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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, et al., )

(Three Mile Island )  
Nuclear Station, Unit )  
No. 1) )

Docket No. 50-289

UNION OF CONCERNED SCIENTISTS'  
OBJECTIONS TO AFFIDAVIT OF ELMER S. PATTERSON

By motion dated March 2, 1981 the Licensee has moved the introduction into evidence of the affidavit of Elmer S. Patterson. The motion states that the affidavit is "Mr. Patterson's response or reaction to Mr. Pollard's testimony" on "surrebuttal" concerning the interpretation of IEEE Std. 603-1978. The Licensee also states that it "does not believe that the issue is of sufficient importance to warrant recalling Mr. Patterson to hearing," but that it is "only fair" that the Licensee's position be reflected in the record.

The affidavit itself cites no particular section of Mr. Pollard's testimony to which it is responsive. More importantly, neither the Licensee nor the affiant state that they were surprised by the testimony of Mr. Pollard or that "new" material which had not been anticipated and

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requires additional response was presented by Mr. Pollard. Further surrebuttal is therefore unjustified, particularly by affidavit, which denies UCS the right to cross-examine. UCS agrees that the affidavit contains nothing of "sufficient importance" to merit recalling Mr. Patterson. It is generally conclusory and repetitive of other evidence. Likewise, it contains nothing to justify re-opening the record to accept an affidavit.

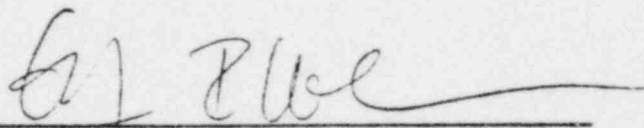
The affidavit contains inherently unreliable, non-probative and prejudicial hearsay statements concerning Mr. Sullivan's belief about the opinions of other unnamed members of the IEEE Committees on Std. 603. Paragraph #6, and in particular the following sentence, are clearly inadmissible on those grounds: "I believe that the understanding and interpretation of IEEE 603 between Mr. Sullivan and myself is typical of the subcommittee and parent committee." If such statements are permitted to go into the record unchallenged, they will certainly form the basis for proposed findings of fact against UCS's interest.

In addition, paragraph #3 contains material implying that the wording of IEEE 603-1980 in some unspecified way strengthens the affiant's interpretation by altering IEEE 603-1977. This question was fully aired in Mr. Patterson's original testimony, when he agreed on cross-examination that the 1980 version of Std. 603 contains no changes in any of the pertinent sections. (Tr. 6244-6245). Unless Mr.

Patterson is now attempting to change his testimony, the paragraph is entirely repetitive of earlier testimony. If he is attempting to change his testimony, he cannot be permitted to do so by affidavit, nor indeed without compelling reason.

For the above-stated reasons, UCS strongly objects to the introduction into evidence of the affidavit of Elmer S. Patterson.

By:

A handwritten signature in dark ink, appearing to read 'Ellyn R. Weiss', is written over a horizontal line.

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DATED: March 12, 1981

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NUCLEAR REGULATORY COMMISSION  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Union of Concerned Scientists' Objection to Tentative Schedule for Testimony and Proposed Alternative Schedule and Union of Concerned Scientists' Objections to Affidavit of Elmer S. Patterson" were mailed first class postage pre-paid to the following:

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