

RAS11864

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

June 23, 2006 (2:21pm)

Title: Entergy Nuclear Vermont Yankee
Pre-Hearing Conference

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket Number: 50-271-LR; ASLBP No. 06-849-03-LR

Location: (telephone conference)

Date: Monday, June 19, 2006

Work Order No.: NRC-1118

Pages 1-39

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SECY-02

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PRE-HEARING CONFERENCE CALL

IN THE MATTER OF: Docket No. 50-271-LR

ENTERGY NUCLEAR VERMONT

YANKEE L.L.C. and ENTERGY

NUCLEAR OPERATIONS, INC.

(Vermont Yankee Nuclear

Power Station)

Monday,
June 19, 2006
Teleconference

The above-entitled matter came on for hearing, pursuant to notice, at 2:00 p.m.

BEFORE:

ALEX S. KARLIN, Administrative Law Judge
RICHARD WARDWELL, Administrative Judge
THOMAS ELLEMAN, Administrative Judge

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P R O C E E D I N G S

JUDGE KARLAN: This is a telephone conference in the matter of ENTERGY Nuclear Operations, Inc. ASLBP No. 04-832-02-OLA, the LR standing for license renewal as I understand it, Case No. 50-271-LR. And what I would like to do is first introduce the members of the board who are here in Rockville, Maryland, which is where I'm located, and Dr. Elleman will introduce himself, and then we'll go around and ask each of the parties to, for the record, introduce themselves.

Here, in Rockville, I'm here with Dr. Richard Wardwell, who is also a member of the board, and Marsha Carpentier, one of the lawyers and law folks who is working with this board on this matter.

Dr. Wardwell, do you want to say anything? Okay; very good. And Dr. Elleman is with us from North Carolina, somewhere in beautiful North Carolina?

JUDGE ELLEMAN: That's correct. This is Thomas Elleman. I'm calling in from Raleigh today.

JUDGE KARLIN: Okay; good. Why don't we go around the table, perhaps starting with [inaudible] and formally identify yourselves.

MR. LEWIS: This is David Lewis from

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1 Pillsbury Winthrop Shaw Pittman representing
2 ENTERGY, and I have with me Matias Travieso-Diaz.

3 JUDGE KARLIN: All right. So ENTERGY.
4 Thank you, David Lewis. May we have the state of
5 Vermont, please.

6 MS. HOFMANN: Thank you very much, Your
7 Honor. This is Sarah Hofmann. I'm the director for
8 Public Advocacy for the state of Vermont, and with
9 me today is William Sherman, the state nuclear
10 engineer. Mr. Roisman is on vacation today. If he
11 gets my voice-mail, he'll join us, but I don't
12 believe that--he had called in once earlier today,
13 prior to this call being scheduled. So I have some
14 information on Mr. Roisman's schedule, if necessary.

15 JUDGE KARLIN: Thank you. Ms. Curran,
16 for the state of Massachusetts?

17 MS. CURRAN: Yes. Good afternoon. This
18 is Diane Curran for the Commonwealth of
19 Massachusetts. The commonwealth is also represented
20 by Matthew Brock, but he was out of the office
21 today, so I'll be representing the client.

22 JUDGE KARLIN: Thank you. The New
23 England Coalition, please.

24 MR. SHEMS: Good afternoon, Your Honor.
25 My name is Ron Shems. I'm here with Karen Tyler.

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1 We're calling from Burlington, Vermont, and also on
2 the line is a representative from our client, Ray
3 Shadis.

4 JUDGE KARLIN: Thank you, Mr. Shems.
5 Welcome. And the staff. Ms. Young.

6 MS. YOUNG: Hello, Judge Karlin. This
7 is Mitzi Young, representing the NRC staff with the
8 Office of General Counsel in the NRC. Also with me
9 is Steven Hamrick, another attorney in our office.

10 JUDGE KARLIN: Thank you very much, and
11 thank you all for participating on this call in such
12 short notice. Because some of the deadlines are
13 relatively imminent, I thought it would be useful to
14 have a quick call, hopefully quick, and review where
15 the bidding is, I guess, or where we are, and need
16 for any extensions.

17 This is being transcribed of course and
18 the court reporter's transcription will be available
19 in five to ten days, something like that, but in the
20 meantime, could each of you, as you speak, try to
21 identify yourself. It helps, so that the court
22 reporter can properly identify each of you in the
23 transcript.

24 The purpose of this call--now the
25 members of the board have convened and talked about

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1 this. The purpose of the call, the primary purpose
2 is to review the State of Vermont's motion of June
3 16th, to do two things as I understand it. One is
4 to extend the deadline for filing of certain answers
5 and replies, and the second part of the motion is to
6 change the date, the tentative date that we've set
7 out in our order, oral argument from July 25th and
8 26th to August 3rd and 4th. We'd like to hear from
9 you all about that and so that we can plan
10 accordingly.

11 We might also note that we have received
12 from Ms. Curran, of course, the information about
13 San Luis Obispo Mothers For Peace versus NRC
14 decision. So we're going to make a note on that,
15 and third, we have a few minor housekeeping matters
16 we would like to address at the outset.

17 We are not intending to rule on the
18 notices or motions, depending on how you interpret
19 it, for adoption, or of adoption, that has been
20 filed by the State of Vermont and by NEC.

21 So we're not here to do that or hear
22 argument about that today.

23 With that said, are there any other
24 urgent suggestions of items that anyone really
25 thinks need to be put on the agenda here?

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1 MR. : No, Judge Karlin.

2 JUDGE KARLIN: Okay; good; good. All
3 right. Fine. Then we will proceed.

4 All right. We'll start with
5 housekeeping, kind of do this in a little bit of
6 reverse order. Housekeeping. There are lots of
7 boards and there's various chairmen, and, you know,
8 one thing I guess I just would want to say is that I
9 think I would prefer us proceeding with relative
10 formality in terms of filings and communications.

11 I personally am not interested in
12 receiving e-mails unless some very urgent and
13 substantive matter requires it. Our law clerk,
14 Marsha Carpentier would be the primary law clerk on
15 this matter, and if you have an e-mail communication
16 about procedural or scheduling issues, you should
17 please contact her with a cc to Jonathan Rund.

18 So in order to avoid any, you know, ex
19 parte issues, or anything else, I think it's just
20 better to proceed in that way.

21 Second, on the housekeeping, I have if
22 each of you would file your notices of appearance,
23 2.314, required notice of appearance to be filed,
24 and that information is helpful. The staff has
25 already done so and I think if everyone else could

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1 do that, that would be helpful for our contacting
2 people, because we did have some difficulties, and
3 particularly still have some difficulties with the
4 town of Marlboro. We've made diligent efforts,
5 calling everyone we can think of, to try to inform
6 them, and encourage them to participate on this
7 call. It's very short notice, and we were
8 apparently not successful.

9 MS. CURRAN: Judge Karlin?

10 JUDGE KARLIN: Yes.

11 MS. CURRAN: This is Diane Curran. I
12 just have a question about that. Matt Black and I
13 filed notices of appearance before the secretary
14 when we submitted the hearing request. Does that
15 suffice? Or would you also like one to be filed
16 with the board?

17 JUDGE KARLIN: No; that would suffice.

18 MS. CURRAN: Okay.

19 JUDGE KARLIN: That would suffice. I'm
20 sorry I didn't mention your notice.

21 MR. LEWIS: Judge Karlin, this is David
22 Lewis. I filed a notice of appearance as has Mr.
23 Travieso-Diaz. And those are with the board. So I
24 believe you should have those as well.

25 JUDGE KARLIN: Great; okay.

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1 MS. HOFMANN: And the State of Vermont
2 also filed when we filed our contentions. We filed
3 a notice of appearance for Tony Roisman and myself.

4 MR. SHEMS Well, gee, I guess I'll
5 withdraw my comments. The only party that needed to
6 hear it is not on the line.

7 MR. : Yes. They're not on the line
8 anyway, so--

9 MR. SHEMS: This is Ron Shems. I don't
10 want to [inaudible] NEC also filed.

11 JUDGE KARLIN: Well, I apologize for not
12 being aware of that and we will delve into that and
13 make sure we've got all the information you filed.
14 So thank you for that.

15 MS. YOUNG: Judge Karlin, this is Mitzi
16 Young. The staff contacted the chair for town of
17 Marlboro, Kelly Newton.

18 JUDGE KARLIN: Yes.

19 MS. YOUNG: At her e-mail address. And
20 she also gave me a town clerk's number or an
21 administrative assistant's number too. So if you
22 need that information, I can share that with your
23 clerk.

24 JUDGE KARLIN: That would be great. I
25 believe Ms. Carpentier already has that.

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1 MS. : I contacted the town clerk but
2 if you have contact information for people at the
3 select board, I would really appreciate that.

4 MS. YOUNG: I do.

5 JUDGE KARLIN: All right.

6 MS. YOUNG: I'll get that to you
7 afterwards.

8 JUDGE KARLIN: Yes. If you could handle
9 that off-line. Thank you, Ms. Young. That's
10 helpful. Okay.

11 That said, moving from--we're really not
12 going to do a whole lot of housekeeping at this
13 point because we haven't decided on whether any
14 contentions are going to be admitted at all, and of
15 course if and when they are, then we would have a,
16 you know, bring in a conference call and we'd issue
17 initial scheduling order, and there'd be more
18 forthcoming, now, information on that.

19 Turning to the next, in reverse order
20 item, the San Luis Obispo Mothers For Peace versus
21 NRC, we note, appreciate the note from Ms. Curran
22 regarding that decision that she was involved in as
23 I understand it, and we're not here to argue it or
24 hear argument on it, but I think one point we would
25 make is that if any participant on this call--we

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1 can't speak for anyone else--believes that that
2 decision constitutes a circumstance or basis for
3 filing something in this case, you know, or
4 mandates, or whatever, we would urge them to do so
5 promptly and without judging or prejudging any
6 issues regarding timeliness. We would see any such
7 pleading or any such filing by July 14th, well
8 before any oral argument, recognizing of course that
9 probably would not be briefed and ready if there was
10 going to be oral argument anyway, if it was filed in
11 that timeframe.

12 And we might also, I might just mention
13 that the parties on this call might want to
14 reference the ruling in Vermont Yankee uprate of May
15 25th of 06, which talks in some regard about new and
16 amended contentions, and what that board thought in
17 terms of what was required under those rules.

18 So I'd comment that to your
19 consideration, although it doesn't bind this board
20 in any way, shape or form.

21 MS. : Your Honor, would that also be
22 due July 14th or would you want that sooner?

23 JUDGE KARLIN: What be due?

24 MS. : If you want us to comment on
25 the May 25th order in the Vermont Yankee uprate

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1 proceedings.

2 JUDGE KARLIN: No; no. I don't want you
3 to comment on it. I just might commend you to take
4 note of it, if and when you decide to file anything.

5 MS. : Oh. Thank you very much.

6 JUDGE KARLIN: That's all.

7 Okay. With that, we turn to Vermont's
8 motion of 16th of June, as I understand it two
9 things--extend the deadlines for filing certain
10 answers and to adjust the tentative date for oral
11 argument.

12 What I think we'd like to do is ask the
13 parties, particularly the state, since you filed the
14 motion, to talk about the first issue, extension of
15 deadline for filing certain answers.

16 So Ms. Hofmann, I guess the floor is
17 yours on that.

18 MS. HOFMANN: Thank you very much, Your
19 Honor. Because the contentions are filed on May
20 26th, that means the answers would be due on June
21 21st, 2006, and Vermont's reply would be due on June
22 28th, 2006.

23 That left us in a rather uncomfortable
24 position of having Mr. Roisman out of the office
25 until the 26th of June on a long-planned vacation.

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1 So we talked to the parties and asked if we could
2 extend by two days and basically then split the time
3 between each of us, giving the ENTERGY and NRC staff
4 one extra day, and our reply wouldn't be due until
5 June 30th.

6 But basically, we're only pushing out
7 the schedule by two days. I was able to talk to
8 everyone, all the parties, no one objected to this.
9 I didn't get Mr. MacArthur from the town of
10 Marlboro. I later was able to contact him about
11 oral argument but wasn't able to really--he didn't
12 really understand what this meant, so I didn't make
13 him comment on it at all.

14 But we would be asking the board to
15 extend this schedule by the two days.

16 JUDGE KARLIN: Okay, and the extension
17 of schedule would operate in favor of the State of
18 Vermont and...?

19 MS. HOFMANN: Basically it was two days
20 and we gave one day to ENTERGY and the NRC staff, so
21 they added one day to their timeframe, and then we
22 added one day to our timeframe.

23 JUDGE KARLIN: So the dates would be the
24 22nd and the 30th?

25 MS. HOFMANN: That's correct.

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1 JUDGE KARLIN: For both NEC and--I'm
2 sorry--for ENTERGY and the staff to file their
3 answers, and then, respectively, for NEC and State
4 of Vermont to file their replies?

5 MS. HOFMANN: I believe that is correct.

6 JUDGE KARLIN: The State of
7 Massachusetts, are they affected by any of this?

8 MS. HOFMANN: I don't believe they're
9 affected by any of this but I believe they filed
10 their own motion in terms of timeframe.

11 MS. CURRAN: That's right, Judge Karlin.
12 This is Diane Curran.

13 JUDGE KARLIN: Okay. What did you file,
14 Ms. Curran?

15 MS. CURRAN: We filed a motion to
16 extend, to basically shift the time for responding
17 and replying by two days for the NRC staff, just to
18 put it in line with the schedule for ENTERGY's
19 response in our reply. So right now, the staff's
20 response is due on the 20th and our reply would be
21 due on the 27th. Right now, ENTERGY's response is
22 due on the 22nd, and our reply's due on the 29th,
23 and we think it'd be most efficient for us if we
24 could handle both those replies, responses together.

25 So we ask for an extension that would

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1 move the staff's response date from the 20th to the
2 22nd and move our reply date from the 27th to the
3 29th. And we contacted counsel for ENTERGY and the
4 staff, and there was no objection from them.

5 JUDGE KARLIN: Okay, and did anyone else
6 have any objection, or does anyone else have any
7 objection to that on behalf of the State of
8 Massachusetts?

9 MS. HOFMANN: The State of Vermont has
10 no objections.

11 JUDGE KARLIN: Okay. Now if anyone else
12 wants to comment on these extensions.

13 MR. SHEMS: This is Ron Shems from the
14 New England Coalition. We jointly filed a motion
15 with the State of Vermont and we'd be on the same
16 timeframe, and have no objection to any of the
17 motions [inaudible].

18 JUDGE KARLIN: Right. Okay. Any
19 questions from the board members?

20 JUDGE WARDWELL: I have none.

21 JUDGE KARLIN: Dr. Elleman.

22 JUDGE ELLEMAN: Just a point of
23 clarification. I thought I heard Ms. Curran say she
24 would be filing on the 29th, and did I hear the
25 others say they're filing on the 30th?

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1 JUDGE KARLIN: I believe that's what Ms.
2 Curran said.

3 MS. CURRAN: That's right. There's
4 different dates.

5 JUDGE ELLEMAN: Okay.

6 MS. CURRAN: We didn't have anybody on
7 vacation, so--

8 JUDGE ELLEMAN: Okay. I just wanted to
9 make sure I noted it properly.

10 JUDGE KARLIN: Well, okay. We've talked
11 about this ahead of time. I appreciate, and it was
12 valuable to listen to each of you. Quite frankly
13 we're not particularly enthused about granting
14 extensions because one counsel's on vacation, and
15 the other one is excellent and can handle the
16 matter. But in light of the early situation here,
17 we're amenable and we'll grant the motions.

18 In fact, I think, if I understand it
19 correctly, what we'll just do is say the answers
20 will be due from all parties on the 22nd and the
21 replies will be due on the--the only exception to
22 that will be the town of Marlboro, which will
23 operate on its own [inaudible]. I think they may
24 have more time than that. I'm not sure of what
25 their schedule is. So they're not here, I don't

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1 want to [inaudible] whatever, a lie.

2 MS. CURRAN: Judge Karlin, this is Diane
3 Curran. I just want to clarify. Are you saying that
4 all of the replies, including Massachusetts, are now
5 due on the 30th?

6 JUDGE KARLIN: Yes. Yes, we are.

7 MS. CURRAN: Okay; thank you.

8 MR. LEWIS: Judge Karlin, just a
9 clarification. There is one answer that none of
10 these motions address.

11 JUDGE KARLIN: Okay.

12 MR. LEWIS: ENTERGY's answer to the New
13 England Coalition's petition is due June 26th. We
14 were served on it by mail and therefore has a
15 different timing, and there's no proposal for their
16 changing that date for the answer or for any
17 replies.

18 JUDGE KARLIN: And is this Mr. Lewis
19 who's--

20 MR. LEWIS: This is Mr. Lewis; excuse
21 me.

22 JUDGE KARLIN: Let's see if we could--
23 could you repeat that. If I understand what you're
24 saying, ENTERGY's answer, due to a glitch in the
25 delivery of service, that is, you did not get--

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1 MR. LEWIS: It wasn't a glitch. I mean,
2 they didn't have to serve us electronically. They
3 served us by mail, which adds five days to our
4 response time, and so we've been working to a June
5 26 filing date, which is the 25 days plus five days
6 to account for the service.

7 JUDGE KARLIN: Right. Okay. That is
8 unchanged.

9 MR. LEWIS: Unchanged.

10 JUDGE KARLIN: Your timeframe for, you
11 know, answering, and the timeframe for replying will
12 be unchanged.

13 MR. : And just to make sure
14 everyone's on the same page, NEC's reply would be
15 due on July 3rd?

16 JUDGE KARLIN: Seven days on--yeah. I
17 think that's right. And obviously we would
18 encourage everyone to file electronically, and
19 hopefully now you all will get the e-mail addresses
20 sorted out. You know, that shouldn't be a problem.
21 Okay.

22 So the general rule is answers and
23 replies on the 22nd. I'm sorry. Answers on the
24 22nd, replies on the 30th. There are two exceptions
25 to that rule. The standard one is the NEC and

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1 ENTERGY exchange, the 26th, and it appears to be
2 July 3rd, and the other exception is the town of
3 Marlboro. So that part of the motion is essentially
4 granted.

5 MS. YOUNG: Judge Karlin, this is Mitzi
6 Young for the staff.

7 JUDGE KARLIN: Yes?

8 MS. YOUNG: In your June 13th order, you
9 directed the parties to send overnight express mail
10 to Judge Elleman.

11 JUDGE KARLIN: Yes.

12 MS. YOUNG: Did you really want us to do
13 that for even things that are short in nature, you
14 don't really need a hard copy to follow?

15 JUDGE KARLIN: Dr. Elleman, what do you
16 think?

17 JUDGE ELLEMAN: I appear to be receiving
18 e-mail transmissions on a schedule and I can always
19 print out the attachments from those. So if there's
20 something urgent, that is the way I can look at it.
21 Otherwise, the normal mail, I think is a
22 satisfactory approach.

23 JUDGE KARLIN: Okay. Let's do it that
24 way, until further notice.

25 MS. YOUNG: Thank you, Judge Karlin.

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1 JUDGE KARLIN: Thank you. That's
2 helpful.

3 Okay. Turning to the oral argument,
4 bring in the oral argument. A couple things we
5 wanted to talk about and then I would like to go
6 around the table and ask you all about the schedule
7 and your issues or difficulties with the dates we've
8 proposed.

9 Obviously this is a tentative date for
10 oral argument. The board hasn't decided whether we
11 need one or not, but given the timeframe, we like to
12 try to get some time available, and this one seemed
13 to work well for us, July 25th and 26th.

14 Another point for all of you to take
15 note of is it's not an "all or nothing" matter. The
16 only purpose of the oral argument is for the board
17 to get information and answers to questions we may
18 have in order to rule on the admissibility and
19 standing of the parties. We don't have any
20 questions about particular contentions or
21 [inaudible]. We will not hear oral argument on that
22 contention or from that party.

23 So we may not have all of you present,
24 or at least all of you may not need to do any work.

25 We also take seriously the fact that

1 under 2.309(i), the board will attempt to issue a
2 ruling within five days of the final, the last
3 reply.

4 MS. CURRAN: I'm sorry, Judge Karlin.
5 It's strange. Every once in a while, I miss a
6 syllable of what you're saying. How many days did
7 you say?

8 JUDGE KARLIN: Is that Ms. Curran?

9 MS. CURRAN: Yes. I'm sorry. Yes; it
10 is.

11 JUDGE KARLIN: Okay, Ms. Curran, under
12 10 CFR 2.309(i), the board has some obligation to
13 try to issue a ruling on the admissibility of
14 contentions and the standing of the parties within
15 45 days of the final pleadings, that being the
16 replies, generally, and so we try to take that
17 seriously, and that constrains us because August 3rd
18 and 4th pushes pretty hard up against that 45 day
19 timeframe.

20 We would note that there is a parallel
21 proceeding in Vermont Yankee uprate, in which an
22 evidentiary hearing is scheduled for the week of 9-
23 11, and that board, and I'm on it, wanted to have a
24 goodly amount of time before the 9-11 to prepare
25 itself for what we think is probably the first

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1 subpart L proceeding under the new subpart L
2 requirements. All that said, we set the 25th and
3 26th of July. We also have [inaudible] issues to
4 consider such as the availability of--we have
5 preliminarily [inaudible] several options.
6 Therefore, we would now like to hear from each of
7 you as to why you are not [inaudible] on July 25th
8 and 26th, and what the problems are, and let's see
9 if we can work it out.

10 Vermont. Please, would you address
11 that.

12 MS. HOFMANN: Thank you very much, Your
13 Honor. I actually will be on vacation in another
14 state during that time period and it turns out Mr.
15 Roisman will also be gone during that period. I
16 believe he's in either California or Oregon, I
17 forget, but he's on vacation. Both of us had
18 planned these vacations.

19 So I'm very sorry but we could not do
20 the dates provided.

21 JUDGE KARLIN: Okay. And that's you're
22 out for both dates?

23 MS. HOFMANN: For both dates, and I did
24 get those dates from Mr. Roisman beforehand, and
25 that's also how we came upon the August 3rd and 4th,

1 that was good for everyone.

2 JUDGE KARLIN: Are you both out all of
3 that week?

4 MS. HOFMANN: Yes, both of us are out
5 all of the 24th through the 28th, and then at the
6 beginning of--on the 1st I'm actually at a
7 conference at NRC, it's a state liaison officers
8 conference that the NRC puts on, and I'll be
9 [inaudible] point in time.

10 JUDGE KARLIN: I'm sorry. The last was
11 cut off.

12 MS. HOFMANN: Okay. I'm sorry. The NRC
13 Conference for State Liaison Officers is August 1st
14 and August 2nd.

15 JUDGE KARLIN: [inaudible] constrained
16 by that?

17 MS. HOFMANN: And I am constrained by
18 that as is the state nuclear engineer.

19 JUDGE KARLIN: How about the week of
20 August 17th? July 17th?

21 MS. HOFMANN: July 17th? I have Mr.
22 Roisman gone. I'm here the first three days of that
23 week. I'm here the 17th, 18th and 19th. But Mr.
24 Roisman is gone that entire week as well.

25 JUDGE KARLIN: And what is his problem?

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1 MS. HOFMANN: That's the vacation, where
2 I can't remember if it's California or Oregon, but
3 he's on the West Coast.

4 JUDGE KARLIN: Okay. So you're
5 available the 17th, 18th and 19th?

6 MS. HOFMANN: Yes. And I also wanted to
7 say, this is [inaudible] I was able to communicate
8 with Mr. MacArthur, Dan MacArthur from the town of
9 Marlboro.

10 JUDGE KARLIN: Yes.

11 MS. HOFMANN: And he was available the
12 3rd and 4th of August and I sent an e-mail today,
13 Sorry, I was only responding to the board's order of
14 June 13th, where it did say we could e-mail the
15 proposed alternative dates to you.

16 JUDGE KARLIN: I thought that said to
17 the law clerk; but that's fine.

18 MS. HOFMANN: Sorry.

19 JUDGE KARLIN: Now Mr. MacArthur said
20 he's available on the 3rd and 4th. Is he not
21 available any other day?

22 MS. HOFMANN: Mr. MacArthur is a
23 carpenter, so it's hard to get him during the day.
24 But I believe there were other dates he was
25 available as well. In fact, I think he was

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1 available August 8th and 9th as well.

2 JUDGE KARLIN: That's not much help.
3 Okay. Well I guess his level of interest is--well,
4 I won't say anything more.

5 Massachusetts. Mr. Curran, can you--
6 you're available on these dates?

7 MS. CURRAN: We're available the week of
8 July the 24th, and we're available the 18th through
9 the 21st of July, although it will be very difficult
10 for me to get there on the 18th. It'd be better to
11 do it towards the middle or the end of the week.

12 JUDGE KARLIN: Okay. So the week of the
13 17th, 18th, 19th; but the 18th is bad for you?

14 MS. CURRAN: 17th and 18th are bad. The
15 rest of the week is fine. And we also are available
16 on the 3rd and the 4th of August.

17 JUDGE KARLIN: How about Mister--your
18 associate lawyer?

19 MS. CURRAN: Yes. He's available.

20 JUDGE KARLIN: He's available all these
21 days?

22 MS. CURRAN: The same dates I mentioned;
23 yes.

24 JUDGE KARLIN: Well, what about the
25 other dates? Is he available the 17th and 18th?

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1 MS. CURRAN: Yes.

2 JUDGE KARLIN: Even though you're not?

3 MS. CURRAN: Right.

4 JUDGE KARLIN: Okay.

5 MS. CURRAN: But I am the person who's
6 responsible for the contention and I think it would
7 be difficult for him to carry it without me.

8 JUDGE KARLIN: Okay. I guess we would
9 turn to New England Coalition. Mr. Shems, what's
10 your situation, please?

11 MR. SHEMS: New England Coalition is
12 available on the 25th and 26th. We're also
13 available the week of the 17th and we're also
14 available August 3rd and 4th. We are not available
15 August 9th and 10th.

16 JUDGE KARLIN: And when you say "we,"
17 you mean you?

18 MR. SHEMS: Myself, and after the 10th
19 also, Karen Tyler.

20 JUDGE KARLIN: After August 10th? I'm
21 sorry, Mr. Shems. You said after the 10th?

22 MR. SHEMS: Yes.

23 JUDGE KARLIN: The 10th of...?

24 MR. SHEMS: The 10th of August and
25 after, it's not good for either Karen Tyler or

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1 myself.

2 JUDGE KARLIN: All right. I understand
3 you're saying the 25th and 26th is okay. The week
4 of the 17th if okay and the 3rd and 4th of August is
5 okay.

6 MR. SHEMS: That's correct.

7 JUDGE KARLIN: Okay. Great.

8 Let's see. ENTERGY. I guess we'll turn
9 to Mr. Lewis.

10 MR. LEWIS: Yes, Judge Karlin. The week
11 of July 17th is okay. The week of July 24th if
12 okay, and the week of--what is the August week?
13 August. That first week in August is okay. The
14 week of July 10th, currently the Pilgrim licensing
15 board has scheduled, tentatively, their prehearing
16 conference for July 11th and 12th but I think that
17 will change. The only day that week that I couldn't
18 do it is July 14th.

19 JUDGE KARLIN: Okay. We weren't talking
20 about July. We're talking I think August. Somehow
21 we ended up talking about August. We're not
22 contemplating anything as early as July 11th or
23 12th. So we have some difficulty, overseas travel
24 that won't be completed at that point.

25 So your report, Mr. Lewis, is the week

1 of the 17th is okay, the week of the 24th is okay,
2 the week of August 1st is okay?

3 MR. LEWIS: Yes, sir.

4 JUDGE KARLIN: That's what we like to
5 hear. A nice clear schedule. That's good.

6 And I guess Ms. Young, Mr. Hamrick,
7 staff?

8 MS. YOUNG: The week of the 17th and the
9 beginning of the week of the 24th, the environmental
10 project manager is not available to attend the
11 conference and the staff would need his support if
12 you have questions in that area. He returns from
13 overseas travel and will be in the office on the
14 26th. So the balance of the week of the 24th, 26th
15 through the 28th, the staff will participate.

16 JUDGE KARLIN: Well, okay. The
17 environmental project manager, is that what you're
18 saying?

19 MS. YOUNG: Yes.

20 JUDGE KARLIN: And who is that?

21 MS. YOUNG: Richard Emch.

22 JUDGE KARLIN: Oh, Mr. Emch? Okay.

23 Well, setting him aside, what is your availability
24 the week of the 17th?

25 MS. YOUNG: Available both dates.

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1 JUDGE KARLIN: The week of the 17th, the
2 week of the 24th, the week of August 1st. Those are
3 all available?

4 MS. YOUNG: Correct. As long as we're
5 not talking [inaudible] contentions.

6 JUDGE KARLIN: Well, I don't know what
7 contentions we're talking but we're going to be
8 hearing from lawyers, not from technical people, so
9 I think that would be probably unnecessary, to have
10 him there.

11 MS. YOUNG: Well, the other parties are
12 trying to arrange dates where they have their
13 technical support with them, too, Judge Karlin. So
14 just understand the concern.

15 JUDGE KARLIN: Right; okay. I
16 understand. Okay.

17 MS. YOUNG: Do I owe you any other
18 dates? I'm sorry.

19 JUDGE KARLIN: No. I think that was
20 helpful. Let me then understand. The difficulty
21 with the 25th and 26th comes solely from the State
22 of Vermont, setting aside the town. Is that right?
23 Everybody else is available that date?

24 MS. YOUNG: Except the staff and
25 environmental project manager who doesn't return

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1 till the 26th.

2 JUDGE KARLIN: Yes. Counsel. Ms.
3 Hofmann, is there no way that a lawyer from your
4 organization, you know, the State of Vermont is a
5 big organization, you've got Mr. Roisman and
6 yourself, appearance in this. Is there no way that
7 either one of you can be available? Because the
8 only other alternative is to go to the week of the
9 17th, 18th and--the July 17, 18, 19.

10 MS. HOFMANN: Your Honor, I'm very sorry
11 but both Mr. Roisman and I are gone. In terms of
12 Vermont being a big organization, I'm the director
13 for public advocacy, which means I have a staff of
14 six lawyers, and right now none of them are "up to
15 speed" on this case and actually have their own
16 caseloads, where they're working on in-state
17 matters. So I don't believe I could get one of them
18 to do it.

19 Both Mr. Roisman and I will be in
20 different states. Obviously if you set the date,
21 one of us will fly back for this.

22 JUDGE KARLIN: Well, you are in town and
23 available on the 17th, 18th, and 19th?

24 MS. HOFMANN: I am available. Mr.
25 Roisman is not. But yes, I am available. It would

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1 be definitely too bad for the board not to hear Mr.
2 Roisman's deep experience.

3 JUDGE KARLIN: Okay.

4 I think what we--our contemplation is
5 we've talked about two days. It may not take two
6 days. As we said, we may not need to hear from
7 everyone on every contention, and, in any event,
8 it's very unlikely that any one party would need to,
9 or any one intervenor would need to be there more
10 than one day. Certainly you'd probably want to
11 listen in and have someone attending and taking
12 notes and be on the record, but argument would
13 probably not be required, any one more than one's
14 day appearance.

15 With that said, I'd like to take a brief
16 recess here, so that I can confer with my colleagues
17 and then we could get back to you.

18 I think I'm tending to go to the 17th,
19 18th, 19th, 20th, that timeframe.

20 JUDGE ELLEMAN: Judge Karlin, this is
21 Judge Elleman. Could I ask a question first? I
22 think I'm clear, in listening to the discussion on
23 the status of the 17th, the 24th and August 7th. I
24 heard some comments related to the early August
25 date, like on August 1st or 2nd.

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1 Are those available possibilities or are
2 they not available?

3 MS. HOFMANN: This is Sarah Hofmann for
4 the State of Vermont. After we did a lot of
5 communications between all of the parties, the date
6 that everyone was available was August 3rd and 4th.

7 I believe there were some conflicts on
8 August 1st and 2nd, but let me have--oh, I was going
9 to be at the NRC conference in D.C. for state
10 liaison officers, and if I have to, I'll skip that.

11 JUDGE KARLIN: Okay. Dr. Elleman,
12 unless anyone has any other questions, or any of the
13 board members have other questions, Dr. Wardwell,
14 perhaps we could take a break and we could call you.

15 JUDGE ELLEMAN: Okay.

16 MS. CURRAN: Judge Karlin, I just want
17 to make sure you understand. There's no way I could
18 do a conference on the 17th. I could hopefully get
19 there by the 18th, but I'm coming back from a trip
20 out of the country and I won't get home till late
21 that afternoon.

22 JUDGE KARLIN: Right. Okay. I
23 appreciate that.

24 MS. YOUNG: Judge Karlin, this is Mitzi
25 Young for the NRC staff. The staff is totally open

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1 the week of July 31st.

2 JUDGE KARLIN: Okay.

3 MS. HOFMANN: And Your Honor, this is
4 Sarah Hofmann again. I would be happy to skip the
5 state liaison officer meeting in Rockland, if you
6 decide to go with the first and second, and Mr.
7 Roisman is available those days.

8 JUDGE KARLIN: We're looking to move it
9 up now significantly, or keep it up, rather than
10 into August, for reasons I--now we'll just have to
11 see. All right. I appreciate you all thinking
12 through the schedule. Nothing can be perfect for
13 any of us, and I think one of the things that
14 perhaps to be aware of is that having it later
15 rather than earlier may tend to force the board not
16 to be able to meet the 45 requirement of the regs,
17 or tentative requirement.

18 I'm hearing that you all are okay with
19 that. But okay, we're going to take a 10 minute
20 break. Please stay on the line. Meanwhile we will
21 speak on the line with Judge Elleman and Mr. Court
22 Reporter, we will now go off the record.

23 [Off the record]

24 JUDGE KARLIN: On the record. This is
25 Alex Karlin taking us back on the record of the

1 prehearing conference call in Vermont Yankee's
2 renewal.

3 Judge Elleman, are you on the line?

4 JUDGE ELLEMAN: I'm on the line, sir.

5 JUDGE KARLIN: Very good.

6 Thank you all for explaining it to us,
7 and we know this is a difficult time with summer
8 vacations and that sort of thing, and we don't
9 really want to disrupt people's plans. We have
10 plans of our own and we want to turn to this
11 problem. The pleadings essentially be complete on
12 June 30th and we feel somewhat constrained to have
13 oral argument, if we're going to have it at all, as
14 promptly as we can.

15 All that said, we're going to say that,
16 move the date to August 1st and 2nd. We recognize
17 that's not very much but perhaps it's a few days and
18 we can at least keep this thing moving promptly.

19 I understand Ms. Hofmann may have to
20 change her schedule, but otherwise, everyone seems
21 to be available. So those will be the new
22 tentative, again tentative dates, August 1st and
23 2nd, Tuesday and Wednesday I guess of that week.

24 I appreciate everyone going through this
25 with us. So we will try to inform, obviously,

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1 everyone, about this issue, this effect, but that's
2 all we needed to cover on that. Appreciate your
3 help on this.

4 We had no other issues on the agenda but
5 we just wanted to check with the parties if any
6 other items need to be covered at this moment.

7 MS. YOUNG: Judge Karlin, will you be
8 memorializing this ruling in an order or is the
9 transcript going to suffice?

10 JUDGE KARLIN: Who is that, please.

11 MS. YOUNG: Mitzi Young for the staff.

12 JUDGE KARLIN: Oh, Ms. Young. Okay. I
13 think we may memorialize the tentative dates for the
14 oral argument in an order but I don't expect a full
15 order laying out everything we just said here.

16 MS. YOUNG: Okay. Well, also the
17 guidance on how to serve Judge Elleman.

18 JUDGE KARLIN: Oh. We probably wouldn't
19 put that into an order.

20 MS. YOUNG: Well, right now, you have an
21 order that says we have to do something different.

22 JUDGE KARLIN: Well, I think we will
23 recognize what we've said here, you know, verbally,
24 and that will suffice at the moment.

25 MS. YOUNG: Thank you.

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1 JUDGE KARLIN: We won't hold it against
2 you if you comply with what we discussed here. But
3 that's a good point to raise. I think we will issue
4 a short order reflecting the adjusted dates.

5 Okay. With that--

6 MR. SHEMS: Excuse me. This is Ron
7 Shems. Just to be clear, how are we supposed to
8 serve Judge Elleman? Is it by FedEx or by the e-
9 mail that he can print out?

10 JUDGE KARLIN: If you've got anything
11 with a significant number of attachments or more
12 than, say, ten pages, I would suggest you send him
13 Federal Express. If it's relatively short, that he
14 can print out in his home computer, I think I heard
15 him say e-mail suffices

16 MR. SHEMS: Okay. Thank you very much.

17 JUDGE KARLIN: Now the problem is large
18 materials which, you know, overwhelm a private
19 person's e-mail system and printer, and that sort of
20 thing.

21 JUDGE ELLEMAN: Judge Karlin, I would
22 add to that, if you're sending only by e-mail, I
23 would appreciate an ordinary mail backup just to
24 confirm that I'm getting it.

25 JUDGE KARLIN: Okay. And w e will

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1 incorporate that ultimately in an order, if and
2 when, you know, we have contentions submitted.

3 All right. Thank you very much for
4 participating in this call. I think we got it done
5 in less than an hour, so that's helpful, and again
6 for participating on such short notice.

7 Thank you, and we will look forward to
8 following this case, and oral argument, perhaps in
9 August. We'll close the record now.

10 [Whereupon, at 2:57 p.m., the pre-
11 hearing conference call was concluded]
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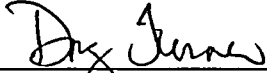
Pre-hearing Conference

Docket Number: 50-271-LR and

ASLBP No.06-849-03-LR

Location: via teleconference

were held as herein appears, and that this is the
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