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## P R O C E E D I N G S

10:02 A.M.

1  
2  
3 JUDGE YOUNG: All right. I've made a list  
4 of things that we need to talk about today.  
5 Obviously, the Staff's discovery objections. Any  
6 other issues on discovery at this point, the proposed  
7 redaction to the April 12th, I believe that's the  
8 right date, order, any other security-related issues  
9 that we can discuss in a way that is okay on an open  
10 line or in a public manner?

11 Does someone have birds?

12 JUDGE ELLEMAN: I fear you're listening to  
13 my clock sounding the hour.

14 JUDGE YOUNG: Okay, any other things that  
15 anyone would like to add to the list?

16 You may expect a ruling on the proposal,  
17 the motion to dismiss Contention 3 shortly, as well as  
18 on the proposed amendments to Contention 5.

19 Anything else that anyone wants to add to  
20 the agenda for today?

21 MS. CURRAN: Judge, I'm Ms. Dianne Curran.  
22 I think this is on your agenda, but I had an item on  
23 the discovery schedule.

24 JUDGE YOUNG: Okay.

25 MR. REPKA: Judge Young, this is Dave

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1 Repka. We have one item on the security schedule that  
2 the Board said in its last order that we wanted to  
3 discuss.

4 JUDGE YOUNG: Okay, well, let's go ahead  
5 and start with the discovery objections. I guess I'll  
6 start out by just noting that the Staff's objections  
7 are fairly general at this point and you seem to be  
8 saying that you will make more specific objections  
9 when you actually file your responses.

10 Would you like to speak to that?

11 MS. UTTAL: Well, Judge, we haven't had a  
12 chance to gather all of the materials. The next  
13 general fuel issue is an emerging issue. I don't know  
14 if there's anything yet ready for that, but we're  
15 going to be gathering those this week.

16 As to Request 11-5, the VERCORS material,  
17 I believe that that's proprietary, but I'm checking.  
18 Some of the stuff we have is in French which I don't  
19 read.

20 MS. UTTAL: Judge, I'm Ms. Diane Curran.  
21 Last time when we went through this exercise, so far  
22 things are working out all right. I have put the  
23 problem with the proprietary documents, seems to be  
24 that they don't belong to the NRC staff and the NRC  
25 staff gave us a contact person at Framatome. I've got

1 a call into those folks and the way I'm planning to  
2 handle it is I'm hoping that I can arrange a  
3 nondisclosure agreement with them and if not, we'll  
4 probably request a subpoena from the Board, but I  
5 think we can handle all that in due course.

6 JUDGE YOUNG: If you requested a subpoena  
7 from the Board, now this is a French company, right?

8 MS. UTTAL: Well, Framatome, they're in  
9 the States also.

10 JUDGE YOUNG: Oh, they are, okay.

11 MS. UTTAL: The first thing I said was the  
12 VERCORS information that is requested in the second  
13 set. That's proprietary to the French government, I  
14 believe.

15 JUDGE YOUNG: Okay, if there's any  
16 question about any subpoena power or jurisdiction, try  
17 to bring those out as early as possible.

18 MS. UTTAL: Judge, I believe there's a  
19 specific procedure in 2.790 and possibly 2.744 that  
20 perhaps Ms. Curran should look to first before the  
21 subpoena.

22 JUDGE YOUNG: Okay, Ms. Curran, you've got  
23 those?

24 MS. CURRAN: Yes. I don't know whether  
25 it's possible right now, Susan, just for you to tell

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1 us that it seems pretty obvious that if VERCORS is  
2 claiming these documents belong to them and they're  
3 proprietary that we probably need to deal with this  
4 right away.

5 MS. UTTAL: Well, I don't know the answer  
6 yet and as soon as I get the information, I'll let you  
7 know. I won't wait until the response date.

8 MS. CURRAN: Okay.

9 JUDGE YOUNG: All right, I am going to be  
10 available all this week. Judge Baratta is not going  
11 to be available Friday.

12 JUDGE BARATTA: Thursday afternoon or  
13 Friday.

14 JUDGE YOUNG: Thursday afternoon or  
15 Friday. And then Monday and possibly Tuesday, I will  
16 not be available, so if you want to try to reach us,  
17 there's our schedule for the next few days.

18 Anything else on that at this point? I  
19 think that until we get the specific issues -- hello?

20 MS. SHAFEEK-HORTON: Yes, it's Timika  
21 Shafeek-Horton from Duke.

22 JUDGE YOUNG: All right, hi. Until we get  
23 the specific information and the specific objection,  
24 I don't think that we're at a point to rule on any of  
25 the Staff's objections or requests for protective

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1 order. So we will encourage you to continue to work  
2 together and try to work these things out by  
3 agreement. And if you can't, we do have another  
4 conference scheduled for, I believe it's May 14th.

5 One thing that we discussed a little bit  
6 here is the possibility of making the May 14th  
7 telephone conference, changing that to a closed  
8 session in the event that there are any security  
9 issues that we need to talk about.

10 I think we're inclined to go ahead and  
11 allow BREDL to file and actually allow both parties to  
12 file responses to -- and I say both because Duke  
13 joined in the Staff, maybe I should all parties, filed  
14 responses to any proposed changes to our redaction by  
15 May 5th.

16 And then if there are -- if we still have  
17 questions, it might be a good idea to have a closed  
18 session and have all the security -- well, at least  
19 the Staff security experts, Mr. Stapleton, in  
20 particular, present to answer any questions as well,  
21 of course, as our expert, Mr. Manilli who thought that  
22 might be a good idea as well.

23 Are there any other security issues that  
24 are likely to come up?

25 Mr. Repka, you mentioned something about

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1 the schedule. I don't know whether that relates to  
2 this or not.

3 MR. REPKA: It does not. Just one of the  
4 dates on the proposed schedule raises a conflict. We  
5 can deal with that later.

6 JUDGE YOUNG: Okay.

7 MS. UTTAL: Judge Young, this is Susan  
8 Uttal. I just wanted to make sure you got the Staff's  
9 pleading that I gave to Judge Bollwerk on Friday.

10 JUDGE YOUNG: Well, what I'm referring to  
11 is the Staff's proposed additional redactions and I'm  
12 assuming that that's what you're referring to.

13 MS. UTTAL: Yes, I am.

14 JUDGE YOUNG: Yes, we got that, thank you.  
15 And that's what I'm really talking about. In addition  
16 to BREDL's request that we remove the redaction from  
17 a portion of our proposed redaction, we have all the  
18 Staff's additional proposed redactions. One of the  
19 things that occurs to me is to ask what standard are  
20 the parties arguing we should follow with regard to  
21 what should or should not be redacted?

22 MR. FERNANDEZ: Your Honor, we will bring  
23 the Staff's expert and we'll ask him to the best of  
24 his ability to explain the rationale behind the  
25 redactions.

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1 JUDGE YOUNG: Okay, but in addition, if  
2 there are particular legal standards for what should  
3 and should not fall within a category of safeguards  
4 information, that would be helpful to have all parties  
5 address that.

6 It sounds, Mr. Fernandez, as though you  
7 agree that it might be helpful to have the May 14th  
8 session be a closed session. Does anyone else have  
9 anything to say to that or Mr. Fernandez, do you have  
10 anything further as well?

11 MR. FERNANDEZ: I think it would be  
12 helpful because I think it would allow for the parties  
13 and the Board to review the record and understand why  
14 the licensee and the Staff proposed these additional  
15 redactions.

16 JUDGE YOUNG: The other thing that does  
17 occur to me, I don't think we'll have any ruling from  
18 the Commission by that time because I think the last  
19 deadline for that was May 12th, so I doubt if we're  
20 going to have anything by May 14th, but if any other  
21 issues do arise, we could address those.

22 Does anyone have any objection to doing  
23 that?

24 MR. REPKA: We certainly don't object.

25 MS. CURRAN: No, BREDL does.

1 JUDGE YOUNG: Okay, well then why don't we  
2 plan to have a closed session and we'll let you know  
3 where and so forth and at the time we schedule for the  
4 May 14th session.

5 JUDGE ELLEMAN: Judge Young, it will be in  
6 Washington though, won't it?

7 JUDGE YOUNG: Yes. As we had discussed I  
8 think you said that you would be able to come up? Is  
9 that still true?

10 JUDGE ELLEMAN: I see no reason I cannot.

11 JUDGE YOUNG: Okay, great, great. And  
12 then if we leave it at 10, that will give us some time  
13 to talk beforehand, because I think you wouldn't be  
14 able to get here until late on the 13th and then I'll  
15 spend some time after to talk.

16 Anything else on discovery issues before  
17 we move on to any others?

18 MS. CURRAN: Yes, this Diane Curran. I  
19 discussed this with Mr. Repka this morning, but I  
20 didn't get a chance to talk to Ms. Uttal. We received  
21 discovery requests from both Duke and the Staff and  
22 last Wednesday, Dr. Lyman got called to New York very  
23 suddenly. His father was in a really serious car  
24 accident and he still is in intensive care. Dr. Lyman  
25 is planning to come back to Washington today, but he's

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1 lost some time there and I had hoped to be able to  
2 work this out with Staff counsel beforehand, but I  
3 guess I'll bring it up now.

4 We'd just like a little more time to  
5 respond to the discovery and what we would propose is  
6 to file our discovery responses on the 13th. They  
7 ordinarily would be due on the 10th and then put the  
8 deposition off until early the following week. He  
9 needs to get back and look at his calendar before he  
10 can come up with a day, but I was planning to give a  
11 call to Staff and Duke counsel tomorrow morning, to  
12 see if we could set something up.

13 JUDGE YOUNG: That does seem as though it  
14 would fit the category of extreme and unavoidable.  
15 Does anyone have any objection to that?

16 MR. REPKA: This is Dave Repka for Duke.  
17 We did not object and I told Ms. Curran that we  
18 wouldn't object to that.

19 With a couple of provisos though, our  
20 assumption is that there will be a good faith effort  
21 on the 13th to respond to our interrogatories. The  
22 schedule as presently established calls for motions to  
23 compel on the 12th.

24 JUDGE YOUNG: Right.

25 MR. REPKA: So obviously we would need a

1 relaxation of that.

2 JUDGE YOUNG: Right, sure.

3 MR. REPKA: In the event we had a problem.  
4 And then the Staff has asked for Dr. Lyman's  
5 deposition and I think noticed that for the 12th.  
6 Doing it early the following -- Duke would attend  
7 that, of course, and doing it early the following week  
8 would be fine with us, but I think ultimately that's  
9 the Staff's decision. But we would expect it to be  
10 early in that week, given that we're looking at a May  
11 25th deadline for testimony.

12 MS. UTTAL: Judge, this is Susan Uttal.  
13 I have no problem with relaxing the date for responses  
14 to interrogatories and for motions to compel. And I  
15 will have to check with the Staff before I can work  
16 out a date with Ms. Curran regarding the following  
17 week. So that will have to -- how to adjust the  
18 schedule is contingent upon me having appropriate  
19 support.

20 JUDGE YOUNG: Okay, well try to work those  
21 things out together and if you have any issues, you  
22 can bring them to our attention before May 14th. I  
23 hope you'll be able to resolve them well before May  
24 14th in terms of setting times.

25 If the discovery responses are provided on

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1 the 13th, then we would -- normally, we would have the  
2 deadline for motions to compel be a couple of days  
3 after that which would take us to Monday, the -- let's  
4 see, the 17th, since the 15th is a Friday. But it  
5 would obviously be good if you knew what you were  
6 going to say in those to raise those verbally at our  
7 May 14th session.

8 So do any parties see any problem with  
9 doing that?

10 MR. REPKA: We have no problem.

11 JUDGE YOUNG: Okay, then let's try to do  
12 that then and see where we are at that point and by  
13 then hopefully you will have worked out a deadline.

14 Did someone say something that I missed?  
15 Maybe it was just a sound on the phone.

16 All right, any other discovery issues?

17 JUDGE ELLEMAN: Judge Young, this is Judge  
18 Elleman. I did have one question I wanted to direct  
19 to the Staff on the discovery question and it relates  
20 to the April 30th document related to deliberative  
21 process privilege.

22 The words production of documents are used  
23 throughout this document and that can mean either  
24 conveying existing documents or it can mean assembling  
25 information to produce a document of your own. Is it

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1 used in both contexts in your report or in just the  
2 first context?

3 MS. UTTAL: Judge, there's no obligation  
4 upon the Staff to assemble documents to produce in  
5 discovery. What we were referring to is documents  
6 that already exist.

7 JUDGE ELLEMAN: That already exist in your  
8 possession?

9 MS. UTTAL: That is correct.

10 JUDGE ELLEMAN: That answers the question  
11 then.

12 JUDGE YOUNG: Any other discovery issues?  
13 All right.

14 So I guess the last thing I'd say is again  
15 just if there are any remaining disputes between you,  
16 try to be -- all parties try to be able to address  
17 those very specifically with regard to specific  
18 documents and with regard to specific arguments on the  
19 deliberative process privilege to the extent that  
20 Staff wishes to raise that.

21 Okay, then on the redactions, any  
22 responses? Does any party object to the deadline for  
23 that from all of being May 5th?

24 MS. CURRAN: No, BREDL.

25 JUDGE YOUNG: I know you don't. And

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1 obviously, we would allow other parties to respond to  
2 your proposal as well.

3 Let's see. Ms. Curran, you said something  
4 about the discovery schedule. Was that the matter  
5 that you just brought up?

6 MS. CURRAN: Yes.

7 JUDGE YOUNG: Okay, so we've taken care of  
8 that.

9 Is there anything else besides the issue  
10 on the security schedule that Duke wanted to discuss?  
11 Okay, I think that's leaves it as the only thing.

12 Mr. Repka, go ahead.

13 MR. REPKA: Okay, we're looking at the  
14 Board's order setting the schedule for the security  
15 hearing, this is April 28th and on June 25th there's  
16 a closed session to address discovery objections,  
17 responses thereto and related questions of security  
18 issues as well as any need-to-know issues.

19 That one day poses a bit of a problem for  
20 us because both Mr. Wetterhahn and I are conflicted  
21 that day and we would like to see if that could  
22 perhaps be pushed over to the following week.

23 JUDGE YOUNG: That is a problematic date  
24 and I'll tell you why.

25 As I recall, Judge Baratta and Judge

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1 Elleman, correct me if I'm wrong, but as I recall I'm  
2 going to be gone through the 21st and Judge Baratta's  
3 going to be gone the following week and so that was  
4 sort of the one window between those times and I think  
5 Judge Baratta, are you going to be gone -- we had set  
6 a July 2nd time for the three of us to talk.

7 Judge Baratta, do you have any -- you're  
8 asking, Mr. Repka, for it to be put over to the  
9 following week?

10 JUDGE BARATTA: Yes, you're talking about  
11 the week of the 28th, is that correct?

12 MR. REPKA: Yes, that's correct. That  
13 would work.

14 JUDGE BARATTA: I'm not available that  
15 week, unfortunately. So that -- and I also have  
16 hearings earlier in the week of -- I guess it's the  
17 week of the 21st, so that was actually the only day,  
18 either that or the Thursday was the other possibility,  
19 the 24th.

20 JUDGE YOUNG: Well, on Thursday --

21 JUDGE BARATTA: You're busy.

22 JUDGE YOUNG: Yes, I'm going to be in an  
23 airplane.

24 I'm trying to think.

25 JUDGE ELLEMAN: This is Judge Elleman. As

1 you know, I'm good up until July 2nd, but after that  
2 I hit a long time problem.

3 JUDGE YOUNG: Let me just look here. This  
4 was to address discovery issues.

5 JUDGE BARATTA: When is our next -- didn't  
6 we have another hearing?

7 JUDGE YOUNG: The next one was July 15th.  
8 The 2nd wouldn't work.

9 JUDGE BARATTA: No. I'll be in an  
10 airplane then.

11 JUDGE YOUNG: Okay, now would the 6th --  
12 Judge Elleman, when are you leaving?

13 JUDGE ELLEMAN: I will be leaving the  
14 afternoon of July 3rd.

15 JUDGE YOUNG: Okay, so the 5th and the 6th  
16 won't work.

17 JUDGE BARATTA: You come back on what, the  
18 11th is it?

19 JUDGE ELLEMAN: That's correct.

20 JUDGE BARATTA: So the next one we have is  
21 the 15th. I think we slid them in wherever we could  
22 fit them, based on everybody's schedule.

23 JUDGE YOUNG: Well, could Ms. Cottingham  
24 and Ms. Vaughn handle the 25th? I mean if there are  
25 no disputes, we don't need to have it.

1 MR. REPKA: We'll look at that and see if  
2 there's a way that we can handle it.

3 JUDGE BARATTA: I really apologize, Mr.  
4 Repka and Ms. Curran. It's a very busy time in June,  
5 that's all I can say.

6 JUDGE YOUNG: Unfortunately, when we came  
7 up with this schedule, we had to sort of work around  
8 several things and that was one time where we just  
9 barely were able to fit it in between two other things  
10 that had been scheduled for a long time in advance.  
11 And moving it back to the previous week would work  
12 except the deadlines are not until the 23rd. If  
13 anyone thinks that you can get ready with any  
14 objections and disputes the previous week, it might be  
15 possible for us to do something -- well no, the  
16 previous week we're going to be in Charlotte, that's  
17 right.

18 Okay, well, see what you can do and then  
19 we can discuss it again on the 14th.

20 JUDGE BARATTA: The only possibility, I  
21 wonder if there would be a secure location that we  
22 could meet at. It might not be in a courtroom, but it  
23 might be like an FBI office in Charlotte would have a  
24 secure room and really would be very hamstrung in  
25 terms of the number of people that could get in there.

1 JUDGE YOUNG: Right.

2 JUDGE BARATTA: A small conference room,  
3 if we had to do something.

4 JUDGE YOUNG: We could ask the security  
5 people to check on that. I don't think they've been  
6 real favorable to us doing any security closed  
7 hearings outside our office, but -- and we would have  
8 to fit it within the time that we have set.

9 JUDGE BARATTA: Right.

10 MS. VAUGHN: This is Lisa Vaughn. If that  
11 is a possibility, we would be happy to do some  
12 research with regard to what facilities might be  
13 available.

14 JUDGE YOUNG: Well, why don't you do that?  
15 We set aside the 15th, 16th and 17th and so certainly  
16 if we need to set aside some time for that and we are  
17 able to find an appropriate place and an appropriate  
18 court reporter and so forth, that's a possibility.

19 MS. CURRAN: But does that mean that the  
20 whole discovery schedule would change?

21 JUDGE YOUNG: That's the other thing.

22 MS. CURRAN: The purpose of this is to  
23 discuss requests that are filed by the 21st, right?

24 JUDGE YOUNG: Right.

25 MS. CURRAN: So I guess I'm just

1 wondering, I'd like to hear more definitely from Mr.  
2 Repka that Ms. Cottingham or somebody else couldn't  
3 handle this.

4 JUDGE YOUNG: Right, we set the 21st as a  
5 deadline because it was after the hearing because  
6 obviously we -- it's in everyone's interest for  
7 everyone to be well prepared for that hearing.

8 MR. REPKA: Let's do this. Let's maintain  
9 the June 25th date and we will evaluate what our  
10 options are and if it really doesn't work, we'll get  
11 back to the Board.

12 MS. CURRAN: I just want to add one more  
13 comment and that is it seems that as we've been doing  
14 these security issues, the principle party with an  
15 interest and the expertise in determining what  
16 information needs to be released or withheld or how  
17 it's classified or whatever is the Staff. So if the  
18 Staff is there, that's probably the most important  
19 party in terms of making these determinations.

20 MR. REPKA: I'm not willing to make that  
21 assumption on discovery requests that would be  
22 directed to Duke, on Duke's discovery documents.

23 JUDGE YOUNG: Well, see what you can do  
24 with regard to having Ms Cottingham and Ms. Vaughn  
25 handle that and we'll talk about it further next week

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1 as necessary.

2 Just one other thing since we're on the  
3 June hearing date, I think I indicated in the order  
4 that we would fit in any limited appearance  
5 statements.

6 Ms. Curran, are you aware of any people  
7 that might want to present any limited appearance  
8 statements?

9 MS. CURRAN: Well, I haven't discussed it  
10 with the people at BREDL, but I feel almost certain  
11 that they're going to want a chance to do that, that  
12 the community is going to be interested in that. But  
13 I haven't discussed that with them. It's just based  
14 on my experience.

15 MS. UTTAL: Judge, this is Susan Uttal, I  
16 don't know if it's appropriate for members of a party  
17 or organization to be making limited appearance  
18 statements.

19 MS. CURRAN: I understand that. I wasn't  
20 talking about BREDL's members, but they've certainly -  
21 - they will want the community, in general, to know  
22 about this and I think there are other organizations  
23 and other people who aren't BREDL members who would  
24 like a chance to come and address the Board. That's  
25 typically the case.

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1 JUDGE YOUNG: And we do customarily allow  
2 for limited appearance statements. We might just set  
3 the last hour or two one afternoon as a time to do  
4 that, or Tuesday or Wednesday. It's preferable not to  
5 do the evenings, just because I don't want anyone to  
6 get overtired, but I think we will be able to fit  
7 those in.

8 And when we look further at scheduling of  
9 the hearing on the different contentions, we'll think  
10 about when would be best to do that as well.

11 Okay, anything else that we haven't  
12 discussed that any party or anyone would like to  
13 discuss today?

14 MS. UTTAL: The Staff has nothing.

15 MR. REPKA: There are no other issues from  
16 Duke.

17 JUDGE YOUNG: Ms. Curran?

18 MS. CURRAN: None from me.

19 JUDGE YOUNG: Well, thank you all. Judge  
20 Baratta and Judge Elleman, can you think of anything  
21 that we need to address today?

22 JUDGE ELLEMAN: Not here. I would  
23 appreciate you calling me, Judge Young, at the end of  
24 this conference call though.

25 JUDGE YOUNG: Okay.

1 JUDGE BARATTA: This is Judge Baratta. I  
2 don't have anything to add at this point. Thank you.

3 JUDGE YOUNG: Okay, I just want to say  
4 that we appreciate your working together as it's  
5 obvious you are doing and making every effort to do  
6 and we've given you our schedules in case you do need  
7 to contact us before May 14th, otherwise we'll see you  
8 then and we'll let you know when or we'll let you know  
9 where and so forth.

10 MS. CURRAN: Judge Young, this is Diane  
11 Curran. I hate to raise something when you're about  
12 to hang up, but I was just going through your order  
13 and making a note of all the dates and there's one  
14 particular set of dates that seems odd to me and I  
15 wonder if maybe, I'd ask you to reconsider.

16 You have on security issues the second  
17 date for making written requests for second round of  
18 discovery is July 19th and the responses are due July  
19 22nd. No, responses are due August 2nd and then you  
20 have depositions closing August 9th and I'm just  
21 wondering if pre-filed written testimony isn't due  
22 until the 20th, is there any way to hold the time for  
23 depositions open a little later than August 9th  
24 because it's not very much time after one has gotten  
25 a second round of answers to digest that and do a

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1 deposition.

2 JUDGE YOUNG: I think the reasoning for  
3 that was that we approached it in the same way as we  
4 did the last, the discovery on the nonsecurity-related  
5 in which I think we put the second round of written  
6 discovery at the same time as the deposition time, but  
7 --

8 MS. CURRAN: I'd just appreciate having a  
9 little more time.

10 JUDGE BARATTA: I think we worked out, it  
11 was like every 15 days or something like that we would  
12 have a hearing and then based on that we'd set up the  
13 schedule in between. I can see we have a hearing  
14 scheduled for the 10th which is the day I'm here.

15 JUDGE YOUNG: Right.

16 JUDGE BARATTA: To deal with any issues  
17 that arose out of the previous round.

18 MR. REPKA: This is Dave Repka for Duke.  
19 From our perspective, that schedule is -- we wouldn't  
20 want the depositions schedule to run any closer to the  
21 testimony because we want all depositions done so that  
22 we can appropriately use the time to prepare testimony  
23 as opposed to still being subject to depositions.

24 So I do not believe that a change is  
25 necessary.

1 JUDGE YOUNG: Does the Staff have any view  
2 on that?

3 MR. FERNANDEZ: No, no position either  
4 way, Your Honor.

5 MS. CURRAN: Aren't the motions to compel  
6 is due August 6th, so if somebody is trying to get  
7 more information out of that second round, they may  
8 not even have it before they have to do a deposition.  
9 I'm just thinking maybe a few more days would help.  
10 Maybe we could wait until we get to that point and if  
11 we need it, ask for it. It suddenly seemed to me to  
12 be pretty tight.

13 JUDGE YOUNG: Why don't you try to work  
14 within the existing schedule and then if any real,  
15 real problems arise, bring it to our attention early  
16 on. I'm going to be out of town the first, at least  
17 the first week of August. And the 10th was another  
18 date that -- there may be some wiggle room there, but  
19 --

20 JUDGE BARATTA: I think the 10th was based  
21 on the motions to compel coming in on the 6th and then  
22 if we had to have a hearing on those, it would be on  
23 the 10th. I think that's what the original idea was.  
24 Am I wrong on that, Judge Young?

25 JUDGE YOUNG: NO, no. Right.

1 JUDGE BARATTA: So if there was an issue  
2 then because we can't discuss a lot of these over the  
3 telephone as we do now, we had to put in an actual  
4 physical hearing, and I think Ms. Curran, maybe I'm  
5 misinterpreting what Judge Young had in mind, but I  
6 thought we would have a hearing on any of the motions  
7 and then rule on them and then you'd still have a  
8 couple of days to get your deposition in after that.

9 JUDGE YOUNG: No, I think the depositions  
10 close by the 9th.

11 JUDGE BARATTA: Well, no, not if there's  
12 a motion to compel though that comes on the 6th and we  
13 don't -- and for whatever reason we have a hearing on  
14 the 10th.

15 MS. CURRAN: I'm content if we can just  
16 play it by ear and if it seems like there's problems  
17 to deal with them at the time.

18 JUDGE YOUNG: Right, and actually, Judge  
19 Baratta makes a good point. If we were to rule in  
20 favor of any motion to compel from any party, on the  
21 10th, then we might be able at that point or we should  
22 probably at that point be able to set a specific date  
23 for any further depositions in response to such a  
24 motion.

25 JUDGE BARATTA: Although it would have to

1 be quick because we do have the hearing scheduled for  
2 what is the date, about a month after that.

3 We would probably have a few days at the  
4 most, once the ruling is issued.

5 JUDGE YOUNG: Maybe if the parties could  
6 tangibly keep open the 11th, 12th and 13th in the  
7 event we were to make any rulings that necessitated  
8 anything, but otherwise keep the same schedule and  
9 again if we really make an effort to file specific  
10 objections when the objections are due, then the part  
11 of the intent of that was to try to forestall of make  
12 unnecessary any further disputes as much as possible.

13 So -- well, let's just proceed in that  
14 manner. Try to get all of your disputes sort of out  
15 and on the table as early as possible so that they can  
16 be addressed. I think we had a July 27th date set for  
17 closed hearings and then if anything arises in the  
18 depositions or in the period between July 27th and  
19 August 6th, then they can be taken up on August 10th  
20 in that hearing.

21 Okay, am I overlooking anything else?

22 JUDGE BARATTA: The only thing I'd like to  
23 add is I hope that Dr. Lyman's father and I suspect I  
24 share this with everybody in the proceeding that he is  
25 okay and things work out okay for him.

1 MS. CURRAN: Thank you. I'll pass that on  
2 to him.

3 JUDGE YOUNG: Thank you, and yes, I would  
4 join in that.

5 All right, thank you all very much and you  
6 should be hearing from us in the next few days about  
7 a few things and nothing unexpected -- I mean nothing  
8 other than what we've already mentioned and we'll look  
9 forward to seeing you next week.

10 (Whereupon, at 10:40 a.m., the  
11 teleconference was concluded.)

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CERTIFICATE

This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

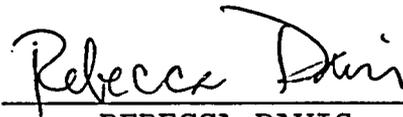
Name of Proceeding: Duke Energy Corporation

Docket Number: 50-413-OLA;

ASLBP No. 03-815-03-OLA

Location: telephone conference

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



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REBECCA DAVIS  
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