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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'82 OCT 19 AIO:50

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
METROPOLITAN EDISON COMPANY) Docket 50-289 SP
(Three Mile Island Nuclear)
Generating Station, Unit 1))

AAMODT MOTION TO FILE BRIEF OUT OF TIME

The Appeal Board ordered that parties brief exceptions to the Atomic Safety and Licensing Board's August 27, 1981 and July 27, 1982 Partial Initial Decisions by service on September 30, 1982. The Aamodts were not able, due to unexpected circumstances, to file their brief until October 2, 1982.

Our situation was, at the time the parties were discussing the deadline for briefs, that we did not have time until after the end of October to devote to our brief. We did not consider motioning for such a lengthy extension, because we did not believe that there was any chance that it would be granted. We decided, instead, to alter our own schedules to provide time to meet whatever deadline the Appeal Board set.¹

We adjusted our schedules to prepare our brief, however two unanticipated circumstances interfered. One was the use of an area which we normally used for our intervention being needed by others. This demand was unexpected, however it

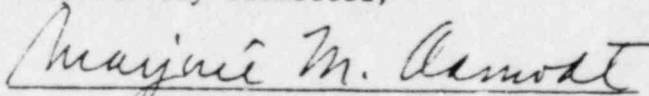
¹ Our motion of September 6 in response to TMIA's motions of September 1, 1982 mentioned September 30 because TMIA's representative Louise Bradford told us that she wanted an extension until that date. We did not intend to influence the Appeal Board in any choice of date in their response to TMIA's motions.

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caused us to work "after hours" and longer hours. We considered asking for an extension on Monday, September 27, however I was not well that day and we simply did not know how to estimate what time we would need. I was able to work on Wednesday and Thursday and anticipated completing the brief on Thursday evening in time to post it at an "around-the-clock" post office in Lancaster on that day. Final preparations carried past midnight, and the sudden death of a neighbor the following day, not only delayed completion of preparations for mailing but distracted my attention from notifying the Appeal Board. On Saturday, October 2, I was able to complete the brief and to make arrangements for hand-delivery in Washington. The first move was to notify the Appeal Board on Monday, October 4 and to check with our carrier. We understand that delivery was made to NRC offices and other parties in Washington, D. C. by 10 a. m. on October 4, 1982.

We motion that our brief be accepted for the following reasons: We worked as diligently as possible to meet the Appeal Board's deadline. We did not anticipate on the days immediately preceding the deadline that we would not make the deadline. We were unexpectedly distracted the day following the deadline. There was no delay to any party in receipt of the document over the five days allowed for service.³ NRC practice and procedure does not consider a two or three day delay in service of a brief over a weekend substantial noncompliance if there are satisfactory reasons for failure to submit a motion for an extension of time. NUREG-0386, 5.2(1), page 65. The NRC practice indicates that the filing must be accompanied by a motion for leave to file out of time. We attached such an explanation to our brief.

Respectfully submitted,



Marjorie M. Amodeo

² With the exception of the Licensee, whose copy was inadvertently left behind, but expressed mailed that same day.

³ Harrisburg-based parties were served by over-night postal delivery.

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This is to certify that AAMODT MOTION TO FILE BRIEF OUT OF TIME
was served on the parties on the attached Service List on October 9, 1982
by deposit in U. S. Mail first class.

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BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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In the Matter of)

METROPOLITAN EDISON COMPANY)

(Three Mile Island Nuclear
Generating Station, Unit 1))

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Docket 50-289 SP

OFFICE OF SECRETARY
DOCKETING & SERVICE
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- Administrative Judge Gary J. Edles
Chairman, Atomic Safety and Licensing
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Washington, D.C. 20555
- Administrative Judge John H. Buck
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
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- Administrative Judge Christine N. Kohl
Atomic Safety and Licensing Appeal Board
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