

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket No. 50-2893 )  
(Restart) )

LICENSEE'S MOTION TO RECEIVE  
INTO EVIDENCE THE AFFIDAVIT OF  
ELMER S. PATTERSON



During redirect examination on November 24, 1980, on UCS Contention 10 (Safety System Bypass and Override), witness Robert D. Pollard, on behalf of the Union of Concerned Scientists, testified that if applied by the NRC and incorporated into the regulations, IEEE Standard 603-1977 (Draft) would require the relief sought in UCS Contention 10. Tr. 6573.

In rebuttal testimony presented on November 25, 1980, NRC Staff witness Donald F. Sullivan testified that if section 4.4 of IEEE Std 603 was adopted and applied, it would not require any changes to the TMI-1 design. Tr. 6616.

Subsequently, counsel for UCS announced her intention to seek the Board's permission to present surrebuttal by Mr. Pollard in response to Mr. Sullivan's rebuttal testimony, on the basis that UCS was "surprised" by Mr. Sullivan's position. Tr. 6660, 6661.

The testimony by both Mr. Pollard and Mr. Sullivan was given orally after Licensee's witness on this subject, Elmer S. Patterson, had been excused. Consequently, Mr. Patterson's response or reaction to Mr. Pollard's testimony, cited above, is not in the record.

In response to the UCS request for surrebuttal, the Board decided to return Mr. Pollard and Mr. Sullivan to the witness stand together, to respond to questions sequentially on the interpretation of IEEE Std 603-1977. Tr. 6717, 6718. Licensee's witness Patterson, because of other commitments, had already departed. See Tr. 6665, 6717. The oral testimony of Messrs. Pollard and Sullivan appears at Tr. 6719-6788.

Licensee advised the Board, both before and after the additional testimony was presented, that allowing the testimony might necessitate the recall of Licensee witness Patterson, who had not been provided an opportunity to address the specific contention advanced by Mr. Pollard on redirect examination. See Tr. 6661-6662, 6665-6666, 6779. Licensee indicated that Mr. Patterson would review the transcript. Tr. 6779.

Chairman Smith suggested, in announcing the Board's decision to recall both Mr. Pollard and Mr. Sullivan, that perhaps an affidavit by Mr. Patterson, rather than an actual appearance, might suffice to present Licensee's position. Tr. 6718. Having reviewed the transcript of November 25, 1980, we agree. Mr. Patterson has prepared the enclosed

affidavit following his review of the testimony given by Messrs. Pollard and Sullivan. Licensee does not believe that the issue is of sufficient importance to warrant recalling Mr. Patterson to the hearing. We believe it is only fair, however, that Licensee's position be reflected in the evidentiary record along with those of UCS and the NRC Staff.

Accordingly, Licensee moves that the enclosed Affidavit of Elmer S. Patterson, dated February 26, 1981, be marked for identification as a Licensee exhibit and received into evidence.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

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Dated: March 2, 1981

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)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Licensee's Motion to Receive into Evidence the Affidavit of Elmer S. Patterson" and "Affidavit of Elmer S. Patterson" were served this 2nd day of March, 1980 by deposit in the U.S. mail, first class, postage prepaid, to the parties identified on the attached Service List.

Thomas A. Baxter  
Thomas A. Baxter

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
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METROPOLITAN EDISON COMPANY ) Docket No. 50-289  
 ) (Restart)  
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Station, Unit No. 1) )

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