

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202
Washington, D.C. 20036

(202) 232-8550

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HAND-DELIVERED

October 29, 1984

Ernest L. Blake, Jr.
Shaw, Pittman, Potts & Trowbridge
1800 M St., N.W.
Washington, D.C. 20036

58-289SP

Dear Ernie:

I am writing to respond to your letter of October 19, 1984 regarding TMIA's response to Licensee's Fifth Set of Interrogatories.

TMIA continues to believe that the interrogatory concerning the manner in which the Report of the Majority Staff was compiled and the investigative efforts which led to that report is an attempt to circumvent the Mailgram Stipulation to which all parties have agreed and the Board has approved. That stipulation was an attempt to avoid the problems all parties would encounter in the presentation of testimony of Dr. Henry Myers regarding the Majority Staff Report on reporting failures during the accident. Obviously if TMIA is not going to present evidence other than that included in the stipulation as to the Majority Staff Report, no other party should be permitted to present evidence concerning the report. The purpose of the stipulation, at least so far as TMIA understands it, was to eliminate the need to present testimony or presentation of evidence by any party regarding this report.

Further, as you know, Dr. Myers, even if he were to testify in these hearings would not be permitted under the rules governing the House of Representatives to testify as to any investigation or inquiry leading to the report or the manner in which the report itself was compiled. According to the House of Representatives' attorney to whom both you and I spoke, this information is considered protected from disclosure under the Speech and Debate Clause to the U.S. Constitution.

In addition, the interrogatory does not request information relevant to any issue before this Board. The adequacy of the various investigations or inquiries into the TMI Accident and information flow during the Accident is not the issue before the Licensing Board. The issue is whether Mr. Dieckamp knew or should have known of misstatements which TMIA believe exist in his mailgram at the time he sent it,

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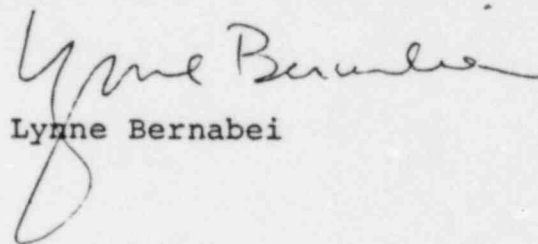
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and whether he should have corrected these misstatements after he sent the mailgram. The various reports, and the interviews which provide support for them, are relevant only insofar as they provide factual support for the argument as to whether specific Met Ed personnel knew about and understood the pressure spike on March 28. Therefore, I do not believe litigation into the adequacy of the House Report is permitted under the scope of the hearing.

Finally, even assuming that the interrogatory requested relevant information, TMIA has no present method of obtaining information to rebut or answer any information GPU may present on the adequacy of the report, having agreed with GPU to stipulate as to evidence on the Report and the testimony of Dr. Myers. Therefore, permitting GPU to litigate the issue but foreclosing TMIA from litigating this issue will be a denial to TMIA of due process rights. If GPU continues to pursue its right to a TMIA response to this interrogatory, and if the Board upholds GPU's right to the information, TMIA will be forced to request that the Board vacate the Mailgram Stipulation on the ground that it was entered into on an understanding that is not now being adhered to by GPU.

In addition, TMIA believes that the best source for an evaluation of the Report is through the statements in the Report itself as to its foundation. Neither TMIA nor GPU can argue other than from the evidence admitted into the record. Therefore, TMIA believes that representations of counsel aside, both parties will be restricted to the "evidence" in the record about the Report, that is the Report itself.

Sincerely yours,



Lynne Bernabei

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cc: Service List