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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Before Administrative Judges:
Ivan W. Smith, Chairman
Sheldon J. Wolfe, Alternate Chairman
Gustave A. Linenberger, Jr.

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In the Matter of)	Docket No. 50-289-SP
METROPOLITAN EDISON COMPANY)	[ASLBP 79-429-09-SP]
(Three Mile Island Nuclear Station, Unit No. 1))	(Restart Remand on Management)
)	October 24, 1984

MEMORANDUM AND ORDER
(Requiring Identification of Proposed Exhibits)

On October 16, 1984 Licensee moved to compel Union of Concerned Scientists (UCS) to identify the documents it intends to introduce at the hearing or through prefiled testimony. In an October 17 telephone conference among the Board Chairman and respective counsel for Licensee and UCS, the distinction between proposed exhibits as a part of a party's affirmative case compared to proposed exhibits expected to be used for impeachment in traditional cross-examination was discussed.

Parties are required to identify all proposed exhibits on the training issue at the time of filing the written direct testimony

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(November 1 for Licensee, November 15 for other parties), except for documents intended for use in traditional cross-examination.*

The Board's intent is to permit parties to keep documents intended for use for impeachment purposes confidential if advance disclosure would frustrate fair cross-examination. However, any document which is a part of the party's affirmative case, even though it is to be identified and made competent through another party's witness, must be identified in advance. We recognize that this ruling requires a good-faith effort by the parties, and there may be gray areas where the distinction between impeaching a witness and contradicting or rebutting a witness must be made. We permit impeaching documents to remain confidential until use, but contradicting and rebuttal documents must be identified.

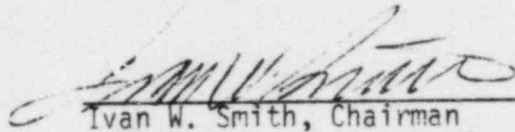
We assume that, in light of the extensive discovery on this issue, identification of the proposed exhibits will be sufficient. However, if the sponsoring party plans to offer an exhibit not known to be available to other parties, it must provide copies of the document or otherwise assure its availability. Any party challenging the authenticity of a proposed exhibit, or objecting to it on grounds other than materiality or relevance must do so within five days of its identification. We

* This clarification is pursuant to an October 18, 1984 request by counsel for UCS. In a memorandum and order of May 5, 1980, at 5, the Board provided for the filing of proposed exhibits at the time of the filing of written direct testimony.

require the parties to stipulate where possible the admissibility of proposed exhibits.

This order does not apply to the Dieckamp-mailgram issue. We will confer with the involved parties in that respect on October 26.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Ivan W. Smith, Chairman
ADMINISTRATIVE LAW JUDGE

Bethesda, Maryland

October 24, 1984