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11 PAUL GUNTER

12 LIBBY PERCH

13 DEBRA WOLF

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P R O C E E D I N G S

(3:26 p.m.)

1
2
3 JUDGE HAWKENS: We're conducting a
4 conference call on Docket No. 50-0219-LR. We're
5 discussing matters relating to the final scheduling
6 order.

7 My name again is Roy Hawkens. I am
8 Chairman of this Board. I'm joined on the Board by
9 Dr. Paul Abramson and Dr. Tony Baratta. And I'm also
10 joined here in our chambers by our Law Clerk, Ms.
11 Debra Wolf and by our Administrative Assistant, Ms.
12 Libby Perch.

13 Will the Counsels who will be speaking
14 today on behalf of the parties identify themselves and
15 any persons associated with them who are the line
16 please.

17 MS. YOUNG: This is Mitzi Young for the
18 NRC staff, M-I-T-Z-I Y-O-U-N-G. Also with me is my
19 Co-Counsel, Mary Baty, B-A-T-Y.

20 MR. WEBSTER: Okay, I am Richard Webster,
21 W-E-B-S-T-E-R on behalf of the citizens groups. Paul
22 Gunter is also on the line. He is one of the clients
23 from Nuclear Information Resource Service.

24 MR. POLONSKY: This is Alex Polonsky on
25 behalf of AmerGen. My last name is spelled P-O-L-O-N-

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1 S-K-Y. Also on the call from AmerGen are Don
2 Silverman, Ray Kuyler. His last name is spelled K-U-
3 Y-L-E-R. And our client Brad Fewell, last name
4 spelled F-E-W-E-L-L.

5 MR. COVINO: From the State of New Jersey,
6 Deputy Attorney General John Covino, C-O-V-I-N-O.

7 JUDGE HAWKENS: Thank you. Do we have
8 anybody else on the line or listening in?

9 MR. GUNTER: Richard Webster already
10 mentioned by name, Paul Gunter, Nuclear Information
11 and Resource Service.

12 JUDGE HAWKENS: Thank you, Mr. Gunter,
13 yes.

14 In the Board's email -- or, excuse me, our
15 order of March 30th, we indicated specific items that
16 we wanted to discuss today. And I want to go through
17 those items as they are listed in the order. And
18 following that, I want to discuss some proposed dates
19 for major events which we had circulated to the
20 parties yesterday afternoon by email.

21 And let's start off with item number one
22 from the March 30th order, which is the status of the
23 mandatory disclosure process. Are the parties
24 experiencing any difficulties or do they anticipate
25 experiencing any difficulties here?

1 MR. WEBSTER: Well, Judge, I think
2 generally -- this is Richard Webster speaking here --
3 I think generally the mandatory disclosure process has
4 been going quite well. A lot of documents have been
5 exchanged so far. We anticipate that quite a few more
6 documents will be exchanged before the end of May.

7 There is one issue that I think may cause
8 some difficulty which concerns the extent to which the
9 documents about the acceptance criteria need to be
10 disclosed. We, from citizens, believe that the
11 acceptance criteria while they are not directly at
12 issue and the derivation of those criteria are not
13 directly at issue in the contention, it is necessary
14 for us in order to litigate the contention to know
15 what those acceptance criteria are.

16 I think that is illustrated by the nature
17 of AmerGen's summary disposition motion which actually
18 directly states various acceptance -- takes one
19 particular acceptance criteria and accuses us of
20 making an error with regard to that criterion.

21 AmerGen has said that they are -- have
22 confirmed to me this afternoon actually, they are
23 holding back some documents. And I think it will be
24 helpful for us all if the Board could provide some
25 guidance on when documents that concern acceptance

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1 criteria would fall within the scope of mandatory
2 disclosure.

3 JUDGE HAWKENS: Now, Ms. Young, I'd like
4 to hear from you on that request please.

5 MS. YOUNG: This is Ms. Young. For the
6 staff we're not under the same constraints as the
7 parties in the proceeding. We're not limited to
8 disclosures on the admitted issues. Our disclosures
9 basically pertain to the review we're doing for
10 license renewal.

11 My understanding is that Counsel for
12 citizens believes there have been some documents that
13 reveal possible confusion or multiple acceptance
14 criteria. So to the extent the citizens are just
15 trying to find out what AmerGen planned on using for
16 future drywall inspections, the staff doesn't have any
17 objection to that information being disclosed in
18 discovery.

19 But to the extent citizens are trying to
20 challenge the adequacy of acceptance criteria being
21 used, that we believe the Board has clearly ruled is
22 outside the scope of the proceeding.

23 JUDGE HAWKENS: All right. Thank you.

24 Mr. Polonsky, are you, in your discussions
25 with Mr. Webster, has he identified any specific

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1 documents that he would like access to that you are
2 unwilling to provide?

3 MR. POLONSKY: Well, he has identified the
4 broad category of documents that relate to the
5 acceptance criteria. And particularly the derivation
6 of those acceptance criteria. And we have taken the
7 position that those documents are outside the scope of
8 this proceeding and aren't relevant to the admitted
9 contention, which is limited to the UT frequency. And
10 how those acceptance criteria were derived just is not
11 relevant to that.

12 JUDGE HAWKENS: To the extent Ms. Young
13 said there may be information out there which is not
14 entirely consistent regarding the acceptance criteria
15 and that the NRC would have no objection in that
16 material being revealed, to your knowledge has that
17 material been revealed? Or are there documents that
18 Mr. Webster is seeking that you are not revealing?

19 MR. POLONSKY: I'm sure Richard will
20 correct me if I'm wrong but this afternoon we only
21 discussed one particular document though I can't
22 recall if we've had other discussions where he
23 identified others. But there was one we discussed
24 this afternoon.

25 I can't tell you -- frankly I just don't

1 recall the content of that document. But I don't even
2 think that document would clarify the issue that Mr.
3 Webster is concerned about. He is confused about what
4 the acceptance criteria are. They are part of the
5 current licensing basis. They don't change from year
6 to year. And he seems to think that they do.

7 So I think he's just looking at a red
8 herring or worse, trying to get discovery where I
9 think the Board has said no discovery is allowed.

10 MR. WEBSTER: Well, if I may comment, all
11 I can see is what is disclosed to me in the documents.
12 And what I see from the documents is that different
13 criteria have been applied at different times. So I
14 think the statement that they don't change is hard for
15 me to understand based on the current documents that
16 I have.

17 JUDGE ABRAMSON: Mr. Webster, this is
18 Judge Abramson. If, in fact, the documents advise you
19 that different criteria have been applied at different
20 times, why don't you prepare a short like one-page
21 memorandum to all the parties, including to us,
22 indicating what document sets out what criteria.

23 MR. WEBSTER: Okay.

24 JUDGE ABRAMSON: And let's see if it is
25 resolvable by a short simple from somebody or if, in

1 fact, there is something that needs to be resolved.

2 MR. WEBSTER: Okay, that's fine. Thank
3 you.

4 MR. POLONSKY: AmerGen --

5 JUDGE HAWKENS: I agree. One page.

6 MR. POLONSKY: AmerGen also, you know,
7 would just like to make sure everyone is aware that,
8 you know, they could always file a motion to compel
9 and that would be the best way to have a full airing
10 on these particular views.

11 But what I don't want to be doing is
12 having a mini litigation on the summary disposition
13 motion before citizens have filed their answer.

14 JUDGE HAWKENS: All right. I agree with
15 you on that, Mr. Polonsky. And I'm sure that Mr.
16 Webster is aware of the availability of a motion to
17 compel. We, as a Board, of course would prefer, to
18 the extent the parties are able, for them to work out
19 these evidentiary issues on their own without
20 involving us.

21 MR. POLONSKY: We do our best.

22 JUDGE HAWKENS: Thank you, sir, I know you
23 do.

24 Let's move into item number two, which is
25 what plans, if any, citizens have for filing a new or

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1 amended contention based on the recently-issued FSER?

2 MR. WEBSTER: I can -- that's pretty
3 simple. We don't currently have any plans for filing
4 a new or an amended contention. I don't want to
5 formally commit to not filing anything. But we don't
6 have plans currently.

7 JUDGE HAWKENS: No current plans, all
8 right. Thank you, sir.

9 The third item was what plans, if any, the
10 parties have for filing a summary disposition motion?
11 We do have AmerGen's motion pending with answers due
12 by the staff and by Mr. Webster pursuant to an
13 unopposed motion for extension of time. It's now due
14 on April 26th.

15 So let's move to item number four, the
16 parties' estimate regarding length of time necessary
17 for an evidentiary hearing on the presently-admitted
18 motion. Can we hear from Mr. Webster first?

19 MR. WEBSTER: On the admitted contention,
20 we think -- we have discussed this amongst ourselves
21 and we have agreed that there should be -- which I
22 think goes later on to quite a few issues that we can
23 stipulate to. And given that situation, we believe
24 that two-and-a-half days should be adequate.

25 JUDGE HAWKENS: And you have discussed

1 that with the other parties, Mr. Webster? They are on
2 board with that estimate as well?

3 MR. WEBSTER: I believe they are, yes.

4 JUDGE HAWKENS: All right. Thank you.

5 JUDGE ABRAMSON: Gentlemen, Judge
6 Abramson. Again, you are aware that in this
7 proceeding the principle questioning of witnesses will
8 be done by the Boards and that we should have all of
9 your testimony in writing, including prefiled
10 rebuttal. Do you still think it takes two-and-a-half
11 days to sort this out?

12 MR. POLONSKY: This is Mr. Polonsky. The
13 schedule that we have talked about -- and this is all
14 the parties and we did this after we got your email of
15 yesterday -- has a maximum of two-and-a-half days for
16 a hearing. We just wanted to leave ourselves that
17 amount of time. AmerGen doesn't think it will take
18 that long for sure. But we wanted to have an upper
19 bound on it.

20 JUDGE HAWKENS: That's fair enough. And
21 that is what we were looking for.

22 MS. YOUNG: In addition -- this is Mitzi
23 Young for the NRC staff -- we're mindful of the Jewish
24 holidays that fall in September. So we were also
25 including in our discussion consideration of what days

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1 we could not continue in the later afternoon. And
2 that is in part of our estimates also.

3 So we spoke both before the email we
4 received from Debra Wolf and after that email to try
5 to agree on the time period of this proceeding. And
6 we've all committed to the extent we can to stipulate
7 facts and issues.

8 JUDGE HAWKENS: Thank you, Ms. Young. And
9 the Board will be mindful also of any religious
10 holidays that may occur. And we will seek to
11 accommodate the parties to the maximum extent we can.

12 Moving on to item number five, whether the
13 parties anticipate any portion of the hearing will be
14 closed due to a discussion of proprietary information.
15 Mr. Polonsky, can you address that please?

16 MR. POLONSKY: At this time, Your Honor,
17 AmerGen can present its case without the need to
18 discuss or submit proprietary information. I think
19 that is pretty evident by our summary disposition
20 motion.

21 The type of proprietary information that
22 we have that we will be producing to citizens under
23 the protective order we don't think is the type of
24 proprietary information that goes to the heart of the
25 issue.

1 And I'm sure once we produce those
2 documents, we can work with Richard if there are any
3 specific documents that he does want to use or in that
4 small subset, you know, maybe we can redact those
5 small portions if he agrees with us that they are, in
6 fact, not relevant to the issue.

7 JUDGE HAWKENS: All right. Good. Thank
8 you.

9 MS. YOUNG: Judge Hawken's?

10 JUDGE HAWKENS: Yes?

11 MS. YOUNG: This is Ms. Young.

12 JUDGE HAWKENS: Yes, Ms. Young?

13 MS. YOUNG: In addition, you know,
14 documents that are proprietary are submitted to the
15 NRC have to be submitted in both the proprietary and
16 nonproprietary version. And to the extent we can, the
17 staff would expect to use the nonproprietary version
18 of those documents.

19 JUDGE HAWKENS: Terrific.

20 MR. WEBSTER: I'd like to reserve comment
21 at this point, Judge, since I haven't actually seen
22 the documents. But there is certainly a wealth of
23 nonproprietary documents. So we will do our best to
24 avoid the use of proprietary information where
25 possible.

1 JUDGE HAWKENS: All right.

2 Item number six addresses New Jersey's
3 intention -- or whether it has any intention to
4 participate as an interested state. Mr. Covino, would
5 you address that please?

6 MR. COVINO: Yes, Your Honor, we do not
7 have plans to participate as an interested state on
8 the contention that has been admitted. And that's
9 without prejudice to a decision if it turns out that
10 way to appeal from the NEPA issue that the Commission
11 ruled upon in February.

12 JUDGE HAWKENS: All right. Thank you.

13 Let me -- in light of that, if you do
14 change your mind, Mr. Covino, and would like to
15 participate as an interested state in the presently-
16 admitted contention, we'd request that you request to
17 do so with seven days in writing.

18 And, of course, if you don't change your
19 mind, no need not. But if you are going to, if you
20 would let us know in writing within seven days please.

21 MR. COVINO: If that happens, Your Honor,
22 we certainly will. And thank you for the advice as to
23 the procedure.

24 JUDGE HAWKENS: Thank you.

25 Items seven and eight are wrapped

1 together. Seven is whether settlement is feasible.
2 And eight is if it is not feasible whether there are
3 any issues the parties anticipate they may be able to
4 agree upon.

5 And let's start with seven. And, Mr.
6 Webster, can you address whether you think at this
7 time settlement may be feasible?

8 MR. WEBSTER: Well, I think we have had
9 some preliminary discussions about settlement. At
10 this time, I think the issue with the acceptance
11 criteria means it is hard for us to have very
12 meaningful discussions on settlement.

13 I think if we can resolve that issue
14 between ourselves, which I think certainly it should
15 be possible, then we should be able to. I mean in
16 concept, it is certainly possible.

17 JUDGE HAWKENS: Mr. Polonsky? Do you
18 agree? What are your thoughts on the feasibility of
19 settlement at this point?

20 MR. POLONSKY: Not at this time. But I
21 would echo that we have had informal negotiations on
22 several occasions. And none, obviously, have borne
23 fruit. And if the opportunity arises in the future,
24 we would certainly be open to it. But I guess I'm
25 less rosy than Mr. Webster on that.

1 JUDGE HAWKENS: All right.

2 MR. POLONSKY: I certainly don't think
3 we'll be having additional discussions until after the
4 summary disposition briefing.

5 JUDGE HAWKENS: All right.

6 Moving on to No. 8 then.

7 MS. YOUNG: Judge Hawkens, this is Ms.
8 Young.

9 JUDGE HAWKENS: I'm sorry. I don't mean
10 to neglect you, Ms. Young. I'm glad you are piping
11 in. How can I help you?

12 MS. YOUNG: Oh, no problem. Just for the
13 record, I wanted the Board to aware the staff has
14 encouraged both parties to discuss these issues and,
15 to the extent they can, to resolve them without the
16 need for a hearing.

17 JUDGE HAWKENS: Terrific. If you can
18 continue lighting the fire under them, Ms. Young, we'd
19 be grateful for any successful efforts on your part.

20 Number either, are there -- and I don't
21 know whether the parties are prepared to commit to any
22 particular issues that they may be able to agree upon
23 but certainly to the extent they are in advance of an
24 evidentiary hearing, that would promote judicial
25 economy as well as the assets of the parties.

1 So let me start off with Mr. Webster. Do
2 you foresee that there issues that you will be able to
3 agree upon?

4 MR. WEBSTER: Oh, absolutely. I think
5 there should be quite a number of issues that we
6 should be able to agree upon. I haven't really
7 prepared a detailed list of issues that we think we
8 will be prepared to stipulate to but certainly where
9 the record is clear and there are no questions about
10 the record, then we would be very happy to stipulate
11 to those issues.

12 JUDGE HAWKENS: Okay. Well, we will in
13 our final schedule order, we will be raising that as
14 an event and, as I say, we do encourage the parties --
15 just as we encourage them to negotiate settlements to
16 the extent we're able, we're happy to see them
17 stipulate to any factual or legal issues that may be
18 material to resolving the case.

19 And I just want to go back also to item
20 seven regarding settlement, if the parties ever think
21 it would be helpful to appoint somebody to assist them
22 in the ADR process, we'd be happy to do that.

23 Judge Abramson says if you jointly request
24 it, yes, we'd be happy to appoint somebody to assist
25 in the ADR process.

1 Item number nine is matters that may
2 impact the scheduling order. And to that end, I'm
3 going to turn now to the email that Ms. Wolf sent out
4 last evening. And I do appreciate the fact that all
5 the parties did take a look at it. And to the extent
6 they have considered it, we're grateful. We know it
7 has been short notice. But let's review some of the
8 items on there.

9 And to the extent the proposed schedule
10 does pose a problem, let's discuss it now. The first
11 item would be submission of new or amended
12 contentions. And I believe that Mr. Webster said he
13 had no present intent.

14 MR. WEBSTER: That's right. Ms. Young
15 actually did point out though that the SER actually
16 came out on April 2nd.

17 JUDGE HAWKENS: Yes.

18 MR. WEBSTER: And so we would like until
19 May 2nd if possible to make a final decision.

20 JUDGE HAWKENS: Do you need -- hang on one
21 second. Do either Mr. Polonsky or Ms. Young have any
22 problem with May 2nd as the time for any new or
23 amended contentions.

24 MS. YOUNG: No objection. The document
25 was not available in ADAMS until that Monday. So 30

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1 days from the Monday would be May 2nd.

2 MR. POLONSKY: This is Mr. Polonsky.
3 AmerGen has no objection.

4 JUDGE HAWKENS: Very well, Mr. Webster.
5 To the extent you do wish to file a new or amended
6 contention, it will be due no later than May 2nd.

7 MR. WEBSTER: Thank you, Judge.

8 JUDGE HAWKENS: Moving to the next item,
9 the limited appearance section, we tentatively
10 intended to convene a limited appearance session on
11 Thursday, May 31st. And we would contemplate having
12 two sessions, one in the afternoon and one in the
13 early evening so we can accommodate as many members of
14 the public as possible.

15 MS. YOUNG: And that session would be held
16 in New Jersey, Judge Hawkens?

17 JUDGE HAWKENS: That is correct.

18 MS. YOUNG: Can we back up for a moment?
19 The parties have proposed changes to the dates for
20 answering new contentions or filing replies.

21 JUDGE HAWKENS: Okay. What is your
22 proposed date for the answer?

23 MS. YOUNG: I believe the parties agreed
24 to Monday, May 21st.

25 JUDGE HAWKENS: All the parties agreed to

1 May 21st, Ms. Young?

2 MS. YOUNG: Yes.

3 JUDGE HAWKENS: All right. And how about
4 the reply?

5 MS. YOUNG: I believe it is Tuesday, May
6 29th.

7 JUDGE HAWKENS: May 29th -- all the
8 parties agree to May 29th for any reply brief?

9 MR. WEBSTER: Yes.

10 JUDGE HAWKENS: All right. We will so
11 indicate that. But May 2nd for the petition, May 21st
12 for the answer, and May 29th for the reply.

13 MS. YOUNG: Thank you.

14 MR. WEBSTER: Thank you.

15 JUDGE HAWKENS: All right.

16 The Board had proposed Friday, July 20th
17 for the parties submitting their initial written
18 statements and written testimony. Is that a date that
19 the parties can live with?

20 MR. WEBSTER: Yes.

21 MR. POLONSKY: Yes.

22 MS. YOUNG: For the staff yes.

23 JUDGE HAWKENS: Okay. Good.

24 The Board had proposed Thursday, August
25 9th as the date for the parties to submit written

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1 responses and rebuttal testimony. Can the parties
2 comply with that date?

3 MR. POLONSKY: The parties had agreed on
4 a later date of I believe it is Friday, August 17th,
5 to accommodate the vacation schedules of proposed
6 experts.

7 JUDGE HAWKENS: And would moving it back
8 a week have an impact on the ultimate proposed hearing
9 date?

10 MR. POLONSKY: It would not.

11 JUDGE HAWKENS: All right.

12 MS. YOUNG: Because -- Judge Hawken, this
13 is Ms. Young. The parties propose that there is not
14 need for sur rebuttal testimony.

15 JUDGE ABRAMSON: But the Board would like
16 it.

17 JUDGE HAWKENS: That was Judge Abramson
18 expressing his very strong view. Before getting to
19 that, Ms. Young, I just want to say that August 17th -
20 - Friday, August 17th is fine for the written response
21 and rebuttal testimony to accommodate the schedules of
22 your experts.

23 Moving to sur rebuttal --

24 JUDGE ABRAMSON: this is Judge Abramson.
25 Since I'm the one who feels strongly about this, if

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1 you have nothing to say in sur rebuttal, you can so
2 simply so sur rebut. If you have something to say, we
3 want to hear it.

4 What we're trying to do is to get before
5 us in writing all the potential arguments. And some
6 of those may require rebuttal of the rebuttal.

7 MR. WEBSTER: This is Richard Webster
8 here, Judge. Perhaps I could explain the issue here
9 which is that I think AmerGen's expert is going to be
10 away in the early part of August or the late part of
11 July. My expert wants to go away at the end of August
12 and then come back in the first couple of weeks in
13 September.

14 So if we push the written response and
15 rebuttal to August 17th, the problem is my expert is
16 not going to be available to me for sur rebuttal.

17 MS. YOUNG: In addition, Judge Abramson,
18 it is not something contemplated in Subpart L so that
19 was why the parties were amenable to delete that
20 opportunity.

21 JUDGE ABRAMSON: Well, let me put it this
22 way, we'll wind up having a longer hearing as a result
23 because we're going to ferret out those questions. As
24 far as I -- yes, and our Law Clerk points out to us
25 that the date is really up to us.

1 And as far as -- Mr. Webster, what would
2 be a date by which you could have your sur rebuttal
3 submitted if that is what is holding this up here?

4 MR. WEBSTER: Well, I think the problem is
5 that because we've pushed the written response and
6 rebuttal testimony -- my main expert is anticipating
7 to leave something around -- well, he's a little bit
8 flexible but something around August 20th.

9 JUDGE ABRAMSON: And when would he be
10 back?

11 MR. WEBSTER: He'd be back around
12 September 7th.

13 JUDGE HAWKENS: Can he get it in by the
14 14th?

15 JUDGE ABRAMSON: Yes, can he get it in in
16 a week?

17 MR. WEBSTER: Yes, he could get it in in
18 a week, yes.

19 JUDGE ABRAMSON: So if we said sur
20 rebuttal is due on the 14th of September, that gives
21 you an opportunity to have your expert involved?

22 MR. WEBSTER: On the 14th of September?

23 JUDGE ABRAMSON: Yes.

24 MR. WEBSTER: I think that should work,
25 yes.

1 JUDGE HAWKENS: What day is that? Do you
2 have a calendar?

3 JUDGE ABRAMSON: Friday. So let's simply
4 move it to September 14th. I honestly think it will
5 make the record much easier for us to deal with.

6 JUDGE HAWKENS: This is Judge Hawkens
7 again. And as Judge Abramson said, if a party
8 determines that he has nothing new to say in sur
9 rebuttal, you can simply so indicate. But this does -
10 - the opportunity to file a reply is often useful to
11 a party and can be equally useful to the members of
12 the Board.

13 The next item is proposed questions for
14 the Board regarding the initial rebuttal and sur
15 rebuttal testimony. Now this does run into problems
16 here if we push the sur rebuttal testimony out until
17 September 14th.

18 Let me move to the -- skip those two items
19 -- the proposed questions and the request to conduct
20 cross examination. And let me move to the hearing
21 date.

22 Have the parties been amendable to a
23 Monday, September 24th start for the hearing date?

24 MR. POLONSKY: Yes, Your Honor, this is
25 Mr. Polonsky. But any hearing would have to end

1 essentially at noon on that Wednesday. AmerGen would
2 not be able to support it if it goes beyond two-and-a-
3 half days.

4 JUDGE HAWKENS: In other words -- but if
5 it were not finished at that time, we'd have a recess.
6 When would the parties contemplate returning?

7 MS. YOUNG: Judge Hawkens, this is Ms.
8 Young. The problem is the Jewish holiday that falls
9 there.

10 JUDGE HAWKENS: I understand, I
11 understand.

12 MS. YOUNG: It effects one of the Counsels
13 in the proceeding.

14 JUDGE HAWKENS: And I'm happy to
15 accommodate that. I am just -- I mean am I hearing
16 that there will be assurance by the counsel that they
17 will be willing to start early and go late to ensure
18 that it is done by that time? Or would they be more
19 inclined to seek a recess at noon on Wednesday and
20 come back afterwards?

21 MR. POLONSKY: This is Mr. Polonsky.
22 Rather start early end late than reconvene, Your
23 Honor.

24 JUDGE HAWKENS: So would the Board, Mr.
25 Polonsky.

1 Let me hear from Ms. Young and Mr. Webster
2 as well.

3 MR. WEBSTER: That would be totally fine
4 for us, Judge.

5 JUDGE HAWKENS: All right.

6 MS. YOUNG: Yes, the staff has no
7 objection. We've done that in a number of
8 proceedings. You know travel arrangements often end
9 up conflicting with other responsibilities at the
10 office. So it would probably be a good idea, to the
11 extent we can, to accomplish this all during that time
12 beginning on September 24th.

13 JUDGE HAWKENS: Terrific. We're all in
14 full agreement on that.

15 Let's now talk about the two items I
16 skipped over which I had -- we had initially proposed
17 Thursday, August 23rd for proposed questions regarding
18 testimony and any requests, if there is any, to
19 conduct cross examination and submission of cross
20 examination plans.

21 Now one solution may just be that there
22 would be no proposed questions on the sur rebuttal but
23 simply on those dates submit them for the initial and
24 rebuttal testimony. What are the parties' thoughts on
25 that?

1 MS. YOUNG: This is Ms. Young for the
2 staff. The staff has no objection but I believe the
3 parties agreed to shift that date by one day to
4 Friday, August 24th.

5 JUDGE HAWKENS: All right. And that's --
6 all the parties agreed on Friday, August 24th?

7 MR. POLONSKY: This is Mr. Plonosky for
8 AmerGen. Yes, Your Honor, I think we had no objection
9 to limiting it to initial and rebuttal. And yes, we
10 agreed to Friday, August 24th.

11 JUDGE HAWKENS: Thank you, Mr. Polonsky.
12 Mr. Webster?

13 MR. WEBSTER: Yes, sir, I'm just trying to
14 understand if we had questions on cross or sur
15 rebuttal or questions for the Board on sur rebuttal,
16 would there be an opportunity to submit those at some
17 point?

18 JUDGE HAWKENS: Yes, I think we could. We
19 could accommodate that. We do have some time and we
20 would address that in our final scheduling order.

21 MR. WEBSTER: Okay.

22 Well, on that then, that sounds fine.

23 MR. POLONSKY: Your Honor, this is Mr.
24 Polonsky. The request to conduct cross examination,
25 the email does not include a date to respond or file

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1 an answer under, I guess, it is 1204(b). It phrases
2 it as a motion to request. So we assumed there would
3 be the right to file an answer.

4 JUDGE HAWKENS: One second please. We're
5 going to go offline for a couple of seconds. We'll be
6 back online in one moment.

7 (Whereupon, the foregoing
8 matter went off the record at
9 3:58 p.m. and went back on the
10 record at 4:01 p.m.)

11 JUDGE HAWKENS: This is Judge Hawkens.
12 We're back online.

13 Ms. Young, I read 2.1204. And I'd be
14 interested in your views regard the opportunity that
15 should be accorded to a party to respond to such a
16 motion.

17 MS. YOUNG: Yes, the staff has no
18 objection to that. The parties had agreed on actually
19 a date of Friday, August 31st to accomplish that.

20 JUDGE ABRAMSON: Perhaps, Ms. Young, this
21 is Judge Abramson, perhaps you can tell us what you
22 think would be contained in such a reply to a motion.

23 MS. YOUNG: Well, at least the opportunity
24 to ask for cross examination is an explanation that is
25 going to lead to the development of the record. It's

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1 kind of their request to incorporate Subpart G
2 procedures or a subset of Subpart G procedures in a
3 Subpart L proceeding.

4 JUDGE HAWKENS: Right. As I read
5 21204(b), you move for cross examination. I
6 anticipate the motion would say much other than we
7 request permission to engage in cross examination.
8 And we submit the following cross examination plan.

9 JUDGE ABRAMSON: Which must remain
10 confidential. So what on earth would somebody reply
11 to such a motion? No, we don't want you to have the
12 right to cross examine?

13 MR. POLONSKY: But, Judge Abramson, this
14 is Mr. Polonsky. We think there is a standard
15 inherent in 21204 which says that the cross
16 examination has to be necessary to ensure the
17 development of an adequate record for decision. And
18 the reference in 1204(a) to Section 2.323 to us
19 suggests that there is a right to file an answer.

20 You know there may be things -- I would
21 hope that the motion says more than just we'd like the
22 right to cross examine. You have to prove your case
23 and meet the standard in the rule. That would then
24 allow us to file a reply.

25 This obviously assumes that the parties

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1 are even going to request cross examination.

2 JUDGE HAWKENS: All right. This is Judge
3 Hawkens and what date have the parties proposed for
4 filing an answer to any such motion?

5 MR. POLONSKY: We were going to expedite
6 it, Judge Hawkens. Although the rule allows ten days
7 under 323, we were going to just do it within a week.
8 So whatever date was picked for the request to conduct
9 cross examination as filing a motion. The parties
10 would file it one week later. So Friday, August 31st,
11 under the dates we proposed.

12 JUDGE HAWKENS: One second please. We're
13 going offline.

14 (Whereupon, the foregoing
15 matter went off the record at
16 4:03 p.m. and went back on the
17 record at 4:05 p.m.)

18 JUDGE HAWKENS: This is Judge Hawkens.
19 We're back on the line.

20 I'd like to ask the parties, starting with
21 Ms. Young please, their view on the notice that should
22 be -- when the notice by the Board should be provided
23 to the parties regarding the granting of any such
24 motion requesting the right to cross examine?

25 MS. YOUNG: Your question is when you

1 would let the parties know whether it could wait until
2 the first day of the hearing? Or in some prehearing
3 order before then?

4 JUDGE HAWKENS: Yes. Do the rules -- they
5 don't seem to address the timing for that.

6 MS. YOUNG: No, there's not even a timing
7 for when you raise these motions. You are absolutely
8 correct. So I think the Board has the discretion to
9 do whatever seems feasible to, you know, provide for
10 efficiency in the proceeding.

11 JUDGE HAWKENS: All right.

12 Mr. Polonsky or Mr. Webster, do you have
13 any disagreement with Ms. Young's view?

14 MR. WEBSTER: I certainly don't, Mr.
15 Webster here.

16 MR. POLONSKY: Mr. Polonsky, no. No
17 different view.

18 JUDGE HAWKENS: All right. We're going
19 off the line one more time. We'll return shortly.
20 Thank you.

21 (Whereupon, the foregoing
22 matter went off the record at
23 4:06 p.m. and went back on the
24 record at 4:07 p.m.)

25 JUDGE HAWKENS: This is Judge Hawkens.

1 I'm back online.

2 The parties may reply to any request to
3 engage in cross examination. And consistent with
4 their agreed proposed date, any reply will be due on
5 Friday, August 31st.

6 The Board reminds the parties that it
7 views Section 2.1204 as setting a high hurdle for a
8 party to engage in cross examination. And when the
9 parties do submit any such motion requesting to engage
10 in cross examination, we encourage them to be mindful
11 of the specifics of the written rule in crafting any
12 such motion and its plan as well.

13 JUDGE ABRAMSON: Yes. And this is Judge
14 Abramson. Let me just emphasize my personal view that
15 this is an exercise in futility and that when we come
16 to the hearing, the Judges will be examining the
17 witnesses. And we will certain, at that point I
18 expect, ask Counsel whether they think we've covered
19 everything which ought to address this problem.

20 MR. WEBSTER: Can I just Judges for
21 clarification on the motion? If we made such a motion
22 would it be the very brief motion that had been
23 outlined previously? Or would it be a rather longer
24 exercise, as Mr. Polonsky appears to contemplate?

25 JUDGE ABRAMSON: Well, let's think about

1 it. Well, we -- go ahead, Judge.

2 JUDGE HAWKENS: This is Judge Hawkens.
3 Mr. Webster, it sounds like you have been working with
4 Ms. Young and Mr. Polonsky to date in working these
5 out. And rather than the Board, at this juncture,
6 telling the parties how to proceed, I suggest the
7 parties seek to work that out and seek to comply with
8 the regulation as it is written.

9 MR. WEBSTER: Okay, thank you.

10 MS. YOUNG: Judge Hawkens, this is Ms.
11 Young.

12 In addition, I might point Mr. Webster to
13 the statement of considerations for the new Part 2
14 that talked about instances where cross examination
15 might be beneficial to the development of a record.
16 So I think that information is available.

17 JUDGE HAWKENS: All right. Thank you, Ms.
18 Young.

19 One second please. We're going offline.

20 (Whereupon, the foregoing
21 matter went off the record at
22 4:09 p.m. and went back on the
23 record at 4:12 p.m.)

24 JUDGE HAWKENS: The Board is back online.
25 The Board just discussed that it had not included in

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1 this email of proposed schedule we sent out yesterday
2 motions in limine that a party may wish to submit
3 seeking to exclude certain evidentiary material.

4 And the Board proposes the following
5 schedule, giving the parties the opportunity to object
6 either the initial written statements and testimony
7 due Friday, July 2nd, or the written response in
8 rebuttal testimony due Friday, August 17th.

9 To that end, the Board would require any
10 motions in limine or motions to exclude evidence for
11 the initial written statements be due on Wednesday,
12 July 25th. And any answer to such motion be due on
13 Monday, July 30th.

14 For any motion in limine in response to
15 the written response in rebuttal testimony, the Board
16 proposes that the motion in limine be due Wednesday,
17 August 22nd. And that any answer be due Monday,
18 August 27th.

19 Do the parties have any questions with
20 that? Or anticipate any problems complying with that?

21 MR. POLONSKY: Your Honor, this is Mr.
22 Polonsky. If we could just have a couple of minutes
23 to look through our calendars?

24 JUDGE HAWKENS: Sure.

25 MS. YOUNG: Judge Hawkens, this is Ms.

1 Young. May I ask a question?

2 JUDGE HAWKENS: Yes, Ms. Young.

3 MS. YOUNG: I'm trying to understand the
4 Board's rationale for the expedited treatment of these
5 motions. Is there some ruling the Board thinks it
6 needs to make well in advance of the scheduled hearing
7 that these time periods are so abbreviated? Because
8 motions we normally get ten days.

9 JUDGE ABRAMSON: Yes, Ms. Young, this is
10 Judge Abramson. Our rationale is this. In other
11 proceedings, we have had motions in limine to strike
12 large portions of testimony which the Boards had
13 already excluded as not relevant to the proceedings.

14 Should that happen here, we don't want to
15 be beleaguered with rebuttal testimony addressing
16 things that were included in prefiled direct. And we
17 want it to be perfectly clear by the time you are
18 preparing your rebuttal testimony what you are
19 rebutting.

20 MS. YOUNG: But couldn't the filing
21 deadline just be simultaneous with when the rebuttal
22 is due? Because you would know.

23 JUDGE ABRAMSON: We have to make a
24 decision. We have to decide whether to grant or not
25 grant a motion in limine. Therefore, we have to

1 decide what, if any, portions of prefiled direct or
2 prefiled rebuttal are going to be stricken. And we
3 want that decision to be issued timely enough to
4 enable the parties to proper comply with they file
5 rebuttal.

6 MS. YOUNG: I guess I understand that
7 concern. My concern is that this issue is extremely
8 narrow even though it seems like it has been broad,
9 you know, in terms of the attempts for additional
10 contentions. And there has got to be more a little
11 more latitude for the parties to be able to frame
12 these issues -- these motions to make them meaningful.

13 And my concern is that with the staff I
14 have available, I'm not -- staff won't be able to turn
15 that around quite as quickly as you propose.

16 JUDGE HAWKENS: This is Judge Hawkens. We
17 are open. If you have some conflict, Ms. Young, we're
18 certainly open to seeking to accommodate your
19 schedule.

20 MR. POLONSKY: Judge Hawkens, this is Mr.
21 Polonsky.

22 One the first set of dates, we do have a
23 conflict. And they are wondering if we could have
24 until Friday, July 27th, just an additional two days.
25 And then, I guess, answers or responses would be due

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1 Wednesday, August 1st.

2 JUDGE HAWKENS: Would that satisfy you,
3 Ms. Young?

4 MS. YOUNG: Seven days is definitely
5 preferable to five days.

6 MR. POLONSKY: The other concern, Judge
7 Hawkens, is I don't know how long the testimony is
8 going to be.

9 JUDGE HAWKENS: Correct.

10 MR. POLONSKY: And, you know, it could be
11 that there are, you know, 200 pages of testimony or
12 more. And I'm just concerned that we won't have
13 enough time to digest, get our experts to digest, and
14 craft a meaningful response for you in that amount of
15 time.

16 JUDGE ABRAMSON: Well it seems -- this is
17 Judge Abramson, Mr. Polonsky, what we're worried about
18 is -- and what I would expect to see in a motion in
19 limine is certain testimony has already been precluded
20 by this Board, addresses topics that the Board has
21 already decided to leave out.

22 If the parties exercise restraint,
23 reasonableness in preparing their prefiled direct
24 shouldn't be an issue. If, however, the parties do
25 include things that the Board has already decided are

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1 not to be addressed or are outside the scope should be
2 obvious to you as you read. And you shouldn't need an
3 expert to tell you it is obvious.

4 MS. YOUNG: This is Ms. Young for the
5 staff. My expectation is that hopefully the parties
6 will have narrowed the issues that are even included
7 in direct testimony through stipulations and possibly
8 whatever comes as the result of the motion for summary
9 disposition, that we probably should not be faced with
10 testimony that is all over the place and not focused
11 on the admitted issue.

12 But I think the seven-day time period is
13 something we're much better equipped to handle in this
14 time frame.

15 JUDGE HAWKENS: This is, again, these were
16 dates which we were simply throwing out there. We
17 want to have something that is meaningful from the
18 parties when they submit their motions. Now we have
19 before us a proposal for Friday, July 27th and
20 Wednesday August 1st.

21 If Ms. Young or Mr. Polonsky or Mr.
22 Webster, do you think you would need additional time
23 to provide something meaningful to the Board, we want
24 to hear your views now.

25 JUDGE ABRAMSON: This is Judge Abramson.

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1 Let me supplement this by saying since nobody knows
2 how long these filings are going to be when you get
3 them, we certainly would not reject out of hand a
4 motion at the time of an unusually long or unexpected
5 filing to ask for more time at that point. Or in
6 other exigent circumstances.

7 MS. YOUNG: This is Ms. Young, we are
8 assuming simultaneous initial filings and simultaneous
9 rebuttal, correct?

10 JUDGE HAWKENS: That's correct.

11 MS. YOUNG: I believe the staff can
12 support the seven-day schedule for these motions in
13 limine.

14 JUDGE HAWKENS: All right. And Mr.
15 Webster, if I've heard from you already on that, I'm
16 sorry. I don't recall anything.

17 MR. WEBSTER: No, actually, sorry, Judge,
18 I should have piped up before. I think we can
19 accommodate that schedule, yes.

20 JUDGE HAWKENS: All right. And how about
21 the motion in limine for the written responses in
22 rebuttal testimony. We had suggested Wednesday,
23 August 22nd, and Monday, August 27th. How do those --
24 and we're willing to hear suggested alternatives from
25 the parties on that.

1 MS. YOUNG: The staff would recommend that
2 that also slip to the 29th of August.

3 MR. WEBSTER: Yes, I guess that I'm
4 conscious that the proposed questions regarding the
5 testimony is on the 24th. And so the motion in limine
6 on the 22nd might create a bit of a jam there.

7 JUDGE HAWKENS: Well, we have on the table
8 August 29th for the motion. Am I correct, Ms. Young?

9 MS. YOUNG: That's correct.

10 JUDGE HAWKENS: Mr. Polonsky?

11 MR. POLONSKY: The 29th works here, Your
12 Honor.

13 MR. WEBSTER: Yes, for the motion or for
14 the answer? Sorry, Judge.

15 JUDGE HAWKENS: That would be for the
16 motion.

17 MR. WEBSTER: Okay, that's fine.

18 JUDGE HAWKENS: And, Ms. Young, what would
19 you propose for any response?

20 MS. YOUNG: I believe we were talking
21 Wednesday, August 22nd for the motion and --

22 JUDGE HAWKENS: Well, I'm sorry.

23 MS. YOUNG: -- Wednesday, August 29th for
24 the response. But I'm totally lost at this point.

25 JUDGE HAWKENS: I'm sorry. I

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1 misunderstood you. I thought you were saying August
2 29th for the motion. And I thought Mr. Webster
3 favored that because it wouldn't conflict with the
4 August 24th date for the proposed questions.

5 MR. WEBSTER: Well, certainly in that part
6 of the statement the Judge is correct.

7 JUDGE HAWKENS: So, Ms. Young, if we had
8 the motions due on August 29th when would the staff
9 and, as well, Mr. Polonsky and Mr. Webster, when would
10 you be prepared to file any necessary responses?

11 MS. YOUNG: Are we talking Thursday,
12 September 6th since there is a holiday in there?

13 JUDGE HAWKENS: We have Thursday,
14 September 6th on the table. Mr. Polonsky and Mr.
15 Webster, is that acceptable to you?

16 MR. POLONSKY: Your Honor, I think AmerGen
17 is now understanding why Judge Abramson was pushing
18 for the very early days because we would then be
19 essentially preparing, you know, sur rebuttal. And it
20 might not be necessary.

21 JUDGE HAWKENS: Correct.

22 MR. POLONSKY: So we're -- AmerGen is in
23 favor of keeping it closer to the August time frame.
24 I mean we may not be filing these motions in limine in
25 the first place. And I'm not sure -- I think it is

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1 possible to file these and/or respond to these and
2 prepare for post-questions at the same time especially
3 since the initials questions you will already have
4 that time to have done that. It will just be
5 questions on the rebuttal.

6 So I don't know what Friday, August 24th,
7 which is just two more days onto the Board's proposed
8 date wouldn't be feasible for the filing of motions in
9 limine on the rebuttal testimony.

10 JUDGE HAWKENS: Mr. Webster, can you
11 respond?

12 MR. WEBSTER: Well, it would help me a
13 little bit to give me a couple of days extra. So
14 maybe we can go to maybe a couple of days afer those
15 questions, which would be -- let me see, the 24th is
16 a Friday. Could we do the -- on the 27th I guess,
17 which is giving an extra day?

18 JUDGE HAWKENS: Going offline one minute.

19 (Whereupon, the foregoing
20 matter went off the record at
21 4:26 p.m. and went back on the
22 record at 4:27 p.m.)

23 JUDGE HAWKENS: This is Judge Hawkins.
24 I'm back online. I apologize for the delay.

25 Let's establish the motions will be due

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1 Monday, the 27th. Any response will be due the 31st.

2 MR. WEBSTER: Thank you, Judge.

3 JUDGE HAWKENS: It is my hope that as it
4 appears the parties have been working closely
5 together, they will continue to do that so the need
6 for any motions in limine hopefully will not arise.
7 But to the extent the parties do need additional time
8 and can show good cause, we'll entertain such motions.

9 I think that exhausts the events in
10 schedule which we had included in our email. Are
11 there any other matters?

12 MS. YOUNG: Yes, Judge Hawkens. This is
13 Ms. Young. In looking at the Board's schedule the
14 staff is mindful of the Commission's 30-day calendar
15 for a Commission decision on license renewal. And in
16 discussing this with the parties, we were trying to
17 estimate on what dates certain things had to happen in
18 order for the Commission to have adequate time to
19 review a decision in this proceeding.

20 JUDGE HAWKENS: And?

21 MS. YOUNG: In looking at 10 CFR 212.12,
22 which points the Board back to 341, we need to reserve
23 at least 40 or 55 days, depending on whether there is
24 a petition for review, from the time the Board would
25 decide to give the Commission time to review the

1 Board's decision.

2 JUDGE BARATTA: What has that got to do
3 with us? What's your point? This is Judge Baratta.
4 I don't understand your point.

5 MS. YOUNG: Oh, the point is the
6 Commission has a schedule for license renewal. There
7 is a 22-month schedule when there is no contested
8 proceedings. There is a 30-month schedule for a
9 Commission, not a Board decision, a Commission
10 decision.

11 JUDGE BARATTA: Well so?

12 JUDGE HAWKENS: And what are you
13 suggesting? Are we not finishing early enough? Are
14 we finishing too early? What is your point?

15 MS. YOUNG: No, no, no. We were taking
16 the dates out further from the hearing beginning on
17 September 24th, looking at findings of fact being due
18 within a more abbreviated time period than the time
19 period allowed in the rules, looking at October 15th.
20 And that the Board would need to issue its decision by
21 November 28th in order to allow the Commission review
22 period.

23 JUDGE BARATTA: I don't understand why the
24 Commission's review is our concern. This is Judge
25 Baratta again. I mean it will be what it will be so

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1 I think it's the end of the discussion.

2 MS. YOUNG: There have been numerous
3 orders in license renewal proceedings where the
4 Commission has set this time period out. I'm just
5 making the Board aware.

6 JUDGE HAWKENS: No, I'm grateful for that,
7 Ms. Young. So are you suggesting you have additional
8 events like for the parties to submit proposed
9 findings of fact and conclusions of law?

10 MS. YOUNG: Correct. Of October 15th.

11 JUDGE HAWKENS: Okay. Hang on one second.

12 MS. YOUNG: And that's what the parties
13 agreed on.

14 JUDGE HAWKENS: All right. Hang on. Bear
15 with me. Proposed findings of fact and conclusions of
16 law, the parties agree they would be able to submit
17 them by what date again, Ms. Young?

18 MS. YOUNG: Monday, October 15th.

19 JUDGE BARATTA: That's three weeks after
20 the hearing basically?

21 MS. YOUNG: Yes, we did a more abbreviated
22 schedule than the rules allow.

23 JUDGE BARATTA: That's good. Thank you.

24 JUDGE HAWKENS: All right. And was there
25 anything else?

1 MS. YOUNG: And we estimated the Board
2 would need to issue its decision by November 28th in
3 order to allow the Commission a review period if a
4 petition for review were filed by one of the parties.

5 JUDGE BARATTA: Thank you very much for
6 the thought. We will not put a deadline for our
7 ruling. We are mindful of the Commission's guidance.

8 JUDGE ABRAMSON: Yes, we are, provided the
9 SER came out.

10 JUDGE HAWKENS: All right. I think we
11 have the input necessary for the schedule. Are there
12 any other matters that we haven't discussed? Ms.
13 Young?

14 MS. YOUNG: Nothing else from the staff.

15 JUDGE HAWKENS: All right.

16 Mr. Polonsky?

17 MR. POLONSKY: Yes, Your Honor, just two
18 issues. The first deals with just some administrative
19 clean up on the notices of appearances, some of which
20 we think are stale. Addresses have changed, people
21 are no longer assigned to the case. And we just urge
22 all the parties to review their certificates --
23 notices of appearance, and to update them accordingly.
24 That's issue number one.

25 Issue number two is just to let the Board

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1 know that the parties have agreed to complete the
2 mandatory disclosures with the May monthly update.
3 And to provide all documents to the parties by June
4 1st in order to allow essentially two months for July
5 20th initial written statements, the position of
6 written testimony. That's all.

7 JUDGE HAWKENS: So I'm just copying this
8 down, Mr. Polonsky, so I can include it. Parties
9 should be updating the notice of appearance to the
10 extent any information in the originally submitted
11 notices were stale.

12 And that secondly the May monthly update
13 will be the final part of the mandatory disclosure.
14 Is that correct?

15 MR. POLONSKY: Correct.

16 JUDGE HAWKENS: So by June 1 --

17 MR. POLONSKY: Correct. To provide all
18 physical documents by June 1.

19 JUDGE HAWKENS: All physical documents.
20 All right?

21 MR. POLONSKY: That's right.

22 JUDGE HAWKENS: This is Judge Hawkens.
23 We're going to go offline one minute.

24 MS. YOUNG: Judge Hawkens, this is Ms.
25 Young.

1 JUDGE HAWKENS: I'm sorry, Ms. Young, go
2 ahead.

3 MS. YOUNG: In my case, I forget this
4 issue that Mr. Polonsky has raised. The parties also
5 have the understanding that the Board notification
6 obligation would continue in lieu of disclosures.
7 Should information be made available that meets that
8 standard.

9 JUDGE HAWKENS: Yes, thank you. We will
10 include that as well.

11 We'll go offline one minute.

12 (Whereupon, the foregoing
13 matter went off the record at
14 4:33 p.m. and went back on the
15 record at 4:34 p.m.)

16 JUDGE HAWKENS: This is Judge Hawken.
17 We're back online and I was just reminded by a
18 colleague to ensure that the parties, when they do
19 conclude with the mandatory disclosure ensure that
20 their witness list is up to date.

21 MR. WEBSTER: Could I just clarify that
22 part, Judge? Mr. Webster here. We have identified
23 one witness. I assume we should provide disclosures
24 with regard to witnesses as soon as we identify those
25 witnesses. Is that correct.

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1 MR. WEBSTER: Thank you.

2 MS. YOUNG: Judge Hawkens, this is Ms.
3 Young. Could I ask Mr. Polonsky to address
4 specifically what part of the Service List he thinks
5 is in error in terms of appearances?

6 JUDGE HAWKENS: Why don't you do that
7 among yourselves?

8 MS. YOUNG: Okay. Well, the question is
9 do we continue to serve the State of New Jersey?
10 Because they're not a party in the proceeding and they
11 haven't decided to participate as an interested state.

12 JUDGE HAWKENS: You may do so out of
13 convenience if you wish. But there is no obligation
14 to serve them if they are not a part and not an
15 interested state.

16 MS. YOUNG: Thank you.

17 JUDGE HAWKENS: And with that, the Board
18 is prepared to call this a wrap. I'm going to give --
19 Mr. Covino, do you have anything further?

20 MR. COVINO: No, I do appreciate the
21 courtesy of receiving the documents. And if the
22 parties can continue to do this, that's fine. But I
23 certainly understand we'd save a few trees here and
24 there. So I understand that they are not obligated to
25 do so.

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1 JUDGE HAWKENS: All right. Thank you.

2 Mr. Webster, anything further?

3 MR. WEBSTER: No, Judge, thank you.

4 JUDGE HAWKENS: Mr. Polonsky?

5 MR. POLONSKY: No, thank you very much.

6 JUDGE HAWKENS: Ms. Young?

7 MS. YOUNG: Nothing from the staff. Thank

8 you.

9 JUDGE HAWKENS: Thank you. And goodbye.

10 Court reporter, do you have everything

11 that you need?

12 COURT REPORTER: Yes, Your Honor.

13 JUDGE HAWKENS: All right. Thank you

14 everybody.

15 (Whereupon, the above-entitled pre-trial
16 scheduling meeting was concluded at 4:36 p.m.)

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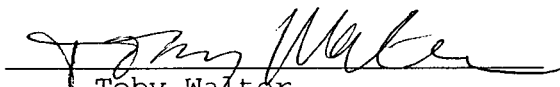
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Name of Proceeding: Oyster Creek Nuclear
Generating Station

Docket Number: 50-0219-LR

Location: (Telephone conference)

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