

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

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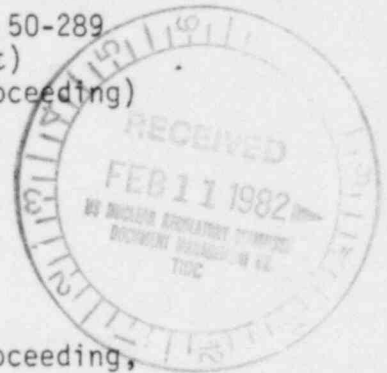
Before Administrative Judge Gary L. Milhollin as Special Master

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In the Matter of)
METROPOLITAN EDISON COMPANY)
(Three Mile Island Nuclear)
Station, Unit 1))

Docket No. 50-289
(Restart)
(Reopened Proceeding)

MEMORANDUM AND ORDER
DENYING MOTION TO STAY THE HEARING



Norman and Marjorie Aamodt, who are intervenors in this proceeding, moved on December 10, 1981, to stay the evidentiary hearing. They wished to have the hearing stayed pending an investigation of allegedly inappropriate communications between Licensee's counsel and certain witnesses. The motion was made on the record while the hearing was in progress. The Licensee, the NRC Staff, and the Commonwealth of Pennsylvania opposed the motion and stated their reasons on the record. The motion was then denied from the bench. (Tr. 26,788 to 26,799).

The Aamodts now request, by a written motion dated January 8, 1982, that the denial be reconsidered. Also, in the event that the motion is not granted after reconsideration, they request that the motion be certified to the Atomic Safety and Licensing Board.

The motion was denied on December 10 because the relief requested, which was a stay of the hearing pending a collateral proceeding on the conduct of Licensee's counsel, was entirely disproportionate to the facts upon which the relief was sought. The facts consist of one communication, which occurred when Licensee's counsel informed two sequestered witnesses of the testimony

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of a third witness who had been presented by the NRC Staff. This third witness was not sequestered. The Licensee's counsel based his action upon his desire to obtain information useful in cross examination and upon his interpretation of the order sequestering witnesses (Special Master's Sequestration Order of November 12, 1981). I am still of the opinion that Licensee's counsel acted in good faith, and according to an interpretation of the Sequestration Order which does not violate its literal terms. Nothing in the Aamodts' motion for reconsideration causes me to change my mind.

With respect to the Aamodts' additional motion to certify this question to the Licensing Board, it is obvious that the Aamodts have not met the requirements for interlocutory appeal set out in 10 CFR §2.730(f). Those requirements were adopted by the Licensing Board for this proceeding (Licensing Board's Memorandum and Order of September 14, 1981).

For the reasons stated previously on the record, and those stated above, both of the Aamodts' motions are hereby denied.

IT IS SO ORDERED.

Gary L. Milhollin
Gary L. Milhollin
ADMINISTRATIVE JUDGE *by G*

Dated at Bethesda, Maryland
this 9th day of February, 1982