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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

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

SP

TMIA RESPONSE TO
COMMISSION ORDER OF
SEPTEMBER 11, 1984

By Order dated September 11, 1984, the Commission took review of ALAB-772 and ALAB-738 which reopened the management record on four issues, and directed the parties to supply comments as to both the "need for" hearings on these issues and the "scope" of such hearings. Additionally, the Commission requested the same for any issue addressed in NUREG-0680, Supp. 5.

TMIA's position on the need for additional hearings as to each issue discussed in ALAB-772, ALAB-738, and NUREG-0680, Supp. 5, is generally contained in its 2.206 petition, filed August 13, 1984 and recently supplemented, which asks that license revocation proceedings begin immediately on the grounds that Licensee lacks the statutory character to hold an NRC operating license. The petition is of a necessarily broader scope than the comments now being requested by the Commission. It is TMIA's view that these issues can not be compartmentalized into discreet items as the Commission order presumes. Rather, the evidence but must be viewed as patterns and as cumulative

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effects. For this reason, the premise behind the Commission order is fundamentally in err.

Given this fact, and without intending to waive objection to what TMIA perceives to be an inherently faulty approach to the TMI-1 licensing case, TMIA will attempt to respond to CLI-84-18 to the extent possible.

I. Review of ALAB-772

The Commission has requested the parties to designate the specific disputed issues of fact addressed in ALAB-772 which are material to a restart decision on which further evidence must be produced, and to provide the most substantial factual and technical basis for this position. As to the first part, TMIA obviously believes hearings are necessary to examine the post-1981 training program, the "Dieckamp mailgram" issue, and TMI-1 leak rate issue. TMIA will discuss each issue separately.

A. Training

The Appeal Board decision speaks for itself regarding the basis for reopening on this issue. ALAB-772, slip. op at 62-77, 155-156. As to the "most substantial factual and technical basis for this position," the parties are currently in discovery until the end of October on the training issue. It is manifestly unreasonable to expect TMIA to put its entire case together and provide such information at this time. TMIA commends to the Commission's attention responses to three of Licensee's interrogatories, attached herein as Attachment A, which provide an overview of TMIA's current "factual and technical basis for this position."

In particular, TMIA directs the Commission's attention to interrogatory response T-29, which addresses Licensee's apparent case in chief -- the new OARP report. This report simply does not demonstrate that a quality training program is being implemented at TMI-1. TMIA can represent that the steady stream of documents and interrogatory responses which TMIA continues to receive and review regarding the training issue supports this position.

B. Dieckamp Mailgram

Similarly, TMIA is in the middle of discovery on this issue. TMIA is scheduled to complete depositions on October 15 -- the day set for the end of discovery on this issue. Just as with the training issue, it is literally impossible to provide a complete factual and technical basis regarding all disputed issues. However, the Appeal Board, at ALAB-772, slip. op at 128-134, adequately explains why currently adjudicatory the record is deficient on this issue.

In addition, TMIA has attached an excerpt from the Licensing Board's Memorandum and Order Following Prehearing Conference, dated July 9, 1984, which outlines the scope of the hearing issue agreed to by TMIA, the Licensee, the Staff and the Licensing Board. Attachment B. Of particular note is the inclusion of "whether Mr. Dieckamp should have known the facts and whether he made any effort to discover them..." As the Appeal Board noted, "he [Dieckamp] sent the mailgram to Congressman Udall in his capacity as President of the parent firm, GPU -- a position he still holds (along with chief Operating Officer and Director)." ALAB-772, slip. op. at 133. It is evident that Dieckamp acted as

a company spokesperson throughout the accident and its aftermath. Thus, his representations were inseparable from the company's position. As such, there are serious implications regarding Dieckamp's failure to discover known facts before making false representations on behalf of the company.

C. Unit 1 Leak Rates

The need for hearings on this issue, the disputed issues of fact material to a restart decision, and the most substantial factual and technical basis for this view, based on evidence publicly available, can be found in the above-referenced Petition for Revocation of License of General Public Utilities Corporation On The Basis of Deficient Character, at pp. A-32 to 33; 100 to 102; 212 to 222. Additionally, ALAB-772, slip. op at 149-154 summarizes the need for hearings and the relevance to a restart decision.

D. The Removal of Husted and Others

Charles Husted was a training instructor who may have been involved in an attempted cheating incident during the April 1981 NRC exams held at TMI. Judge Milhollin and the Licensing Board disagree on the strength of the evidence on this point. See, 15 NRC at 957-961; 16 NRC at 315-320. However, Husted's attitude and lack of cooperation with the NRC on this matter were so poor that the Board concluded that "his attitude may be partial explanation of why there was disrespect for the training program and the examination." 16 NRC at 320. The Board also found Husted's testimony "incredible" and lacking seriousness and regret. Id. at paragraphs 2163-2166.

The significance of this finding for purposes of this proceeding is Licensee's response to it. After the Licensing Board decision, Licensee refused to remove Husted as a training instructor. Only after the Commonwealth of Pennsylvania threatened continued appeal of this decision did Licensee agree to remove him as a training instructor. See, Commonwealth Motion to Withdraw, Stipulation at 2, approved by the Appeal Board December 22, 1983. But rather than removing him altogether, Licensee promoted Husted to Supervisor of Non-Licensed Training. Letter from D.B. Bauser to Appeal Board (May 6, 1983) at 3, prompting a sharp response from the Appeal Board. ALAB-772, slip. op at 46.

The issue with regard to Husted, and well as other individuals implicated in wrongdoing who maintain supervisory positions at TMI-1 (see, Petition, supra at A-101 to 104) is Licensee's decision to put these people in safety-significant positions after demonstrated poor performance, leaving them there for inexcusably long periods of time until forced removal by an outside body. These judgmental failures (see, Petition, supra at A-15 et seq.) reflect poorly on Licensee's overall attitude toward safety. The fact that Licensee had promoted Husted to a position which forced the Appeal Board to order Husted's removal demonstrates a fundamental failure to grasp the fairly simple concept that individuals like Husted should be disqualified from holding supervisory or safety significant posts. This is the issue with which the Commission should be concerned. It is TMIA's position that no amount of reshuffling of personnel is going to provide a basis from which one could find that Licensee posseses

the necessary character to hold an operating license.

II. Review of ALAB-738

ALAB-738 itself describes in a thoughtful analysis the basis for reopening the record on the Unit 2 leak rate allegations. TMIA has little more to add. The disputed issues of fact material to a restart decision, and the most substantial factual and technical basis for this view, based on evidence publicly available, can be found in the above-referenced Petition at pp. A-18, 34-35, 54, 74, 86-89, 96-104, 207-212, 241-242, 249, and 261-262. In addition, it is TMIA's position that TMI-2's pre-accident history regarding PORV problems and the likelihood that the amount of PORV leakage increased over time, were directly relevant to the need to falsify leak rate tests. These problems are described at Petition, supra, at A-51 to 56, 72-[redacted], 83-85, 94-95, 176-181, 239-240, and 258-261.

The company's dishonest responses to the "Hartman" allegations, both after the internal release of Faegre & Benson, and after Met-Ed's indictment and decision to plead guilty, are the direct responsibility of current GPU and GPUN management, including Kuhns, Dieckamp, Clark, Kitner, and the Boards of Directors. Licensee has always, and continues to deny and cover up the facts associated with the falsification scheme. See, most recently, Transcript of Licensee's September 20, 1984 Public Briefing before the Staff. Notably, NUREG-0680, Supp. 5 does not address this aspect of the Unit 2 leak rate issue, yet it is the most relevant in terms of current management.

III. Review of NUREG-0680, Supp. 5

The information addressed in Supp. 5 requires further reopening on each of the following issues:

Section 4.0, TMI-1 Leak Rate Falsification. See, above.

Section 5.0, Hartman Allegations and Related Safety Concerns. See above. In addition, see, Petition at pp. A-248 to 249; 253-254; 259-263.

Section 6.0, BETA/RHR Reports. Petition at pp. A-12 to 14, 106-114; 242-243.

Section 7.0, Training. See above. In addition, Petition at pp. A-7 to 11, 17-18,22, 26-32, 34-36, 58-69, 72, 74-75, 79-80, 91-92, 15-127, 133-134, 223-230, 234-236, 241, 264-275.

Section 8.0, Keaten Report. Petition at pp. A-19 to 20, 36-40, 74, 93, 172-200.

Section 9.0, Changes to the Lucien Report. Petition at A-183 to 188.

Section 10.0, Parks, King, Gischel. See, TMIA Motion to Reopen the Record on Clean Up Allegations. In addition, see, Petition at pp. A-20 to 22, 40, 42, 44-46, 81, 243-245, 281-315, and Attachment C.

Section 11.0, Changes of Operator Testimony. Petition at pp. A-20, 21, 236-239.

In addition, the record should be reopened on Board Issue 6, Financial/Technical Interface. At the time of the Appeal Board decision, there was insufficient evidence before the Appeal Board to warrant reopening of the record on this issue. ALAB-772, slip. op at 157. Now that the Staff acknowledges that its

restart testimony on this issue was in err, NUREG-0680, Supp. 5 at 8-33, 8-34, and due to new and substantial evidence now available, the record should be reopened. The factual basis for this position is contained in the following pages of the Petition: A-3 to 5, 48, 56-58, 233-234, 247-268, 276-278, and Attachments A and B.

Respectfully submitted,

Three Mile Island, Alert, Inc.

By Joanne Doroshow

Joanne Doroshow
Louise Bradford

Lynne Bernabei, Counsel for TMIA

October 9, 1984

Attachment A

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

TMIA RESPONSE TO LICENSEE'S FIRST SET OF INTERROGATORIES

TMIA RESPONSE TO GENERAL INTERROGATORIES

Interrogatory T-1(a) and (b)

Undersigned TMIA Counsel provided all information upon which TMIA relied in answering each interrogatory herein.

Interrogatory T-2

All relevant Atomic Safety and Licensing Board, Atomic Safety and Licensing Appeal Board, and Nuclear Regulatory Commission decisions; all relevant NRC regulations; the Milhollin Report; the BETA and RHR Reports; the Rickover Report; the Special Report of the Reconstituted OARP Review Committee; the 1980 Report of the OARP Review Committee; NRC inspection reports for TMI from the time of the Accident to the present; the TMI SALP Report (July 24, 1984).

Interrogatory T-3

TMIA does not understand the interrogatory and therefore cannot answer it.

Interrogatory T-4 and T-5

(1) See BETA Report and RHR Report findings listed in response

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to Interrogatory Nos. T-25, T-26, T-27, and T-28 below.

(2) GPU is unable or unwilling to achieve and/or maintain an adequate level of instruction to ensure operators' training adequately prepares them to operate TMI safely. See In re Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), Partial Initial Decision (July 27, 1982) ("ASLB PID") ¶2324, 2334-2347, and all findings upon which such conclusions are based; Report of the Special Master, Atomic Safety and Licensing Board (April 28, 1982) ("Milhollin Report"), ¶241-248, 251, and all findings which support these conclusions, including but not limited to ¶26-77.

(3) GPU is unable or unwilling to achieve and/or sustain high quality training instructors. Training instructors have not been shown to have adequate training, education, honesty, integrity and a rigorous attitude to implement the training program to ensure operators are trained to operate TMI safely. ALSB PID at ¶2148-2168, 2334, 2347 and all findings which support these conclusions; Milhollin Report, ibid.

(4) GPU has failed to demonstrate that the training department management possesses the necessary honesty and integrity; sufficient training and education; and proper attitudes to implement an operator training program which ensures the necessary training and integrity of the operational staff. ASLB PID, ¶2324, 2396, 2401-2403, 2407, 2411-2412, and all findings which support these conclusions; Milhollin Report, ¶101-111, 183, 316-317, and all findings which support these conclusions; In re Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), Partial Initial Decision (Aug. 27, 1981), ¶110; NUREG-0680, Supp. 5, at 11-8; In re Metropolitan Edison Co. (Three Mile Island Nuclear Generating Station, Unit 1), Atomic Safety and

Licensing Appeal Board (May 24, 1984) ("ALAB-772"), slip. op. at 71, n.56.

(5) GPU management does not have the necessary integrity, character and competence, and attitude of honesty and forthrightness with the NRC and the public to ensure that the operator training program is implemented rigorously and in accordance with all requirements and commitments, and that all conditions placed on the training program by the Licensing Board or the NRC Staff are in fact fulfilled. Milhollin Report, ¶338; all pending and completed investigations by the NRC's Office of Investigations regarding the so-called "integrity issues"; ASLB PID, supra.

(6) GPU has failed to identify and take adequate corrective action for problems, deficiencies and violations of its training program, including its failure to respond adequately to the cheating incidents; the training irregularities cited in its internal audits before the 1979 Accident and continuing up to the present; training failures cited by the NRC Staff in inspection reports; problems and failures cited in the ASLB PID, ALAB-772, the Milhollin Report, the BETA Report, and the RHR Report. See generally, Milhollin Report, ¶184-237; 250-251; 332-335; ASLB PID, ¶2252, 2246, 2270, 2306-2307, 2318-2319, 2323-2328, 2331, 2411-2412, and all findings which support these conclusions; NUREG-0680, Supp. 5, at 7-1 to 7-11.

(7) GPU management has failed to instill a proper respect for the training program in the operators; training instructors; and training department management. See Milhollin Report, ¶19, 220-237, 248, 322-331, 338, and all findings which support these conclusions; ASLB PID, ¶2325-2328, 2416, 2396-2407, 2411-2412, and all findings which support these conclusions; TMIA Response to Interrogatory Nos. T-30 and T-31 below.

(8) GPU appears to rely on security measures instead of reform, improvement, revamping, or modification to its training program to discourage cheating on exams. See Reconstituted OARP Review Committee Special Report (June 1984), at 130, 169.

(9) GPU appears to have little or no appreciation of the lack of integrity in its program demonstrated by the cheating incidents as evidenced by the lack of disciplinary action against individuals involved in the cheating incidents and the misleading and/or incomplete information given to the Reconstituted OARP Review Committee about the cheating incidents. See Special Report at 66-67.

(10) The current management of the training department, including Mr. Hukill, Dr. Long, Mr. Newton and Mr. Frederick all appear to be tainted to one degree or another by the failures of the past training program, including its lack of integrity and rigorousness, as demonstrated by the Milhollin Report, ASLB PID and ALAB-772. Ibid. Mr. Frederick is not currently a licensed operator and is spending full-time studying instead of assuming management responsibilities for the training department.

(11) GPU has not willingly taken adequate disciplinary action against operators, instructors or supervisors involved in the cheating incidents. The NRC, the Commonwealth of Pennsylvania, or public embarrassment caused by NRC adjudicatory hearings or decisions have forced GPU to take action to take the disciplinary action it has taken.

(12) Operators do not believe the training program adequately trains them to operate TMI safely. RHR Report, supra.

(13) The criticisms outlined by the Appeal Board in ALAB-772, including the following:

(a) The deficiencies in operator testing demonstrated by the cheating incidents may be symptomatic of more extensive failures in GPU's training program overall, ALAB-772 at 63.

(b) The "fixes" by GPU may be largely ministerial and not solve the basic problems found by Judge Milhollin, including whether the training program encourages memorization for test-taking purposes and does not enhance operators' knowledge; the GPU and NRC exams are not an effective way to measure an operator's ability to run the plant; and the format and content of the examinations encourage cheating. Ibid.

(c) GPU has failed to explain or otherwise resolve satisfactorily the fact that one-fourth of those who took the April, 1981, NRC examinations were directly involved in cheating or implicated in some way in the cheating. Id. at 64.

(d) Several of the above-mentioned individuals are still in supervisory positions. Ibid.

(e) A number of employees, including training instructors, did not believe the courses or examination process were a serious matter. Ibid.

(f) There is some misgiving about the testimony of Dr. Long, currently overseeing the training program, because he did not detect or address the cheating incidents. Id., at n. 48.

(g) The lack of pride and enthusiasm among employees for the training program, and lack of professionalism of instructors. Id. at 66.

(h) The qualifications of the training instructors may

not currently be adequate. Id. at 69, n.53.

(i) The current usage of simulators in training and testing may not be adequate. Id. at 70, and n.54.

(j) There may remain a lack of communication between top management and the operating crews. Id. at 71.

(k) In light of the cheating incidents, GPU's assignment to key positions in the training program of Dr. Long, Mr. Newton and Mr. Frederick is not appropriate.

(l) Operators' skills have declined during the long period of plant shutdown and GPU's training program has not adequately resolved that problem. Id. at 72.

(m) The NRC Staff may need to take a more active role in GPU's training program in light of the past failings of the program. Id. at 73-74.

(n) GPU has not corrected the substantive problems in the examination, including but not limited to the following: some questions reflect training information rather than actual plant design; training is not oriented to operating the plant; and the training program unduly emphasizes passing the exam instead of learning how to operate TMI-1. Id. at 75.

Interrogatory T-6

The issue in this reopened portion of the management hearing is whether or not the GPU training program currently trains operators to operate TMI-1 safely. TMIA's opinions as to how to improve the training program so that it will in fact train operators properly is not an issue in this proceeding and not reasonably calculated to lead to the discovery of relevant evidence. Therefore, it is outside the scope of permissable discovery. 10 C.F.R. 2.740(b)(1).

Interrogatory T-29

(1) Members of the Reconstituted OARP Review Committee which authored the Report have previously done work for GPU and thus are not providing a truly independent evaluation of the training program or issues raised by the Appeal Board.

(2) The charge given by GPU to the Reconstituted OARP Review Committee was to take a "quick look" at the training program and provide a report which would aid GPU in convincing the Commission to restart TMI-1 prior to completion of these restart hearings. The Committee had little time and expended little effort in reviewing carefully the entire training program and GPU's recent modifications to improve the program. The Report therefore appears not to be substantiated by the interviews, research and reflection necessary to reach the completely favorable and uncritical conclusions of the Report.

(3) The Special Report rejects many findings made by the Appeal Board, the ASLB and Judge Milhollin, and appears to rest on basic philosophical assumptions which differ from those providing the basis for those decisions.

(4) The Report indicates that the Reconstituted OARP Committee does not appreciate or understand GPU's basic responsibility under the NRC's regulatory framework for the commercial nuclear power industry to be fully forthright, honest and accurate in all its dealings with the NRC and to instill in all its employees a similar rigorous attitude of honesty and integrity.

(5) The Report does not to any degree examine the actual implementation of GPU's program to train instructors. Nor does the Report analyze GPU's "paper" program in terms of whether the proposed methods of training instructors are effective and sensible

ways to ensure instructors are competent teachers with a good grasp of the subject matter they are teaching.

(6) The Report does not address whether, or if, the current GPU training program has addressed the problems and criticisms listed in the BETA and RHR Reports, the Milhollin Report, and the ASLB PID.

(7) The Report assumes that improved security procedures during the administration and grading of examinations will resolve the problem of cheating.

(8) The Report does not adequately analyze the actions GPU has taken to respond to recommendations made by the OARP Review Committee in its 1980 Report and whether they are effective. Although GPU states it has adequately responded to all OARP Review Committee recommendations, in fact, other internal reports indicate these alleged corrective actions have not been effective.

(9) The Report fails to answer or discuss a number of concerns raised by the Appeal Board. This leads TMIA to believe that the directions given to the Review Committee unduly narrowed the scope of its inquiry and foreclosed any inquiry into certain areas. See, e.g., Special Report at 47, 49-50, 64, 65-66, 69-70, 72, 73, 74.

(10) The Report does not analyze the root cause(s) for the cheating and therefore can only speculate as to whether GPU's current training program has adequately resolved this problem. See, e.g., Special Report at 56-57, 66.

(11) The Report generally analyzes GPU's "paper program" proposed for adequate training, and not its actual implementation. See, e.g., Special Report at 59-63.

(12) The Report assumes that only two GPU employees cheated, which seriously understates the cheating incidents and demonstrates

the Review Committee's lack of understanding of the seriousness of the issue. See, e.g., Special Report at 65-66. In fact, the Review Committee appears to show tolerance for cheating. Id. at 66-67.

(13) The Special Report misstates the record in stating GPU has removed individuals who have been found to have engaged in objectionable conduct. Id. at 67.

(14) The Report fails to look at the nature and substance of communications between GPU management and operating crew, and instead relies on GPU management's own evaluations of its communications.

(15) The Report fails to address the question of whether GPU management has developed the capacity itself to identify problems in its training program before they are discovered by the NRC, and to take appropriate corrective actions to resolve these problems.

Interrogatory T-30

The criticisms listed above are general criticisms which are based on the entire Special Report. To the extent that any criticism is based on a specific portion of the Special Report which GPU can not readily identify, TMIA has identified that portion of the Special Report in connection with the specific criticisms listed in TMIA's Response to Interrogatory T-29 above.

Respectfully submitted,

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DATED: September 4, 1984

Attorneys for Three Mile Island Alert

Attachment B

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:
Ivan W. Smith, Chairman
Sheldon J. Wolfe, Alternate Chairman
Gustave A. Linenberger, Jr.

'84 JUL 10 P2:17

In the Matter of	)	Docket No. 50-289-SP
	)	ASLBP 79-429-09-SP
METROPOLITAN EDISON COMPANY	)	(Restart Remand on Management)
	)	
(Three Mile Island Nuclear Station, Unit No. 1)	)	July 9, 1984

MEMORANDUM AND ORDER
FOLLOWING PREHEARING CONFERENCE

On June 28, 1984 the Licensing Board presided over a prehearing conference among the parties for the purpose of defining the issues and providing for prehearing procedures in the proceeding remanded by the Appeal Board's Decision of May 24, 1984, ALAB-772, 19 NRC ____.

I. Issues to be Heard

A. Training

The Appeal Board expressly remanded to this Board "that part of the proceeding devoted to training, for further hearing on the views of the licensee's outside consultants (including the OARP Review Committee) in light of both the weaknesses in licensee's training program and testing and the subsequent changes therein . . . ." Slip opinion at 76-77.

Counsel for Licensee described the broad issue on operator training as:

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Mrs. Aamodt believes that present leak rate testing practices and procedures are irrelevant but we disagree with her. Counsel for Licensee asserts that the statement of the issue should have identified the allegations referred to. We agree, but the Appeal Board discussion of the TMI-1 leak rate background probably provides all of the specificity Licensee needs, and any remaining uncertainty can be cured during discovery. Accordingly we adopt UCS' proposal as the statement of the TMI-1 leak rate issue as it is modified above.

There is, however, one aspect of this issue overlooked by the Board and therefore not discussed at the prehearing conference. The Appeal Board expects this Board to consider the TMI-1 leak rate issue in conjunction with the remand to us on the Hartman allegations. ALAB-772, at 154. This is a logical association of topics. Since this Board is presently stayed by the Commission from proceeding on the Hartman allegations, we will defer proceeding on the TMI-1 leak rate matter until further guidance from either the Appeal Board or the Commission.

C. Mr. Dieckamp's Mailgram

Licensee proposed the language of the remand order as the statement of the Dieckamp mailgram issue:

> (1) whether anyone interpreted the pressure spike and containment spray, at the time, in terms of core damage, and (2) who or what was the source of the information that Dieckamp conveyed in the mailgram. [Emphasis in original.]

ALAB-772, slip opinion at 134.

The Board believes that to implement fully the Appeal Board's intent, item (1) must be joined to item (2) more expressly. Therefore we add the third facet to the issue: (3) whether, when, and how any interpretation of core damage was communicated to Mr. Dieckamp. All parties agreed that the thread of any communication from the control room to Mr. Dieckamp must be traced. The Board also accepts other subissues proposed by Intervenors on the mailgram issue. Specifically, as proposed by TMIA, whether Mr. Dieckamp took steps to correct any misstatement upon learning the facts. Did he expect the telegram to be relied upon and to be important to the regulatory process? Tr. 27,277. TMIA also proposes that the issue encompass whether Mr. Dieckamp should have known the facts and whether he made any effort to discover them. Tr. 27,279. We agree. The Aamodts correctly note that the mailgram issue relates to Licensee's competence. Tr. 27,278.

TMIA also proposes that an inquiry should be made as to whether the mailgram (to Congressman Udall) was relied upon. Tr. 27,277. Absent a better showing of relevance by TMIA, we do not accept the actual effect of the mailgram as a subissue. The thrust of the issue as it has been considered by both boards and the various investigating organizations is the implication of the mailgram with its inaccuracies to Mr. Dieckamp's integrity. The information in the mailgram was patently material and had the capacity to influence action. The Board needs no help in understanding that aspect of the matter. Whether those receiving the mailgram believed it and acted upon it, or even refused to believe Mr. Dieckamp at all, cannot shed light on Mr. Dieckamp's state of mind,

thus his integrity, when he sent the communication. However, we note that TMIA was apparently distracted from its discussion of the matter at the prehearing conference (Tr. 27,277-78) and we do not now foreclose the possibility that the effect of the telegram could have some relevance presently unrecognized.

II. Schedule

The Intervenors will report to the Board their proposal for the assignment of lead-intervenor responsibilities by July 11, 1984 and we shall rule shortly after that. Discovery on the training and mailgram issues may begin immediately. All discovery requests and demands shall be served in time for completing responses and depositions not later than September 30, 1984. Direct testimony in written form shall be served not later than October 15, 1984. The Board shall provide by a later order for the commencement of the evidentiary hearing which we tentatively schedule for about November 1, 1984.

IT IS SO ORDERED.

ATOMIC SAFETY AND LICENSING BOARD

Sheldon J. Wolfe
ADMINISTRATIVE JUDGE

Gustave A. Linenberger, Jr.
ADMINISTRATIVE JUDGE

Ivan W. Smith, Chairman
ADMINISTRATIVE LAW JUDGE

Bethesda, Maryland

July 9, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of TMIA RESPONSE TO COMMISSION ORDER OF SEPTEMBER 11, 1984, was served this 9th day of October, 1984, by deposit in the U.S. mail, first class, postage prepaid, or hand delivered where possible, to all parties on the attached service list.

Joanne Doroshow

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