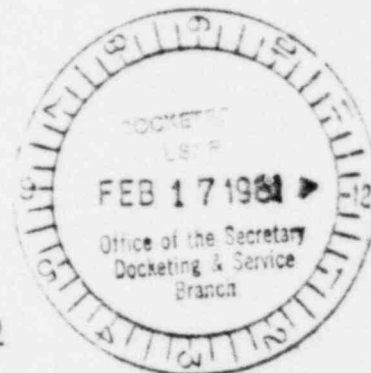




Lic 2/13/81



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	(Restart)
(Three Mile Island Nuclear	)	
Station, Unit No. 1)	)	

LICENSEE'S RESPONSE TO ANGRY REQUEST FOR  
RECONSIDERATION OF ITS MOTION TO ADOPT  
MR. SHOLLY'S EMERGENCY PLANNING CONTENTIONS

The procedural background of ANGRY's present reconsideration motion is fairly straightforward. On December 23, 1980, intervenor Steven C. Sholly withdrew his Contention Nos. 8 (emergency planning) and 9 (radiation monitoring). ANGRY's legal representative orally moved to adopt all of these contentions at the January 8, 1981 hearing session (Tr. 9995, 9997). With two exceptions, Licensee opposed this request in a filing dated January 19, 1981.<sup>1/</sup> The Board issued a bench order on January 27, 1981, authorizing ANGRY to adopt Sholly Contention Nos. 8(I)(B), 8(I)(I) and 9, but denying the rest of the ANGRY motion (Tr. 11,023-25). The matter was discussed again at the February 4, 1981 hearing session

<sup>1/</sup> ANGRY's claim that Licensee's filing was untimely (at p. 3) is based on a misunderstanding of the Commission's rules for computing time (see 10 C.F.R. § 2.710). ANGRY's gratuitous comments about the "busyness" of Licensee's counsel are totally irrelevant to the matter at hand.

8102230591.

G

D503  
S 0/1

(Tr. 11,676-88), and ANGRY was given the opportunity to file an additional written motion in support of its request (Tr. 11,677). ANGRY filed such a paper on February 6, 1981, labeling it a request for reconsideration. Licensee opposes the ANGRY request.

While designated a request for reconsideration, it is apparent that ANGRY's present motion is substantially different than its oral motion on January 8, 1981. At that time ANGRY sought the wholesale adoption of every emergency planning contention raised by Mr. Sholly. ANGRY now seeks to adopt nine of Mr. Sholly's contentions and to "exchange" one of its contentions for one of Mr. Sholly's.<sup>2/</sup> Before addressing each of the contentions which ANGRY proposes to adopt, some general comments are in order.

In Licensee's view an intervenor does not have the "right" to adopt the contentions of a party who has withdrawn. Even if everyone of the Sholly contentions was unique -- which most emphatically is not the case -- Licensee would oppose ANGRY's request. At this late stage in the proceeding, an exceptional showing must be made to justify the exceptional action of adopting large parts of another intervenor's case. ANGRY has not made such a showing.

While attempting to indicate that the problems it now faces

---

<sup>2/</sup>

There is some confusion as to precisely which contentions ANGRY desires to adopt. The chart attached to the ANGRY filing lists Sholly Contention No. 8(I)(H) as one which ANGRY wants to "keep", but that contention is nowhere discussed in the text of ANGRY's filing; nor is it included among the contentions attached to the back of the filing.

are due to arrangements between Mr. Sholly and ANGRY to consolidate, exactly the opposite is true. It is because intervenors in the emergency planning area have been unwilling to consolidate that ANGRY now seeks to adopt Mr. Sholly's contentions.<sup>3/</sup> Had intervenors worked together earlier and developed a single consolidated list of emergency planning contentions, the withdrawal of Mr. Sholly would not have affected the emergency planning portion of this proceeding. This is what Licensee proposed at the meeting on December 19, 1980.

The charts attached to the back of ANGRY's filing represent Licensee's proposal to simplify issues. Licensee indicated at the meeting that under its proposal all intervenors could sponsor the single set of contentions so long as there was no duplication of cross-examination during the hearing. At the meeting Licensee explained the reasoning behind the deletions it was suggesting with the express understanding that at a later date the intervenors would respond to the presentation. Licensee has received no such response. Before he withdrew, Mr. Sholly informed Licensee that his input to the response was complete and all that remained was for ANGRY and Newberry to review that response. For whatever reason, ANGRY has chosen not to participate further in this effort. Having been unwilling to consolidate when it did not suit its purposes, ANGRY should not now be able to reap

3/

ANGRY's claim that it has attempted to consolidate is belied by the sheer number of emergency planning contentions and Mr. Sholly's candid concession that in the emergency planning area there has not been much consolidation. Tr. 4483-84 and 4496.

all the advantages of such a process, without assuming any of the responsibilities that would have simplified the emergency planning area, by adopting Mr. Sholly's contentions. The Sholly contentions are discussed below.

A. Sholly Contention Nos. 8(I)(F) and 8(I)(G)

Both of these contentions deal with offsite support agencies and the letters of agreement between Licensee and such agencies. ANGRY already has a contention precisely on this point, ANGRY Contention No. III(A)(D) (EP-4(B)), which goes to Licensee's letter agreements, as well as another contention going to York County arrangements, ANGRY Contention No. III(C)(10) (EP-6(D)). Despite ANGRY's apparent lack of knowledge about the matter, Licensee asked extensive interrogatories about Contention No. III(A)(D) (EP-4(B)) and received two sets of responses from Mr. Pell. These responses were specifically addressed in Licensee's onsite emergency preparedness testimony. To now add the Sholly contentions would only cause unnecessary mischief. Indeed, some of the deficiencies advanced by Mr. Sholly in his Contention No. 8(I)(G) are not the same as the deficiencies identified by ANGRY in Mr. Pell's responses to interrogatories.

B. Sholly Contention No. 8(I)(J)

This contention deals with an assumed delay in accident assessment time and the need for contingency plans should there be such a time delay in accident assessment. Though not precisely the same, ANGRY Contention No. III(A)(J)(1) (EP-4(H)(1)) alleges that Licensee has failed to properly specify the criteria

for implementing protective actions because of a failure to set forth the expected accident assessment time. Moreover, the underlying thrust of Mr. Sholly's contention goes to the effectiveness of changes that Licensee has made in plant instrumentation, training and human factors engineering, matters covered during other parts of this proceeding. To the extent the Sholly contention raises an emergency planning issue -- i.e., the impact on protective action options resulting from a delay in accident assessment, that issue is identical to the concern raised in ANGRY Contention No. III(A)(J)(1) (EP-4(H)(1)).

C. Sholly Contention No. 8(II)(B)

This contention deals with two assumptions in the State Plan that are alleged to be unjustified. The validity of one of the assumptions, relating to "unmet" needs, is also raised in ANGRY Contention No. III(C)(12) (EP-6(F)). The other assumption, relating to shelter of evacuees, is covered in the following Contentions: ECNP 2-38 (EP-13); Newberry York 31 (EP-14(EE)); and Newberry Dauphin 1, 11 & 19 (EP-16(A), (L) & (S)). If ANGRY desires to litigate these matters it should be directed to consolidate with ECNP and Newberry.

D. Sholly Contention No. 8(II)(D)

This contention deals with evacuation time estimates and possible physical impediments to evacuation. ANGRY Contention No. III(B)(E)(2) (EP-5(B)(2)) raises precisely the same issues.

E. Sholly Contention No. 8(II)(G)

This contention challenges the adequacy of emergency plan drills by the State. ANGRY Contention No. III(A)(H) (EP-4(F)) alleges that a state emergency drill should be conducted prior to restart. Newberry Contention Met Ed 5 (EP-15(D)) also challenges the adequacy of the State emergency plan drill.

F. Sholly Contention No. 8(III)(A)

This contention deals with the adequacy of municipal resources needed to effectuate the county plans. This contention was discussed during the October 31, 1980 prehearing conference (Tr. 4471-83), and at that time it was specifically noted that both ANGRY and Newberry have contentions in this area (Tr. 4479). Nonetheless, the contention was admitted subject to Mr. Sholly specifying his concerns (Tr. 4480). Mr. Sholly filed such a specification on November 24, 1980. However, it did no more than identify generalized concerns about resources like police (security), fire, ambulance, bus, communication, and mass care that already had been covered by specific contentions. Licensee sees no purpose in now allowing ANGRY to adopt a contention that is covered by a myriad of other contentions.

G. Sholly Contention Nos. 8(III)(E) and 8(III)(F)

Both of these contentions deal with early warning and notification to the population at risk, including transients. ANGRY Contention No. III(B)(G)(1) (EP-5(D)(1)) raises precisely the same concern. In addition, there are numerous Newberry contentions in this area -- i.e., York 1, 2, 15, 19 & 32 (EP-14(A),

(B), (O), (T) & (FF)) and Dauphin 5 & 13 (EP-16(E) & (M)).

H. Sholly Contention No. 8(I)(R) and ANGRY Contention  
No. III(A)(E) (EP-4(C))

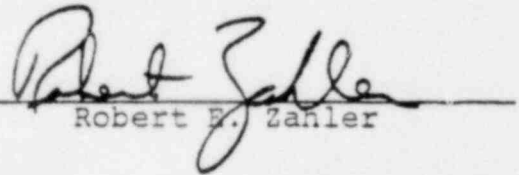
As ANGRY acknowledges, both of these contentions deal with the same subject. Since both Licensee and the NRC Staff have filed testimony in this area, Licensee opposes a change in the wording of the contention. As a practical matter, ANGRY will be free to pursue its concerns regardless of whether it "exchanges" contentions.

WHEREFORE, ANGRY's request for reconsideration of its motion to adopt Mr. Sholly's emergency planning contentions should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: \_\_\_\_\_

  
Robert E. Zanler

Dated: February 13, 1981

Lic 2/13/81

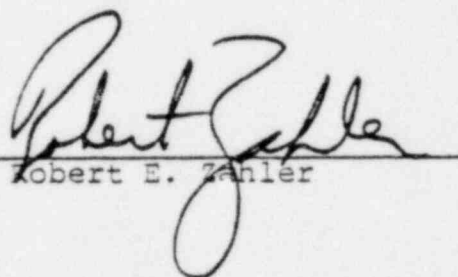
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	(Restart)
(Three Mile Island Nuclear	)	
Station, Unit No. 1)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Response to ANGRY Request for Reconsideration of its Motion to Adopt Mr. Sholly's Emergency Planning Contentions", were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 13th day of February, 1981.

  
Robert E. Zanler

Dated: February 13, 1981



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
METROPOLITAN EDISON COMPANY ) Docket No. 50-289  
 ) (Restart)  
(Three Mile Island Nuclear )  
Station, Unit No. 1) )

SERVICE LIST

Ivan W. Smith, Esquire  
Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Walter H. Jordan  
Atomic Safety and Licensing  
Board Panel  
881 West Outer Drive  
Oak Ridge, Tennessee 37830

Dr. Linda W. Little  
Atomic Safety and Licensing  
Board Panel  
5000 Hermitage Drive  
Raleigh, North Carolina 27612

James R. Tourtellotte, Esquire  
Office of the Executive Legal Director  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Docketing and Service Section  
Office of the Secretary  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

John A. Levin, Esquire  
Assistant Counsel  
Pennsylvania Public Utility Comm'n  
Post Office Box 3265  
Harrisburg, Pennsylvania 17120

Karin W. Carter, Esquire  
Assistant Attorney General  
505 Executive House  
Post Office Box 2357  
Harrisburg, Pennsylvania 17120

John E. Minnich  
Chairman, Dauphin County Board  
of Commissioners  
Dauphin County Courthouse  
Front and Market Streets  
Harrisburg, Pennsylvania 17101

Walter W. Cohen, Esquire  
Consumer Advocate  
Office of Consumer Advocate  
14th Floor, Strawberry Square  
Harrisburg, Pennsylvania 17127

Jordan D. Cunningham, Esquire  
Attorney for Newberry Township  
T.M.I. Steering Committee  
Fox, Farr & Cunningham  
2320 North Second Street  
Harrisburg, Pennsylvania 17110

Ms. Louise Bradford  
TMI ALERT  
315 Peffer Street  
Harrisburg, Pennsylvania 17102

Attorney General of New Jersey  
Attn: Thomas J. Germaine, Esquire  
Deputy Attorney General  
Division of Law - Room 316  
1100 Raymond Boulevard  
Newark, New Jersey 07102

Ellyn R. Weiss, Esquire  
Attorney for the Union of Concerned  
Scientists  
Harmon & Weiss  
1725 Eye Street, N.W., Suite 506  
Washington, D.C. 20006

Steven C. Sholly  
Union of Concerned Scientists  
1725 Eye Street, N.W., Suite 601  
Washington, D.C. 20006

Gail Bradford  
Anti-Nuclear Group Representing York  
245 West Philadelphia Street  
York, Pennsylvania 17404

William S. Jordan, III, Esquire  
Attorney for People Against Nuclear  
Energy  
Harmon & Weiss  
1725 Eye Street, N.W., Suite 506  
Washington, D.C. 20006

Robert Q. Pollard  
609 Montpelier Street  
Baltimore, Maryland 21218

Chauncey Kepford  
Judith H. Johnsrud  
Environmental Coalition on Nuclear  
Power  
433 Orlando Avenue  
State College, Pennsylvania 16801

Marvin I. Lewis  
6504 Bradford Terrace  
Philadelphia, Pennsylvania 19149

Marjorie M. Aamodt  
R. D. 5  
Coatesville, Pennsylvania 19320