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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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COMMISSIONERS:

OFFICE OF SECRETARY  
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BRANCH

- Lando W. Zech, Jr., Chairman
- Thomas M. Roberts
- Frederick M. Bernthal
- Kenneth M. Carr
- Kenneth C. Rogers

SERVED FEB 19 1988

In the Matter of  
 GENERAL PUBLIC UTILITIES NUCLEAR  
 (Three Mile Island Nuclear  
 Station, Unit No. 1

Docket No. 50-289 (CH)

MEMORANDUM AND ORDER

CLI-88- 01

On December 31, 1987, the Appeal Board issued ALAB-881 certifying a question to the Commission concerning its jurisdiction. Specifically, the Appeal Board sought guidance on the question of whether the Commission wishes to expand retroactively the subject matter of the proceeding to include the issue of Mr. Charles Husted's job performance at General Public Utilities Nuclear ("GPUN").

The Commission has decided to permit the evidence of Mr. Husted's job performance at GPUN to be considered by the Board. Specifically, the Commission finds that such evidence is relevant to the question of whether the restart condition should be vacated by the Board. In determining whether the condition continues to be warranted, it is

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reasonable to take into account mitigating factors such as satisfactory job performance. In reaching our decision we need not determine whether the Appeal Board correctly decided that subject matter jurisdiction did not extend to consideration of Mr. Husted's job performance.

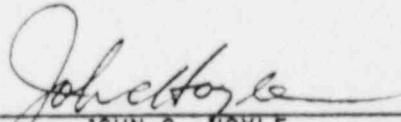
Consideration of this issue will not necessitate the taking of new evidence. Evidence of Mr. Husted's recent job performance at GPUN is already in the record and was considered by the Administrative Law Judge. Permitting consideration of this issue, therefore, will not necessitate reopening of the record.

Accordingly, the Commission directs the Appeal Board to consider the issue of Mr. Charles Husted's job performance at GPUN in rendering its decision in this matter.

It is so ORDERED.



For the Commission\*

  
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JOHN C. HOYLE  
Assistant Secretary of the Commission

Dated at Washington, D.C.

this 19<sup>th</sup> day of February, 1988

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\*Commissioners Bernthal and Rogers were not present for the affirmation of this order; if they had been present they would have approved it.