to demonstrate reasonable progress toward achieving compliance with these provisions. If restart is permitted after the required compliance date, on or about 3 January 1981, Licensee must, as a precondition to restart, demonstrate full compliance with these provisions. The first dissemination of the required information, in this instance, should be required to take place several weeks prior to restart to ensure that the public has sufficient time to read and understand the information. Dissemination of such information through distribution with utility bills is insufficient since many of the residents of the plume

exposure pathway EPZ are not customers of the Licensee, and many residents are not directly customers of any utility, and would not, therefore, be reached by such a distribution system.

Contentions 8(II)(B) 1 and 4

Items 1 and 4 under Contention 8(II)(B) do not in any way challenge the new emergency planning rule. The referenced items, which are assumptions in the Commonwealth of Pennsylvania's Annex E Emergency Plan, state:

(1) Fixed nuclear facility incident consequences may require protective action of up to 10-miles and may require actions for agricultural, dairy and food product control up to 50 miles.

(4) The 10-mile evacuation distance includes an adequate safety margin which precludes the need for evacuation of institutions, facilities or people beyond the 10-mile radius.

These assumptions are based on the Commonwealth's misapplication of the EPZ concept. The Commonwealth, in response to an interrogatory from ANGRY (SEE Commonwealth's Response to Interrogatories (Second Set) of ANGRY, dated 17 March 1980, page 1), stated that the Commonwealth had not independently assessed the adequacy of the 10-mile EPZ. Presumably, the same is true for the 50-mile EPZ. In a telephone conversation with Margaret Reilly, of the Commonwealth's Department of Environmental Resources, Ms. Reilly stated that the state had adopted uniform 10-mile and 50-mile EPZ's for all fixed nuclear facilities in the Commonwealth. This is a clear misapplication of NUREG-0396, NUREG-0654, and the new emergency planning rule. The assumptions based on this misapplication are also flawed and unsupportable.

This fact was pointed out during the RAC review of Annex E by Dr. David Lanford, U.S. EPA (SEE NRC Staff response to Interrogatory SER-012 from Sholly to NRC Staff, response filed 7/18/80).

Sholly Contention 8(II)(B) in no way attacks the new emergency planning rule. Rather it attacks assumptions in the state plan which are without basis. In the specific cases of assumptions 1 and 4, it attacks assumptions which are themselves in conflict with the new emergency planning rule. Contention 8(II)(B) is therefore wholly appropriate, is litigable, and should be accepted by the Board.

Contention 8(II)(F)

This contention properly alleges that NRC, FEMA, and RAC review of the emergency response plans supporting TMI should be completed prior to restart. It suffers, in Licensee's judgment, from the same "illness" afflicting Contentions 8(II)(Q) and (R). The new emergency planning rule is so very clear on this point that it is pointless to redraft the contention. The contention should be accepted as written.

Contention 8(III)(A)

Licensee's response to the contention cites 8(II)(A), but appears to be directed toward 8(III)(A). I an unable to locate any reference in the new emergency plan rules which would require only one set of local plans. Absent a showing by the Licensee of specific language within the new emergency planning rule addressing this issue, the contention should be accepted for litigation.

Contentions 8(III)(B) through (D)

8(III)(B)--Assumption (1) appeared in slightly different form in the previously submitted Cumberland County Plan. Assumption (2) appeared in different from, without citing the over 50% limit as appears in the new plan. The contention is based on new information regarding assumption (2). With regards to assumption (1), it is admittedly late, as a result of an oversight on my part. It clearly raises a significant problem. If the Board will not permit its litigation by accepting this contention, I request that the Board exercise its discretionary authority and adopt this issue as a Board question.

8(III)(C)--This contention is admittedly late. It is also very clearly true, raising a significant issue. If the Board will not accept it for litigation, I request that the Board adopt the issue as a Board question.

8(III)(D)--Again, this contention is admittedly late. If not accepted by the Board, I request its adoption as a Board question.

Contentions 8(III)(E) through (G)

These contentions are all based on new information. Licensee, other than a bland assertion to the contrary, provides no evidence to support its position. These contentions result from an analysis of the new, revised emergency plans of the counties. Contention 8(III)(E) in particular is very clearly timely since it is based on the new emergency planning rule. Licensee's objection is wholly without merit. Contention 8(III)(F) is also based on the new emergency planning rule, although the proper section of the rule is not cited (10 CFR Part 50, Appendix E, IV, D, 2). Again, Licensee's objection is wholly without merit. Contention 8(III)(G) mirrors requirements in the new emergency planning rule for informing the public about emergency plans (10 CFR Part 50 Appendix E, IV, D, 2 and 10 CFR 50.47(b)(7)) and is therefore timely. Licensee's objection is without merit. All three of these

contentions should be accepted as written for litigation.

DATED: 23 September 1980

RESPECTFULLY SUBMITTED,

Steven C. Sholly

Steven C. Sholly

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I certify by my signature below that single copies of:

INTERVENOR STEVEN C. SHOLLY RESPONSE TO LICENSEE OBJECTIONS TO REVISED EMERGENCY PLANNING CONTENTION, 9/23/80

were served upon the persons on this service list by deposit in the United States Mail, first class, postage prepaid, on this 24th day of September, 1980.

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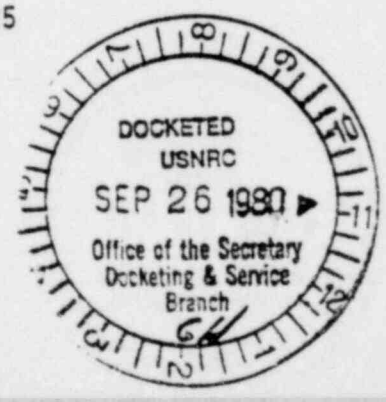

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