

December 29, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

DOCKETED  
USNRC

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

'82 DEC 29 P3:44

Docket No. 50-289  
(Restart) SERVICE  
BRANCH

LICENSEE'S RESPONSE TO UCS REQUEST FOR  
EXTENSION OF TIME TO PROVIDE COMMENTS ON  
COMMISSION MEETING OF DECEMBER 17, 1982

In a memorandum, dated and served on December 20, 1982, to counsel for parties to the TMI-1 Restart proceeding, the Secretary of the Commission transmitted a copy of the transcript of the December 17, 1982 Commission meeting regarding TMI-1, and the accompanying handouts. The memorandum states that "[t]he Commission has directed that the parties to the TMI-1 Restart Proceeding have until December 30, 1982 to submit comments on the matters discussed at this meeting."

On December 27, 1982, the Union of Concerned Scientists filed a request to extend the deadline for submitting comments on the Commission meeting to January 7, 1983. For the following reasons, Licensee opposes the UCS request.

UCS argues that the time allotted for the preparation of comments is insufficient because: (1) the issues are new and UCS must find and analyze the Staff's generic letter on the seismic qualifications of emergency feedwater systems and the six responses by Licensee; and (2) counsel for UCS was not

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available from December 24 to 28, and much of the available time has been consumed in the preparation of a petition for review of ALAB-705. Neither of the UCS arguments provides a sufficient basis for an extension of time.

The issue of the seismic qualification of the TMI-1 EFW system was not new to UCS at the time of the Commission's meeting of December 17. UCS was served earlier with a copy of the Staff's notification to the TMI-1 Appeal Board, dated November 22, 1982 (BN-82-118), on the seismic capability of the TMI-1 EFW system.<sup>1/</sup> Consequently, if UCS had been genuinely interested in pursuing the matter, and felt the need to obtain copies of the Staff's letter and Licensee's responses, there was ample time to undertake that effort prior to the issuance of ALAB-705, the Appeal Board's decision on environmental issues, which was served on December 13, 1982.<sup>2/</sup>

Further, Licensee questions whether the absence of counsel for UCS and the demands of preparing a petition for review of

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1/ BN-82-118A, dated December 9, 1982, transmitted to the Commission the same Technical Evaluation Report by Livermore, and the same Staff memorandum from Miraglia to Lainas (November 3, 1982), which had been served earlier on the Appeal Board and the parties, including UCS.

2/ In addition, UCS was made aware of the status of seismic qualification of the TMI-1 EFW system during hearings before the Licensing Board in November, 1980. See Licensee Ex. 15, Table 1, at 1 (an evaluation of the system against the General Design Criteria). UCS cross-examined witnesses for Licensee on that evidence. See Tr. 5844-5851. Similar evidence was presented by the Staff in March and April, 1981 (Wermeil and Curry, ff. Tr. 16,718, at 24), which also was the subject of cross-examination by UCS. See Tr. 16,894-16,896. While UCS presented one proposed finding to the Licensing Board on this subject (Proposed Finding of Fact 447, June 12, 1981), UCS did not pursue the matter in exceptions filed with the Appeal Board.

ALAB-705,<sup>3/</sup> which raises purely legal questions on the application of NEPA, would interfere with preparation of the instant comments -- which no doubt are being prepared, at least initially, by the UCS technical staff. In any case, UCS has had well over one month to conduct whatever research it desired on Board Notification 82-118. There is no reason why UCS should have awaited the Commission meeting of December 17, which was attended by UCS staff and counsel, or the receipt of the transcript of that meeting, to begin to explore the issues raised in the Board Notification.

Finally, UCS offers no excuse for waiting until nearly the last minute to seek an extension of time. The comment schedule was discussed at the Commission meeting of December 17, which UCS attended, and UCS acknowledges receipt of the Secretary's memorandum on December 21. The untimeliness of the request itself therefore constitutes sufficient basis to deny the request.

In conclusion, the UCS request for extension of time should be denied. UCS has not demonstrated good cause for its request, implicit in which is the expectation that the Commission's decision on the immediate effectiveness of the Licensing Board's Initial Decision would await receipt and consideration of the UCS comments. Unwarranted delay to the

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<sup>3/</sup> The UCS Petition for Review of ALAB-705 was filed on December 28, 1982.

issuance of this important decision by the Commission should not be tolerated.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

*Thomas A. Baxter*

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Licensee's Response to UCS Request for Extension of Time to Provide Comments on Commission Meeting of December 17, 1982" were served this 29th day of December, 1982, by hand delivery to the parties identified with an asterisk and by deposit in the U.S. mail, first class, postage prepaid, to the other parties on the attached Service List.

Thomas A. Baxter  
Thomas A. Baxter, P.C.



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