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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

Nunzio J. Palladino, Chairman  
Thomas M. Roberts  
James K. Asselstine  
Frederick M. Bernthal  
Lando W. Zech, Jr.

OFFICE OF THE  
DOCKET CLERK  
BRANCH

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

Docket No. 50-289 SP  
(Restart)

ORDER

On June 1, 1984 the Commission issued an order in which it requested the parties' comments on whether, in view of ALAB-772 and all other relevant information, 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. The parties' comments have been received.

On June 14, 1984 Governor Thornburgh requested that he be given the opportunity to make a presentation to the Commission on behalf of the Commonwealth of Pennsylvania.

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The Commission has decided that it would be useful to hear oral presentations from the parties to the restart proceeding, including the Commonwealth. The Commission is particularly interested in hearing the parties' views on the issue raised in the Commission's June 1 order described above.

Oral presentations will be held at 1717 H St., N.W., Washington, D.C. on August 15, 1984 at 10:00 a.m. The order of appearance of speakers and the time allotted for each presentation is as follows:

Commonwealth-----	15 minutes
Licensee-----	30 minutes
Aamodts-----	15 minutes
TMIA-----	15 minutes
UCS-----	15 minutes*
NRC staff-----	25 minutes

The parties may reserve time for rebuttal.

Parties should confirm their participation by notifying the Secretary of the Commission by August 10, 1984.

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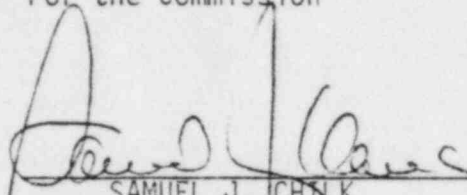
\*The Commission notes that UCS, having chosen not to participate in the hearing on management issues and having failed to file proposed findings on those issues after being directed to do so by the Licensing Board, was deemed to be in default by the Licensing Board and has forfeited its right to participate as a party on management issues. It is therefore participating in management issues as a matter of Commission discretion.

Chairman Palladino's additional views are attached.

It is so ORDERED.



For the Commission

  
SAMUEL J. CHALK  
Secretary of the Commission

Dated at Washington, DC,  
this 6<sup>th</sup> day of August, 1984.

#### ADDITIONAL VIEWS OF CHAIRMAN PALLADINO

The Commission's Office of Policy Evaluation recently prepared a memorandum which identifies the possible steps for the Commission in reaching a decision on the management issues in this case and on the overall restart question. A copy of that memorandum dated July 12, 1984 is attached for the information of the parties. The purpose of the July 12 memorandum was to identify the major alternative approaches open to the Commission for making a decision in the TMI-1 (Restart) case. The memorandum should not be interpreted as indicating in any way a Commission decision or inclination on any remaining open issue in the case. Subsequent to the July 12 memorandum, the Commission issued a decision on hardware matters (ALAB-729) on July 26, 1984. CLI-84-11, 20 NRC \_\_\_\_\_. Any party that wishes to comment on the July 12 paper is invited to do so either in writing by August 15, 1984, or at the August 15 oral presentation.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

July 12, 1984

MEMORANDUM FOR: Chairman Palladino  
Commissioner Roberts  
Commissioner Asselstine  
Commissioner Bernthal  
Commissioner Zech

FROM: *J. E. Zerbe*  
John E. Zerbe, Director  
Office of Policy Evaluation

SUBJECT: POSSIBLE APPROACHES TO A TMI-1 DECISION

BACKGROUND

On May 31, 1984, OGC and OPE provided the Commission with a draft order to the parties in this proceeding asking for their comments on whether the management concerns had been sufficiently resolved so that the Commission should lift the immediate effectiveness of the original shutdown order prior to completion of review of any appeals from ALAB-772.<sup>1</sup> This memorandum updates the Commission's possible steps to a decision on the management issues and on the overall restart question.<sup>2</sup> It is provided for issuance to the parties and has been modified from our June 22 version which was provided for your comment. Even if the Commission lifted effectiveness on management issues, actual restart would still require other steps, which we will identify, such as resolution of the steam generator repair issue. Attachment 1 lists steps necessary to provide a basis for the Commission to decide how to proceed. Attachments 2-5 outline the remaining steps to a decision and other issues necessary for any restart for the major approaches identified. For the purposes of this paper all attachments assume each decision step is resolved favorably to licensee. An unfavorable decision would of course alter the steps.

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<sup>1</sup>That draft order noted that hardware issues were being addressed in the context of Commission review of ALAB-729.

<sup>2</sup>Assuming that the Commission approves resolution of the hardware issues on the merits (ALAB-729), lifting effectiveness of the management issues would complete action on all the issues and would, therefore, lift the effectiveness of the 1979 shutdown order.

### Major Possibilities

The following cover the two major approaches.

1. Independent of the merits process, approve an order resolving the management issues for the purpose of lifting the effectiveness of the 1979 shutdown order and take other actions necessary for a restart.

Issuing an effectiveness order would result in the earliest resolution of the management issues for the purpose of restart. Under this approach the decision would be separate and independent from a decision on whether to review ALAB-772 and, accordingly, assumes that the Commission is satisfied that it has all the information it needs to make such a management issues decision. Before lifting effectiveness, the Commission would also have to approve the adequacy of hardware (ALAB-729). Before any restart could actually occur the Commission would also have to find no significant hazards consideration regarding the steam generator repair license amendment (or the hearings would have to be favorably completed) and determine that the UCS 2.206 petition on the EFW system does not preclude a restart decision. In addition, staff would have to complete all certification items. Attachment 2 outlines this approach.

2. Wait for completion of merits process before deciding on restart.

Deciding the restart question as part of the merits process could involve a number of variations, ranging from Commission review and reversal of the Appeal Board's decision to reopen the record in ALAB-772, to not taking review and allowing the hearings to be completed prior to a restart decision. Attachments 3, 4 and 5 outline the major variations.

### Conclusion

The choice of how to proceed should depend on the substantive question of whether the Commission believes the present record adequately resolves the concerns which led to making the 1979 shutdown order immediately effective. That question should be decided on the basis of the parties' comments on lifting effectiveness and OGC/OPE analysis of those comments. If the Commission chooses not to issue an effectiveness order, the choice of how to proceed will then be made by deciding whether to review ALAB-772.

Attachments:  
As stated

cc: H. Plaine  
S. Chilk

STEPS TO A COMMISSION DECISION ON HOW TO PROCEED

1. ALAB-772 Issued (Complete)
2. OGC/OPE provide analysis of hardware issues to the Commission (ALAB-729) (Complete)
3. Receive petitions and responses for review of ALAB-772 (Complete)
4. Receive parties' comments on lifting effectiveness of shutdown order\*
5. OGC/OPE provide analysis of ALAB-772 (management issues) and ALAB-738 (TMI-2 leak rate issue)
6. OGC/OPE provide analysis of parties' comments and, if appropriate, draft of effectiveness order
7. Address relevant motions not otherwise covered
8. Commission decision on course of action

\*Completed subsequent to preparation of this memorandum.

FURTHER STEPS IF COMMISSION CHOOSES TO MAKE EFFECTIVENESS DECISION  
(INDEPENDENT OF MERITS PROCESS)

1. Issue Commission decision on hardware (ALAB-729)\*
2. Receive and address Director's decision on UCS 2.206 petition on EFW system
3. Commission provide comments on effectiveness order to OGC/OPE
4. Affirm Commission-approved redrafted order on management issues
5. Resolve steam generator repair issue
6. Staff complete certification

\*Completed subsequent to preparation of this memorandum.



FURTHER STEPS IF COMMISSION CHOOSES NOT TO REVIEW ALAB-772 AND CHOOSES TO  
WAIT FOR COMPLETION OF MANAGEMENT AND STEAM GENERATOR HEARINGS

1. Let review time of ALAB-772 expire
2. Issue Commission decision on whether to lift stay of ALAB-738
3. Remanded hearings start
4. Receive and address Director's decision on UCS 2.206 petition on EFW System
5. Issue Commission decision on hardware (ALAB-729)\*
6. Board issue decision on steam generator repair issue
7. Board issue decision on completed remanded hearings on management
8. If Board decision is favorable to licensee, review Board decision and, if appropriate, issue Commission decision on management issues lifting effectiveness of shutdown order
9. Staff complete certification

\*Completed subsequent to preparation of this memorandum.

FURTHER STEPS IF COMMISSION REVIEWS ALAB-772 AND DECIDES TO  
REVERSE ON REMANDED MANAGEMENT HEARINGS

1. Issue Commission decision to review ALAB-772
2. Commission determine how to proceed on ALAB-738
3. Receive and address Director's decision on UCS 2.206 petition on EFW system
4. Issue Commission decision on hardware (ALAB-729)\*
5. Receive parties' briefs and reply briefs on review of ALAB-772 and, if appropriate, ALAB-738
6. OGC/OPE provide paper to Commission on resolution of ALAB-772 and, if appropriate, ALAB-738
7. Resolve steam generator repair issue
8. Commission issues merits decision on ALAB-772 and, if appropriate, issues merits decision on ALAB-738
9. Staff complete certification

\*Completed subsequent to preparation of this memorandum.

FURTHER STEPS IF COMMISSION REVIEWS ALAB-772 BUT  
DECIDES TO ALLOW REMANDED HEARINGS ON MANAGEMENT

1. Issue Commission decision to review ALAB-772
2. Commission determine how to proceed on ALAB-738
3. Receive and address Director's decision on UCS 2.206 petition on EFW
4. Issue Commission decision on hardware (ALAB-729)\*
5. Receive parties' briefs and reply briefs on ALAB-772 and, if appropriate, on ALAB-738
6. OGC/OPE paper to Commission analyzing ALAB-772 and, if appropriate, on ALAB-738
7. Issue Commission decision affirming ALAB-772 and, if appropriate, ALAB-738
8. Remanded management hearings start
9. Board issues decision on steam generator repair issue
10. Board issues decision on completed remanded hearings on management
11. If Board decision is favorable to licensee, review Board decision, and, if appropriate, issue Commission decision on management issues lifting effectiveness of shutdown order
12. Staff complete certification

\*Completed subsequent to preparation of this memorandum.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D. C. this

6<sup>th</sup> day of Aug 1974.

Peary T. Downing  
Office of the Secretary of the Commission

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )

METROPOLITAN EDISON COMPANY, ET AL. )

(Three Mile Island, Unit 1) )  
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Docket No.(s) 50-289

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