

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'83 MAR 21 P5:11

COMMISSIONERS:

Nunzio J. Palladino, Chairman  
Victor Gilinsky  
John F. Ahearne  
Thomas M. Roberts  
James K. Asselstine

SERVED MAR 22 1983

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

Docket No. 50-289 SP

ORDER

CLI-83-7

On October 22, 1982 the Atomic Safety and Licensing Appeal Board issued ALAB-698, dealing with emergency preparedness at Three Mile Island, Unit 1 (TMI-1). After examining that decision and the petitions for review,<sup>1/</sup> the Commission has decided to review two issues in that decision.<sup>2/</sup> The first issue is whether the responsibility for

---

<sup>1/</sup> The NRC staff and the Commonwealth of Pennsylvania both filed petitions for review. The Commonwealth subsequently reached agreement with the Licensee and withdrew its petition.

<sup>2/</sup> The Commission notes that staff is already evaluating the methodologies for predicting radiation releases, as recommended by the Appeal Board.

radiological assessment and making protective action recommendations can reside in the Emergency Director in the control room during the first four hours after declaration of an emergency. The Commission is requesting briefs from the parties on this issue. The NRC staff has thirty days from the date of this Order to provide its brief. The Commonwealth of Pennsylvania may also file a brief within this time period if it so desires. The licensee has thirty days thereafter to file a response brief, and the NRC staff and Commonwealth have fifteen days thereafter to file reply briefs. No other party participated in this issue, hence the filing of briefs will be limited to the parties listed above.

The second issue deals with the Appeal Board's action in requiring the NRC staff prior to restart to modify and complete, in accord with ALAB-698, the NRC's final emergency response plans and provide them to the licensee and Commonwealth. The NRC TMI program office and NRC Region I have now developed consistent emergency response plans and procedures, which appear to satisfy many of the Appeal Board's concerns regarding the NRC's emergency response plans. However, some of the issues regarding the NRC's emergency plans may require additional Commission action before they can be deemed to be finalized. The Appeal Board raised this issue sua sponte; no party raised it before either the Appeal Board or the Commission. Nor was it one of the Commission's concerns in CLI-79-8, 10 NRC 141 (1979). The Commission, recognizing that this issue has been raised by the Appeal Board rather than a party and that it is an issue common to all plants, has decided that this issue would be more appropriately addressed as a generic matter in the

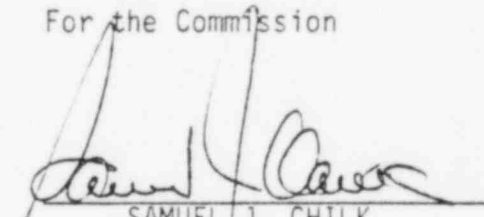
overall consideration of NRC emergency response plans, rather than as an issue within this proceeding. The Appeal Board's condition is therefore vacated.

Commissioners Gilinsky and Asselstine dissent in part from this Order. They would not have vacated the Appeal Board's requirement that prior to restart NRC staff modify and complete the NRC's final emergency response plans and provide them to the licensee and Commonwealth. The separate views of Commissioners Gilinsky and Asselstine and the additional comments of Commissioner Ahearne are attached.

It is so ORDERED.



For the Commission



SAMUEL J. CHILK  
Secretary of the Commission

Dated at Washington, D.C.

this 21<sup>st</sup> day of March, 1983.

Additional Comments of Commissioner Ahearne

Commissioners Gilinsky's and Asselstine's separate views appear to miss the mark. The Commission specifically notes that the NRC TMI program office and NRC Region I have now developed emergency response plans and procedures, which appear to satisfy many of the Appeal Board's concerns regarding the NRC's emergency response plans. The Appeal Board also raised the issue that the staff may not fully understand its role in making protective action recommendations, possibly failing to recognize licensee's primary responsibility in this area. However, the Commission recently approved a new manual chapter (Chapter 0502, "NRC Incident Response Plan") which describes the NRC's role in an emergency. This applies to TMI as well as to any plant. To the extent that additional issues remain, they are generic, i.e., how does the NRC interact with any plant. There may well be no further issues remaining. But to the extent there are, the Commission itself will address them in its ongoing review of how to handle emergencies.

SEPARATE VIEWS OF COMMISSIONERS GILINSKY AND ASSELSTINE

In vacating the Appeal Board's decision that, prior to restart, the NRC Staff must complete the NRC's emergency response plan for TMI-1 and provide this plan to the Commonwealth of Pennsylvania and GPU, the Commission has decided not to be as demanding of itself as of its licensees. This does not set a very good example.