

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: CHAIRMAN PALLADINO

SUBJECT: SECY-84-113 - UCS MOTION TO ESTABLISH CRITERIA FOR JUDGING "REASONABLE PROGRESS" AT TMI-1

APPROVED ✓ DISAPPROVED \_\_\_\_\_ ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

-REC'D CHRMN-

15 MAR 84 9:33

N. Palladino  
SIGNATURE

4/1/84  
DATE

8502120387 840709  
PDR FOIA  
WEISS84-377 PDR

SECRETARIAT NOTE: PLEASE ALSO RESPOND TO AND/OR COMMENT ON OGC/OPE MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION  
FROM: COMMISSIONER GILINSKY  
SUBJECT: SECY-84-113 - UCS MOTION TO ESTABLISH CRITERIA FOR JUDGING  
"REASONABLE PROGRESS" AT TMI-1

APPROVED \_\_\_\_\_ DISAPPROVED X ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

*[Handwritten Signature]*  
SIGNATURE

5/2/84  
DATE

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AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ROBERTS

SUBJECT: SECY-84-113 - UCS MOTION TO ESTABLISH CRITERIA FOR JUDGING  
"REASONABLE PROGRESS" AT TMI-1

APPROVED X DISAPPROVED \_\_\_\_\_ ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

Shull Roberts  
SIGNATURE  
3/26/84  
DATE

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AFFIRMATION

1014 84-2  
Main-

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER ASSELSTINE

SUBJECT: SECY-84-113 - UCS MOTION TO ESTABLISH CRITERIA FOR JUDGING  
"REASONABLE PROGRESS" AT TMI-1

APPROVED ✓ DISAPPROVED \_\_\_\_\_ ABSTAIN \_\_\_\_\_

NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:

*Samuel K. Asselstine*  
SIGNATURE

4-27-84  
DATE

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AFFIRMATION

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER BERNTHAL

SUBJECT: SECY-84-113 - UCS MOTION TO ESTABLISH CRITERIA FOR JUDGING  
"REASONABLE PROGRESS" AT TMI-1

APPROVED ✓ DISAPPROVED \_\_\_\_\_ ABSTAIN \_\_\_\_\_

NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS:



SIGNATURE

4/28/84

DATE

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TELEPHONE  
(202) 328-3500

May 15, 1984

Joseph Felton, Director  
Division of Rules and Records  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555

FREEDOM OF INFORMATION  
ACT REQUEST  
FOIA-84-377  
Rec'd 5-17-84

Re: Freedom of Information Act Request

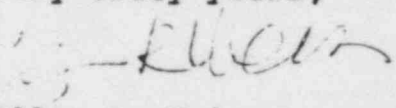
Dear Mr. Felton:

On May 4, 1984, the Commission issued CLI-84-4 a copy of which is enclosed. On page 3 of that Order, the Commission states that it had conducted a "sua sponte" review "of the circumstances surrounding the implementation schedule for the seven long-term items" which GPU will not have completed prior to its scheduled restart of Three Mile Island Unit 1. The Commission states further that it

"determined from its review of each of these items that the current schedule for completion is reasonable in view of the technical issues involved and . . . because completion of required items at TMI-1 at restart will be comparable to the schedule of completion at other B&W reactors."

Pursuant to the federal Freedom of Information Act, I hereby request copies of all documents considered by the Commission in its sua sponte review of these issues.

Very truly yours,

  
Ellyn R. Weiss  
General Counsel  
Union of Concerned  
Scientists

ERW:cpk

~~8501140393~~

RECEIVED MAY - 8 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

COMMISSIONERS:

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

'84 MAY -4 P4:29

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED MAY 7 1984

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

Docket No. 50-289 SP  
(Restart)

ORDER

CLI-84-7

On October 18, 1983 the Union of Concerned Scientists (UCS) moved the Commission to order that all long-term items required in this proceeding be completed prior to restart because of the length of time which has elapsed since this proceeding began. Both the licensee and the NRC staff opposed the UCS motion.

In the order establishing the restart proceeding, the Commission stated that it had "determined that satisfactory completion of certain short-term actions and resolution of various concerns ... are required to provide assurance that the facility can be operated without endangering the health and safety of the public." The Commission further

~~8406210425~~

"determined that certain additional long-term actions are ... required to be completed as promptly as practicable, and that reasonable progress on the completion of such items prior to restart is required ...." CLI-79-8, 10 NRC 141, 142 (1979).

The Commission has stated that "reasonable progress" is to be determined "at the time of the Licensing Board's decision." CLI-82-32, 16 NRC 1243 (1982). The issue of whether licensee has made reasonable progress toward completion of long-term items was litigated in the restart proceeding in accord with the procedures established for that proceeding. No party appealed from the Licensing Board's findings regarding licensee's progress on long-term requirements, either to the Appeal Board or to the Commission. UCS by filing this motion with the Commission almost five months after the Appeal Board issued its decision on the hardware issues, ALAB-729, 18 NRC \_\_\_\_ (1983), is apparently attempting to reopen a closed issue solely on the basis of the passage of time.

The Commission disagrees with UCS' underlying assertion that the passage of time by itself controls whether reasonable progress is being made toward completion of long-term items. Such a determination must be based on all the circumstances surrounding each individual item, including the evolution of the requirement, any technical disagreements regarding the requirement, efforts to date, and the current implementation schedule both at TMI-1 and other similar reactors.<sup>1</sup> The UCS motion

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<sup>1</sup>The Commission has stated, unless the record dictates otherwise,  
[Footnote Continued]



requesting the Commission to require completion of all long-term items before restart simply because of the lapse of time since this proceeding began is accordingly denied.

However, the Commission recognizes that over two years have passed since the Licensing Board issued its decision on the hardware issues, and the Commission did envision only a short lapse of time between the Licensing Board's decision and a decision on restart. The Commission has therefore sua sponte considered the circumstances surrounding the implementation schedule for the seven long-term items which staff indicated in its response to the UCS motion were not scheduled for completion prior to restart in order to determine whether licensee should be required to complete any of those items prior to restart. No party is now arguing that any of these items are necessary for safe operation in the short term, and the Commission has determined from its review of each of these items that the current schedule for completion is reasonable in view of the technical issues involved and, as indicated in staff's response to the UCS motion, because completion of required items at TMI-1 at restart will be comparable to the schedule of completion at other B&W reactors. The Commission has therefore decided not to require completion of any of these items prior to restart at this time. The Commission notes, however, that this decision does not modify the original 1979 order which required that long-term items be completed "as promptly as practical."

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[Footnote Continued]

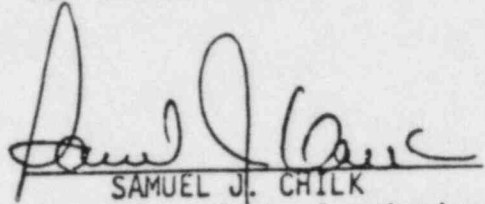
that TMI-1 is to be grouped with reactors which have received their operating licenses. CLI-81-3, 13 NRC 291 (1981).

Commissioner Gilinsky dissents from this decision.

It is so ORDERED.



For the Commission\*

A handwritten signature in cursive script, appearing to read "Samuel J. Chilk".

SAMUEL J. CHILK  
Secretary of the Commission

Dated at Washington, D.C.

this 4th day of May, 1984.

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\* Commissioners Asselstine and Bernthal were not present when this order was affirmed but had previously indicated their approval.