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UNITED STATES OF AMERICA
Nuclear Regulatory Commission

DOCKETED
USNRC

Before Administrative Law Judge ~~186~~ MAR 27 P4:02
Morton B. Margulies

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In the Matter of
General Public Utilities Nuclear
(Three Mile Island Nuclear
Station, Unit No. 1)

Docket No. 50-289(CH)
(ASLBP No. 85-514-02-0T)
March 27, 1986

Ruling On TMIA's Request
For An Extension Of Time
And For A Delay Of Discovery

TMIA filed a request, dated March 9, 1986, seeking an extension of time in which to object to the Report and Order On Initial Prehearing Conference, dated February 27, 1986, and for a delay in the discovery schedule incorporated in the February 27 order.

The initial prehearing conference was held on February 19, 1986. The report and order, dated February 27, 1986, was served on March 3, 1986. It contains a discovery and hearing schedule that was agreed to in advance by all of the parties including TMIA. The schedule is not to be extended except for good cause shown. The order provided that objections to the order may be filed by a party within five days after its service.

TMIA, who received the order on March 7, 1986, requested an extension of time to March 12, 1986 to file its objections. It also

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requested that discovery be delayed until after the Commission had ruled on TMIA's Motion to Dismiss and for Stay. On February 28, 1986, TMIA had filed a motion with the Commission requesting that the agency reverse its action instituting this proceeding, and that pending a determination, the Commission should stay the subject proceeding. In its March 9, 1986 request, TMIA asserted that no party would be harmed by delaying the subject proceeding because the Commission had stayed the effect of the Appeal Board's condition limiting Mr Husted's employment.

Mr. Husted responded to the TMIA request on March 13, 1986, asserting that it should be denied. He stated that as to that part of the request for an extension to March 12, 1986 to file objections, TMIA already was entitled to make the filing on March 13, 1986, because of the five days provided it in the order itself and the additional five days authorized by 10 CFR 2.710 due to the use of the mails. As to delaying discovery, Mr. Husted raised the argument that he may be harmed by a delay in discovery because it could result in a delay in the decision. He considered it unlikely that he would be permitted to resume his work as a licensed operator or trainer of licensed operators or licensed training supervisor until the proceeding had run its course.

GPU Nuclear, in its filing of March 17, 1986, had no objection to the initial part of TMIA's request, although it agreed with Mr. Husted that TMIA had until March 13, 1986 to file its objections. It would deny that part of the request, for a deferral of discovery, for lack of a showing of good cause.

In its response of March 21, 1986, Staff concurred that TMIA's request to file its response by March 12, 1986 was unnecessary. It too took the position TMIA had not shown that a delay in discovery is warranted.

On March 20, 1986, the Commission issued an order denying TMIA's motion to dismiss this proceeding. In so doing, it removed the basis for TMIA's request for a delay of discovery. This caused the holding of a hearing on the subject motion by telephone, on March 25, 1986, in order to timely decide the motion and attempt to keep the proceeding on track with the agreed to hearing schedule.

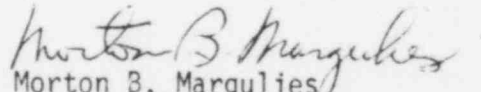
During the call, TMIA made known that it no longer intended to file objections to the February 27 memorandum and order, thereby rendering that part of its request moot. It was prepared to make its interrogatories available to the parties on March 26, 1986. They agreed to make a good faith effort to compress their response time so that TMIA would be able to have its contemplated two rounds of discovery within the March 1, 1986 to May 1, 1986 discovery period. TMIA's interrogatories will not be much out of time with those filed by other parties. Some of Staff's were prepared March 24, 1986. All parties appear to be acting in good faith and there is nothing to indicate that discovery cannot be completed as ordered. Certainly no extension of time is required for this stage of discovery.

Based on the foregoing, TMIA's request for an extension of time to object to the report and order of February 27, 1986 and for a delay in the hearing schedule is denied. The matter of requiring additional time

to object to the prehearing conference order has been rendered moot by TMIA's decision not to file objections. Parenthetically, the other parties were correct in pointing out that TMIA had until March 13, 1986 to file objections.

That part of the request seeking a delay in discovery is denied because at this time it is premature. It appears all discovery can be completed within the allotted time. Should it develop not to be so at the conclusion of the first round of discovery, TMIA may file another motion.

It is so Ordered.


Morton B. Margulies
ADMINISTRATIVE LAW JUDGE

Dated at Bethesda, Maryland
this 27th day of March 1986.