



# ADJUDICATORY ISSUE

October 3, 1983

(Affirmation)

SECY-83-406

COMMISSION LEVEL  
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For: The Commission

From: Herzel H. E. Plaine, General Counsel  
John E. Zerbe, Director, OPE

Subject: REVIEW OF ALAB-729 -- IN THE MATTER OF  
METROPOLITAN EDISON COMPANY

Facility: Three Mile Island Nuclear Station, Unit No. 1

Purpose: To discuss the Appeal Board's hardware/design  
decision in the TMI-1 restart proceeding and  
to recommend that

EX 5

Review Time Expires: October 24, 1983, as extended.

Petitions for Review: Union of Concerned Scientists

Discussion: The Appeal Board in the Three Mile Island, Unit 1 (TMI-1) restart proceeding in ALAB-729 issued its decision on the hardware/design issues and the separation of Units 1 and 2.<sup>1</sup> The Appeal Board, which imposed five additional

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PDR FGIA  
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<sup>1</sup>No party raised before the Appeal Board any issue concerning the separation of Units 1 and 2, and the Appeal Board did not explicitly address the matter.

EX 5

See Memorandum from F. Remick to Commission, "OPE Analysis of December 14, 1981 Partial Initial Decision on TMI-1 Restart: Hardware, Separation of Units 1 and 2, and Emergency Planning Issues" (June 8, 1982).

CONTACTS:  
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Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 5  
FOIA- 92-436

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conditions on restart<sup>2</sup> was "satisfied with the reliability of those systems, structures and components ... examined in this proceeding except that the reliability of the feed and bleed process has not been adequately proven...." Slip Op. at 175. The feed and bleed issue did not affect the Appeal Board's finding in favor of restart because the Appeal Board found that feed and bleed was unnecessary for resolution of issues within the scope of the proceeding. The Appeal Board [ ] EX-5 further added, however, that "[i]n light of

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<sup>2</sup>Those conditions were:

1. Until the EFW system is fully safety-grade, an auxiliary operator shall be dispatched to the EFW flow control valve area, upon any EFW auto-start condition, without other assigned duties than to take manual control of the valves, if needed;
2. Prior to connection of the pressurizer heaters to the emergency diesel generators at TMI-1, the reactor shall be subcritical or in a hot standby condition;
3. Until the backup display system for the incore thermocouples is fully safety-grade, TMI-1 emergency procedures shall direct the operators to rely on the redundant indication closest to saturation in determining if criteria to permit throttling the HPI have been met and the display system's environmental qualification program shall be completed in accordance with the schedule established by the Commission;
4. If the test of the connection of the pressurizer heaters to the diesel generators causes a short circuit or other disability of the emergency power supply, the NRC staff must advise the Commission and indicate contemplated corrective actions;
5. Licensee shall submit to the Commission prior to restart a proposed long-term solution to the steam generator bypass logic problem.

the bifurcation of issues between the adjudicatory boards and the Commission, only the Commission can determine -- after examining all systems and considering information within and outside this record -- whether there is reasonable assurance that [TMI-1] can be operated without endangering the health and safety of the public." Id. at 177.

OGC  
which it believes  
OGC recommends

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EX =

We believe

further that,

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OGC recommends  
believe that

we

EX =

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<sup>4</sup>Both in this paper and the attachments OGC is responsible for the legal discussions and opinions while OPE is responsible for the technical discussions and opinions. We have tried to reflect this in our use of the terms "we", "OGC" and "OPE". OGC has deferred to OPE on technical matters, while OPE has deferred on legal issues.

EX.5

Hence, OGC recommends that

We believe

It is our belief that,

We believe that,

[

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We believe

[

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*Herzel H. E. Plaine*  
Herzel H. E. Plaine  
General Counsel

*J. E. Zerbe*  
John E. Zerbe  
Director, OPE

## Attachments:

1. Detailed Analysis of Principal Issues Which Merit Review
2. Other Issues in ALAB-729 Not Requiring Review
3. Order

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Tuesday, October 18, 1983.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Tuesday, October 11, 1983, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of October 17, 1983. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

## DISTRIBUTION:

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ATTACHMENT 1

ATTACHMENT 2



ATTACHMENT 3