

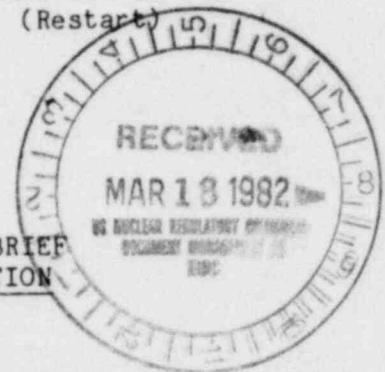
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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

Docket No. 50-289  
(Restart)

UCS MOTION FOR EXTENSION OF TIME FOR FILING BRIEF  
ON EXCEPTIONS AND FOR WAIVER OF PAGE LIMITATION



On Saturday, March 13, 1982, the Union of of Concerned Scientists hand-delivered to the Appeal Board copies of the "Union of Concerned Scientists' Brief on Exceptions to the Partial Initial Decision of December 14, 1981" and "Motion for Extension of Time to Complete Briefing Exceptions." UCS had communicated with both the NRC Staff counsel and counsel for the Licensee on Friday, March 12 and offered to deliver copies to both on Saturday. Both responded that delivery on Monday, March 15, would be as good.<sup>1/</sup>

The Chairman of the Appeal Board lodged the brief but did not file it, consistent with the procedure described in an Appeal Board Order dated March 5, 1982 in Sothern California Edison Co., et.al. (San Onofre Nuclear Generating Station, Units 2 and 3), Docket Nos. 50-361 OL, 50-362 OL. That Order cites 10 CFR Part2, Appendix A as follow:

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<sup>1/</sup> - The staff counsel's copy and all other copies for NRC personnel were delivered to the Appeal Board Chairman on Saturday, March 13, for delivery via NRC's internal mail system. Licensee's copy was hand delivered to its counsel's office prior to 9:00 AM Monday, March 15.

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(3) There must be strict compliance with the time limits prescribed for the filing of exceptions or briefs by the rules of practice or by an order of the Appeal Board which extends or shortens those limits in a particular case. Absent a showing of extraordinary and unanticipated circumstances, motions for [extensions] of time must be received by the Appeal Board at least 1 day prior to the date upon which the document in question is then due for filing. In no circumstances will a document be accepted by the Appeal Board on an untimely basis unless it is accompanied by a motion for leave to file it out of time, which similarly must be founded upon extraordinary and unanticipated circumstances. Exceptions and briefs which in form or content are not in substantial compliance with the requirements imposed by the rules of practice are subject to being stricken."

The order calls for a motion addressing "extraordinary and unanticipated circumstances why an extension of time was not sought by [the day preceding the due date of the brief], and why the brief should be accepted on an untimely basis."

At the time the brief and motion were delivered, Counsel for UCS believed that a document could be timely under NRC rules if hand delivered within 5 days after the running of the prescribed time period, and therefore, that these papers would be timely. Counsel has since re-read 10 CFR 2.710. The rule covers only time periods beginning with a notice or paper served by mail, which presumably does not cover this situation. Counsel for UCS did not recall this distinction.

As explained in our motion for extension of time to complete briefing exceptions, UCS counsel has only been back from maternity leave since March 3, 1982. Before that time, she was able to work from home for short periods of time only. The demands on Counsel's time for this proceeding and other NRC cases have been extraordinary in the past two months and have come at a time when the requirements for caring for an infant have made it impossible to spend extended hours in the office.

Counsel expected to be able to complete this brief within the prescribed time, although it was extremely short. That expectation was, in retrospect,

unrealistic. It has taken 64 pages to brief 55 exceptions, which indicates the magnitude of the task. We have never before been involved in a proceeding with so many complex technical issues, nor in a proceeding in which we were before three NRC tribunals (Licensing Board, Appeal Board, and Commission) simultaneously. The portion of the decision on design-related contentions alone is 327 pages in length. UCS's proposed findings are over 250 pages. The points of difference between UCS and the Board have frequently required elucidation in some depth since they are often not well outlined in the decision. Indeed, many exceptions go to the fact that pertinent UCS evidence has not been mentioned at all in the decision.

The safety issues arising out of the TMI-2 accident present in our view the most significant technical issues to be tried in the adjudicatory context in a great many years, if not ever. UCS has presented direct evidence -- a rarity on issues of design -- conducted extensive cross-examination and prepared lengthy and detailed findings. Indeed, the fact that there is a record in this case on design issues is overwhelmingly due to UCS's efforts. Counsel's error in mis-recollecting the provisions of 10 CFR 2.710 and in underestimating the effort required to brief these exceptions should not be permitted to bring that effort to naught.

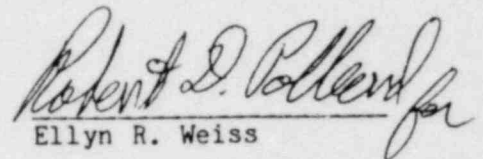
Finally, no other party will be harmed by extending the time for briefing. TMI-1 is not and will not be for many months ready to operate and the Appeal Board is likely to have its time occupied until April 5 in considering the 55 exceptions which have already been briefed.

For the above reasons, UCS requests:

1. that the "Union of Concerned Scientists Brief on Exceptions to the Partial Initial Decision of December 14, 1981" be accepted for filing.
2. that UCS be granted until April 5, 1982 to complete briefing its exceptions, including the table of contents and table of cases required by the rules.

3. that the 70-page limit on briefs in support of exceptions be waived and that UCS be permitted 125 pages.

Respectfully submitted

  
Ellyn R. Weiss

Harmon & Weiss  
1725 I Street, N.W.,  
Suite 506  
Washington, D.C. 20006

Counsel for Union of  
Concerned Scientists

DATED: March 16, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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METROPOLITAN EDISON COMPANY )  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "UCS MOTION FOR EXTENSION OF TIME FOR FILING BRIEF ON EXCEPTIONS AND FOR WAIVER OF PAGE LIMITATION" have been served on the following persons by deposit in the United States mail, first class postage prepaid, this 16th day of March 1982.

\* Nunzio Palladino, Chairman  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\* Victor Gilinsky, Commissioner  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\* Peter Bradford, Commissioner  
U. S. Nuclear Regulatory  
Commission  
Washington D.C. 20555

\* John Ahearne, Commissioner  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\* Thomas Roberts, Commissioner  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\* Ivan W. Smith, Chairman  
Atomic Safety and Licensing  
Board Panel  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Walter H. Jordan  
Atomic Safety and Licensing  
Board Panel  
881 West Outer Drive  
Oak Ridge, Tennessee 37830

Dr. Linda W. Little  
Atomic Safety and Licensing  
Board Panel  
5000 Hermitage Drive  
Raleigh, North Carolina 27612

Professor Gary L. Milhollin  
1815 Jefferson Street  
Madison, Wisconsin 53711

\*\* Judge Gary J. Edles,  
Chairman  
Atomic Safety and Licensing  
Appeal Board  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\*\* Judge John H. Buck  
Atomic Safety and Licensing  
Appeal Board Panel  
U. S. Nuclear Regulatory  
Commission  
Washington D.C. 20555

\*\* Judge Christine N. Kohl  
Atomic Safety and Licensing  
Appeal Board Panel  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555



\*\* Judge Reginald L. Gotchy  
Atomic Safety and Licensing  
Appeal Board Panel  
U. S. Nuclear Regulatory  
Commission  
Washington D.C. 20555

Mrs. Marjorie Aamodt  
R.D. #5  
Coatsville, Pennsylvania 19320

Robert Adler, Esq.  
Assistant Attorney General  
505 Executive House  
P.O. Box 2357  
Harrisburg, Pennsylvania 17120

Louise Bradford  
Three Mile Island Alert  
325 Peffer Street  
Harrisburg, Pennsylvania 17102

Walter W. Cohen, Esq.  
Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, Pennsylvania 17127

Jordan D. Cunningham, Esq.  
Fox, Farr & Cunningham  
2320 North Second Street  
Harrisburg, Pennsylvania 17110

Thomas J. Germaine, Esq.  
Deputy Attorney General  
Division of Law - Room 316  
1100 Raymond Boulevard  
Newark, New Jersey 07102

Dr. Judith H. Johnsrud  
Dr. Chauncey Kepford  
Environmental Coalition on  
Nuclear Power  
433 Orlando Avenue  
State College, PA 16801

\*\*\* William S. Jordan, III  
Harmon & Weiss  
1725 Eye St., N.W., Suite 505  
Washington, D.C. 20006

John A. Levin, Esq.  
Assistant Counsel  
Pennsylvania Public Utility  
Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17120

Mr. Marvin I. Lewis  
6504 Bradford Terrace  
Philadelphia, PA 19149

Ms. Gail B. Phelps  
245 West Philadelphia Street  
York, Pennsylvania 17404

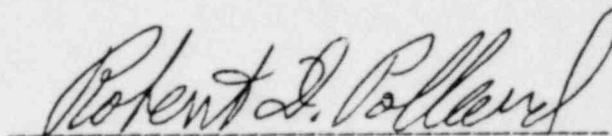
Mr. Robert Q. Pollard  
609 Montpelier Street  
Baltimore, Maryland 21218

\*\*\* Mr. Steven C. Sholly  
Union of Concerned Scientists  
1346 Connecticut Ave., NW  
Washington, DC 20036

\* Counsel for NRC Staff  
Office of Executive Legal  
Director  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

\*\*\* George F. Trowbridge, Esq.  
Shaw, Pittman, Potts &  
Trowbridge  
1800 M Street, N.W.  
Washington, D.C. 20036

\* Docketing and Service Section  
Office of the Secretary  
U. S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555



\* Hand delivered to 1717 H St.,  
NW, Washington, D.C.

\*\* Hand delivered to 4350 East-  
West Highway, Bethesda, MD

\*\*\* Hand delivered to indicated  
address.