

MAY 05 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS: \*

- Nunzio J. Palladino, Chairman
- Victor Gilinsky
- John F. Ahearne
- Thomas M. Roberts
- James K. Asselstine



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

Docket No. 50-289 SP

ORDER

The Aamodts, the Union of Concerned Scientists (UCS), and Three Mile Island Alert (TMIA) on April 18, 1983 submitted their "preliminary" comments on the NRC staff's review of the GPU v. B&W trial record.<sup>1</sup> Each also requested additional time to comment; UCS requested an additional six weeks while TMIA and the Aamodts requested an additional two months.

The Commission has decided to grant these requests in part. The parties to the restart proceeding will be given until June 1 to submit

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<sup>1</sup>In addition, Marvin Lewis submitted a comment requesting "that a restart decision be delayed until all criminal investigations by the Department of Justice are concluded and released to the intervenors and staff." The Commission will treat this request separately.

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any additional comments they may have on the staff's review of the GPU v. B&W trial record. Commissioner Roberts concurs in the June 1 date.

In addition, TMIA requested that all trial exhibits and depositions be made available to the parties. The Commission has placed the exhibits and depositions, which the NRC has, in the Public Document Rooms (PDRs) in Washington, D.C. and in Harrisburg, Pennsylvania. The parties will, of course, be able to utilize these exhibits and depositions in preparing any additional comments they may have on the staff's review of the GPU v. B&W trial record.

In addition, the Commission recognizes that there is a large volume of material involved here. If the parties as a separate matter wish to submit additional comments after June 1 on these trial exhibits and depositions, they may do so. However, the Commission does not believe receipt of these additional comments on the trial exhibits and depositions need necessarily be a prerequisite to a Commission decision on TMI-1 restart. If parties comments do raise significant matters after a Commission decision has been made, then that decision will be readdressed.

The Aamodts further requested the Commission (1) to serve the transcripts and exhibits of the trial directly on them, (2) to direct General Public Utilities (GPU) "to serve the report of inquiry into the Hartman matter on the parties," and (3) to "serve the affidavits of Parks, King and Gischel on all parties to the Restart Proceeding and obtain and provide the transcript and all documents related to the allegations in the Justice Department investigation of Hartman that GPU attorneys exerted improper influence on the testimony in that investigation." Finally, the Aamodts requested that the Commission reopen the

record in the restart proceeding to reevaluate "GPU Nuclear management capability and integrity."

The Commission has decided to deny the request for personal service of all the GPU v. B&W material because of the volume of the material and because the Commission has made the material available in the PDRs in Washington, D.C. and Harrisburg, Pennsylvania. Accordingly, the Commission believes that the parties have reasonable access to the documents.

With regard to the Aamodts' request for the affidavits of Richard Parks, Larry King and Edwin Gischel, the Parks and Gischel affidavits are already available in the PDRs in Washington and Harrisburg. There is therefore no need for further orders in that regard. The NRC has interviewed Mr. King, but has not received a formal affidavit from him. Since the Commission has determined that release of the interview statements of Mr. King could prejudice the NRC's ongoing investigation into the allegations involving Three Mile Island, Unit 2, the Aamodts' request regarding Mr. King is therefore denied.

The Commission still has under consideration the request for the report of the GPU investigation into the Hartman allegations and will address it in a separate order.

With regard to the request that the Commission obtain and serve the Justice Department documents, the Commission lacks jurisdiction to grant such relief. This motion of the Aamodts is therefore denied.

Next, the Commission has decided to refer to the Appeal Board the Aamodts' motion to reopen the record in the restart proceeding. The Appeal Board has pending before it the review of the Licensing Board's

decision on management competence. Therefore, it is more appropriate that the Appeal Board consider the motion to reopen.

Finally, the Commission notes that the NRC staff in its comments stated that it was "revalidating" its position on management competence. More detail is provided in an exchange of correspondence between Chairman Palladino and the Executive Director for Operations dated April 22, 1983 and April 26, 1983, copies of which have been previously served on the parties in this proceeding. The Commission directs the staff to inform the Commission of the results of that "revalidation" by May 6.

Commissioner Roberts did not participate except as specified in the Order.

It is so ORDERED.



For the Commission

  
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JOHN C. HOYLE  
Acting Secretary of the Commission

Dated at Washington, D.C.

this 5<sup>th</sup> day of May, 1983.