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October 21, 1983

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Mr. Harold R. Denton
Director, Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Mail Stop p-428
Washington, DC 20555

Dear Mr. Denton:

We have, of course, been aware of the requirements to report to the NRC, its ASLEs and ASLABs, certain information related to the issues before them. In particular, with regard to the TMI-1 Restart Proceedings, which have now been underway for years, we have made a number of Board Notifications.

However, Mr. Cunningham's memorandum of June 14, 1983 relative to the reportability of the BETA and RHR reports appears to represent a considerably broader interpretation of the reportability requirements than we had understood. In fact, some interpretations of that memorandum would require reporting of very large amounts of information; far more than we believe is the intent of the requirements. Reporting of such large amounts of information could also be counterproductive and tend to obscure the more substantive matters.

We have carefully reviewed that memorandum and the basic laws and regulations to which it refers. In doing so, we also have searched for additional guidance, such as that which the Commission's decision on North Anna, CLI-76-22, on page 489, states will be developed, and have not found any. Based on our review, we have issued guidance to our people by the enclosed memoranda.

To assist us in fulfilling our responsibility please provide us any guidance which exists on this subject and any comments you, or other members of the staff, have on what we have issued.

Very truly yours,

P. R. Clark
Executive Vice President

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Enclosures

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Inter-Office Memorandum

Date July 22, 1983

Subject TMI-1 RESTART PROCEEDINGS:
OBLIGATION TO REPORT TO THE NRC
BETA AND RHR REPORTS



To

Location Headquarters/Parsippany

Directors: Communications
Radiological & Environmental Controls
TMI-1
Administration
Nuclear Assurance
Maintenance & Construction
Technical Functions
Chairman, GORBs

The enclosed memorandum from Guy H. Cunningham, III, Executive Legal Director to Harold Denton discusses the obligations we have to report information to the NRC. It provides Mr. Cunningham's legal opinion as to the general basis for the obligations and the conclusion that we were obliged to provide both the BETA and RHR Reports.

The memorandum seems to define an obligation substantially broader (i.e., encompassing many more documents) than we had understood heretofore.

Further, the obligation relates not only to issues before the ASLB/ASLAB but to other issues before the NRC Staff. A primary consideration in the determination seems to be whether it changes information previously provided.

We have been and will continue to seek clarification of the criteria. In particular, we understand that the Commission in a decision some years ago on a VEPCO matter directed the Staff to develop guidance. We are requesting that guidance.

However, in the interim, the following steps are to be taken:

1. The attached opinion is to be provided to and discussed with your managers and professional staff.
2. TMI-1 Licensing is assigned responsibility to review documents they are aware of and any others brought to their attention and make a determination regarding the obligation to provide.
3. All copies of TMI-1 related documents of the following classes are to be provided to TMI-1 Licensing for review:
 - o QA Audits
 - o Reports of any audit or review by outside organizations
 - o Radiological Assessor Reports
 - o TDRs
 - o GORB Minutes

July 22, 1983

4. Any other document you or your staff considers potentially reportable under the opinion is to be provided to TMI-1 Licensing for review and determination. Your staffs should be particularly sensitive to the need to screen technical correspondence (such as, B&W letters, etc.) for reportability to the Appeal Board or the NRC Staff.

I recognize that this will involve effort and likely result in the formal submittal of more information than in the past—and likely in more than is useful to the NRC. However, in the absence of better guidance, this process should help us and the NRC to reach agreement on criteria.

P. R. Clark (pk)
P. R. Clark
Executive Vice President

pk

Enclosures: Guy H. Cunningham, III, Executive Legal Director
Memorandum Dated June 14, 1983

William J. Dircks, Executive Director for Operations
Memorandum Dated June 22, 1983

cc: Mr. R. C. Arnold, President
Mr. Richard J. Conte, Senior NRC Resident, TMI-1
United States Nuclear Regulatory Commission
PO Box 311
Middletown, PA 17057

blcc: E. Blake, Esquire

Subject: TMI-1 RESTART PROCEEDINGS:
OBLIGATION TO REPORT TO THE NRC
ADDITIONAL GUIDANCE

Date: October 19, 1983

From: P. R. Clark

Location: HQ

To: Distribution

This memorandum provides additional guidance for implementing my memorandum dated July 22, 1983 on the same subject.

Preliminary legal review indicates that for information to be reportable, it must be both "relevant" and "material". Working definitions of these terms are:

Relevant - means to relate to the issue.

Material - means to have probative weight, i.e., reasonably likely to influence the tribunal in making a determination required to be made.

A statement may be relevant but not material.

With regard to the TMI-1 Restart Hearing, the issues can be summarized as follows:

A. Emergency Planning Issues

1. Organization of emergency response organization
2. Accident assessment and dose projection
3. Public education, warning and emergency instructions
4. Protective action and decision making
5. Training drills and audits
6. Facilities

B. Management Issues

1. Organization (GPUN Corporate and TMI-1)
2. Training of licensed and non-licensed operator (content, administration and facilities)
3. Maintenance (Safety Related)
4. Safety review and operational advice
5. Quality Assurance
6. Key personnel
7. Operating experience review

C. Plant Modification/Design Issues

Modifications to the plant design described in the TMI-1 Restart Report and/or the ASLB Partial Initial Decision on Plant Design and Procedures and Separation Issues.

Relevance and Materiality relative to the Restart Hearing should then be judged against those issues and the Hearing Record on them.

For any other item where we have a pending issue before the NRC (such as a license amendment) the relevancy and materiality are to be measured against the particular licensing conditions involved and the basis for them.

While each document must be reviewed by the cognizant people, preliminary review of a variety of documents indicates:

- I. Documents with the greatest likelihood of being reportable and the position responsible to assure initial review and determination of reportability are:
 1. QA Audits, QDRs - Responsibility - Director, QA
 2. Reports of any audit or review by outside organizations (except internal financial audits) - Responsibility - Division Director
 3. Radiological Assessor Reports - Responsibility - Manager, Rad Con, TMI-1
 4. Documented Differing Professional Opinions - Responsibility - Department Director
 5. TDRs - Responsibility - Director, Technical Functions
 6. GORB Developed Document - Responsibility - Chairman, GORBs
 7. B&W Letters or other outside correspondence - Responsibility - Director, Engineering Projects and Director, Engineering & Design

For documents in Category I developed hereafter, there should be a means provided to show on the document that reportability has been evaluated. A stamp with space to initial as "Not Reportable", "Reportable", or "Referred to Licensing" would be one such means.

II. Documents less likely to be reportable include:


1. Normal working papers - Procedures, Analyses, Specifications, Drawings, etc.
2. Limited scope items - MNCRs, receiving reports, etc.
3. Preliminary Safety Concerns
4. Draft documents where a final is reasonably expected in a short time.

The preparer and his line management are responsible to make the initial determination of reportability.

TMI-1 RESTART PROCEEDINGS:
OBLIGATION TO REPORT TO THE NRC
ADDITIONAL GUIDANCE

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Where the review described above shows some indication of reportability, the document should be forwarded to the Licensing and Regulatory Affairs Department for final determination. Documents in Types 11-14 should be sent to TMI-1 Licensing (C. W. Smyth) and all others sent to PWR Licensing in Parsippany (J. S. Wetmore). The area of concern should be clearly identified.



P. R. Clark
Executive Vice President

pfk

DISTRIBUTION

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