



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20585

CHAIRMAN

June 15, 1984

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The Honorable Tom Bevill, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

DOCKET NUMBER 50-289
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Dear Mr. Chairman:

SERVED JUN 18 1984

This is in response to your letter of May 31, 1984 asking whether the Commission still intends to pursue the TMI-1 restart tentative schedule announced in April. In light of the Appeal Board's May 24, 1984 decision on management, ALAB-772, on June 4 the Commission issued an order to the parties requesting their comments on whether the Commission should lift the effectiveness of the 1979 shutdown order. The Commission additionally advised the parties that after receiving those comments it would decide as soon as possible whether to lift such effectiveness. In a subsequent order, the Commission gave the parties until July 5, 1984 to submit their comments to the Commission. The NRC staff comments are due on July 11, 1984.

The Commission believes it was prudent to request the parties' comments for at least two reasons. First, the Commission in its August 1979 order establishing the restart proceeding stated that it would decide whether or not to lift the immediate effectiveness of the TMI-1 shutdown order if the Licensing Board found in favor of restart. ALAB-772 raises the question whether there now exists a favorable Licensing Board decision, and hence whether a restart decision at this time would be a change in the procedures set out in the August 1979 order. The Commission believes the parties should be provided an opportunity to address this issue.

Second, the Commission believes it should provide the parties an opportunity to comment on all the information to be used by the Commission in making its decision. That information may include the recently completed investigations by NRC's Office of Investigations and may include other recent evaluations of GPU Nuclear. It should be noted that the Licensing Board and the Appeal Board proceedings both were based on a record that was closed in December of 1981. Substantial new information has come before the Commission since that time, including the recently completed investigations by NRC's Office of Investigations. While the Commission had planned to obtain comments on this information by issuing a draft decision for comment, the Commission decided, in view of the issuance of the Appeal Board's decision, that those comments could be asked for by way of the June 4 order.

In view of the foregoing, we conclude that a decision in June is no longer possible. We will continue to work toward a decision on restart as soon as possible consistent with the safety and procedural concerns involved. However, until we have the parties' comments, an exact timetable for a restart decision is in question.

Commissioner Gilinsky adds: "I would only note that if the Commission had itself taken up and dealt with the management issue in 1980, as I then recommended, this case would not still be dragging on."

Commissioner Roberts adds: "Having failed to decide whether to lift the immediate effectiveness of the TMI-1 shutdown order upon issuance by the Licensing Board of its third and concluding partial initial decision favorable to restarting TMI-1 almost two years ago, we once again have been provided an excuse for further delay in deciding. Had we authorized restart of TMI-1 prior to the issuance of ALAB-772, its issuance would not have required that TMI-1 be shut down. Neither should its mere issuance be allowed automatically to delay a decision on whether to allow restart pending still further comments by the parties. Since none of the information and questions currently known to us would warrant immediately shutting down TMI-1 if it were operating subject to the conditions that are to be imposed for restart, none should be allowed to further delay a restart decision. I would decide without further delay."

Chairman Palladino adds: "Commissioner Roberts observes that the Commission failed to make a decision on whether to lift the immediately effective shutdown order two years ago. I would add that, following issuance of the Licensing Board's favorable decision on July 27, 1982, the Commission addressed the immediate effectiveness question. The Commission developed the steps and schedule for its decision, conducted oral presentations and a public meeting in Harrisburg, and held a number of meetings in December 1982 and January 1983 to prepare an order. The order then under consideration would have addressed most of the issues relating to the immediately effective shutdown but it would not have resolved the overall issue of restart for several reasons including the pending issues on the licensee's program for steam generator tube repair. The Commission was on the verge of issuing the order in early 1983 when additional questions arose regarding integrity issues which appeared to require further inquiry. As the public record reflects, the NRC staff subsequently withdrew its positive finding on TMI-1 management competence and integrity.

The integrity issues that arose in early 1983 prompted the Commission to commence several NRC investigations. In January 1984 the Commission decided on and published a decisional process and concluded as a preliminary matter that only the investigation into allegations of possible falsification of leak-rate data at Unit 1 would be pertinent to a decision on whether to lift the immediately effective shutdown order. However, before this decisional process could be completed, the Appeal Board issued ALAB-772; the Commission's order seeking public comment followed, for the reasons stated above in this letter."

Sincerely,



Nunzio J. Palladino

cc: Rep. John Myers

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Congress of the United States
 House of Representatives
 Committee on Appropriations
 Washington, D.C. 20515

May 31, 1984

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Honorable Nunzio J. Palladino
 Chairman
 Nuclear Regulatory Commission
 Washington, DC 20555

Dear Mr. Chairman:

During our recent hearings, we made clear our interest in a timely decision by the NRC on restart of the undamaged TMI-1 plant.

As stated in the Committee Report:

"Over five years have passed since the accident at Three Mile Island and yet the NRC has not been able to reach a decision on the restart of the unaffected TMI-1 plant. The inability of the NRC to reach a decision on this facility jeopardizes public confidence in the NRC ability to make credible independent decisions. The NRC has indicated that all litigation and decisions on the restart of TMI-1 will be completed by June 1984. The Committee expects the NRC to maintain this schedule."

I am aware of the recent Atomic Safety and Licensing Appeal Board decision remanding several issues to the ASLB to complete the hearing record. However, it is my understanding that the Commission itself is not limited to the hearing record in the Restart proceeding and that the Commission already has information on each of the issues remanded by the Appeal Board adequate to enable the Commission to reach a restart decision without awaiting those hearings.

Please advise promptly whether the Commission still intends to pursue its immediate effectiveness determination regarding the TMI-1 Restart and the related steam generator issue on the tentative schedule announced last month.

Sincerely,

Tom Bevill, Chairman
 Subcommittee on Energy