

October 4, 1984

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket No. 50-289 *SP*
(Restart Remand on
Management)

NRC STAFF'S RESPONSE TO INTERVENOR UNION OF
CONCERNED SCIENTISTS' FIRST REQUEST TO THE EXECUTIVE
DIRECTOR FOR OPERATIONS FOR PRODUCTION OF DOCUMENTS

I. INTRODUCTION

On September 4, 1984, the Union of Concerned Scientists (UCS) submitted to the Licensing Board its First Request to the Executive Director for Operations for the Production of Documents^{1/} and, pursuant to 10 C.F.R. § 2.744, requested the Executive Director to make available the requested documents. The NRC Staff hereby responds to UCS' First Document Request to Staff.

II. DISCUSSION

Section 2.744 of 10 C.F.R., by its terms, authorizes only a request for the production of NRC records or documents "not available pursuant

^{1/} Union of Concerned Scientists' First Request to the Executive Director for Operations for Production of Documents, September 4, 1984 (UCS' First Document Request to Staff).

to § 2.790 by a party," 10 C.F.R. § 2.744(a). Section 2.790(a) makes final NRC records and documents available for inspection and copying in the NRC Public Document Room, subject to an exception where there is a compelling reason for nondisclosure. Section 2.744 recognizes valid Staff objections to a document request

on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably obtainable from another source.

10 C.F.R. § 2.744(b).

While the Staff believes that much of UCS' First Document Request to Staff is objectionable,^{2/} nevertheless, to expedite this proceeding and in an effort to avoid time consuming discovery disputes, the Staff voluntarily provides the following responses to UCS' First Document Request to Staff. As noted below, the Staff declines to answer certain portions of the Document Request, based on recent rulings by this Licensing Board at the September 24, 1984 prehearing conference, which conference was held after UCS' First Document Request to Staff was filed.

^{2/} Pursuant to 10 C.F.R. § 2.744(b), the Staff believes it would be entitled to object to much of UCS' First Document Request to Staff. Many of the requested documents are not relevant and not necessary for a proper decision in this proceeding, and even if they are, many of the documents or the information therein are reasonably obtainable from sources other than the NRC Staff. As evident from our response below, the vast majority of the documents sought by UCS' requests are already public documents, such as NUREG-0680, Supplements 4 and 5, and NRC Inspection Reports. To the extent that the Staff possesses documents responsive to UCS' request, they are by and large those and other public documents.

Definition (a); Instruction A

The Staff objects to the request to provide documents in the possession or under the control of present or former NRC commissioners, former employees, or the Commission's Office of Investigations. The Staff has no authority or control over these persons, and such a discovery request is therefore not authorized by 10 C.F.R. § 2.744. This Licensing Board has ruled (Tr. 27555) that the Staff does not have to contact such individuals in responding to discovery requests.

Document Request 1

In accordance with the recent guidance of the Board, the Staff is engaged in supplementing its responses to UCS' First Set of Interrogatories. See Transcript of Prehearing Conference, September 24, 1984. In the course of preparing its supplemental answers to UCS' First Set of Interrogatories to NRC Staff, the Staff has identified certain documents responsive to Document Request 1. A list of those documents is attached as Attachment A hereto. Many of those documents already have been placed in the NRC Public Document Room in the course of this proceeding. The Staff has requested that the remaining documents identified on Attachment A be placed in the Public Document Room (PDR), in the docket for this case, in a file labelled "Staff Response to UCS' First Request for Production of Documents."^{3/}

^{3/} It is quite possible that some of the documents that will be placed in this file are already part of the public record, but in any instance where the Staff is uncertain whether the document is already in the PDR the Staff has requested that it be placed in the above-described file.

In order to protect the privacy interests of the involved individuals, the Staff, on the document entitled "Power Plant Examination Summary Sheet", has deleted the names of the individual operators which appeared in the far left-hand column, and replaced them with a letter designation. The letter designations were assigned on a purely random basis and, it should be noted, is in no way correlated to the letter designations assigned to individuals in the course of the reopened proceeding on cheating.

Document Request 2

Document Request 2 seeks to obtain documents concerning the process by which written and oral examinations are designed and questions prepared by the NRC Staff. As Judge Smith stated at the prehearing conference on September 24, 1984, the central question in determining relevancy of this issue is how the Reconstituted OARP Committee views the NRC licensing examination. Tr. 27495. If they look to it as a measure of competency, or for confidence in their own conclusions, then the issue of the preparation of the NRC examinations would be relevant. On the other hand, if the Committee simply views the NRC examination as a legal requirement and does not rely on it as a material part of their conclusion on competence, then it is not relevant. Id. Licensee's counsel, in a letter to the Board dated September 27, 1984, has clarified the position of the Committee as to the nature of any "reliance" by the Committee on the NRC licensed operator examinations. That clarification makes it clear that, "in evaluating the substantive adequacy of the current licensed operator training program at TMI-1,

the [Reconstituted OARP] Committee is not placing reliance on TMI-1 operators' performance on the NRC exams or on the content of those exams." Accordingly, since the Committee does not rely on the NRC examinations in evaluating the substantive adequacy of the TMI-1 training program, Document Request 2 seeks information outside the scope of this proceeding. See Tr. 27491-98.

Document Request 3

Documents responsive to this request are listed in Attachment B hereto. Many of these documents already have been placed in the NRC Public Document Room in the course of this proceeding. The Staff has requested that the remaining documents on Attachment B be placed in the Public Document Room in the docket for this case, in a file labelled "Staff Response to UCS' First Request for Production of Documents."

Document Request 4

Consistent with UCS' counsel's clarification of UCS' Interrogatory No. 15 to Staff, Staff understands this request to concern only examinations administered by GPU and not examinations administered by the NRC Staff. See Tr. 27520-21 (discussion concerning UCS Interrogatory No. 15 to Staff). The Staff has identified one document, generated by the Staff, which is responsive to this request, a Memorandum dated March 20, 1984 to W. Russell from L. Bender and J. Buzy. This document was also identified in response to UCS Document Request 3, and, as noted above, the Staff has requested that this document be placed in the PDR in a file labelled "Staff Response to UCS' First Request for Production of Documents". Documents generated by GPU which are responsive to this request

are available from GPU and the Staff is not obligated to produce such documents, nor did the Staff make a concerted effort to identify such documents.

The Staff is continuing to search for additional documents responsive to UCS' requests and will produce or make available for inspection and copying all responsive documents which are not exempted from disclosure pursuant to 10 C.F.R. § 2.790. If any responsive documents are deemed by the Staff to be exempted from disclosure, they will be identified and UCS can seek their production, upon the required showing, pursuant to 10 C.F.R. § 2.744.

For the NRC Staff,

Mary E. Wagner
Mary E. Wagner

Dated at Bethesda, Maryland
this 4th day of October, 1984

Attachment A

- NUREG-0680, and Supplements 1 through 5
- NUREG-0800, USNRC Standard Review Plan
- SECY-84-81B, August 14, 1984
- March 20, 1984 Memorandum to W. Russell from L. Bender and J. Buzy
- Memorandum of February 28, 1983 to J. Stolz from H. Booher
- March 15, 1983 letter to H. Hukill from J. Stolz
- Memorandum of April 1, 1983 to J. Stolz from H. Booher
- Memorandum of July 20, 1983 to G. Lainas from D. Ziemann
- Special Report of the Reconstituted CARP Review Committee, dated June 12, 1984
- NUREG-1021
- Power Plant Examination Results Summary Sheet (9 pages)
- Inspection Report 81-16
- Inspection Report 81-29
- Inspection Report 83-10
- Inspection Report 83-18
- Inspection Report 83-29
- Inspection Report 84-05
- Inspection Report 84-09
- Inspection Report 84-11
- Inspection Report 84-19*
- Inspection Report 84-25*

* These two reports are still undergoing Staff management review and, when finalized, will be placed in the PDR. Staff counsel will notify counsel for UCS when these documents have been sent to the PDR.

Attachment B

- Memorandum of February 28, 1983 to J. Stolz from H. Booher
- March 15, 1983 letter to H. Hukill from J. Stolz
- Memorandum of April 1, 1983 to J. Stolz from H. Booher
- Memorandum of July 20, 1983 to G. Lainas from D. Ziemann
- Memorandum of March 26, 1984 to G. Lainas from W. Russell
- Memorandum of March 20, 1984 to W. Russell from L. Bender and J. Buzy
- October 1, 1982 letter to H. Denton from R. Arnold
- May 3, 1983 letter to H. Denton from H. Hukill
- January 20, 1984 letter to H. Hukill from J. Stolz
- March 20, 1984 letter to J. Stolz from H. Hukill
- April 9, 1984 letter to H. Hukill from H. Denton
- Memorandum of September 26, 1983 to D. Eisenhut from R. Starostecki
(Attachments include combined IE Report 50-289/83-18 and 50-320/83-10, Table of Issues, GPUN letter to T. Martin from H. Hukill, Proposed Task Interface Agreement)
- Memorandum of November 2, 1983 to J. Stolz from H. Booher
- Memorandum of March 26, 1984 to D. Eisenhut from H. Thompson
- Memorandum of June 20, 1984 to R. Starostecki from D. Eisenhut
- December 2, 1982 letter to D. Beckham from H. D. Hukill
- Memorandum of January 28, 1983 to J. Stolz from H. Booher
- March 3, 1983 letter to H. Hukill from J. Stolz
- March 24, 1983 letter to J. Stolz from H. Hukill
- Memorandum of July 25, 1983 to J. Stolz from H. Booher

- ° Memorandum of October 24, 1983 to J. Van Vliet from J. Buzy
- ° SECY-84-81B - Results of Operating Examinations and Requalification Examinations for Third Quarter FY 1984
- ° NUREG-0680, Supplement 4, "An Evaluation of the RHR, BETA, and Draft INPO Reports As They Affect Restart Issues At Three Mile Island Nuclear Station Unit 1 Docket 50-289"
- ° NUREG-0680, Supplement 5, "An Evaluation of the Licensee's Management Integrity As It Affects Restart of Three Mile Island Nuclear Station Unit 1 Docket No. 50-289", and related Inspection and SALP Reports
- ° Operational Readiness Inspection (50-289/84-05)
- ° Memorandum of June 15, 1983 from R. P. Coe to C. Smyth, with Attachments
- ° July 2, 1984 letter to D. Eisenhut from H. Hukill, with attachments

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO INTERVENOR UNION OF CONCERNED SCIENTISTS' FIRST REQUEST TO THE EXECUTIVE DIRECTOR FOR OPERATIONS FOR PRODUCTION OF DOCUMENTS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 4th day of October, 1984:

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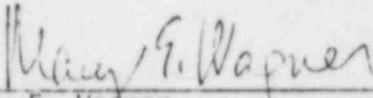
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