United States of America
Nuclear Regulatory Commission
Before the Secretary

_____

In the Matter of: Docket No.	:Three Mile Island Unit-2 :
GPU Nuclear, Inc.,	: NRC-2020-0082
Metropolitan Edison	:
Company, Jersey Central	: Direct License Transfer
and Light	: No. DPR-73 :
Company, Pennsylvania	:
Electric Company, and	:
TMI-2 Solutions, LLC	:

_____

Re: Three Mile Island Nuclear Generation Station Unit-2,

Reply of Eric Joseph Epstein and Three Mile Island Alert, Inc. to Applicant's Answer Opposing Petition for Leave to Intervene and Hearing Request

Eric J. Epstein,
Chairman,
Three Mile island Alert, Inc.
4100 Hillsdale Road
Harrisburg, PA 17112
epstein@efmr.org
(717)-635-8615

I. Introduction.

The Statement of the Case and Procedural History has been presented in detail in the Petition to Intervene and Request for a Hearing on April 15, 2020, and need not be repeated.

Mr. Epstein offers a summary of the status of this proceeding up to this point.

The Applicants GPU Nuclear, Inc., Metropolitan Edison Company, Jersey Central Power and Light Co and TMI-2 Solutions, ("the Applicants") filed the Application on November 12, 2019. On March 26, 2020, the NRC published a notice in the Federal Register informing the public that it is considering the License Transfer for approval, providing an opportunity for the public to submit written comments on the Application, and offering an opportunity for persons whose interests may be affected by the license approval to file (within 20 days of the notice) hearing requests and intervention petitions.

Mr. Epstein and TMI-Alert (“TMIA” or “TMI-Alert”), jointly referred to as (“the Petitioners”) filed a Petition to Intervene and a Request for a Hearing on April 15, 2020. The Pennsylvania Department of Environmental Protection ("the DEP”) filed a Petition to Intervene and A Request for an Extension of Time to File A Hearing Request on April 15, 2020.

The Applicant, DEP and the Petitioners jointly filed a motion with the Commission for entry of a protective order to govern the disclosure of, access to, and use of Sensitive Unclassified Non-Safeguards Information (“SUNSI”) on April 18, 2020. The Commission granted this motion and entered a Protective Order on April 20, 2020.

Applicants Answers to DEP and the Petitioners were filed on May 11, 2020.

II. Argument

Mr. Epstein and TMI-Alert presented, in detail, a Petition to Intervene and a Request for a Hearing, which contained a narrative illustrating why they should be accorded Standing, and submitted three well-defined and substantiated contentions. These comments need not be repeated. Instead, the Petitioners will offer brief replies.

It serves no purpose to brief the Nuclear Regulatory Commission ("NRC") on their regulatory framework as it relates to decommissioning. Moreover, Mr. Epstein and TMI-Alert acknowledge that the NRC is intimately familiar with its own contention admissibility standards.

Of course, there are volumes of documents associated with Three Mile Island. Mr. Epstein and TMI-Alert should not be penalized because they have familiarized themselves with this material, and referred to 41 years of research to support their position.

Mr. Epstein and TMI-Alert are not asking any of the parties involved to sift through the massive documentation associated with this case. (1) The Petitioners will also not be complicit in reducing the core melt accident to an "apples to apples" revision of history. (2)

_____

1 Applicant's Answer, pp. 45-46.

If the applicants feel overburdened or overwhelmed, Mr. Epstein and TMI-Alert are willing to grant the Applicant an extension of time to familiarize themselves with historical documents. Moreover, Dickinson College's TMI Archives, as well as TMI-Alert's Library, contain hard copies of all the documents referenced in the TMI-2 proceedings, and we are willing to arrange a date for copying and review of documents not available in digital format.

2. TMI-Solutions told the NRC during a presentation that they wanted to normalize TMI-2 (Slide, 15). "We don't want it to look like apples to oranges. We want to keep it consistent. License foot print is identical [to TMI-1.]" TMI-Solutions clearly stated to the NRC that they want TMI-2 to look, "Like any other plant at the end of its life" after Phase 1. (Transcript, Environmental Regulatory Approach to TMI-2 Decommissioning, GPU Nuclear and TMI-2 Solutions, (February 20, 2020.)

III. Reply

A. Contention 1 Is Admissible.

The Applicant's Answer is bound by dated iterations from NUREG-0683, (March, 1981), NUREG-0683 (October,1984) and NUREG-0683, (April, 1988) excerpted from previous NRC publications except when they choose to ignore inconvenient facts that do not support their accelerate narrative.

Decommissioning definitions and standards for TMI-2 were outlined in the Environmental Impact Statement (NURREG-0662, March, 1980, NUREG-0683, March, 1981, 2.2 Decommissioning and Appendix U, and summarized in PEIS, NUREG-0683, Supplement No. 3, pp. 2.32 p. 233).

The Applicant's argument is that DECON has periods of storage, thus DECON is actually a rib of SAFSTOR. The problem with the Applicant's position is that it fails to recognize the history of the plant it wants to clean up.

Three Mile Island Unit's'2's "uniqueness" is stated, especially in terms of "unique wastes" identified at the early stages of the cleanup. (PEIS, Section 2.2.1.3.) The NRC also identified the need for "special packing" of "unique wastes." (Section, 2.2.2) The Commonwealth for Pennsylvania's Department of Environmental Protection Secretary, Patrick McDonnell, reaffrimed TMI-2's "unique status" in a letter to Kristine L. Svinicki, Chairman of the U.S. Nuclear Regulatory Commission from April 6, 2020.

> Given my stated concerns, I hope you and your fellow Commissioners will thoughtfully consider the unique aspects of the severely damaged TMI Unit 2 nuclear reactor and not approve a license transfer until all parties are satisfied that the decommissioning can be done safely.

TMI-2's "uniqueness" was reaffirmed by the Applicant in its presentation to the NRC when they stated, "TMI is a very unique situation and we want to take the uniqueness out of it." No other reactor building has a basement where the radiation is soaked into the concrete, as was acknowledged by the Applicant on February 20, 2020 in a presentation before the Nuclear Regulatory Commission. (3)

_____

3. TMI-2 Solutions acknowledged the unique status of TMI-2 in its Application, Attachment 1, p. 12 and Attachment 1 on p. 209, and the Amended "Post Shutdown Decommissioning Activities Report" on pp. 16 and the Affidavit of Russell G. Workman.

It is not just the disfigured remnants of the damaged reactor and high levels of radiation that make TMI-2 unique. (4) It is the zigzag pathway from de-fueling through 1979-1993, to mothballing TMI from 1993-2020, to the change in ownership in 1999, to the extension of Post-Defueling Monitored Storage ("PDMS") after the license extension granted to TMI-1 in 2009, and later the underfunding of the Nuclear Decommission Trust Fund in 2010 when, at the time, the "radiological decommissioning cost estimate [was] $831.5 million. The current amount in the decommissioning trust fund is $484.5 million, as of December 31, 2008." (NRC Website, December 31, 2008)."

The Petitioners supplied evidence from the NRC documenting the challenges and delays during the de-fueling of Three Mile Island Unit-2 through 1979-1993 (Petition, Exhibits A and F.) These site-specific experiences, with their attendant delays and numerous violations, extended SAFSTOR past 2009. (Petition, Exhibits, A, D, E and F.)

The delay in cleaning the plant up had to do with the fact that the licensee did not have the resources or ability to generate revenue. In fact, much of the discussion in the PEIS revolves around the issue of limited resources. In 1988, the NRC stated, "Although the duration of the storage period was not specified by the license, the NRC evaluated delayed cleanup assuming a storage period of 20 years." (PEIS, Supplement 3, April 1988.)

Another factor that dovetailed with a financial shortfall was and is the Applicant's argument that the plant needed time to reduce radiation levels. However, 40 years after the accident does not ameliorate "the relatively large of cesium-137, strontium-90 make detection of other radionuclides difficult...However, the number and quantity of the remaining nuclides are estimated from the amount present at the time of the accident. The amount present at the time of the accident, is, in turn based on the original composition of the fuel and the operating history of the TMI-2 reactor." (PEIS, Source Characteristics, April, 1988, pp. 2.21 - 2.2.)

_____

4. TMI-2's "uniqueness" was reaffirmed by the Applicant in its presentation to the NRC when they stated, "TMI is a very unique situation and we want to take the uniqueness out of it." No other reactor building has a basement where the radiation is soaked into the concrete as was acknowledged by the Applicant on February 20, 2020 in a presentation before the Nuclear Regulatory Commission.

The Petitioners have a legitimate concerns that another delay will take place. Chronic underfunding and perennial delays is the signature of the TMI-2 clean-up. The most alarming aspect of the Application is the fact that the Applicant's License Transfer Application ("LTA"), and Amended PSDAR explicitly anticipate an indefinite period for SAFSTOR — during DECON — if TMI-2 becomes resource challenged.

The Application states, "Although TMI-2 Solutions will pursue an accelerated Decommissioning schedule after acquiring TMI-2, as demonstrated in Enclosure 7 the NDT will still provide sufficient funding for Decommissioning, accounting for fund growth up through 2037. Moreover, the Purchase Agreement does not foreclose TMI-2 Solutions from deferring active Decommissioning work, if necessary, to preserve or grow NDT funds. (Application, Attachment 1 to TMI-19-112. Page 11 of 15 funds.)

PDMS was again indefinitely detoured into a suspended state of SAFSTOR because TMI-1's license was extended. This event had nothing to do with resources, technology, or TMI-2's unique status.TMI-2's new decommissioning date was reset to coincide with the expiration of TMI-1's license in 2034.

The Memorandum of Understanding between Exelon and First Energy anticipates that both plants would be decommissioned at the same time to reduce costs and streamline resources. However, Exelon has asked the NRC to place TMI-1 in SAFSTOR while the Applicant is requesting a DECON protocol, unless they run out of money. At that point, the Applicant shifts back to SAFSTOR in the middle of aggressive decommissioning.

In summation, the Commission has already concluded that there are three models for decommissioning. There is no hybrid model that allows a license to pause decommissioning due to insufficient funding. Moreover, TMI has a history of delays and inadequate resources over the tortured history of the meltdown, to de-fueling, to Post-De-fueling Monitored Storage, and to mothballing

B. Contention 2 Is Admissible.

As explained in detail in the Petition, all five sub-contentions are valid and have been thoroughly substantiated in the Petition filed on April 15, 2020. Mr. Epstein and TMI-Alert demonstrated the wild fluctuations that have occurred relating to NDT funding levels.

The Applicant relies on their contingency fund as a guarantee. However, TMI-2 Solutions' much heralded parental guarantee falls short. The $100 million web of contingency financial instruments are vague, and evaporate during the Applicant's Phase 2.

The DEP Secretary Patrick McDonnell, in a letter to the to the NRC on April 27, 2020, describes the weaknesses of TMI-2 Solutions' guarantee, which undermines the Applicant's Argument that they are not solely dependent on the Nuclear Decommissioning Trust ("NDT") Fund.

> The current record does not provide the NRC with the information necessary to fully evaluate the validity and adequacy of available funding necessary to support the financial assurances made by TMI-2 Solutions. It is unclear what the "financial assurance instruments valued at up to $100 Million" are and what the phrase "up to" means. Also, the Application does not provide a defined amount of funds that will be provided by the Parent Guarantee. In Attachment 1, Enclosure 4B, the Applicants list a Back-Up & Provisional Nuclear Decommissioning Trust, an Irrevocable Letter of Credit and a Financial Support Agreement as additional financial assurances.
>
> The Applicant, however, does not provide a defined amount of funds that will be placed into those additional financial assurances. The Applicant also does not provide information about the beneficiary of the Back-Up & Provisional Nuclear Decommissioning Trust.
>
> Notably, the defined "beneficiary" of the Parent Guarantee includes the First Energy Companies, however TMI-2 Solutions is not a beneficiary and is not a party to the Parent Guarantee. Importantly, the Department is neither a party nor a beneficiary to any of the financial assurance instruments and could not directly invoke those guarantees should it become necessary to do so.
>
> As a separate concern, the global pandemic of COVID-19 has greatly affected financial markets, and the Department has serious concerns about how this impacts the assumptions made by the Applicants in the various "financial assurance instruments" and "Parent Guarantee" it will have accessible during the decommissioning of TMI-2. (https://www.regulations.gov/ Docket ID NRC-2020-0082)

The DEP has reached the same conclusion as the Petitioners. The Department stated

> After review of the Application, it is unclear to the Department where the ultimate responsibility and liability lie should TMI-2 Solutions fail to have enough funds set aside for decommissioning and associated activities and then cease to exist.

In the Applicant's April 13, 2020 letter they state that TMI-2 Solutions will assume all responsibility for all licensed activities at the TMI-2 site. (*See* GPU/Energy*Solutions* April 31, 2020 letter, page 9.)

Given the obvious uncertainties and complexities associated with cleaning up the remains of TMI-2's damaged fuel debris, the reactor vessel, coolant system, associated piping and safety systems, as well as the containment and auxiliary buildings, the demonstration of adequate funding to complete the decommissioning of TMI-2 and restoration of the site is a significant concern of the Department and the citizens of Pennsylvania. The need for the NRC and the Department to carefully evaluate the financial adequacy of TMI-2 Solutions is paramount because the additional financial instruments and the Parent Guarantee raise many questions and concerns.

C. Basis A Contention Is Admissible.

The facts on the ground concerning the "unique condition" of TMI-2 are indisputable, as established in the initial PEIS in 1981. The Applicant dismisses, ignores, and plays down: 1) TMI-2 is treacherous terrain inhabited by numerous radioactive hot spots; 2) The Applicants' are "bound," dependent on past studies without the benefit of an in-depth, site survey; 3) The lack of contemporary dedicated site studies can not be supplanted by a recycled TLG decommissioning estimates; and, 4) The Applicant, like all that came before, will encounter unforeseen conditions that could overwhelm, impede, and delay the cleanup.

The PEIS in October, 1984 identified the value of onsite surveys, and the miscalculation in dose estimates that have plagued the cleanup from its earliest stages. "All options for the TMI-2 cleanup evaluated in this supplement involve occupational radiation dose higher than predicted more than three years ago [1981] in the PEIS. The basis for these revised estimates is increased knowledge of the condition inside the reactor building and of the effectiveness of decontamination and dose reduction efforts." (5)

Flash forward thirty six years later, and the Applicant has to be reminded of the uncertainty involved with cleaning up TMI-2. The Department of Environmental Protection describes the obvious in a letter to the NRC on April 27, 2020: TMI-2 is a "unique," and challenging site unlike any comparable plants decommissioned in America.

> Despite the numerous entries into the containment building to remove damaged nuclear fuel in the 1980s, there are significant areas in the plant with unknown radiological conditions related to the TMI Unit-2 accident. Specifically, external gamma radiation measures may have been made with limited stay times or remote survey instruments. However, the current detailed surface contamination levels of Cs-137, Sr-90 or H-3 (tritium) are not known. As part of the application, the licensee should make known to NRC and the Department any contamination that was covered by clean concrete or sealant during this recovery period. This concern also relates to any radioactive contamination that has migrated into the concrete volume or other surface material.

The current amount of fuel and debris remaining is imprecise, as evidenced by GPU's studies and surveys from the 1980s. (See, Petitioners, Exhibt B.)Yet, the Applicants "bind" themselves to these guesstimates. (The Petitioners referred to these studies, as did Dr. Michio Kaku in August, 1993.)

_____

5 U.S. NRC, NUREG-0683, Supplement 1, Final Report. PEIS, Final Supplement Dealing Occupational Radiation Dose, October, 1984, p.1, Table 2.10.

Dr. Michio Kaku, former professor of Theoretical Nuclear Physics at City University of New York, evaluated studies conducted or commissioned by the NRC on the amount of fuel left in TMI-2. Kaku concluded:

> "It appears that every few months, since 1990, a new estimate is made of core debris, often with little relationship to the previous estimate...estimates range from 608.8 kg to 1,322 kg...This is rather unsettling...The still unanswered questions are therefore precisely how much uranium is left in the core, and how much uranium can collect in the bottom of the reactor to initiate re-criticality."(Petition, Exhibit B.)

Dr. Kaku speaks to the core issue embedded in aggressive decommissioning activities at TMI-2. There is the potential for a singular event, or a combination of events relating to fires and explosions, leading to K-effective and re-criticality, and the potential for offsite releases.

Moreover, the "apples to apples" argument by the Applicant comparing TMI to normal operating plants is at the core of their revisionist argument. None of the projects that the Applicant offered are similar to TMI-2. Three Mile Island is not Big Rock, Ft. Calhoun or Zion. This is the site of the nation's worst commercial nuclear accident. This community has endured the impacts of offsite radiation releases, despite the industry and NRC's assertion that a TMI-type accident was "non-credible."

D. Basis B II Admissible.

The Applicant clearly does not understand the costs of repackaging. Additional capital investments for new onsite dry storage facilities are substantial. Costs could be reduced if the casks could be used for transport, and if ultimate disposal was compatible with interim and long-term storage standards.

The Applicants actually the Petitioner's case in their Answer on p. 40:

> To the extent Petitioners' argument can be read to suggest TMI-2's canisters will be *incompatible* with the transportation overpacks ultimately selected by DOE (thus requiring re-canistering), it is purely speculative. DOE has not yet identified any specific transportation systems that will be used, and there are no loaded canisters presently at the TMI-2 site. Thus, any claim of incompatibility is pure unsupported conjecture.

The DOE' s proposed schedule for establishing a pilot interim storage site has slipped. By the time a centralized interim storage site may be available, DOE is expecting a "wave" with as many as 60 reactor shutdowns that could clog transport and impact the

> Unfortunately, the Department of Energy has abandoned the id ea of multipurpose containers and currently plans to have spent fuel un-packed from transport canisters and then repacked in special canisters for disposal...Costs would be increased by the construction of buildings, berms or other structures to surround the casks and provide additional buffering against possible attack by anti-tank missiles or crashing aircraft." (6)

The Applicant has not demonstrated it has budgeted and prepared for multiple contingencies involving: 1) No storage at the Idaho National Laboratory; 2) Funding for corroded and leaking casks in Idaho 3) CIS packaging; and 4) Design packaging for permanent waste isolation. (Petition, pp. 27-28.)

The status of the final resting place for the TMI-2 fuel is unsettled. Mr. Epstein, not the Applicant, participated in the discussions concerning the license extension for the fuel and debris at TMI. (Reference links were provided in the Petition). The Petitioners refers back to Dr. Kaku's statement to establish that the amount of the fuel and K-effective have been in dispute since 1979. The Petitioners further directs the Applicant to look at his references in the Petition which identify the uncertainty surrounding the storage of TMI waste at the Idaho National Energy Laboratories, and the decision by the State of Idaho not to accept any additional TMI waste after 2035. (Petition, p. 37).

Packaging and repacking are vital planning components to nuclear decommissioning. This omission is further evidence of Applicant's incomplete and sloppy research. It is common industry knowledge that the packaging materials and standards for IS (if approved) and permanent location are materially different. If the Applicant was familiar with the history of TMI-2's cask degradation, they would have budgeted and planned for cask repair and replacement.

---

6 "Science and Global Security," Ed Lyman, Allison Macfarlane, Gordon Thompson, Frank N. von Hippel, January, 2003).

Repacking will be required. The TMI-2 LTA also makes the absurd assumptions they do not have to budget to repair or replace any failed casks or pads. This is folly. The Applicants have an accelerated plan that assumes they will not have to repackage spent nuclear fuel into new containers approved by DOE for transportation**. T**he PSDAR and DCE include no costs for repair or repackaging.

Clearly, the Commonwealth's Department of Environmental Protection has taken notice. The DEP is required by Article 1, Section 27 and applicable state case law to act as a trustee of our natural resources for the benefit of future Pennsylvanians. (See Pennsylvania Environmental Defense Foundation v. the Commonwealth of Pennsylvania, 640 Pa. 55, 161 A.3d 911 (2017).)

The Department of Environmental Protections', Bureau of Radiation Protection ("BRP's"), mission is to ensure that public, occupational, and environmental exposure to radiation from man-made and controllable natural sources is as low as reasonably achievable. The BRP is charged with keeping Pennsylvania's air clean, water pure and soil healthy to comply with Article 1, Section 27.

The third element of our state's radioactive waste management system involves the Commonwealth of Pennsylvania's "Greenfield" standards. If radioactive waste remains onsite on Three Mile Island, it will "negate any opportunity to reuse the site per the Commonwealth of Pennsylvania's "Greenfield" standard.

The fourth and final relevant element of our state's radioactive waste management program is ongoing public involvement. When it was created in 1971, the DEP was required to include an internal citizens advisory council to facilitate public input. The DEP requested that the NRC create a Citizens' Advisory Committee and schedule at least two public meetings to discuss TMI Unit 2 decommissioning issues openly with Pennsylvania residents. The Pennsylvania Department of Environmental Protection referenced a similar Citizens Advisory Committee created for Saxton Station Nuclear Facility in Bedford County, Pennsylvania.

The DEP and the residents of Pennsylvania now find ourselves facing two unacceptable alternatives from the Applicant. Despite repeated claims to the contrary, the Federal Government has been unable or unwilling to build a long-term high level radioactive waste repository. As a result, the Department of Energy remains unable to remove the remaining fuel rods onsite. The second alternative is that TMI-2 Solutions will construct an independent long-term storage facility onsite to hold the spent fuel indefinitely.

The DEP Secretary, Patrick McDonnell, clearly stated “I also expect no radioactive waste from TMI Unit 2 will be left on Three Mile Island.” (April 6, 2020.)

Should the NRC approve the proposed license transfer as written, it will have “commandeered” Pennsylvania’s radioactive waste management program. It will force the residents of Pennsylvania, by federal action and inaction, to accept a high level radioactive waste repository in the middle of the Susquehanna River against the wishes of our state government. As such, the NRC approval will be in violation of the US Supreme Court’s directive in New York v. US 505 US 144 (1990).

The Applicant relies on the assumption that technological advances that have occurred in the last two decades, have made aggressive onsite surveys unnecessary. The original cleanup plan also relied on “emerging technology” which never “emerged.” (7)

G.) Market Fluctuations Are Admissible.

Please refer to NY Attorney General's Argument in her Motion for Leave to Amend Contentions, NY-2 and NY-3, Letitia James Attorney General, State of New York. (Indian Point Nuclear Generating Station, Docket Nos.: 50-3, 50-247, 50-286. and 72-051, pp. 3-12).

Energy Harbor made updated decommissioning estimates available to the NRC on April 27, 2020 to reflect a revised balance as of April 10, 2020. Energy Harbor, a direct descendant of FirstEnergy, has demonstrated that decommissioning fund balances are available for public view post-December 31, 2019.

This is a significant milestone for nuclear power plants with an NRC license in Pennsylvania. The Applicant is aware, that although Energy Harbor and FirstEnergy may have been formally divorced on February 27, 2020, the source of the money in their NDT funds was derived, to a large extent, from Pennsylvania rate payer collections.

7. PEIS, “2.6 Analysis of Current Cleanup Plan and Alternatives,” October, 1984, p. 2.32.

H.) Applicants Misapprehend the LTA Funding Assurance Mechanism.

Please refer to NY Attorney General's Argument in her Motion for Leave to Amend Contentions, NY-2 and NY-3, Letitia James Attorney General, State of New York. (Indian Point Nuclear Generating Station, Docket Nos.: 50-3, 50-247, 50-286. and 72-051, pp. 3-12.

The Applicant insists on ignoring the worst economic collapse in American history, (Answer, pp. 50-52.) The Petitioners have made a request to review the NDT balance. The Applicants reliance on the fund balance at the time of filing is incongruent with their claims that there has been no material change in the Nuclear Decommissioning Trust Fund. (Answer, p.52.) If there is no material change, the Applicants, per terms of the SUNSI, can share the NDT's current balance sheet.

I. Petitioners Request Updated Accounting.

Please refer to NY Attorney General's Argument in her Motion for Leave to Amend Contentions, NY-2 and NY-3. (Letitia James Attorney General, State of New York. Generating Station, Docket Nos.: 50-3, 50-247, 50-286. and 72-051, pp. 3-12.)

J. Contention 3 Is Admissible.

The Applicant continues to create an "apples to apples approach" and fails to recognize the unique status of TMI-2. The Applicant fails to acknowledge that de-fueling was accompanied by funding provided by rate payers and taxpayers (who have no ownership or voting rights) since there was no decommissioning fund at the time of the TMI-2 Loss of Coolant Accident ("LOCA".)

As such, the only precedent established to date is chronic and perennial underfunding of the cleanup of TMI-2. TMI-2 Solutions is the latest actor to appear on the cleanup stage looking to profit at the expense of rate payers. The four different instruments proffered by the Applicant are unaudited, unavailable, and undetermined.

> The DEP stated on April 27, 2020: "The current record does not provide the NRC with the information necessary to fully evaluate the validity and adequacy of available funding necessary to support the financial assurances made by TMI-2 Solutions."

It is unclear what the “financial assurance instruments valued at up to $100 Million” are and what the phrase ‘up to’ means.”

The current record does not provide the NRC with the information necessary to fully evaluate the validity and adequacy of available funding necessary to support the financial assurances made by TMI-2 Solutions.

IV. Summary.

The Petitioners Argument is compelling, well-documented, and sufficient to demonstrate (with adequate support) that the Applicant’s cost estimate and funding mechanisms are premised entirely on fluid and vulnerable assumptions and data. Proposed Contention 1, 2 and 3 satisfy the Commission’s contention admissibility criteria in 10 C.F.R. § 2.309(f)(1) in multiple respects, as detailed below.

V. Standing.

The Petitioners are not going to waste the NRC's time by reviewing the Commissions legal standards or recounting the history of Mr. Epstein’s forced legal separation from his community by nuclear companies based in Illinois, Ohio, and Utah. The only issue raised by the Applicant is if the Petitioners established a “plausible nexus” between the specific license transfer at issue in this proceeding and any harm to Mr. Epstein’s alleged interests. (Answer, p. 70.)

The Petitioner met the burden. Mr. Epstein stated, “Additional radioactive releases - planned and unplanned - as well as converting TMI-2 into a permanent high-level radioactive waste site as planned by EnergySolutions, would be harmful to Mr. Epstein’s health and financial interests.” (Petition, p. 8.)

In addition to the harm caused by creating a long-term radioactive waste site on an island in the middle of the Susquehanna River, the harms attached to another accident were explained in detail. The proposed license transfer and immediate risks to body and health were substantiated in detail in Dr. Kaku’s Testimony in Exhibit B.

Perhaps because the company is not from this area, they were unaware of the plant’s proximity to an airport In an NRC proceeding, where TMIA was accorded standing prior to the accident, TMIA recommended a reinforced containment structure that prevented the TMI-2 accident from releasing more radiation directly into the atmosphere.

TMIA members live, parent, and work around the Three Mile Island plant, and are committed to the old nuclear adage “safety in-depth.” TMIA’s contention during the construction of TMI-2 created a value-added safety component. This development shielded the community at the time of accident, or the area would have been exposed to even higher radiation levels.

More egregious is the effort by nuclear representatives to remove Mrs. Corradi and Mrs. Longenecker from our community. The Petition and affidavits speak to the harms that could be further inflicted upon them and their families.

It is always disconcerting to have out-of-state attorneys opine on the relationship of a citizen to their reactor community. The notion that someone who has never farmed, parented or worked in the community can speak to who is affected and impacted by the creation of a nuclear waste site is a dubious proposition.

However, we are mindful that the nuclear industry and the Commission have taken a constricted and narrow view of who is granted the rarified status of standing. According to the Applicant, “passive foreign investors” who have never set foot in the community or contributed a dime to the construction and cleanup of Three Mile Island Unit-2 -and who stand to profit from a license transfer - have standing.

The Applicant believes that the folks that built and paid for Three Mile Island - and suffered from the accident – do not have the right to participate in this proceeding while their pockets are being picked.

We must acknowledge that times have changed. It is a Herculean task to prove that the community you were born and in which you were raised, schooled, and worked, is now a dangerous location accessible to a limited club of nuclear practitioners.

VI. Conclusions:

For the reasons set forth in the Petition and in this Reply, the Petitioners have submitted Admissible Contentions and should be accorded Standing.

The Petitioners Argument is compelling, well-documented and sufficient to demonstrate (with adequate support) that the Applicant’s cost estimate and funding mechanisms are premised entirely on fluid and vulnerable assumptions and data. Proposed Contention 1, 2, and 3 satisfy the Commission’s contention admissibility criteria in 10 C.F.R. § 2.309(f)(1) in multiple respects, as detailed below.

Furthermore, for the reasons set forth above and the Petition, the license application should be held in abeyance until a more fully developed public record has been developed and evaluated.

Respectfully Submitted,

Eric Epstein, Chairman
TMI-Alert
4100 Hillsdale Road
Harrisburg, PA 7112
lechambon@comcast.net
717-635-8615

cc:

Service List.