UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE COMMISSION

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

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COMMONWEALTH OF PENNSYLVANIA COMMENTS ON COMMISSION ORDER CLI-84-18

On September 11, 1984, the Commission issued an order requesting comments to facilitate its review of ALAB-772, ALAB-738, and NUREG-0680, Supplement No. 5. In particular, the Commission solicited comments on what evidentiary hearings are required to be completed before the Commission may lift the immediate effectiveness of the 1979 shutdown orders.

On August 15, 1984, the Commonwealth of Pennsylvania stated its position that the Commission should not vote on restart "unless and until funding has been assured to complete the radiation cleanup of the damaged Unit 2 facility on TMI, and unless and until this commission has provided adequate assurances that Unit 1 can be operated without threat to the health or safety of the people of central Pennsylvania or the integrity of our environment". Statement of Governor Thornburgh, August 15, 1984. The Commission should resolve all issues regarding the competence and integrity of Unit 1 managers, the level of operator training, management responsibility for TMI-2 leak rate falsification, and TMI-2 cleanup funding, prior to any vote on restart. The Commission's order of September 11, 1984 identified certain items for comment, and the Commonwealth will address these items in sequence.

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In ALAB-772, the Appeal Board found three areas of deficiencies in the record with respect to the Licensing Board's decision on TMI-1 restart. The first of these areas involves the adequacy of operator training at TMI. In light of the lessons of the March 28, 1979 accident, operator training may be crucial to the prevention of future problems. The Appeal Board determined that "the deficiencies in operator testing as manifested by the cheating eposides, may be symptomatic of more extensive failures in licensee's overall training program." ALAB-772, at 63. The Appeal Board could not find, based on the evidence before the Licensing Board, that Licensee's training program was "comprehensive and acceptable." ALAB-772, at 64. There has been considerable discussion of the scope of the Appeal Board's remand, due to the ambiguity of the Appeal Board's directive. Both the Staff and Licensee have proposed to narrow the scope of the remanded hearing to only obtaining the views of the licensee's consultants on the adequacy of the licensee's training program, without assessing the training program as a whole. In the Commonwealth's view, the basic issue before the Licensing Board, and the Commission, is whether the operators of TMI-1 are trained to safely operate the plant, based on <u>all</u> currently available information. In order to answer that question, the Board and the Commission must assess all the information available since the close of the Licensing Board hearing in 1981, not simply the selected views of certain of the licensee's consultants. Included in the information available since 1981 are the revisions to TMI training procedures issued by the licensee, the Report of the Lessons Learned Workshop (NAD-83-01), the Special Report of the Reconstituted OARP [Operator Accelerated Retraining Program] Review Committee, the Staff's SALP [Systematic Assessment of Licensee Performance] reports and other training assessment reports, the BETA/RHR

[Basic Energy Technology Associates, Inc. and Rohrer, Hibler and Replogle, Inc.] reports and the Rickover Report. All these documents have been released since 1981, and all these documents contain important information concerning the adequacy of the operator training program. These documents have not been subject to the scrutiny of an evidentiary hearing. Thus, in order to assess whether the TMI-1 operators have been trained to meet the highest standards possible, it is necessary for the Commission to direct the Licensing Board to receive all evidence available since 1981 on operator training.

The Commonwealth will not comment extensively on the legal authority to impose a condition on management by excluding Mr. Charles Husted from TMI-1 management responsibilities. It should be sufficient to note that the Commission has ample legal authority to impose conditions on management conduct in relation to operation of TMI-1. If the Commission does not have such authority, Commission inquiry into management integrity would be meaningless, since the Commission would have no means to enforce its views of management integrity on the licensee.

The Appeal Board remand concerning leak rate testing at TMI-1 needs to be assessed in connection with current TMI-1 management. Although the Office of Investigation did not discover systematic falsification of leak rate testing at Unit 1, it found some irregularities in testing practices and management procedures. The Appeal Board decision to remand this issue for further evidentiary hearing is based on the significance of preliminary findings contained in Staff investigation reports: poor recordkeeping practices; ignorance of the problem of a "loop seal" in the instrumentation system; and inattention to work requests. Whether these problems are properly resolved by current management practice is significant to TMI-1 restart. There may be other

problems yet unidentified which may be discovered as a result of the further investigation of TMI-1 leak rate testing. Until formal discovery is completed and an evidentiary hearing is conducted, the Commission cannot safely conclude that the leak rate testing problem is history.

Although TMI-2 leak rate allegations resulted in the criminal conviction of the licensee and a criminal indictment against one individual, the Commonwealth cannot be certain that the whole matter has been disclosed. The Commission's March 23, 1984 directive to the Office of Investigation not to duplicate matters resolved in the criminal proceedings leaves many questions unanswered. The Commission does not have access to the material available to the Grand Jury in the criminal case. The major question of relevance to TMI-1 restart is who, within the GPU organization, had knowledge of or participated in the falsification of TMI-2 leak rate tests? Without further inquiry, the Commonwealth cannot lightly jump to the conclusion that no one currently within TMI-1 management had such knowledge or had participated in this wrongdoing. The limited information available to the public does not allow the Commonwealth to reach such a conclusion.

An inquiry can be made by the Licensing Board, without delaying the restart proceeding, to determine whether anyone involved in current TMI-1 management had knowledge of or participated in TMI-2 leak rate falsification. The Commonwealth urges the Commission to direct that Licensing Board to resolve this issue prior to TMI-1 restart.

Finally, the Commission solicited comment on the Staff's conclusion in NUREG-0680, Supp. No. 5 that present GPU Nuclear management is acceptable. The Commonwealth does not believe that the Commission can

reach such a conclusion at this time, in light of the remanded issues for evidentiary hearing. The Commonwealth believes that GPU management conduct in relation to the preparation of the "Keaten Report," treated in Section 8 of NUREG-0680, Supp. No. 5, should be examined as part of the remand. As reported by the Office of Investigations and the Staff, the Keaten Task Force was established by GPU management to provide an independent assessment of the causes of the TMI-2 accident. Numerous changes were made to the Keaten Task Force report after review by senior management. One set of changes was constructed to avoid liability which might result from the GPU v. Babcock & Wilcox litigation by shifting responsibility for the TMI-2 accident from GPU to Babcock & Wilcox. Another set of changes was prompted by the issuance of Notice of Violation (relating to failure to carry out specified emergency procedures during the TMI-2 accident) by the NRC on October 25, 1979. The Keaten Task Force included in its Report, without review, a response provided by senior management which was misleading and appeared to be contrary to fact. The GPU Response to the Notice of Violation amounted to a material false statement to the Commission. Although the sequence of events which lead to the manipulation of the Keaten Report is apparently clear, two questions remain: Have all the persons who may have influenced the Keaten Report been identified? Would current management of GPU and do current management practices at TMI-1 preclude a repetition of a similar episode, and how? The Commonwealth does not believe that the issue of management integrity can be treated lightly and urges the Commission to direct the Licensing Board to review this matter to determine whether anyone in current TMI-1 management was involved in the Keaten Report manipulation and whether current management practices at TMI-1 will make the recurrence of this episode unlikely.

CONCLUSION

The Commission's proceedings on TMI-1 restart should be conducted in a manner that fosters public confidence and support. Unless the questions which have arisen concerning TMI-1 restart during the past several years are resolved by evidentiary hearing, the Commonwealth and the public could not be expected to support a decision on TMI-1 restart when the Commission finally votes on the matter.

Respectfully submitted,

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