



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

April 24, 1984

OFFICE OF THE
SECRETARY

Ellyn R. Weiss, Esq.
General Counsel
Union of Concerned Scientists
1346 Connecticut Avenue, NW
Suite 1101
Washington, DC 20036

Dear Ms. Weiss:

This responds to your letter of February 13, 1984 regarding the UCS petition for show cause concerning the Three Mile Island, Unit 1 (TMI-1) emergency feedwater system. In that letter you inquired by what means the UCS request that the Commission itself take jurisdiction over the UCS petition was denied, and requested reconsideration of that denial. You also set forth three categories of information which you wished staff to provide.

Since the adoption of 10 CFR 2.206 in 1974 the Commission has regularly referred all correspondence requesting enforcement action -- whether or not denominated a 2.206 request and whether or not directed to the Commission -- to the Executive Director for Operations for further referral to the appropriate office director. See 39 Fed. Reg. 12353 (April 5, 1974). Only in rare cases, such as where the petition has raised broadbased or comprehensive challenges which may be considered more akin to a request for rulemaking, has the Commission itself directly acted. E.g., Petition for Emergency and Remedial Action, CLI-78-6, 7 NRC 400 (1978) (fire protection requirements); Denial of Petition for Revoking Nuclear Plant Licenses, 46 Fed. Reg. 39573 (August 4, 1981) (health impacts of the nuclear fuel cycle).

The Commission does not believe the plant specific challenges raised in the UCS petition warrant direct Commission action in the first instance. The NRC staff has both the resources and the relevant expertise to assess the UCS arguments, and will provide a reasoned assessment of whether further action is warranted. The Commission will then have the opportunity sua sponte to review that determination. 10 CFR 2.206(c).

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PDR FOIA PDR
WEISS84-339

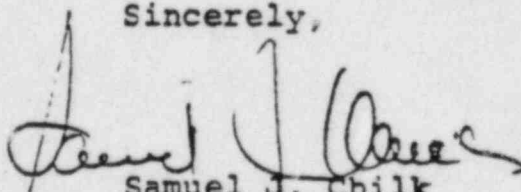
That the staff has previously taken the position that no additional actions are required prior to any restart does not mean that staff will be unable or unwilling to give the UCS petition a fair evaluation. See Porter County Chapter v. NRC, 606 F.2d 1363 (D.C. Cir. 1979). If a member of the staff said that he intended to "shoot down" the UCS petition, that statement was wholly inappropriate and will not reflect the treatment given the UCS petition.

The Commission has accordingly decided to continue to have staff respond to the UCS petition under 10 CFR 2.206. The Commission is also directing staff in its 2.206 decision to respond to the three categories of information set forth in your February 13 letter.

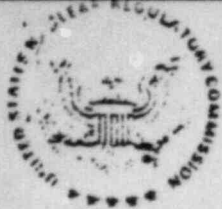
The Commission had also directed the staff on February 3, 1984, to respond to the UCS petition within 60 days of that date. Subsequently, on March 22, 1984 and April 9, 1984 (letters attached) the staff advised the Commission that the 60 day time frame could not be met and the Commission directed the staff to complete the action not later than May 30, 1984. Further, the Commission has directed the staff to brief the Commission on the issues raised by the petition before restart of TMI-1.

Attachments:
As Stated

Sincerely,



Samuel J. Chilk
Secretary of the Commission



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

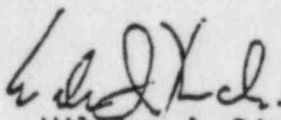
MAR 22 1984

Docket No. 50-289

MEMORANDUM FOR: Samuel J. Chilk, Secretary
FROM: William J. Dircks, Executive Director for Operations
SUBJECT: REQUEST FOR SCHEDULE EXTENSION FOR STAFF ACTION ON THE
UNION OF CONCERNED SCIENTISTS 2.206 PETITION ON TMI-1
EMERGENCY FEEDWATER (M840126C)

Your memorandum dated February 3, 1984 (enclosed) established a March 23, 1984 suspense date for staff action on the subject petition. This is to advise you that the Staff will require an extension of the suspense date for the following reason. Of the five specific technical areas addressed in the petition, the issue of environmental qualification is the pending item at this time. The licensee provided new information by letter dated February 22, 1984 and at a March 8 meeting and will be providing additional information on March 23. As part of our evaluation, we are also conducting an audit of environmental qualification records at the licensee's facility.

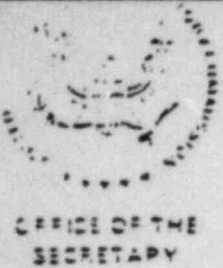
At the completion of our evaluation of environmental qualification of the EFW system, now estimated by the end of April 1984, we will advise you of our schedule for the completion of the Staff action on the subject petition.


William J. Dircks
Executive Director
for Operations

Enclosure:
Chilk memorandum
dated 2/3/84

Contact:
J. Van Vliet
X28213

8404100-138



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

IN RESPONSE, PLEASE
REFER TO: M840226

Ref: EDC-13998

February 3, 1984

ACTION - McCunningham,
H.Denton, NRR

Cys: Dircks
Roe
Rehm
Stello
Murley
DeYoung

MEMORANDUM FOR: Herzel E.E. Plaine, General Counsel
FROM: Samuel J. Chalk, Secretary
SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 4:30 P.M., THURSDAY, JANUARY 26,
1984, COMMISSIONERS' CONFERENCE ROOM, D.C.
OFFICE (OPEN TO PUBLIC ATTENDANCE)

I. SECY-83-406/406A - Review of ALAB-729 -- In the Matter
of Metropolitan Edison Company and Review of ALAB-744
(Denying Request to Reconsider Whether Issue of
Environmental Qualification of Electrical Equipment
is Within Restart Proceeding)

The Commission, by a vote of 4-1 (Commissioner Roberts
disapproving), approved an Order taking review of ALABs
729 and 744.

(Subsequently, on January 27, 1984 the Secretary signed the
Order.)

Additionally, the Commission subsequently agreed to direct
staff to complete action on a January 23, 1984 2.206 petition
filed by UCS as soon as possible (60 days as an outside
limit). The Commission also requested that staff include
the issues raised by UCS when staff briefs the Commission
prior to TMI-1 restart.

By copy of this memorandum, EDO staff is directed to complete
the above action.

(ELD/NRR)

(SECY Suspense: 3/23/84)

cc: Chairman Palladino
Commissioner Gilinsky
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commission Staff Offices
EDO
PDR - Advance
DCS - 016 Phillips

8402160603

Rec'd OX EDO
Date 2-9-84
Time 2:07

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

April 9, 1984



OFFICE OF THE
SECRETARY

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

FROM: Samuel J. Chilk, Secretary

SUBJECT: REQUEST FOR SCHEDULE EXTENSION FOR STAFF
ACTION ON THE UNION OF CONCERNED SCIENTISTS
2.206 PETITION ON TMI-1 EMERGENCY FEEDWATER

By memorandum dated March 22, 1984 you informed the Commission that the Director's Decision on the UCS 2.206 petition regarding Emergency Feedwater would not be completed by the prescribed March 23 deadline.

The Commission requests that you complete action by April 20, 1984 on the four areas addressed in the petition that are not affected by the licensee's subsequent submittals concerning environmental qualification.

Additionally, the Commission requests that you complete action on the remaining portion of the petition and issue a final decision as soon as possible, but not later than May 30, 1984.

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

85-02080-121



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

April 24, 1984

OFFICE OF THE
SECRETARY

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

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, 1983, 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

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~~1-800-555-1234~~

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. 11. 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 an 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.

84-052-10035
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

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 27th, 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,



Eilyn 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