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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

Nunzio J. Palladino, Chairman
Victor Gilinsky
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal

OFFICE OF SECRETARY
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SERVED JUN 4 1984

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

Docket No. 50-289 SP
(Restart)

ORDER

The Commission in a January 27, 1984 Memorandum For the Parties to the TMI-1 Restart Proceeding set forth its tentative plan for issuing a restart decision. The Commission in that Memorandum stated that it would issue a tentative draft decision on the management issues for comment by the parties, to be followed by a final decision on the management issues, and that it hoped to issue a decision on whether to lift the immediate effectiveness of the 1979 shutdown orders by June, 1984.

On April 26, 1984 the Commission issued a schedule laying out the necessary steps which had to be completed for the Commission to make a decision on restart in June. That schedule, which called for issuing a draft management order for comment on May 25, 1984, also noted that the Appeal Board's merits review on management was expected early in June.

Finally, the Commission noted that the schedule was optimistic, that

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adjustments might have to be made, and that the parties would be kept informed.

The Appeal Board issued its decision on the management issues, ALAB-772, on May 24, 1984. The Appeal Board, finding the record inadequate to permit an ultimate judgment on licensee's competence, remanded three issues to the Licensing Board for further hearings.

In view of the Appeal Board's decision, the Commission has decided to reconsider its schedule of steps to a decision on restart. The decision has raised the question whether the Commission should proceed with a decision on restart prior to completion of any Commission merits review of ALAB-772. The Commission has therefore decided to request the parties to comment on whether, in view of ALAB-772 and all other relevant information,¹ including investigative reports by the Office of Investigations, the management concerns which led to making the 1979 shutdown orders immediately effective have been sufficiently resolved so that the Commission should lift the immediate effectiveness of those orders prior to completion of review of any appeals from ALAB-772.²

¹Licensee on May 30, 1984 submitted comments arguing that the Commission had sufficient information available to it to lift the immediate effectiveness of the shutdown orders and that the Commission was not confined to the adjudicatory hearing record in making its decision. The parties should address licensee's arguments in their comments.

²The parties should not address hardware issues in their comments. Those issues are being addressed in the context of Commission review of ALAB-729, 17 NRC 814 (May 26, 1983).

Any comments by parties other than the staff must be received by the Commission by the close-of-business on June 15, 1984. The staff has until close-of-business on June 18, 1984 to submit its comments.

In addition, the Commission finds that, in view of the Appeal Board decision, it is no longer necessary to issue a draft management decision for comment.

Accordingly, after reviewing the parties' comments, the Commission will determine whether to issue an effectiveness decision prior to completion of any merits review of ALAB-772.

Commissioner Asselstine dissents from this order. Commissioner Gilinsky abstains.

It is so ORDERED.



For the Commission

A handwritten signature in cursive script, appearing to read "Samuel J. Chilk".

SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this 15th day of June, 1984.