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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

DOCKETED  
USNRC

IN THE MATTER OF:

METROPOLITAN EDISON COMPANY,  
et al  
(Three Mile Island Nuclear  
Generating Station, Unit 1)

DOCKET NO. 50-289 SP

(Restart)

'85 MAY 22 P1:03

OFFICE OF SECRETARY  
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TMIA'S MOTION TO REOPEN THE RECORD FOR  
THE PURPOSE OF RECEIVING ADDITIONAL  
INFORMATION

Three Mile Island Alert, Incorporated (TMIA) hereby moves the Nuclear Regulatory Commission to reopen the record for the purpose of receiving newly acquired evidence and to hold evidentiary hearings in light thereof, and asserts in support of this Motion as follows:

1. On September 14, 1981, the Atomic Safety and Licensing Board issued an Order reopening these proceedings and appointed a Special Master to determine the extent of cheating at Three Mile Island and its effects on and implication of the management, operating personnel and staff of Three Mile Island.

2. These proceedings before the Special Master resulted in his Report issued April 28, 1982, which was highly critical of the credibility and integrity of both corporate and site management of Three Mile Island.

3. During the proceedings before the Special Master, Three Mile Island Alert, Incorporated, requested the production of any and all

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documents in the Licensee's possession that were related to cheating on examinations.

4. Licensee did not produce a copy of an Emergency Procedures Review Examination taken by James R. Floyd, dated May 12, 1979, or a copy of the same exam taken by "O", copies of which are attached hereto, incorporated herein and are marked Exhibit "A" and Exhibit "B" respectively.

5. The answer to Question 5 on each of these examinations clearly was prepared by the same person, presumably "O".

6. On the day that Mr. N.D. Brown graded James R. Floyd's May 12, 1979 examination (July 9, 1979), the site management at Three Mile Island was investigating cheating by Mr. Floyd and "O" on a July 2, 1979 examination.

7. Licensee did not release the tests marked Exhibit "A" and Exhibit "B" to the other parties to this proceeding until June, 1984, after Licensee was forced to release copies of these tests to a grand jury.

8. At the time Licensee released copies of these tests to the other parties to this proceeding, the Atomic Safety and Licensing Board was no longer admitting evidence on cheating, but was hearing only the effect of cheating on training at Three Mile Island. Three Mile Island Alert, Inc. was aware that OI was conducting an investigation into the events surrounding the July 2, 1979 cheating.

9. The cheating contained in these tests and the withholding of these tests by the management of Licensee present new and serious questions regarding the credibility and integrity of Licensee's management and thus raised new and serious questions about management's ability to operate the reactor at Three Mile Island safely.

10. Exhibits "A" and "B" could not have been more timely presented to the Nuclear Regulatory Commission because Licensee withheld this information during the portion of this proceeding when it was competent evidence.

11. Consideration of Exhibits "A" and "B" would cause the Atomic Safety and Licensing Board to reach a conclusion different from the one reached in its May 3, 1985 Partial Initial Decision on the remanded issue of Licensed-Operator training at Three Mile Island. More specifically, the Board would not conclude that "[e]mployees of Licensee who failed to prevent the cheating have acknowledged their failures and their responsibility to prevent cheating." See Board's May 3, 1985 decision at 214.

12. The Nuclear Regulatory Commission Office of Investigation released its Report to the parties to this proceeding in February, 1985, at a time when the Atomic Safety and Licensing Board was no longer receiving evidence on the remanded issues. The Office of Investigation Report is attached hereto, marked Exhibit "C" and is incorporated herein by reference.

13. That Report contained information from the Licensee that was not available to the other parties to this action until the Office of Investigation Report was released.

14. More specifically, attachments 4 and 12 (three pages) of the Office of Investigation Report illustrate an apparent attempt to keep from the Nuclear Regulatory Commission the fact that James R. Floyd had cheated on an examination, an attempt that apparently was based upon the advice of legal counsel to Licensee.

15. Attachment 27 of the Office of Investigation Report is an application for renewal of his Senior Operator's License by James R. Floyd, dated November 15, 1979. The application included a Certification by Gary P. Miller that James R. Floyd had "discharged his license responsibilities in a competent and safe manner during his current license period."

16. Mr. Miller's Certification contradicts testimony by other Licensee personnel and management that Mr. Floyd was "reassigned" as a result of his cheating.

17. The Office of Investigation Report raises significant issues regarding Licensee's ability to safely operate the plant at Three Mile Island.

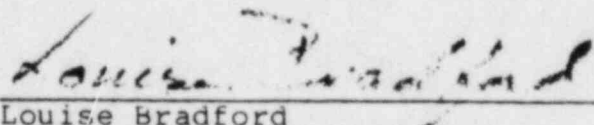
18. This evidence could not have been presented earlier because it was not released by Licensee to the other parties and was not released by the Office of Investigation until after March, 1985, at which time the OI Report was made available to the parties.

19. If this evidence had been considered, the Atomic Safety and Licensing Board would not have concluded in its May 3, 1985 Partial Initial Decision on the remanded issue of Licensed-Operator training at Three Mile Island 1 that "[e]mployees of Licensee who failed to prevent the cheating have acknowledged their failures and their responsibility to prevent cheating." See Board's May 3, 1985 decision at 214.

Three Mile Island Alert urges the Nuclear Regulatory Commission to reopen the record in these proceedings for the reasons stated above and more fully explained in the accompanying Brief in Support of this Motion

Respectfully submitted,

Dated: May 22, 1985

  
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Louise Bradford  
for  
Three Mile Island Alert, Inc.



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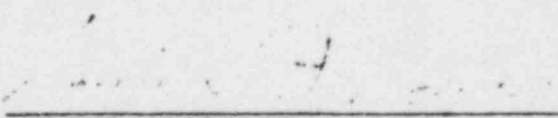
BEFORE THE COMMISSION

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CERTIFICATE OF SERVICE

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I, LOUISE BRADFORD, hereby certify that on the 22nd day of May, 1985, I served true and correct copies of the within Three Mile Island, Inc.'s Motion to Reopen the Record and to Hold Further Evidentiary Hearings Because of Newly Acquired Evidence in the above-captioned matter by hand delivery to the persons and offices on the attached list.

  
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LOUISE BRADFORD