

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

Ref: EDO-13995

ACTION - Denton, NRR/
Cunningham, ELD
Cys: Dircks
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Rehm
Stello
Murley

April 24, 1984

*DL
Action*



*C10
4-24*

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations *Note*

FROM: Samuel J. Chilk, Secretary

SUBJECT: JANUARY 23, 1984 UCS PETITION FOR SHOW
CAUSE CONCERNING TMI-1 EMERGENCY FEEDWATER
SYSTEM

On January 23, 1984 the Union of Concerned Scientists (UCS) petitioned the Commission to suspend the operating license for TMI-1 because of concerns about the emergency feedwater system. That petition was referred to staff for response under 10 CFR 2.206.

On February 13, 1984, UCS requested the Commission to reconsider having staff respond to its petition. The Commission has decided to deny that request. UCS in that letter also requested the Commission to direct staff to provide three categories of information regarding the TMI-1 emergency feedwater system. The response to the January 23 UCS petition should address those three categories of information.

At the time the Commission referred the UCS petition to the staff, it directed the staff to respond to the petition within 60 days of that date. That was subsequently revised in the Commission April 9, 1984 memo. The Commission has also agreed that the staff should brief the Commission on this issue before restart of TMI-1. Those decisions stand. (See attached SRMs).

Attachments:
As Stated

cc: Chairman Palladino
Commissioner Gilinsky
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
OGC
OPE

Must be done. Discuss with OPE. How to comply? whether we should get input from

Rec'd Off. EDO
Date... 4/26/84
Time... 8:30

Discuss concerning these categories of information

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PDR FOIA
WEISS84-339 PDR

UNION OF CONCERNED SCIENTISTS

1346 Connecticut Avenue, N.W. • S. 1101 • Washington, DC 20036 • (202) 296-5600

February 13, 1984

Nunzio J. Palladino, Chairman
Victor Gilinsky, Commissioner
Thomas M. Roberts, Commissioner
James K. Asselstine, Commissioner
Frederick M. Bernthal, Commissioner

Gentlemen:

On January 20, 1984, UCS petitioned the Commission for "an order suspending the operating license for Three Mile Island Nuclear Station Unit No. 1 ('TMI-1') unless and until the plant's Emergency Feedwater ('EFW') System complies with the NRC rules applicable to systems important to safety (including safety-grade, safety-related, and engineered safety feature systems)." Union of Concerned Scientists' Petition for Show Cause Concerning TMI-1 Emergency Feedwater System, January 20, 1984, p. 1. UCS' petition was "lodged with the Commission directly because the NRC staff has recommended restart of TMI-1 with full knowledge of the EFW deficiencies discussed [in the petition] and because the Commission now has under consideration action which would allow TMI-1 to operate by lifting the 'immediate effectiveness' of its orders of July and August, 1979." Id., p. 2, emphasis added.

By letter dated January 27, 1984, Harold R. Denton informed me that UCS' petition "has been referred to [his] office for treatment as a request for action pursuant to Section 2.206 of the Commission's regulations." I am unaware of any Commission meeting or vote by which the Commission referred UCS' petition to the NRC staff. Therefore, I am writing to inquire by what means UCS' request that the Commission itself take jurisdiction was denied and, if in fact it was denied, to request reconsideration of that denial.

The NRC staff was fully aware of the deficiencies in the TMI-1 EFW system (and the Main Steam Line Rupture Detection System) before UCS filed its petition. Every citation to the EFW deficiencies discussed in UCS' petition relies upon Licensing Board or Appeal Board decisions, documents which GPU provided to the NRC staff, or reports prepared by the staff's contractors or the staff itself. Thus, UCS' petition contains no new factual information previously unavailable to the NRC staff. By virtue of its continued inaction, the staff has manifested its views on these subjects; Commission delegation of the petition to the staff will simply delay resolution.

With regard to the question of whether, given the documented deficiencies in the EFW system, TMI-1 should be allowed to operate, the staff has already provided an implicit answer. On December 5, 1983, the staff presented its proposal for TMI-1 restart conditions to the Commission. The staff made no

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mention of the EFW deficiencies acknowledged by GPU Nuclear in its letter to the staff of August 23, 1983. The staff also voiced no opposition to GPU's proposal to delay correcting the acknowledged EFW deficiencies until the first refueling after restart. H. D. Hukill, Director, TMI-1, to J. F. Stolz, NRC staff, "TMI-1 . . . Long Term EFW Mods," August 23, 1983. (Licensee's counsel sent this letter to the Commission by a cover letter dated September 15, 1983. Another copy is enclosed for your convenience.)

The NRC staff's intention to ignore the EFW system deficiencies (or, at best, to "decouple" these issues from restart) was disclosed explicitly on January 27, 1984. Immediately after the Commission meeting that day regarding TMI-1, an individual approached Robert D. Pollard in my presence and identified himself as a member of the NRC staff. The individual congratulated Mr. Pollard on the quality of the technical content of UCS' petition even though he "would probably be the one assigned to shoot it down."

This is only the most recent example of an attitude consistently exhibited by the NRC staff, which I most recently discussed with you during the Commission meeting on November 17, 1983. As UCS told the Commission:

No matter how technically credible an intervenor may be nor what legitimate issues it raises, the Staff makes virtually no attempt to meet with intervenors, to seriously consider whether their technical concerns have validity and what if any corrective action should be taken. Instead, the Staff's immediate knee-jerk response is to find some justification for opposing the intervenor's positions on all substantive and procedural issues, a stance which continues during the entire licensing process. "The State of the Nuclear Industry and the NRC: A Critical View," UCS, November 17, 1983, p. 15.

The fact that a member of the NRC staff expressed his belief, one week after UCS mailed the Commission its petition, that the purpose of the staff's review of UCS' petition is to "shoot it down," illustrates that the staff's knee-jerk opposition to even legitimate safety issues is deeply ingrained. It also demonstrates the utter futility of referring UCS' petition to the staff.

In summary, we repeat our request that the Commission itself take jurisdiction of UCS' Petition for Show Cause Concerning TMI-1 Emergency Feedwater System. In making this request, we do not mean to imply that the staff should have no role.

By letter dated January 27, 1984, the staff asked GPU Nuclear to "submit a response in writing under oath or affirmation that addresses each of the issues identified by the petition as related to Three Mile Island Nuclear Station, Unit 1 and provide a response to [the staff] as soon as practicable, but no later than February 22, 1984." UCS requests the Commission to direct the licensee to submit its response directly to the Commission. We also request the Commission to direct the NRC staff to provide a similar response, in writing under oath or affirmation by the individual staff member or members who prepare the response. In addition, we recommend that the Commission direct the NRC staff to provide the following information:

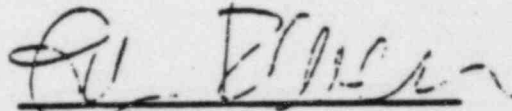
1. Identify each specific aspect of the TMI-1 EFW system which does not comply or is not known to comply with the regulations applicable to systems important to safety (including safety-grade, safety-related, and engineered safety feature systems).

2. For each deficiency or potential deficiency identified in response to item 1 above, explain whether and why the staff believes that TMI-1 can be operated without undue risk to public health and safety before correction of the deficiency or potential deficiency.

3. For each deficiency or potential deficiency which the staff believes need not be corrected before the first refueling outage after restart, explain why that deficiency ever needs to be corrected. In other words, if the staff believes that the plant can be operated without undue risk to public health and safety until the first refueling, why would modifications be needed to assure public health and safety after the first refueling?

Finally, UCS requests the Commission to direct the staff to provide UCS with copies of GPU's, the staff's and any other responses to UCS' petition.

Sincerely,



Ellyn R. Weiss
General Counsel
Union of Concerned Scientists

Enclosure: As stated.

cc w/enclosure:
Docketing and Service, NRC

cc w/o enclosure:
Herzel Plaine, Esq.
General Counsel, NRC

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Mr. Henry D. Hukill
Director of TMI-1, GPU Nuclear Corp.

Maxine Woelfling, Esq.
PA Dept. of Environmental Resources

Thomas A. Baxter, Esq.
Counsel for Licensee