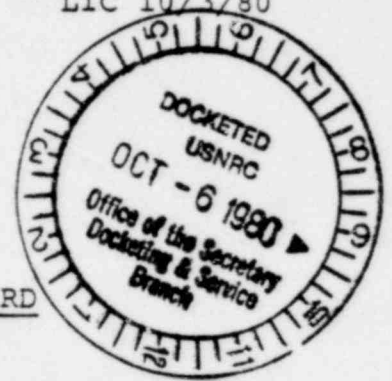


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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))	

LICENSEE'S RESPONSE TO TMIA MOTION FOR
APPOINTMENT OF EXPERT TO ASSIST THE
BOARD IN REVIEWING WORK REQUESTS
PLACED INTO EVIDENCE BY TMIA

On September 22, 1980, TMIA filed a Motion for Appointment of Expert to Assist the Board in Reviewing Work Requests Placed into Evidence by TMIA. While the title of the motion suggests that TMIA is interested only in the appointment of an expert to review work requests placed into evidence by TMIA*, the text of the motion is considerably broader. The motion requests the Board to appoint "independent experts" to study and report to the Board their opinions of "the practices and procedures of the Licensee as it relates to its management of TMI-#1." The experts' review is to include determinations on virtually all of the subcontentions of TMIA's Contention No. 5 as rewritten and allowed by the Board in its Memorandum and

*TMIA's motion was filed before the conference call placed by the Board on September 23, 1980, and prior to the Board's Memorandum and Order dated September 24, 1980, denying TMIA's request to put some 1100 work requests into evidence.

DS03/501

Order dated September 8, 1980*. Thus the experts' review requested by TMIA encompasses virtually the entire scope of TMIA's contention on maintenance practices.

The TMIA motion further requests that the Board (1) require that all parties submit for examination by the experts, subject to objection by the parties, "all material pertaining to this proceeding which may be requested from time to time", (2) require the experts to file reports of their findings with the Board and to deliver same to all parties, and (3) require the experts to make themselves available "as witnesses for or on behalf of any of the parties" during the evidentiary hearings. Thus the experts are required not only to do TMIA's work in investigating the validity of its contention but to be available to TMIA as witnesses during the hearing. No time limit is suggested by TMIA for the experts' review and report, but it is apparent from the scope of the requested review that many months would be consumed.

Licensee opposes TMIA's motion both because of the lateness of TMIA's request and the total absence of any justification for the request.

As to lateness, TMIA files its request on the eve of the hearing, some ten months after the admission of TMIA as an intervenor in the proceeding and allowance of its initial maintenance contention. TMIA has been on notice throughout

*The only subcontention not included in the review is Contention 5b-2 relating to a cut in the TMI maintenance budget.

the proceeding that its intervention would not be funded by NRC and there is no excuse for waiting this long to request the Board to supply experts on TMIA's contentions.

As to justification for the request we begin by noting that despite two orders by the Board compelling responses to Licensee's interrogatories TMIA has failed to date to explain the bases for its contention of improper safety related maintenance practices. Without such an explanation TMIA would have the Board take the extraordinary step of appointing experts solely on the basis of TMIA's unsupported allegation of improper safety-related maintenance practices.

The only justifications advanced by TMIA for its request are (1) that "the staff has consistently refused to examine, in detail, the areas of deferred and inadequate maintenance conducted by Licensee" and (2) the conclusions of the Kemeny Commission staff that "current utility and NRC practices do not assure proper preparation, review and execution of operating and maintenance procedure" and that "the failure to adequately maintain all components of the TMI-#2 Unit contributed significantly to the accident at TMI-#1 [sic]".*

The statement that the staff has "consistently refused" to examine Licensee's maintenance practices is incorrect. The only staff reluctance has been to adopt as its own and to follow through on TMIA's particular deposition program. While

*The second quotation is to TMIA's motion, not to the Kemeny staff report. The cited page of the staff report does not state that inadequate maintenance contributed to the TMI accident.

the staff will have to speak for itself, the staff has in fact to Licensee's knowledge been active in reviewing Licensee's maintenance program.

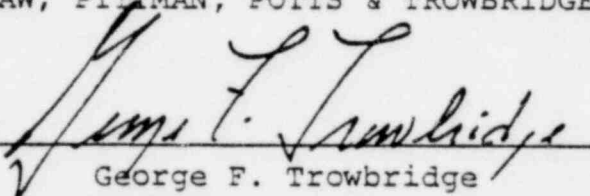
The citations to broad conclusions of the Kemeny Commission staff do not provide a basis for requesting the appointment of special experts to investigate TMI-1 maintenance practices, particularly when the request is made nearly a year after publication of the Kemeny report.

For all of the foregoing reasons, TMIA's motion should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

BY


George F. Trowbridge

Dated: October 3, 1980

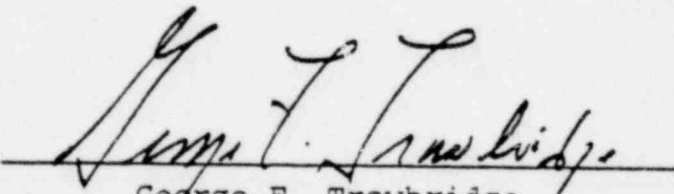
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to TMIA Motion for Appointment of Expert to Assist the Board in Reviewing Work Requests Placed into Evidence by TMIA," dated October 3, 1980, were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 3d day of October, 1980.


 George F. Trowbridge

Dated: October 3, 1980

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