

ORIGINAL

UNITED STATES NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

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(Restart Remand on
Management)

METROPOLITAN EDISON COMPANY

(Three Mile Island Nuclear
Station, Unit No. 1)

TELEPHONE CONFERENCE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of:	:
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METROPOLITAN EDISON COMPANY	:
(Three Mile Island Nuclear	:
Station, Unit No. 1)	:
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Ace-Federal Reporters, Inc.
444 North Capitol Street
Suite 402
Washington, D. C.

Wednesday, March 13, 1985

The telephone conference in the above-entitled matter
convened at 10:00 a.m.

BEFORE:

JUDGE IVAN W. SMITH, Chairman
Atomic Safety and Licensing Board

JUDGE SHELDON J. WOLFE, Member
Atomic Safety and Licensing Board

JUDGE GUSTAVE A. LINENBERGER, JR., Member
Atomic Safety and Licensing Board

-- continued --

1 APPEARANCES:

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On behalf of Three Mile Island Alert:

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LOUISE BRADFORD, Pro Se

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On behalf of the Nuclear Regulatory
Commission Staff:

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On behalf of the Union of Concerned Scientists:

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WILLIAM S. JORDAN, ESQ.

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P R O C E E D I N G S

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2 JUDGE SMITH: The purpose of this telephone
3 conference is to address the subject matter of UCS'
4 proposed findings, beginning with proposed finding, I
5 think, 283 and continuing through proposed finding 288,
6 appearing on pages 145 through 147 of their pleading; all
7 of which relate to the testimony by Mr. Ross and perhaps
8 others that the union contract accorded UCS prohibits
9 formal written evaluation of operator performance.

10 The Board believes that we are unable to walk away,
11 let's say, from the matter without on one hand making
12 findings and perhaps imposing conditions which are not all
13 justified by the underlying facts, or on the other hand
14 giving the Licensee an opportunity to convince us that
15 there is no need for adverse findings, or no need for new
16 evidence or to have an opportunity to offer new evidence
17 or new arguments or new proposed findings.

18 The need for this conference was demonstrated to
19 us when we noted that in the reply findings of Licensee
20 filed last week, there was no reference to Union of
21 Concerned Scientists' proposed findings along this line,
22 and we believe that the record either should be developed
23 more thoroughly or that the Licensee -- and others, of
24 course -- should be given an opportunity to explain to us
25 why that's not necessary. I might begin then with

1 Ms. Bauser.

2 Let me finish. In the announcement of this
3 telephone conference call, we proposed that there would be
4 a conference of the parties next week to discuss this
5 matter more thoroughly, and if it should be decided that
6 there is a need for additional evidence, that evidence
7 would be received the following week. That was just
8 merely a discussion proposal. We can do virtually
9 anything. We can use today's session as an opportunity
10 for arguments, as a conference of the lawyers, we can
11 virtually do anything that the parties believe will
12 satisfy our perceived needs in the matter.

13 With that, Ms. Bauser, would you like to comment?

14 MS. BAUSER: Yes, Judge Smith. Licensee would
15 like to take this opportunity to endeavor to convince the
16 Board that there is no need for either adverse findings on
17 this point or any need for new evidence, and therefore the
18 record does not need to be reopened, so we would like to
19 go ahead and present to you our argument as to why the
20 record as it now exists is adequate and in fact thorough,
21 we believe, on this point.

22 Licensee believes that --

23 MR. JORDAN: Excuse me. I don't mean to
24 interrupt, but before Licensee gets to an argument about
25 why there shouldn't be adverse findings, it seems to me

1 there is a preliminary issue, which is whether we should
2 get to those kinds of arts at all. The parties had every
3 opportunity to litigate this case, to have their proposed
4 findings, and the Licensee has had an opportunity to reply
5 which no one else has had. It seems to me we've done
6 everything that the rules provide for, and the issue now --
7 it would be certainly inappropriate to give the Licensee a
8 third bite at the apple on this particular set of issues.

9 JUDGE SMITH: Mr. Jordan, I think you're
10 entirely correct in one respect, that this is indeed a
11 preliminary matter that should be addressed. However, I
12 don't know that your evaluation of the situation is one
13 that we can rest with. As a member of the licensing board
14 on the Byron case, I tended to agree with your evaluation
15 of what a litigation at the Nuclear Regulatory Commission
16 should be like, but the appeal board overruled us. And
17 I'll refer you to 19 Nuclear Regulatory Commission 1169,
18 in which the appeal board in effect found the licensing
19 board in that case was in error by not doing just exactly
20 what we're trying to do now: that is, give the Licensee
21 another bite at the apple.

22 However, one of the things we want to have a
23 conference on is to assess exactly your point: Does that
24 ruling apply here; are we bound by it; just what are the
25 considerations?

1 MR. JORDAN: I certainly think we should confer
2 on that. I have read that decision, but it's been some time;
3 I couldn't address it.

4 JUDGE SMITH: It's at page 1169 of volume 19,
5 the language that I'm referring to. There's other
6 language in that decision to that effect.

7 May we go back to Ms. Bauser?

8 MS. BAUSER: Judge Smith, I would like to go
9 ahead and address why we think paragraphs 283 through 287
10 represent a misplaced concern and get right to the heart
11 of the matter, rather than addressing the question at this
12 point of whether to address that question, if that's
13 acceptable.

14 JUDGE SMITH: That's fine.

15 MS. BAUSER: Licensee believes that we
16 thoroughly evaluate the operators' performance on the job
17 and compare it with the performance in the training
18 program; and I think that as you'll see as I go through
19 this, this is reflected throughout our findings. We do
20 not do the evaluation which UCS suggests in paragraphs 283
21 to 287, which appears to be a periodic on-the-job
22 performance evaluation of the operator while he's standing
23 in the control room, and it's our view that this is
24 unnecessary and would not provide us with additional
25 information about the effectiveness of the training

1 program, which is the issue in question here.

2 I think that the fundamental point which
3 underlies perhaps this remand and certainly underlies all
4 our understanding of this litigation is the unusual nature
5 of the job of the control room operator. This is
6 something incidental which I think that Dr. Reagan himself
7 points to, and I can give you a reference if that would be
8 helpful.

9 The detail job of the control room operator is a
10 rather mundane job. It contrasts markedly with the
11 potential demands of the job which UCS, for example,
12 pursued aggressively during the design phase of the
13 proceeding. The CRO has to master an extremely wide range
14 of abilities and knowledge and has to be tested to that
15 wide range; and this range is reflected in our testimony
16 as well. And that then follows through to being able to
17 apply these knowledges in recognizing unrecognizable
18 situations and to master information both individually and
19 to be able to work as a team with other members of his
20 crew. Then the question is how do you tell whether an
21 operator has accomplished this.

22 We do not believe that by looking at the
23 individual's detail activity you're going to get a good
24 indication of whether he's mastered these things; in fact,
25 you would be misled if you were to rely on his detail

1 activities to tell whether he's mastered what he needs to
2 know to be a good operator and how to train somebody well.
3 So we take issue with the suggestion that UCS makes that
4 there's a close relationship between training and job
5 performance in this industrial setting in the sense that
6 the detail on-the-job performance of the operators simply
7 does not closely relate to what it is he has to be trained
8 to do and to be capable of doing.

9 This is why we rely so heavily and we think so
10 much of performance-based training: because performance-
11 based training is a subject that TMI and for that matter
12 the industry generally allows a Licensee to develop
13 training requirements which correlate with the job
14 performance requirements -- that is to say, all the things
15 that the operator has to be capable of doing under various
16 circumstances -- and the program has been developed using
17 these requirements and the training based on behavioral
18 learning objectives correlates with those requirements,
19 and then the tests correlate with those requirements.

20 So the tests themselves effectively constitute
21 job performance evaluations of what it is that the CRO or
22 the RO has to be able to do; not necessarily what he does
23 most of the time, but what he has to be capable of doing.
24 This is why Licensee and for that matter the LARP
25 committee place emphasis on the composite of evaluations

1 that are used at TMI to assess the various skills,
2 knowledges and abilities that are required of the licensed
3 operator.

4 And these will all be familiar to you, but they
5 include the written exams which focus primarily on conceptual
6 procedures; oral exams and walk-throughs which allow a
7 more in-depth coverage of use of systems and procedures
8 and application of concepts; and use of the simulator,
9 which allows supervisory people to assess the performance
10 of operators and enact abnormal things -- and also the
11 simulator allows for a team or crew as a group, which is
12 an important element of job performance evaluation when
13 you're talking about the licensed reactor operator.

14 This information, combined also with drills and
15 skills training, which is an integral part of the
16 requalification program and is discussed in detail in our
17 testimony, allows supervisory personnel both in the
18 operations department and in the training department --
19 and some senior managers, such as Mr. Hugo, who
20 participates in the simulator review -- to evaluate
21 operator proficiency or performance in the different areas
22 which are required for him to perform his job.

23 Essentially the Licensee's view is that on-the-
24 job performance evaluations will simply not allow you to
25 get the information you need in order to assess whether

1 the training program is effective. They may tell you
2 things about individual motivation, perhaps communications
3 skills, some other information which I think we testified
4 we think we get to the heart of through other mechanisms,
5 but they are not going to tell you whether your program is
6 working right.

7 I would also like to add a couple of points.
8 One is I think we're in full agreement here with
9 Dr. Reagan, who says that these kinds of evaluations that
10 UCS is talking about are of little use in attempting to
11 make a correlation between training examination results
12 and on-the-job performance. Reagan's concern perhaps goes
13 to the subjectivity or the bias of these measures, but I
14 think what is instructive is that Dr. Reagan points to
15 numerous other ways that one can assess job performance,
16 and those include simulation, job knowledge tests,
17 walk-throughs, attitudes over time: in other words, the
18 kinds of things which Licensee in fact does and which is
19 reflected in our performance-based training program.

20 Finally, the last point I would like to make is
21 the QA check, if you will, or our mechanism for providing
22 confidence that we're getting good indicators from these
23 various sources as to the qualities of the program, are
24 the numerous and overlapping feedback mechanisms in place
25 which are described in our testimony to evaluate whether

1 operators are being trained to operate the plant properly.
2 These include, for example, the review by the training
3 program of exam requirements, written and oral; feedback
4 from managers of the simulators; and drills to see if
5 there are generic weaknesses reflected in these tests and
6 if so to do something about them.

7 Also we look for significant individual
8 weaknesses by individual operators and follow up on that,
9 and UCS tests' are in part based on follow-ups. For
10 example, in the case of --

11 JUDGE SMITH: Those weaknesses are not
12 performance weaknesses, they are testing weaknesses.

13 MS. BAUSER: I would argue that they are
14 performance weaknesses in the sense that the test is a
15 performance measure. It is -- you can't get closer to
16 evaluating whether somebody can handle a serious accident
17 than looking at how he does on the simulator when you have
18 one of these kinds of accidents. And evaluating whether
19 he on a detail basis does his job right in the control
20 room isn't going to give you that information; you need to
21 look at him at the simulator.

22 We would agree that that alone might not tell
23 you all you need to know about that individual about the
24 program; that's why we place such emphasis on all the
25 elements. They work together in sort of a checks and

1 balances kind of way to tell you whether your system is
2 giving you people who can do all the things they need to
3 do for their job.

4 I would add that the significant involvement of
5 supervisory personnel in operations shows shift
6 supervisors and the manager of plant operations and
7 particular people who may be a part of activities such as
8 the operator training review team, all this involvement
9 enhances the company's ability to monitor the
10 effectiveness of its training program. And I think those
11 kinds of things go to refinement of the program where
12 there are particular things that need to be modified. Our
13 testimony again shows where, for example, in the case of
14 the operator review team, very specific suggestions were
15 made by that team and those suggestions were then
16 implemented into the following year's training program.
17 That's another way that we check whether our system is
18 working properly.

19 I think the final one, which is also reflected
20 in our testimony, which is more of a confidence factor,
21 are the external audits which have been conducted at TMI,
22 and these audits -- when you're talking about, for example,
23 the operations readiness evaluation done by the Nuclear
24 Regulatory Commission or the INPO evaluation, both
25 conclude that personnel including the operators were well-

1 qualified, well-trained and knowledgeable, and this again
2 gives us a sense of confidence.

3 So it took me a while, but I would like to
4 conclude simply by saying that we think that the concern
5 expressed by UCS in these paragraphs is misplaced, because
6 it's really focusing on the wrong thing. It's diverting
7 attention from how you really can assess the job of a
8 control room operator, which, as Dr. Reagan points out, is
9 a very difficult thing to do; because unlike the keypunch
10 operator which he used as an illustration or the person
11 who makes golf clubs, something like that, when you have a
12 job that's this complex you have to turn to these other
13 kinds of ways of evaluating the performance of the
14 operators.

15 And we in fact have argued in our findings and
16 presented in our testimony why we think we're doing the
17 very things that are necessary when you're talking about
18 this kind of a job, so Licensee believes that these
19 paragraphs are not of concern to it.

20 We believe that the arguments I made are all
21 based on extensive evidence in the record, and we're
22 hopeful the Board will find it unnecessary consequently to
23 reopen the record.

24 JUDGE SMITH: I might say, Ms. Bauser, your
25 recitation of the factual aspects of the record as opposed

1 to your argument, I don't dispute. Everything you've said
2 factually rings quite familiar. But there's one
3 difficulty: that is with respect to this particular issue
4 about which we're concerned, it is not in the record in
5 any one place or any cohesive manner that I can identify.
6 We would have a hard time, I believe, taking your factual
7 arguments and predicating findings upon them. It would
8 require a tremendous amount of research on our part
9 throughout the whole training period.

10 MS. BAUSER: Judge Smith, I think the element
11 here that has not been talked about a lot -- and I think
12 the reason is because we all assume it -- is this concept
13 of the complexity of the control room operator's job. But
14 the information I've gone through -- for example, the
15 performance-based training and what it's made up of and
16 how that's been supplemented or how evaluations are made
17 by various people and all the QA tests -- that follows
18 very closely the organization of our findings. I'm doing
19 it in a very summary form and our findings are extremely
20 detailed, but I don't think this is a tremendous shifting
21 around of information. I think it's just presenting it in
22 the context of the UCS argument in these paragraphs about
23 whether we evaluate performance on the job, quote,
24 unquote, and I think that's the only new difference here.
25 I don't know that we've thought about it before

1 in this context, but I think that the factual basis that I
2 have just run through is very much the way in which the
3 evidence has been organized for presentation to the Board.

4 JUDGE SMITH: Mr. Jordan?

5 MR. JORDAN: Yes, sir, thank you. Fundamentally
6 I think we agree with what you just said. The wild card
7 that now appears in this composition is that you can't
8 evaluate -- in essence, that you cannot see the
9 performance of a control room operator over any period of
10 time and evaluate the adequacy of that performance. There
11 certainly is nothing in the record to that effect, and
12 it's inconceivable to me.

13 I understand the argument that accidents don't
14 happen every day and so you can't respond to an accident
15 every day, but there are certainly a number of things they
16 do over time, whether they are standard things or
17 emergency things, that can be used to evaluate performance;
18 yet I think Mr. Ross' testimony and what Ms. Bauser just
19 said indicates that the Licensee hasn't even thought about
20 that up until now.

21 And that gets back to what I think Dr. Reagan
22 testified is the fundamental point of any training program,
23 which is to insure that the training program results in
24 sound job performance. He did testify to a number of
25 interim measures that might be looked at in attempting to

1 assure the adequacy of the training program and they did
2 include such things as simulation, oral examinations, for
3 example, but fundamentally and I cannot sitting here now
4 think of anything in the record that disputes the
5 proposition that the fundamental question is the
6 comparison between job performance and performance in the
7 training program. And that is what these are about.

8 I understand Ms. Bauser's arguments, but I don't
9 think that the record ultimately supports them; certainly,
10 as you say, Judge Smith, not in any way in which the Board
11 can make a decision. It seems to me you have here -- in
12 fact, I don't think it is a problem with the recording,
13 it's a problem with what the Licensee does with its
14 program, which is they don't do job evaluations, they
15 blame it on the union. But I think they can get around
16 that, as we suggested during the hearing. I would note
17 that, for example, oral examinations -- we of course have
18 our findings in on the adequacy of these various methods
19 that are used, as Ms. Bauser would now argue, to replace
20 performance evaluations.

21 It seems to me that this argument now puts a
22 very high premium on the adequacy and particularly
23 objectivity of the various performance evaluations used in
24 the training program, such as the oral examination.

25 To go back, our position simply is that the

1 record is closed; and we can -- it may be appropriate,
2 Judge Smith, to argue specifically the Byron decision, but
3 I can't do that now. But I must say if there's to be
4 another bite of the apple by one of the parties, it's the
5 right of all parties to bite the apples in the places they
6 think are necessary. It seems to me that it is
7 inappropriate for the Board to decide, "Well, here's a
8 weakness, and we can't decide in favor of the Licensee on
9 this point, so we have to reopen."

10 If that's to happen, the appropriate action is
11 for the Board to decide, "Here are the various weaknesses
12 and the places we can't decide in favor of the various
13 parties," and give everybody a shot at strengthening their
14 case. I would be surprised if the Byron decision speaks
15 to that issue, but I would obviously have to read it. And
16 I suggest specifically the weakness we have submitted
17 findings on in the area of oral examination, this is an
18 area where I think the record supports our findings, yet
19 is also an area in which the Board during the hearing
20 raised the question as to whether Dr. Reagan might know
21 more about oral examinations and thus be able to provide
22 greater information to the Board.

23 It seems to me, depending on the Board's
24 inclination on the issue, it might be the kind of issue
25 where we should be able to come back and address and

1 strengthen our case on that point, if it comes to some
2 kind of reopening of the hearing. Fundamentally our
3 position is that, only add one other thing. Ms. Bauser
4 spoke to a number of what she called "feedback evaluations"
5 by supervisors of proficiency, and I get a sense both from
6 her and Mr. Ross that the way they really evaluate how
7 well operators are doing is that they have a kind of
8 general sense because they are all together in a small
9 program and everybody knows each other well and are with
10 each other every day, which is exactly the kind of thing
11 Dr. Reagan pointed to as being dangerous in attempting to
12 achieve objective information about somebody's performance.

13 The feedbacks, particularly in the sense of
14 generalized supervisory opinions and evaluations as
15 opposed to some kind of objective evaluation, I think this
16 record shows are not of great worth. We conclude that the
17 Licensee simply failed in this area. There's no record
18 evidence to support the proposition that job performance
19 evaluations are of use to the training program, and the
20 Board should adopt the findings by UCS and should not
21 reopen the record.

22 JUDGE SMITH: Let me clarify somewhat the Board's
23 present posture. We identified this concern very early.
24 We are still rather at an early stage of making a finding-
25 by-finding analysis of the proposed findings and the

1 record. It's just that in an overview of the proposed
2 findings by each of the Board members before we tried to
3 do any in-depth analysis, we identified it as a matter of
4 concern to all three of us and we are as early as possible
5 bringing it to the parties' attention.

6 This does not mean that once we go through each
7 proposed finding, that we would even have this conference.
8 It may very well be that we would agree with everything
9 that Ms. Bauser says and that there would be no concern
10 and we would not accept those proposed findings. However,
11 if we find six weeks from now that that is not the case,
12 then that would be unfortunate. Do not infer by this
13 conference that we have found the Licensee's proposed
14 findings to be deficient. I would have expected
15 Ms. Bauser's reply proposed findings to have tackled that
16 problem directly. I think that that would have been
17 helpful to the Board. I want to assure you that's not a
18 trivial matter, that it's worthy of Licensee's attention,
19 and where do we go?

20 MS. BAUSER: Judge Smith, if I could respond --

21 JUDGE SMITH: Just a moment, please. The Board
22 wants to confer.

23 MS. BAUSER: Judge Smith, I just want to assure
24 you --

25 JUDGE SMITH: Would you give me a moment? The

1 Board wants to confer off the record. Do you hear me?

2 MS. BAUSER: Yes, sir.

3 (Discussion off the record.)

4 JUDGE SMITH: Ms. Bauser, we're back on the
5 record now. Would you please proceed?

6 MS. BAUSER: Yes, sir. I just wanted to assure
7 the Board that I don't consider this concern to be trivial.
8 To the contrary, I think the reason that we didn't address
9 it is because we were so much in a mindset, to use that
10 word, that performance evaluation of operators in our
11 performance-based training system was the way one
12 evaluates performance on the job and we already had
13 extensive findings on the subject, that we didn't revisit
14 that.

15 It wasn't because we don't think the issue of
16 job performance evaluations is unimportant, it's that the
17 way in which we do these is not the same way that UCS is
18 arguing we must do them. And that's why this is not a new
19 argument to us. It's a repeat of our fundamental position
20 on the value of performance-based training and how that
21 correlates with the job that the operator has to do.

22 JUDGE SMITH: Ms. Wagner, we noted that the
23 Staff was sensitive to the fact that there's no formal job
24 performance evaluation. In fact, you went to the trouble
25 to correct the findings on that point, and consistently

1 it's your position that the Staff does not wish to
2 litigate the training and testing program. You did
3 nothing further on it, and I think your position on the
4 proposed findings is quite clear. I might say, however,
5 that depending upon how this concern moves along, the
6 Board had considered the possibility of requesting the
7 Staff to give us an expert opinion on it.

8 MS. WAGNER: Judge Smith, I had anticipated that
9 possibility, and if the Board sees the need for further
10 hearings, we stand prepared to present testimony on the
11 issue of the significance of absence of these formal on-
12 the-job performance evaluations. I would like to say,
13 even though we did not take a substantive position on this
14 matter in our findings, that I would like to express the
15 Staff's position on the need for further testimony at this
16 point.

17 I think since the Board has raised this as an
18 issue of concern to the Board, that Staff views this in
19 slightly a different light now that the Board has raised
20 it. We think that UCS' concerns as expressed in these
21 paragraphs are really based on a false premise, that
22 premise being that observation on the job of these
23 licensed operators would be more meaningful than
24 observation during training and performance on tests.

25 As Ms. Bauser has pointed out, the day-to-day

1 tasks required by these licensed operators don't reflect
2 the depth and breath of operator knowledge if we expect
3 the plant to be operating at a steady state; and you could
4 sit in the control room for 30 days with them and you
5 really wouldn't observe their skills being tested -- at
6 least the kind of skills we want to make sure these
7 operators have -- so we think that UCS' concern is really
8 based on a false premise.

9 Getting on to the issue of whether we need
10 further testimony, Ms. Bauser has already pointed out the
11 testimony in the record. And we agree that there's
12 extensive testimony on the requalification program which
13 shows how to observe and evaluate operator performance,
14 and it's true it's generally through testing, simulator
15 testing, plant drills, et cetera. But we feel that that
16 evidence is adequate to support positive findings on the
17 issue of evaluation of operators.

18 However, as you have said, if there is a
19 reopening on this issue, if the Board should wish it we
20 stand prepared to present testimony on the subject.

21 JUDGE SMITH: Ms. Bauser, the next move is yours.

22 MS. BAUSER: I'm not sure, Judge Smith, what you
23 would like me to say, respond to Staff or --

24 JUDGE SMITH: No. We have -- first I want to
25 assure you and all of the parties that the Board has not

1 made a preliminary conclusion as to whether formal job
2 performance evaluation is necessary or even desirable or
3 even useful. We don't even know that. We do feel that as
4 a matter of logic that UCS has raised a point that must be
5 addressed in our decision and that we know that you have
6 failed to address it.

7 You may rest, you may do whatever you feel you
8 have to do. We're simply not commenting on whether you
9 are likely to prevail or unlikely to prevail. I think
10 more is needed.

11 MS. BAUSER: Judge Smith, I think that Licensee
12 believes that the position that I've articulated this
13 morning is the right one and is based on the record. Now
14 I do not want to suggest the need to reopen. To the
15 contrary, we do not think it's necessary. I would ask the
16 Board whether the Board will permit supplemental reply
17 findings, and we would certainly be happy to document the
18 argument that I set out for you today with references to
19 the record where the points are that we've made. I'll put
20 that out and see whether that's acceptable to the Board,
21 but we do not believe that reopening is required.

22 MR. JORDAN: Your Honor, Bill Jordan. We stand
23 on the position that we stated earlier. I guess if the
24 Board reaches a point where it's decided that either
25 Licensee findings and arguments or decision to support its

1 position and the Board wants to hear more from Licensee or
2 UCS or somebody else's findings to support their position,
3 that's the time we should decide what kind of reopening or
4 additional -- the Licensee has had its opportunity for
5 arguments, and indeed has today had that opportunity. So
6 I don't think it's appropriate to have any more.

7 If, however, the Board sees fit to permit the
8 Licensee to file some sort of supplemental reply, it seems
9 to me only appropriate that UCS in particular and other
10 interested parties should have an opportunity to respond
11 to Licensee's arguments. In effect that will be giving us
12 the last shot, but that would be giving us two shots to
13 Licensee's three, and I think the Board -- it's only fair
14 and would give the Board the most complete information.

15 JUDGE SMITH: I'm not sure if I agree with your
16 arithmetic.

17 MR. JORDAN: We should stop where we are.

18 JUDGE SMITH: Does anybody else wish to comment?

19 MR. AU: This is Thomas Au. Other parties
20 should be entitled to file comments also.

21 JUDGE SMITH: I don't know, Mr. Au.
22 Commonwealth did not to my memory address this issue at
23 all in its proposed findings, and if you -- we'll hear
24 your argument as to why you should be permitted to join
25 this issue at this time. It may be my memory of your

1 proposed findings, but I don't recall that you expressed
2 any concern about it.

3 MR. AU: That's correct. We had not expressed a
4 concern about it, and I'm not sure that Commonwealth would,
5 given the opportunity, have any comments. But I have not
6 discussed this at all with any of my superiors as to what
7 position if any they want to take at this point. I'll
8 preserve this opportunity if they feel they need to take a
9 position.

10 JUDGE SMITH: I hope that the need for
11 conferences in this case will be coming to an end; but if
12 there should be future need for a conference, I would also
13 hope that you come to the conference with full authority
14 to represent the Commonwealth on all issues or have those
15 with you who do.

16 First we can address the first matter: that is,
17 Ms. Bauser, do you wish to file an amended supplemental
18 reply finding?

19 MS. BAUSER: Yes, sir, I would. I think that I
20 can do that very quickly, hopefully by the end of this
21 week; and also Licensee has no objections to Mr. Jordan's
22 commenting on that document.

23 JUDGE SMITH: And I don't think the Board has
24 any trouble granting you leave under those circumstances.
25 Does anybody else? Why don't we do it this way, then:

1 Let's agree upon a time for responses to the supplemental
2 reply by any other party who wishes.

3 MR. JORDAN: We're talking about the Licensee
4 filing on Friday?

5 JUDGE SMITH: Yes. There would be a supplement
6 to their reply findings. Next Friday.

7 MS. BAUSER: Are you talking about two days from
8 now, Judge Smith?

9 JUDGE SMITH: Yes. The time that's involved --
10 this is entirely your risk, Ms. Bauser. If you're going
11 to rest upon the record as it is now, and depend upon
12 supplemental reply findings, they do not have to be in by
13 Friday. The schedule you've laid out for writing this
14 decision would allow you more time to reply, if it's your
15 informed decision now that you need no more evidence on
16 the subject. So if you want more time, take it. If you
17 think you can do it by Friday, fine.

18 MS. BAUSER: Judge Smith, could we have a
19 schedule that has an outside date of the following
20 Wednesday or something but have the responses on a
21 detailed basis? I would like to try to get this in by
22 Friday, and I'm optimistic about it, but I would like an
23 opportunity to be able to file it up through the middle of
24 the following week.

25 JUDGE SMITH: How about five business days for

1 responses to that? Would that be satisfactory, Mr. Jordan?

2 MR. JORDAN: Yes, that's what I originally
3 proposed.

4 MS. WAGNER: That's assuming hand delivery,
5 Ms. Bauser?

6 MS. BAUSER: Yes.

7 JUDGE SMITH: Incidentally, the Board must be
8 consulted when there's extensions of time agreed upon by
9 the parties. That was not the case with the proposed
10 findings and we are very much a participant in setting
11 schedules for filing of pleadings in this case. So where
12 are we then, five business days following what?

13 MS. BAUSER: Following my service.

14 JUDGE SMITH: And your service -- would you
15 repeat the date, your outside date?

16 MS. BAUSER: Next Wednesday, Judge Smith, which
17 is the 20th. I'm hopeful that I will file it at the end
18 of the day on the 15th.

19 JUDGE SMITH: All right. And that being the
20 case, you agree, Mr. Jordan, five business days after that?

21 MR. JORDAN: Right.

22 JUDGE SMITH: And all parties hand-carried.
23 Mr. Jordan, Mr. Au, I would expect if you're going to file
24 a response that you do it in such a manner -- and
25 Ms. Bradford -- that it be received by us on the fifth

1 business day.

2 MR. AU: We'll do that by express mail.

3 JUDGE SMITH: If you're going to do it by
4 express mail, if five days is satisfactory, okay, do that.
5 If not, we'll give you a sixth day for express mail, the
6 out-of-town people.

7 Ms. Wagner, what is your pleasure on this matter?

8 MS. WAGNER: Yes, I think we could follow the
9 same schedule as the other parties: five business days
10 after receipt of Licensee's.

11 JUDGE SMITH: Do you anticipate that the Staff
12 won't be making a filing?

13 MS. WAGNER: I expect we will. I'm not positive,
14 but I expect we very well may be.

15 JUDGE SMITH: Then I think there's nothing
16 further for us to do this morning except to approve the
17 filing of supplemental findings according to that schedule.
18 Is there anything further on this matter? I appreciate
19 everyone making themselves available on such short notice
20 and being so well prepared. With that we will adjourn
21 this conference.

22 (Whereupon, at 10:50 a.m., the telephone
23 conference was adjourned.)

24

25

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: METROPOLITAN EDISON COMPANY
(Three Mile Island Nuclear Station, Unit No. 1)

DOCKET NO.: 50-289-SP (Restart Remand on Management)

PLACE: WASHINGTON, D. C.

DATE: WEDNESDAY, MARCH 13, 1985

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) *Kathie S. Weller*
(TYPED)

KATHIE S. WELLER

Official Reporter

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