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STAFF
February 11, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE ADMINISTRATIVE LAW JUDGE IVAN W. SMITH

DOCKETED
USNRC

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

OFFICE OF THE CLERK
DOCKET
Docket No. 50-289
(Restart Remand
on Management)

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NRC STAFF REPLY TO UNION OF CONCERNED SCIENTISTS'
MOTION FOR LEAVE TO REPLY TO LICENSEE AND STAFF
RESPONSES TO UCS, COMMONWEALTH, AND TMIA
DISQUALIFICATION MOTIONS AND UCS REPLY; AND NRC STAFF
REPLY TO LICENSEES' MOTION TO STRIKE UCS' REPLY TO
LICENSEE AND STAFF RESPONSES TO DISQUALIFICATION MOTIONS

I. INTRODUCTION

On January 31, 1985, Union of Concerned Scientists' (UCS) moved ^{1/} for leave to file a reply to Licensee and Staff responses to the disqualification motions filed by UCS, the Commonwealth of Pennsylvania and Three Mile Island Alert. UCS also filed its reply to Licensee and Staff responses simultaneously with its motion for leave to file a reply. By motion filed February 4, 1985, Licensee requested that UCS' motion for leave to file a reply be denied and the reply, itself, be stricken from the record.

1/ Union of Concerned Scientists' Motion for Leave to Reply to Licensee and Staff Responses to UCS, Commonwealth, and TMIA Disqualification Motions and UCS' Reply, January 31, 1985 (UCS Motion).

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For the reasons set forth below, UCS' motion to file a reply should be denied and Licensee's motion to strike UCS' reply to Licensee and Staff responses to the disqualification motions should be granted.

II. DISCUSSION

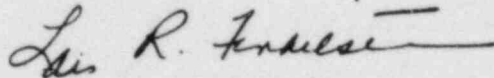
Section 2.730(c) of the Commission Rules of Practice prohibits a party who files a motion from replying to an answer in opposition thereto absent prior approval of the presiding officer. 10 C.F.R. § 2.730(c). Leave to file a reply is "granted sparingly, and then only upon a strong showing of good cause." Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2), LBP-81-22, 14 NRC 150, 157 (1981); Commonwealth Edison Co. (Byron Station, Units 1 and 2), LBP-81-30A, 14 NRC 364, 372 (1981).

UCS claims that the purpose of the reply is "to assure that the record is complete with respect to the extrajudicial nature of the disqualifying actions taken by Judge Smith and to respond to Licensee arguments against UCS' motion." UCS Motion at 1. A review of the motions for disqualification of Judge Smith and responses thereto, however, demonstrates that UCS has failed to provide any new information or arguments necessary to complete the record concerning whether actions taken by Judge Smith during the conduct of this proceeding constitute grounds for his voluntary recusal or disqualification. Accordingly, UCS' motion for leave to file a reply to Licensee and Staff responses to the disqualification motions should be denied and Licensee's motion to strike UCS' reply should be granted.

III. CONCLUSION

For the reasons set forth above, UCS' motion for leave to file a reply to Licensee and Staff responses to the disqualification motions should be denied and Licensee's motion to strike UCS' reply should be granted.

Respectfully submitted,



Lois R. Finkelstein
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 11th day of February, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF REPLY TO UNION OF CONCERNED SCIENTISTS' MOTION FOR LEAVE TO REPLY TO LICENSEE AND STAFF RESPONSES TO UCS, COMMONWEALTH, AND TMIA DISQUALIFICATION MOTIONS AND UCS REPLY; AND NRC STAFF REPLY TO LICENSEES' MOTION TO STRIKE UCS' REPLY TO LICENSEE AND STAFF RESPONSES TO DISQUALIFICATION MOTIONS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 11th day of February, 1985:

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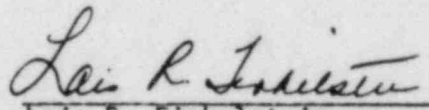
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