

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)
METROPOLITAN EDISON COMPANY, ET AL.)
(Three Mile Island, Unit 1))

Docket No. 50-289
(Restart)

NRC STAFF RESPONSE TO AAMODT MOTION
FOR EXTENSION OF TIME TO FILE BRIEF

Mary E. Wagner
Counsel for NRC Staff

September 9, 1982

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I. INTRODUCTION

By motion dated September 3, 1982, intervenor Marjorie M. Aamodt moved the Appeal Board to, in essence, suspend the briefing schedule on the management issues in this restart hearing. Aamodt Motion for Extension of Time to File Brief, dated September 3, 1982 (Aamodt Motion). The basis for that motion is a reported incident of uncontrolled radiation worker training examinations and answers, discussed in a recent Board Notification (BN-82-84 (August 17, 1982)). In an attached motion filed with the Licensing Board, the Aamodts seek a reopening of the record and hearing on this matter. Before the Appeal Board, they seek deferral of briefing "until this matter is resolved."

By Order dated September 7, 1982, the Appeal Board ordered any parties having objection to the Aamodt Motion to so inform the Appeal Board in writing by close of business, September 9, 1982. In accordance with that Order, the Staff hereby submits its response to the Aamodt Motion.

II. DISCUSSION

The Staff believes the Aamodts' motion to reopen has no present merit.^{1/} Assuming, arguendo, that they are able to meet the standards for reopening the record, there is no reason why the briefing of exceptions cannot continue as scheduled. As the Aamodts point out in their motion to reopen, the issue of integrity of radiation worker permit tests--the subject of the recent Board Notification--is the subject of only two Aamodt exceptions, numbers 160 and 161. The Aamodts have filed a total of 225 exceptions on management issues. They make no attempt to relate their supposed inability to brief these two exceptions to the request to defer briefing on the other 223 exceptions.

If additional evidence relevant to Aamodt exceptions 160 and 161 is adduced at a reopened hearing session, there would be the future opportunity for an appeal and supporting brief from the resultant Licensing Board decision on the reopened issues. Neither the Aamodt Motion to the Appeal Board, nor its attached motion to reopen filed with the Licensing Board, contains any reason that would support a suspension of the briefing of any exceptions.

Very little attempt is made to show why Aamodt exceptions 160 and 161 cannot presently be briefed. The Aamodts cite Board Notification BN-82-84, which shows that an individual Licensee employee on one occasion failed to assure the security of radiation worker training examinations. While the Staff does not wish to minimize the importance of security of

^{1/} The Staff's position on the merits of the Aamodt motion to reopen, filed with the Licensing Board, will not be addressed in this brief, which deals solely with the motion to suspend briefing now before the Appeal Board.

these training examinations, it is not adequate reason to disrupt the scheduled briefing of these two exceptions. Aamodt exception 160 asserts error in the Licensing Board's finding that there was "no evidence" of "looseness" in Licensee's administration of Radiation Worker Permit tests.^{2/} The Aamodts believe there was evidence of looseness introduced at the hearing, and should brief this exception at this time, citing to such "evidence" on which they rely. As mentioned above, if a reopened record were to adduce additional information helpful to the Aamodts, there will be future opportunity for briefing at that time. Similarly, the briefing of Aamodt exception 161 need not be delayed. That exception objects to the Special Master's declining to hear testimony of a former Licensee employee on the grounds that he was not a credible witness.^{3/} The briefing of that exception should not be affected by any additional facts uncovered if the record were reopened to take testimony on the incident that was the subject of the Board Notification, since the rejected witness was in no way involved in that incident.

In sum, the Staff believes that the Aamodts' motion has no present merit, based as it is on an isolated incident involving one Licensee employee.^{4/} On the other hand, even if the record were to be reopened the briefing of all issues should continue as scheduled. If additional

^{2/} Aamodt Exceptions to the Board's Partial Initial Decision (Reopened Proceeding), July 27, 1982, at 10.

^{3/} Id.

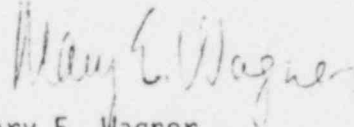
^{4/} As stated on page 17 of the Staff's inspection report (attached to the Aamodt motion to reopen), the NRC inspector has determined that "adequate corrective measures have been taken or planned to resolve both the specific problems identified . . . and the more general issues raised by licensee's review."

information is introduced at a reopened hearing, an additional briefing opportunity would be present at that time. However, at this point the Aamodts have shown no valid reason for disrupting the briefing on Aamodt exceptions 160 and 161, much less on their other 223 exceptions in this case.

III. CONCLUSION

For the reasons set forth above, the Aamodt Motion for Extension of Time to File Brief should be denied.

Respectfully submitted,



Mary E. Wagner
Counsel for NRC Staff

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

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO AAMODT MOTION FOR EXTENSION OF TIME TO FILE BRIEF" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, or, as indicated by double asterisks, by hand delivery, this 9th day of September, 1982:

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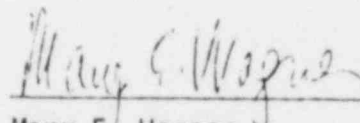
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