UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	
	)	Docket No. 50-289
(Three Mile Island Nuclear Station, Unit No. 1)	)	(Restart)

COMMONWEALTH OF PENNSYLVANIA'S INITIAL COMMENTS ON THE COMMISSION'S ORDER DATED JUNE 1, 1984

By order dated June 1, 1984, the Commission requested the parties to this proceeding to file comments on whether the Commission should lift the immediate effectiveness of its 1979 shutdown order, prior to completion of the review of ALAB-772 and consideration of other relevant information. The Commonwealth of Pennsylvania files these initial comments and intends, as it has in the past, to file additional comments on or before July 6, 1984, the date that the Commission has set for receipt of comment from the parties to the proceeding.

The Commonwealth of Pennsylvania opposes lifting the immediate effectiveness of the shutdown order. As stated on numerous occasions by Governor Dick Thornburgh, the Commonwealth opposes any vote on rest t of Unit 1 at Three Mile Island ("TMI-1") unless and until adequate funding has been assured to complete the cleanup of radioactive material at the damaged facility at Three Mile Island Unit 2 ("TMI-2"), and unless and until the Commission has provided adequate

assurances that Unit 1 can be operated safely. The Governor's letter to the Commission dated June 14, 1984, reiterates the Commonwealth's position and is incorporated as part of Pennsylvania's Initial Comments.

On July 2, 1979, the Commission ordered that TMI-1 remain in a cold shutdown condition until a hearing could be held to resolve safety concerns. On August 9, 1979, the Commission held that "the unique circumstances at TMI require that additional safety concerns be resolved prior to restart." Commission order dated August 9, 1979 (the "August 9 order"), at 4, CLI 79-4, 10 NRC 141 (1979). Among these concerns were

> questions about the management capabilities and technical resources of Metropolitan Edison, including the impact of the Unit 2 accident on these, [and] the potential effect of operations necessary to decontaminate the Unit 2 facility on Unit 1...

The Commission held that it would not authorize Unit 1 restart until completion of "short-term actions" required to provide adequate protection of the public health and safety.

The Commission specified two required short-term conditions dealing with the licensee's ability to operate Unit 1 while Unit 2 remained in a damaged condition:

> 6. The licensee shall demonstrate his managerial capability and resources to operate Unit 1 while maintaining Unit 2 in a safe configuration and carrying out planned decontamination and/or restoration activities. Issues to be addressed include the adequacy of groups providing safety review and operational advice, the management and technical capability and training of operations staff, the adequacy of the operational Quality Assurance program and the facility procedures, and the capability of important support organizations such as Health Physics and Plant Maintenance.
>
> 7. The licensee shall demonstrate his financial qualifications to the extent relevant to his ability to operate TMI-1 safely.

Id. at 7.

Under the terms of the Commission's order, these conditions must be satisfied before the Commission can vote on TMI-1 restart. If the Commission were to determine at this time that TMI-1 could be restarted, the Commission would be stating to the public that the conditions imposed by the 1979 order are not required and are not important to the public health and safety.

It is clear from the record, and from statements made by the Commission itself, that the operation of TMI-1 with TMI-2 in its present damaged condition would raise two critical safety issues that are tied inextricably to the short-term conditions set forth in the NRC's August 9, 1979 order:

> (1) Is it safe and prudent to authorize restart of Unit 1 while Unit 2 remains uncleansed and there are no assurances that Unit 2 will be decontaminated in the near future?; and
>
> (2) Is it safe and prudent to authorize restart of Unit 1 at a time when there are no assurances of sufficient funding for Unit 2 cleanup or of the financial capability of the licensee to operate Unit 1 while carrying out a decontamination program at Unit 2?

These concerns have not been resolved because there is an impasse in funding the cleanup of TMI-2, caused by the failure of the American electric utility industry to come forward with any funding for the cleanup. The fact that this country's electric utility industry has caused this funding impasse is ironic, since the industry would benefit from the cleanup of Unit 2, and since the industry's trade association, the Edison Electric Institute ("EEI"), promised in September 1981 to contribute $192 million as part of the plan put forward by Governor Thornburgh to share the costs of cleaning up TMI-2.

Since 1981, every other participant in the Governor's Cost-Sharing Plan - the Commonwealth of Pennsylvania, the State of New Jersey, the ratepayers of General Public Utilities Corporation ("GPU"), the United States Government, and GPU's insurance carriers - have contributed to the cleanup. Even the Japanese utility industry responded to the cost-sharing effort by pledging $18 million in contributions. Yet our electric utility industry has not delivered even a portion of its commitment to the cleanup.

The failure of EEI to come forward with cleanup funds has jeopardized the future of the cleanup of TMI-2, including the core removal. Already, the cleanup has been delayed and the original six year cleanup plan has been extended. Without adequate funding for the cleanup of TMI-2, it is inconceivable that Unit 1 can be safely operated under the terms of the

Commission's August 9 order. The demonstrated inability to move forward with the cleanup, even without the added burden of operation of TMI-1, calls into serious question the managerial resources of the licensee. The licensee's capabilities and resources will be strained even more if Unit 1 is allowed to restart while TMI-2 remains in its unsafe and unstable condition without assurance of funding for the cleanup.

The Commission itself, in past public statements, has forcefully acknowledged the safety problems posed by the contaminated facility at TMI-2. In March, 1982, the Commission advised the Chairman of the Senate Subcommittee on Nuclear Regulation by letter that "the potential for slow degradation of containment integrity and equipment capability plus the increasing concern for an unexpected release of radioactive material" argued for a more aggressive and expeditious TMI-2 cleanup program. The Commission has also raised the issue of the increased possibility of accidents involving radiation leakage and subsequent exposure to workers and the public as TMI-2 equipment deteriorates. The possibility of these events raises questions about the ability of the licensee to keep Unit 2 in a safe configuration - an assumption basic to the "short-term" condition in paragraph 6 of the Commission's 1979 order.

The Commission's 1979 order also requires the licensee to demonstrate financial qualifications to the extent relevant to

its ability to operate TMI-1 safely. In earlier Commission guidance, the Commission specified that the issue of the licensee's financial resources to operate Unit 1 while cleaning up Unit 2 was a management competence issue. Harold Denton, the Director of the Commission's Office of Nuclear Reactor Regulation, testified recently that a shortfall of approximately $200 million in firmly committed funding exists for the cleanup of TMI-2 for calendar year 1985 and beyond. This shortfall amounts to nearly 45% of the remaining cleanup costs.[1] This shortfall and resulting delays in the cleanup are certain to affect the financial capability of the licensee to operate TMI-1.

In summary, safety concerns 6 and 7, set forth in the Commission's 1979 order as short-term conditions, have not been satisfied because of the impasse in funding the cleanup of TMI-2 precipitated by EEI's failure to come forward with its share of the cleanup funding. Unless and until these concerns are resolved by removal of the funding impasse, a decision on the restart of TMI-1 would not be consistent with the Commission's own 1979 orders and would not serve the public health and safety.

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[1] Testimony of Harold R. Denton before the Subcommittee on Energy Research and Production, Committee on Science and Technology, United States House of Representatives, May 22, 1984.

For these and additional reasons to be detailed in additional filings, the Commonwealth of Pennsylvania opposes any plan by the Commission to vote to authorize restart of Unit 1 at this time, and requests that the Commission postpone any vote to authorize restart until resolution of these short-term conditions set forth on page 7 of the August 9, 1979 order of the Commission.

Respectfully submitted,

FOR THE COMMONWEALTH OF PENNSYLVANIA

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DATED: June 15, 1984

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	:	

CERTIFICATE OF SERVICE

On this 15th day of June, 1984, I certify that copies of the Commonwealth of Pennsylvania's Initial Comments on the Commission's Order Dated June 1, 1984, are being sent to the persons on the attached Service List by first class mail, postage prepaid.

Maxine Woelfling
MAXINE WOELFLING

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