

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Entergy Nuclear Vermont Yankee
Pre-hearing Conference

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

Location: (telephone conference)

DOCKETED
USNRC

June 30, 2008 (10:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Date: Tuesday, June 24, 2008

Work Order No.: NRC-2285

Pages 644-693

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL
TELECONFERENCE

In the Matter of:

ENTERGY NUCLEAR

VERMONT YANKEE, LLC ASLBP Docket No.

and 06-849-03-LR

ENTERGY NUCLEAR Docket No. 50-271-LR

OPERATIONS, INC.

(Vermont Yankee

Nuclear Power Station)

Tuesday, June 24, 2008

2:00 p.m.

BEFORE:

ALEX S. KARLIN, Administrative Judge, Chair

RICHARD E. WARDWELL, Administrative Judge

WILLIAM H. REED, Administrative Judge

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

2:04 p.m.

1
2
3 JUDGE KARLIN: Mr. Court Reporter, please
4 let's go on the record. We are now on the record in
5 a pre-hearing conference call on June 24, 2008 in the
6 Matter of Vermont Yankee License Renewal Application
7 ASLBP Docket No. 06-849-03LR and then Docket No. 50-
8 271. This pre-hearing conference call is being held
9 pursuant to an email that was sent out by one of our
10 law clerks, Lauren Bregman on May 15, 2008.

11 At this point what I'd like to do is to go
12 around the table and ask each party to identify
13 themselves and we'll start here in Rockville,
14 Maryland, the ASLBP. I'm here. This is Alex Karlin.
15 I'm one of the judges. Dr. Wardwell is here, also one
16 of the judges. Marsha Carpentier, one of the law
17 clerks, is here. And Karen Valloch, our assistant, is
18 here as well in this room.

19 Perhaps we could then ask NEC to go on the
20 record and identify everyone who is here on the call
21 for NEC.

22 MS. TYLER: NEC's counsel, Karen Tyler and
23 Andrew Raubvogel, are here and Raymond Shadis of NEC
24 is also on the line.

25 JUDGE KARLIN: Okay, and, Dr. Reed, do you

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1 want to confirm that you're on the line?

2 JUDGE REED: Yes, this is William Reed.

3 JUDGE KARLIN: Thank you. Entergy.

4 Mr. Lewis, could you introduce your team
5 please?

6 MR. LEWIS: Yes, this is David Lewis from
7 the law firm Pillsbury Winthrop Shaw Pittman
8 representing Entergy and with me and my partners
9 Matias Travieso-Diaz and Blake Nelson. There are some
10 Entergy personnel listening in remotely and won't
11 participate. I did hear Mike Matell. I don't know
12 who else is on another line.

13 MS. BRIDGES: Dave, this is Kim Bridges
14 also of Entergy.

15 MR. COX: And Alan Cox with Entergy.

16 JUDGE KARLIN: All right. Thank you.
17 State of Vermont please.

18 MS. HOFMANN: This is Sarah Hofmann for
19 the Department of Public Service in Vermont. On a
20 separate line, Mr. Roisman, are you there?

21 MR. ROISMAN: Yes.

22 JUDGE KARLIN: Greetings. Welcome.

23 NRC staff, Ms. Baty.

24 MS. BATY: Yes. Mary Baty and co-counsel
25 of Susan Utall, Lloyd Subin and Jessica Bielecki and

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1 then also with us in the room as one of our witnesses,
2 John Fair.

3 JUDGE KARLIN: All right. Great. Thank
4 you.

5 Let's see. Is there anyone else on the
6 call?

7 (No verbal response.)

8 Okay. Thank you.

9 I note that the State of New Hampshire and
10 the State of Massachusetts Attorney Generals, both of
11 them I believe indicated to Marsha Carpentier, our law
12 clerk, that they would not be participating and indeed
13 they are not. So that's fine.

14 Ground rules for the call, please just if
15 you could try to identify yourselves when you begin
16 speaking and speak up. We have no nonparty listeners.
17 So I don't need to address that issue.

18 The purpose of this call -- Thank you all
19 for joining us and participating. The purpose of this
20 call is to discuss the evidentiary hearing that's
21 coming up starting on July 21st in Newfane, Vermont
22 and to provide some instructions about how we plan to
23 conduct that. This pre-hearing conference call is not
24 for purposes of grueling on any of the many motions
25 that are pending before us and not for hearing oral

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1 arguments on any of those motions either but more just
2 the presentation and the preparation for the
3 evidentiary hearing.

4 What I'm going to do is I have about nine
5 items that we want to sort of cover on this agenda
6 that we thought we'd probably talk about and at the
7 end of that list I will ask you all if you have any
8 other items that you think need to be covered in this
9 pre-hearing conference call. But with that, here are
10 the nine items that we think we will want to cover.

11 First is status of the joint stipulations;
12 second, status of the FSER as an exhibit; third,
13 instructions regarding how to handle exhibits; fourth,
14 a review of some of the basic rules regarding how we
15 will be conducting the evidentiary hearing; fifth,
16 advance notice of several issues that we will be
17 focusing on on the evidentiary hearing and possibly
18 even in some briefing of legal issues; sixth, some
19 logistics related to the evidentiary hearing in the
20 Newfane courtroom; seventh, just a few words about the
21 interested state's role, although they're not here,
22 we're going to put it on the record and hopefully
23 they'll read the transcript; eighth, decorum, we just
24 want to cover something regarding decorum; and then
25 ninth, we have a request regarding the submission of

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1 PDF searchable documents.

2 With that, do any of the parties have any
3 other agenda items that you think we ought to cover or
4 need to cover here today?

5 MS. HOFMANN: Judge Karlin, this is Sarah
6 Hofmann from the State of Vermont. I have a few, but
7 I think they all follow into your logistics and
8 instructions. So I think we'll get to them
9 eventually.

10 JUDGE KARLIN: Okay. Well, perhaps you
11 could tell me what they are and we can see if we're
12 going to get to them.

13 MS. HOFMANN: Yes. The first one is the
14 questioning process that will be used at the hearing.
15 I did attend those hearing that you did and there was
16 a break after at least one of the witness panels for
17 people to submit supplemental questioning. I didn't
18 know if you were going to do that again in this
19 hearing.

20 JUDGE KARLIN: All right. That's a good
21 topic.

22 MS. HOFMANN: Before the hearings start,
23 are we going to have any point where we have to
24 determine the admissibility of documents so we aren't
25 doing that during the hearings? It's done either the

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1 day before or somehow by email.

2 JUDGE KARLIN: Yes, we'll cover that also.
3 Good. Okay.

4 MS. HOFMANN: And if the Board is going to
5 allow any opening or closing statements.

6 JUDGE KARLIN: All right. We're going to
7 try to cover that, too.

8 MS. HOFMANN: Okay. Thank you very much.

9 JUDGE KARLIN: All right. Thank you.

10 MS. TYLER: This is Karen Tyler. I also
11 had just a couple things that I'm sure you would cover
12 anyway. But I wanted to confirm that you will be
13 taking testimony from all three of NEC's witnesses,
14 although, I'm not requesting obviously a ruling on the
15 motion to exclude Mr. Witte's testimony in asking for
16 that discussion and then the second thing I wanted to
17 talk about was the order in which the contentions will
18 be considered.

19 JUDGE KARLIN: Okay. We're going to
20 cover, I think, both of those.

21 Any other concerns or agenda items? Ms.
22 Baty or Mr. Lewis?

23 MR. LEWIS: This is David Lewis. The only
24 item I have which I think is covered by your agenda is
25 will it be feasible to expedite the admission of

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1 exhibits by trying to facilitate the process in
2 advance?

3 JUDGE KARLIN: Okay. And we'll talk about
4 that.

5 Okay. Then with that, why don't we
6 proceed with the first item which is status of joint
7 stipulations. As you will remember in our December
8 13, 2007 order, we asked the parties to confer
9 regarding preparation and submission of joint
10 stipulations and to submit them. By my calculation,
11 you probably already should have conferred.

12 Could someone give me a report on the
13 progress or status of that effort? Maybe I could
14 start with Mr. Lewis.

15 MR. LEWIS: Yes, sir. This is David
16 Lewis. We transmitted proposed stipulations to the
17 other parties on June 9th. We have been waiting to
18 hear back. I suspect that everybody's been sort of
19 deluged with testimony and questions and I've not
20 heard back from the other parties on whether there is
21 willingness to accept the stipulations.

22 JUDGE KARLIN: Okay. What's the deadline
23 for submitting the joint stipulations by your
24 calculation?

25 MR. LEWIS: By my calculation, it was June

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1 30th. It is June 30th.

2 JUDGE KARLIN: June 30th, okay. Well,
3 NEC, perhaps you could speak to this. What's the
4 situation?

5 MS. TYLER: Well, as received and Mr.
6 Lewis referred to proposed joint stipulation, Entergy
7 has circulated a copy of the initial statement of
8 positions and of the statements of finding and fact
9 that -- on its motions for summary dispositions and
10 has basically asked NEC what of that material it could
11 agree to. We've been occupied with responding to the
12 motions in limine and putting together the direct
13 examinations plans and haven't turned to that as yet
14 but hope to do so within the next couple days.

15 JUDGE KARLIN: Okay. Has the staff
16 participated in this, Ms. Baty?

17 MS. VALLOCH: Well, -- Ms. Baty and I
18 spoke with Ms. Tyler about what we received from
19 Entergy and I told her and I think the staff's
20 position is that we don't really need to be involved.
21 I mean, this is really between Entergy and NEC as far
22 as coming up with the joint stipulations.

23 JUDGE KARLIN: Well, all I would say is I
24 think we have asked the parties including the staff to
25 work on joint stipulations. I think there is a

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1 foundation for that and motion for summary disposition
2 that have occurred here wherein certain facts were
3 stated and some of them were admitted and that would
4 seem to be a basic core of agreed-upon facts and it
5 would promote this proceeding, I think, if the parties
6 could turn to that and submit a joint effort on some
7 of the basics. It would help us clear some of the
8 underbrush out and would allow us to focus on the key
9 issues a little better.

10 So we all, I think, strongly encourage you
11 to submit those. I'm not sure what the calculation is
12 in terms of the deadline and my date was the 27th of
13 June actually. But there may be service of process
14 issues that have interceded to make that a little
15 different.

16 I would ask the parties, particularly NEC
17 and Entergy, to confer to try to come up with some
18 joint stipulations of fact as called for in our order
19 of December 13th and, if you can't do that, then we
20 ask for you to submit if someone has something and
21 someone else disagrees, you could submit an objection
22 to that. But please focus on that.

23 We're going to turn to the next item
24 unless there's discussion. Dr. Reed.

25 MS. TYLER: Judge Karlin, before you move

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1 on, if I could take a moment to ask Mr. Lewis. Mr.
2 Lewis, do you think that we need an extension of that
3 deadline or can we do it?

4 COURT REPORTER: I'm sorry. Who is
5 speaking?

6 MS. TYLER: This is Karen Tyler.

7 COURT REPORTER: Thank you.

8 MS. TYLER: I had actually thought that
9 the deadline to file the stipulations was Friday of
10 this week, the 29th. So I have to get a third
11 interpretation. Mr. Lewis, do you think that we
12 actually could hope to put something together by
13 Friday or should we ask the Board at this point to
14 extend that deadline?

15 MR. LEWIS: Friday is the 27th. So your
16 date is the same as Judge Karlin.

17 MS. TYLER: I guess I agree with Judge
18 Karlin.

19 MR. LEWIS: I suspect I was one day off
20 counting on my fingers and toes.

21 MS. TYLER: Okay.

22 MR. LEWIS: I think I came up with the
23 28th and bumped it to the 30th. I do agree that if we
24 just tried to finalize that list now the 27th is
25 probably an overly optimistic date for reaching an

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1 agreement.

2 MS. TYLER: I think it makes sense to put
3 some real effort into those. How much time do you
4 think we need?

5 MR. LEWIS: I wish I knew. I haven't
6 heard her first bounce-back on whether we're close or
7 not.

8 MS. TYLER: Yes. Should we ask for an
9 additional week?

10 MR. LEWIS: I'm amenable to that.

11 MS. TYLER: Okay.

12 MR. LEWIS: We'd like to try and make this
13 work now.

14 MS. TYLER: But my co-counsel has just
15 pointed out that that would actually make it right
16 before the holiday weekend, the Fourth of July.

17 JUDGE KARLIN: Right.

18 MS. TYLER: Perhaps we could request to
19 file after that?

20 JUDGE KARLIN: Yes, I think -- I don't
21 know that this is on the critical path to any other
22 particular activity. So, yes, I think we -- That
23 extension makes sense and why don't we say July --

24 (Off the record comment.)

25 JUDGE KARLIN: -- July 8th which is a

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1 Tuesday after the holiday weekend.

2 COURT REPORTER: I'm sorry. Is this Mr.
3 Lewis?

4 JUDGE KARLIN: This is Alex Karlin, one of
5 the judges.

6 So if we could -- With agreement of my
7 colleagues, we will extend that date and ask for your
8 submission and instructed the submission, of whatever
9 you have in terms of joint stipulations on July 8th.
10 Okay?

11 (No verbal response.)

12 Not hearing anything, we will proceed.

13 MS. HOFMANN: Judge Karlin, I'm sorry.
14 This is Sarah Hofmann. We will consult with NEC since
15 we're adoptors (phonetic) of their contention. But I
16 assume if any parties remain quiet and we agree on the
17 stipulation then we are then bound to those
18 stipulations. Is that correct?

19 JUDGE KARLIN: Well, that's right. If the
20 State of Vermont is an adoptor of the NEC's contention
21 and so, in that circumstance, you must pick a lead
22 counsel, a lead entity, for that contention or any of
23 the contentions. The three contentions are NEC
24 contentions primarily and the State of Vermont is an
25 adoptor of those contentions. So you're a second

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1 chair and do not have an independent status other than
2 -- So whatever you want to get you'd better work with
3 Ms. Tyler because what Ms. Tyler says is going to bind
4 vis à vis those stipulations.

5 MS. HOFMANN: Absolutely, I totally agree
6 with that. But I was wondering by the same token the
7 staff earlier indicated that they were going to leave
8 the stipulations to between Entergy and NEC. So I
9 would assume then they would be bound also by the
10 stipulations.

11 JUDGE KARLIN: That's correct.

12 MS. BATY: Your Honor, if I may. This is
13 Mary Baty. We feel that we wouldn't take a lead role
14 in it, but we would like to have an opportunity and I
15 will be in touch with Entergy and NEC. We would like
16 to see this --

17 (Off the record comment.)

18 MS. BATY: -- see the stipulations and see
19 whether we have any frustrations.

20 COURT REPORTER: I apologize. This is the
21 Court Reporter. I didn't catch your name.

22 MS. BATY: Mary Baty.

23 COURT REPORTER: Thank you.

24 JUDGE KARLIN: Yes. Correct, Ms. Baty.
25 I encourage you. We assumed all along that the staff

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1 would be part and parcel of any joint stipulations and
2 be bound by that and therefore get your oar in the
3 water and get involved and, if you have some problem,
4 you'd better let us know on July 8th what your problem
5 is if they have some joint stipulations. So, yes,
6 please participate actively as you see fit.

7 Anything else on joint stipulations?

8 (No verbal response.)

9 The second item, status of the FSER. In
10 our April 3, 2008 order in paragraph six, we, I think,
11 asked that the staff submit the FSER as an exhibit so
12 that we could avoid partial sort of piecemeal
13 submission of the FSER. I notice that the staff's
14 initial submission gave only part of the FSER. I
15 believe it was Staff Exhibit No. 1. I'm not sure
16 whether that covers the waterfront and covers and what
17 we need. What was your reasoning, Ms. Baty? Why did
18 you submit the entire FSER as what I thought we had
19 suggested>

20 MS. BATY: Well, Your Honor, I apologize.
21 We weren't clear from the order whether you wanted the
22 whole thing or whether the Board wanted just a portion
23 and our reasoning at the time was just that it's such
24 a massive document that we had a lot of trouble
25 emailing all the documents for the initial position.

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1 So we chose to submit the critical portions of the
2 FSER. But we have no problem with if the Board wants
3 the whole thing for hearing changing Exhibit No. 1 and
4 making it the entire FSER.

5 Also I noticed that we last minute didn't
6 include as a separate exhibit the ACRS report and I
7 know that in Oyster Creek the Board wanted that as a
8 separate exhibit and we can do that as well if that's
9 what the Board would want.

10 JUDGE KARLIN: Yes, let's stick to the
11 FSER for the moment and did any of the other parties
12 look at the staff's submission and think that it was
13 missing anything or -- Well, I think, Ms. Baty, we
14 would just an abundance of caution ask you please to
15 insert the entire FSER as an exhibit here. Okay/

16 MS. BATY: Your Honor, we will do that.

17 JUDGE KARLIN: Thank you, Ms. Baty.

18 Now any concerns or objections of that?
19 I assume not.

20 MR. LEWIS: No, Judge Karlin.

21 JUDGE KARLIN: Okay. Now with regard to
22 the ACRS report, I believe that's a --

23 (Off the record discussion.)

24 MS. JONES: Now with regard to the ACRS
25 report, I believe that's a requirement under

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1 2.337(g)(2)(I). So, yes, I think you, the staff,
2 needs to and we'll ask you to submit any reports
3 submitted by the ACRS in the proceeding in compliance
4 with Section 182(b) of the Act.

5 MS. BATY: Judge Karlin, can I ask for a
6 clarification? Right now, the FSER is a bound copy
7 that we sent in the mail. The ACRS report is part of
8 the FSAR. So I guess my question is if you want to
9 include it in the FSER or as a separate exhibit.

10 (Off the record discussion.)

11 JUDGE KARLIN: I think if it's in the FSER
12 that's sufficient.

13 MS. BATY: Okay. Well, that's what we'll
14 do.

15 JUDGE KARLIN: Yes, that's fine. Okay.
16 Thank you for that.

17 No. 3 on the agenda, instructions relating
18 to exhibits and exhibits include both documentary
19 exhibits and testimony and affidavit that's been
20 submitted in writing, you know, the initial testimony
21 and the rebuttal testimony.

22 We have to cover a few things here. As a
23 background matter and I think a couple of you have
24 raised this as a concern, we need to get all of the
25 exhibits properly marked and stamped and I think three

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1 copies need to be submitted to SECY for the record.
2 They need one and others. There is certain protocol
3 here. And we go through the protocol of being
4 proffered and then any objections and an admission of
5 the documents.

6 In the past, what we've done, we did it
7 before, the Vermont Yankee on the uprate as was
8 alluded to earlier, was go through each exhibit from
9 each party and proffer it and object and admit and
10 this becomes a little tedious and so we're going to
11 try and expedite that if we can with the following
12 approach.

13 The evidentiary hearing starts on the 21st
14 of July, Monday. We're going to start it at 1:00 p.m.
15 But at 10:00 a.m. that morning, all parties who are
16 proffering exhibits need to arrive at the courtroom
17 crisply at 10:00 a.m. or before to meet with our law
18 clerks, Marsha Carpentier and Lauren Bregman, to make
19 sure that all the exhibits are properly marked and
20 that the proper number of copies are available for all
21 of -- each and every one of your exhibits and just to
22 go through the boxes and piles of materials that need
23 to be submitted and make sure it's right.

24 We will issue an order sometime in the
25 next few weeks with some written instructions about

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1 how to do that, what you need to do, how many copies
2 and proper marking. We'll send out those stamps
3 because you need a stamp for the marking and you can
4 be in communication with Ms. Carpentier on that or Ms.
5 Bregman. Ms. Bregman isn't here right now. She's out
6 for the week, but to follow inquiries about that. But
7 why don't you wait until we issue some instructions
8 and then you can follow up with some questions.

9 Once you meet at 10:00 a.m. with the law
10 clerks, make sure all the documents are duly together
11 and submitted, then what we will do is ask each party
12 to proffer the submission of all of their exhibits at
13 one moment in mass and then we will hear -- there will
14 be no objections, I presume, except those objections
15 which have already been filed vis à vis the motions in
16 limine which will be ruled on either at that time or
17 prior to that time, hopefully prior to that time, and
18 then they will be admitted subject to the motions in
19 limine that have been filed in mass and we can do this
20 in five minutes instead of 45 minutes at the starting
21 of 1:00 p.m.

22 One of the things we want to say is when
23 you submit these exhibits, three stacks of exhibits,
24 for SECY and the record, you need to keep the
25 numbering and labels that you've used the same. We

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1 have been studying your materials trying to digest
2 them and to develop questions we might have about them
3 and our questions are correlated obviously with the
4 exhibit numbers that you have given us to date. So
5 don't change those numbers.

6 If there are duplications, i.e., the staff
7 and the Applicant and Entergy are all submitting the
8 same document as an exhibit, you may have different
9 exhibit numbers, you know, Entergy Exhibit 15, NEC
10 Exhibit 23, Staff Exhibit 14. Keep those number, but
11 only one copy of the document needs to be submitted
12 and shlepped up to Newfane and what we would say is if
13 -- Let's start with Entergy. If Entergy has a
14 document that it's submitting as an exhibit, that will
15 be the one document that we want submitted. The other
16 two parties don't need to duplicate the physical
17 submission. Next is the staff. If the staff has
18 something, then the other two -- then NEC doesn't need
19 to. We'll give written instructions on that.

20 But the key point is we'll give written
21 instructions and there will be a meeting at 10:00 a.m.
22 in Newfane with the law clerks for the review of them
23 and make sure that all the documents are really there
24 before they're admitted in mass starting at 1:00 p.m.
25 when the evidentiary hearing actually starts. Any

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1 questions on that?

2 MS. HOFMANN: Judge Karlin, this is Sarah
3 Hofmann from the State of Vermont and I just wondered
4 will the written instructions also cover
5 proprietary/nonproprietary treatment?

6 JUDGE KARLIN: We are going to talk about
7 that a little bit. Yes, we can address that. What
8 particularly do you have in mind?

9 MS. HOFMANN: I just wanted to smooth the
10 process to make sure everybody knows how we're
11 supposed to handle the proprietary documents versus
12 the nonproprietary. Is there anything special you
13 want us to do?

14 JUDGE KARLIN: Okay. We'll probably want
15 them labeled with put a P at the end of it or some
16 sort of a denominator that's proprietary. That's one
17 thing. There may be two versions of a document, a
18 redacted version which is nonproprietary and a
19 unredacted version which proprietary. And if we end
20 up having, I was going to talk about this a little
21 later, an evidentiary hearing session where we need to
22 ask questions about proprietary documents or if we
23 stray over into questions about proprietary documents,
24 we want you to point that out to us. But if we decide
25 we need to ask some questions about proprietary

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1 documents, we will have to have a closed session for
2 a short period of time in which only the counsel and
3 the parties, the people who have signed the non-
4 disclosure agreement, can sit in the courtroom at that
5 point.

6 MS. HOFMANN: Thank you. That was all
7 very helpful.

8 JUDGE KARLIN: Okay. That's good. Good
9 question. Anything else on exhibits at this point?

10 Okay. Next, basic rules of conduct at the
11 evidentiary hearing. Kind of just the obvious. We're
12 going to start on July 21st at 1:00 p.m. We will go
13 all day. We're hoping to finish up by Friday
14 afternoon. We'll start either at 8:30 a.m. or 9:00
15 a.m. and we'll go to 5:00 p.m. or 6:00 p.m. We may be
16 able to hit one contention per day for awhile. We're
17 not sure. They're going to vary.

18 Second, I remind you of the initial
19 scheduling order, page 12, where we said that every
20 party needs to bring all the witnesses for whom
21 they've submitted initial -- who submitted testimony,
22 written testimony, either initial or rebuttal. You're
23 responsible for bringing those witnesses with you and
24 having them at the hearing so that we can call upon
25 them and ask questions.

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1 If someone, for example, you know, if we
2 decide at some point that some witness doesn't need to
3 be there, we will try to tell you in advance. If we
4 decide or if it's ruled that a witness is not
5 appropriate, the motion regarding Mr. Witte for
6 example, obviously we'll try to rule on that in
7 advance and that may excuse him. It may or may not.
8 But a general rule, everyone needs to be there. All
9 the witnesses need to be there.

10 I think -- We do plan, I think, to ask
11 each party, each of the three primary parties, to give
12 a brief opening statement regarding their case on all
13 three contentions. Then we will go one contention at
14 a time probably in sequence, two, three and four, in
15 that order. Is there any objection/problem, witness
16 difficulty which would cause -- Does anybody need a
17 change in that sequence?

18 MS. TYLER: This is Karen Tyler for NEC.

19 JUDGE KARLIN: Yes.

20 MS. TYLER: I don't know if this is
21 possible in light of other witnesses' schedules, but
22 NEC, Ulrich Witte and Rudolph Hausler, would only
23 testify on Contention 4. So if it were possible, NEC
24 would prefer that the Board consider Contention 4
25 first so that Mr. Witte and Mr. Hausler could leave

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1 after testifying.

2 JUDGE KARLIN: We might be able to set up
3 a system where we would assure you that they don't --
4 we won't start Contention 4 until, you know, I don't
5 know, Thursday morning or Wednesday morning so that
6 they wouldn't have to be there Monday/Tuesday, but
7 they could be there Wednesday and Thursday.

8 MS. TYLER: I think that could work, too.
9 Mr. Hausler is flying in from Texas and needs to buy
10 plane tickets within the next few days. When could
11 you let us know that for sure?

12 JUDGE KARLIN: We could probably after I -
13 - First I want to hear from the other parties. Is
14 there any other witness issues? I mean, I understand
15 your issue of wanting to have it first so they could
16 leave quickly.

17 MS. TYLER: Yes.

18 JUDGE KARLIN: I suspect the same may be
19 true for others who say, "I would like to get mine
20 first so I can leave quickly." But does anybody have
21 an incontrovertible sort of problem that a witness
22 just can't be available on Monday or Tuesday?

23 MR. LEWIS: This is David Lewis. We don't
24 have that sort of problem. We were hoping that the
25 order would be two, three and four and we do have

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1 witnesses, one coming from Colorado and one coming
2 from California, and therefore it would be helpful to
3 know the order now and know the earliest date on each,
4 two, three, four.

5 JUDGE KARLIN: Okay. I think what we can
6 do is confer amongst ourselves and let you know by the
7 end of the week via informal means anyway from Ms.
8 Carpentier about the basic sequence and I think we can
9 probably agree to, my colleagues, to say we probably
10 won't start four until at least, you know, the
11 witnesses for four don't need to be there until, say,
12 Wednesday morning at the earliest. We probably
13 wouldn't get to four until Wednesday morning. And if
14 we finish early on two and three, we could take
15 Tuesday afternoon off and then we would start on
16 Wednesday morning. I don't know, something like that
17 and maybe it's even Thursday morning.

18 MS. UTALL: Excuse me. Judge Karlin.

19 JUDGE KARLIN: Yes.

20 MS. UTALL: This is Susan Utall from the
21 staff. So does this apply to the staff also? We
22 don't have to have our witnesses for Contention 4
23 until the Board is going to be ready to hear
24 Contention 4 and the same for Contentions 2 and 3?

25 JUDGE KARLIN: Right now, all the

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1 witnesses need to be there the whole week. What we're
2 going to try to do is come up with a mechanism where
3 we can say the people for Contention 4 don't need to
4 be -- show up until X date, X time.

5 MS. UTALL: Okay.

6 JUDGE KARLIN: We're going to try to
7 accommodate that. I mean, that's logical. We'll try
8 to do that. That's fair enough. We don't know how
9 fast or slow this is going to go. We're not sure at
10 any rate. We had just started going through your
11 proposed questions. So, yes, right now, everybody
12 needs to be there the whole week, but we'll try to get
13 back to you by the end of this week. We will get back
14 to you by the end of this week after I confer with Dr.
15 Reed and Dr. Wardwell and see if we can come up with
16 some dates to help a little bit on that front.

17 Okay. With regard to each contention,
18 what we are planning to do is impanel all of the
19 witnesses from all three parties in mass. They'll
20 probably sit over in the witness box if you've been
21 there before and then we will question them, sometimes
22 together, sometimes separately, but they'll all be
23 impaneled at the same time. So they'll be sitting
24 there together.

25 The questioning will be by the judges only

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1 pursuant to the regs. under Subpart L and, as I said
2 before, if we have a proprietary session we'll clear
3 the courtroom except for people who have signed a non-
4 disclosure agreement.

5 The pre-hearing orders that we issue may
6 ask that specific witnesses or parties provide us with
7 a short summary or presentation on a given subject if
8 we think that would be helpful. I mean, we are
9 reading and have read your materials. So you should
10 have gotten your basics in and everything else in in
11 those written materials. But we may ask for a
12 specific witness provide us a short summary or
13 presentation on specific subjects.

14 At the end of the questioning of the
15 witnesses on any given panel, we'll probably follow
16 the same procedure that we did in the license uprate
17 which is we will ask the parties if you have any other
18 questions that you think we need to ask of the
19 witnesses. What we'll probably do is take a 15 minute
20 break and then allow the parties to submit to us in
21 writing or orally in open court, your choice, but
22 you're only going to have a short amount of time any
23 additional questions you think we should ask or things
24 we missed or follow up type of items.

25 This is not really the time for you to

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1 reiterate all of your questions that you've already
2 suggested to us in your direct examination plans. We
3 will have read those questions and presumable if we
4 ask them we thought they were good and relevant to our
5 concerns and if we didn't ask them it's because we
6 didn't think they were going to be helpful to our
7 decision. But generally it's not a time to reiterate
8 all your previously submitted questions. But at the
9 end, we'll give you an opportunity to tell us if
10 there's something additional we need to ask.

11 You probably need to be able to -- If you
12 want to do this writing, sort of ex parte, you have to
13 be able to do it pretty quick. But presumably as we
14 go along during the day, your ideas will come and
15 you'll be able to -- either handwritten if it has to
16 be. That would be sufficient. But that's our basic
17 approach for the evidentiary hearing.

18 Any questions or things we didn't cover
19 that you need answered?

20 (No verbal response.)

21 Okay. Hearing none, we'll move on to the
22 next agenda item which is kind of an advanced notice
23 of several issues of troubled us or are of concern to
24 us that we probably will cover.

25 I mean, first, at the outset, I would just

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1 say that we noticed a tendency of the staff and the
2 Applicant to, I think, misconstrue perhaps what the
3 issues are in this case and we just wanted to without
4 much ado reference you perhaps to Entergy's initial
5 statement of positions of May 13, 2008 on page five.
6 This is just an example. Staff makes what I think is
7 the same misstatement. They're talking about steam
8 dryer. I don't know whether you can return to that
9 page, but with regard to the steam dryer, there is a
10 discussion on page five, "Compliance with this
11 regulatory requirement is demonstrated by meeting the
12 guidance in NUREG 1800 and NUREG 1801, the GALL
13 report." It goes on to say at the end of that
14 paragraph, "The issue with respect to the steam dryer
15 therefore is whether the aging management program for
16 the dryer developed at Vermont Yankee satisfies this
17 guidance."

18 That is not the issue that we see because
19 as I think everyone will posit NUREGs and staff
20 guidance are guidance. They are not law. They are
21 not statutes. They are not case law. They do not
22 bind this Board. So the issue for us is not whether
23 something satisfies a NUREG. The issue for us is
24 whether it satisfies the regulatory requirement. So
25 do not expect witnesses to testify to us that that is

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1 the end of the inquiry. That is an interesting fact.
2 The staff feels that it meets their guidance. That's
3 worth knowing but is not dispositive.

4 Likewise, in that same paragraph, it says,
5 "The issue then is whether the FAC control program and
6 energy intense implemented at Vermont Yankee after
7 license renewal is consistent with the guidance in
8 that section of the GALL report." Again, hopefully
9 you see for reasons I just explained that that is not
10 the issue as far as this Board is concerned. Please
11 be aware of that. We are not bound by the staff
12 guidance pro or con and we're looking at different
13 criterion than that.

14 Second, advance notice of issues, NUREG
15 CR-6909, Entergy's initial statement at page 15, for
16 example, this comes up in a number of places. I think
17 this is a factual question we may want to probe, we
18 are going to probe, at the evidentiary hearing. What
19 is entitled in complying with NUREG 6909? What is the
20 difference between 6909 and the other methodologies
21 that are prescribed in other NUREGs?

22 The staff and the Applicant seem to have
23 simply responded that that's not the one that the
24 NUREGs call for and therefore we don't have to worry
25 about it and further that there's some discussion

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1 about whether it's more conservative or less
2 conservative. I'm just suggesting that we're going to
3 want to know from the staff and from the Applicant as
4 well as from the Intervenor a considerable more about
5 that NUREG and how it compares to the other NUREGs
6 that the staff is using here.

7 Third, with regard to the cumulative use
8 factors environmentally adjusted, otherwise known as
9 CUFENS, we have some factual questions regarding the
10 CUFENS for the core spray nozzle and the recirculation
11 outlet nozzle. First, as a legal matter, we may ask
12 for briefing regarding whether it's permissible to
13 postpone doing the CUFENS for those until after the
14 license renewal is issued and, second, as a factual
15 matter, what is entailed in doing the CUFENS for those
16 two nozzles and we're just curious of what seems to be
17 the difficulty and what's entailed in doing that?

18 Fourth issues we might point out is
19 Contention 2. As we see it, Contention 2 has morphed
20 and evolved from initially a contention of an
21 inadequate aging management plan, that was the
22 allegation, into a CUFEN analysis or reanalysis which
23 would seem to or arguably show CUFEN's lesson one and
24 that was contested in 2(A) and then 2(B) contested the
25 one specific CUFEN reanalysis and now it seems to me

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1 that it's almost evolved back to a position that was
2 a suggestion that by doing CUFENS later that
3 constitutes an adequate aging management plan.

4 The point I think we're making is that we
5 see this -- All three parts of Contention 2 seem to be
6 on the table, 2, 2(A) and 2(B). And so we'll be
7 probing, I think, asking questions related to all
8 three of those potential aspects of Contention 2.

9 Fifth, just a point regarding factual
10 issues, some of the factual issues I just named and
11 maybe others, we may call for a submission prior to
12 the evidentiary hearing and say, "Look. Why don't you
13 give us something in writing on this," and might
14 direct it at a particular party, the Applicant, Staff,
15 the Intervenor. Many of the other issues and some of
16 them I just mentioned obviously we'll ask at the
17 evidentiary hearing itself.

18 Next as to legal issues, however, our
19 current intent is because obviously at an evidentiary
20 hearing the witnesses do not testify as to what the
21 law is. They're not there -- There are no experts are
22 going to testify on the law. We may ask for a legal
23 briefing on a couple of issues in advance of the
24 evidentiary hearing and our current thinking is we get
25 something out to you within a week or two, by the end

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1 of next week and maybe call for briefs sometime during
2 the week of July 7th and responses the following week
3 of July 14th I guess it is, answers.

4 Any additions, Judge Wardwell?

5 JUDGE WARDWELL: No, I think -- Just one
6 I'll mention as one that may come up that we ask for
7 and that is a summary presentation on how CHECWORKS
8 actually works. I know it's the heart of much of
9 Contention 4 and being a proprietary software would
10 like or considering asking for a brief 15 minute
11 presentation on just the nuts and bolts of how that
12 works, the input parameters, mathematical analog,
13 outputs and what types of calibration, verification or
14 tracking, whatever you call it, is involved with that.
15 Probably requested of the Applicant's expert on that
16 and it's to be just the heart of how it works with no
17 editorial comments in regards to tension issues, but
18 mostly to get everyone up to speed on seeing the very
19 basics of how that actually functions.

20 JUDGE KARLIN: Okay. Dr. Reed, anything
21 you wanted to add on those advance notice of issues
22 that we might be asking questions about?

23 JUDGE REED: No, I have nothing additional
24 to add.

25 JUDGE KARLIN: Okay. Any questions on

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1 that?

2 MS. TYLER: Yes. This is Karen Tyler. I
3 need a little clarification about your instruction
4 that we're to be litigating Contention 2 as well as
5 Contentions 2(A) and 2(B). Contention 2, if I
6 understood it, CUFEN orders is held in abeyance at the
7 moment and we were to be litigating only Contentions
8 2(A) and 2(B) at this hearing and, as I understood it,
9 we were to litigate Contention 2 which went to the
10 sufficiency of Entergy's aging management plan only in
11 the event that the Board ruled in NEC's favor on
12 Contentions 2(A) and 2(B) which concern exclusively
13 the sufficiency of the CUFEN analysis. And I think
14 that the issue of whether that CUFEN analysis can be
15 corrected or completed as a component of the aging
16 management plan, that's really an issue of -- a legal
17 issue. I think that's an issue of the interpretation
18 of Rule 54.21(c)(I).

19 So basically, NEC has not briefed its
20 position on Contention 2 and is not prepared to
21 litigate the sufficiency of any aging management
22 program for metal fatigue in July.

23 JUDGE KARLIN: We were -- Our take is that
24 you have raised that issue by virtue of what we see a
25 challenge in questioning of the postponement of the

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1 conduct of the CUFENS for the core spray nozzle and
2 the recirculation outlet nozzle. As I understand part
3 of your challenge, it's a legal challenge, yes. But
4 that's not permissible.

5 As I understand, the staff took a position
6 with regard to 54.21(c)(3)(ii) versus (I) and so
7 there's a legal issue in there as to whether that's
8 permissible and then the second issue would be if
9 they, and you have addressed that as I see it in your
10 materials, that is the plan that they have, let's
11 assume that's legally permissible to postpone conduct
12 of CUFEN reanalysis until after the license renewal is
13 issued.

14 The question then evolves into maybe is
15 the proposal by Entergy to conduct such CUFEN
16 reanalysis on those two nozzles adequately elaborated
17 so that it's an adequate management plan. And I think
18 you've talked about that and it's a simple matter to
19 address which is to say if it is indeed an aging
20 management plan and it is a legitimate thing to do
21 under (iii), then is it just some vague statement or
22 is it relatively specific in terms of what's entailed
23 and we're going to ask the staff and the Applicant
24 perhaps what is entailed, as I've said, in doing that.

25 We see this as to Entergy and NEC part of

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1 their contention and I understand it's in abeyance.
2 But it's clear from the initial statement and rebuttal
3 statements that --

4 (Off the record comments.)

5 It's clear from the initial statements and
6 the rebuttal statements that this is an issue to us.

7 MS. TYLER: This is Karen Tyler again. I
8 think that this is a little convoluted to me right
9 now. Basically, as I've understood it, our original
10 Contention 2 was about the sufficiency of Entergy's
11 aging management program for metal fatigue which in
12 the license renewal application basically was not
13 presented. What was presented was an intention to
14 develop that type of program later.

15 That contention was stayed when we
16 submitted Contentions 2(A) and 2(B) which have to do
17 with the refinement of the fatigue analysis. And as
18 I understood it, the refinement of the fatigue
19 analysis was to substitute for the development of the
20 aging management program. That is, if Entergy could
21 demonstrate it through refinement of the fatigue
22 analysis that, in fact, it didn't have an issue with
23 environmentally assisted metal fatigue, then it would
24 avoid the obligation to develop an aging management
25 program. Okay. So that's what I thought we were

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1 litigating under Contentions 2(A) and 2(B) is the
2 sufficiency of that reanalysis.

3 Now the issue of whether they can continue
4 to work on this reanalysis as an aging management
5 program, we've briefed that solely as a legal issue.
6 It's our position that under 54.21(c)(1) they have to
7 submit that TLAA analysis that's part of the license
8 renewal application and it's only if they can't extend
9 that TLAA to the end of the license renewal period
10 that they then are required to develop an aging
11 management program under 54.21(c)(1)(iii).

12 So again, we briefed that issue which goes
13 purely to the timing of when Entergy has to finish
14 this TLAA. We've briefed that purely as of the
15 interpretation of the regulations and it's our
16 understanding that if the Board were to rule in NEC's
17 favor and find that the TLAA analysis is either
18 invalid or is incomplete and on the question of laws
19 that Entergy is required to submit an analysis that is
20 valid and complete as part of the license renewal
21 application, if the Board were to agree with us on all
22 of those points, then it would rule in NEC's favor on
23 Contentions 2(A) and 2(B) and we would then, Entergy
24 would then, be required to develop an aging management
25 program for metal fatigue, that we would have the

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1 opportunity to review and litigate under NEC's
2 Contention 2. So I'm not prepared or comfortable with
3 litigating NEC's Contention 2 in July.

4 JUDGE KARLIN: Let me perhaps clarify a
5 little bit. Your Contentions 2(A) and 2(B) challenge,
6 for example, 2(A) as I understand it challenges some
7 of the CUFEN reanalyses that were done by Entergy,
8 that they weren't done properly or adequately or
9 whatever. There are difficulties. There are
10 uncertainties. There are other problems with the
11 CUFEN reanalysis that they did for 2(A).

12 If we were to agree with you ultimately
13 that those CUFENS were not done properly, then I think
14 that NEC, I'm sorry, Entergy would have -- Then we
15 would have a different ball game and Entergy would
16 have the option of either proposing an aging
17 management plan to deal with those problems or
18 correcting its calculations in some way that would get
19 its CUFEN to be under one. I agree with that. So
20 you're not prepared to litigate the aging management
21 plan or not vis à vis the CUFEN problems that are
22 raised in Contention 2(A).

23 But if we were to agree with Entergy and
24 say, "No, it looks like, Entergy, you did those CUFENS
25 right. We're happy with that. We think you satisfy

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1 the regulatory requirement on the CUFENS that you've
2 done, but then there's this legal issue of whether you
3 can postpone doing CUFENS with regard to the other
4 nozzles" -- And so we agree with Entergy that they've
5 done the CUFENS to the extent they've done any
6 correctly. But then we agree with NEC on the
7 proposition.

8 But those two that haven't been done, you
9 know, the question is can it legally be postponed
10 until later. And let's say we rule that, yes, it can
11 be legally postponed and we rule that way on the legal
12 issue, then there becomes a factual issue having
13 acknowledged that it can be legally postponed. Is
14 what they propose to do with regard to those two
15 nozzles an adequate aging management plan? And they
16 have asserted in these pleadings that it is and I
17 believe you have asserted that it is not, not just for
18 the legal issue, but for it's not an adequate aging
19 management plan, legally and factually.

20 So I think we would propose to go with
21 that now and if this becomes a problem, we may provide
22 an opportunity for additional submission. But that's
23 our current approach to this thing.

24 It seems a little convoluted. I think it
25 will become a little clearer when we submit some of

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1 our requests for briefing. I mean, obviously no one
2 has submitted briefs yet. What's been submitted is
3 initial statements of position, initial testimony,
4 initial exhibits. And so it's a little convoluted and
5 we just want to forewarn people that we see this issue
6 with regard to the two nozzles as going back. Even if
7 everything else were okay, those two nozzles going
8 back actually are at an adequate aging management plan
9 setting aside the legal issue.

10 MS. TYLER: This is Karen Tyler. I don't
11 want to beat a dead horse. This is the last thing
12 that I'll say about this, but I feel that NEC has
13 dealt with this issue solely as a legal issue whether
14 Entergy can complete or postpone the TLAA as an aging
15 management plan and we really have not briefed the
16 issue as a factual matter, whether that would
17 constitute a sufficient plan.

18 JUDGE KARLIN: Okay. All right. Anyone
19 else have anything? Question or issues here?

20 (No verbal response.)

21 All right. Let's move onto the next item
22 which is evidentiary hearing logistics. Hopefully,
23 many of you, all of you, have already seen the
24 courtroom up there. It's pretty close quarters. The
25 seating arrangement, we have primary parties in this

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1 case as we see it, the Applicant, NEC and the NRC
2 staff. They have submitted the initial testimony and
3 statements, etc. We have three secondary parties
4 initially, Vermont which is an adopter of NRC's
5 contentions, New Hampshire which is an interested
6 state and Massachusetts which is an interested state.

7 I think our approach would be to have
8 three tables across the front of the room, one for
9 each of the primary parties and there may be a table
10 behind them for the secondary parties to sit. It's
11 going to be crowded and cramped. But that's kind of
12 one of the logistical things.

13 The second point is if you have any
14 equipment such as audio-visual equipment or other
15 computer things that you need to have, make sure you
16 sort it out with the clerk of the court up there. I
17 believe his name is Mr. Robinson and maybe coordinate
18 with Marsha Carpentier or Karen Valloch. It's a
19 pretty simple place up there.

20 I mean, audio-visual, it's unlikely that
21 any of your witnesses will be doing any audio-visual
22 because they're going to be responding to our
23 questions. So they won't really know what to do an
24 audio-visual on with the exception of if we ask for a
25 presentation for 15 minutes or 10 minutes on some

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1 topic. Then there could be some sort of slides or
2 PowerPoint or something that would help. If any of
3 those happen, those will have be exhibits as well.

4 It's not air conditioned, I don't think.
5 But I think hopefully we'll be all right in Vermont at
6 that time of year. I don't know.

7 MS. HOFMANN: Judge Karlin, this is Sarah
8 Hofmann from the State of Vermont and we'd just ask
9 that -- I have no problem with the description of the
10 layout of the courthouse. But we would like to have
11 a table, if ours could behind NEC's or near it in some
12 way because we will be consulting with them as an
13 adoptor.

14 JUDGE KARLIN: Yes. Okay.

15 MS. HOFMANN: Thank you.

16 JUDGE KARLIN: I think that's logical.
17 And you will have to work out the lead on any given
18 item obviously. Okay.

19 MS. HOFMANN: I believe we've claimed they
20 are the lead.

21 JUDGE KARLIN: Yes.

22 MS. HOFMANN: Thank you.

23 JUDGE KARLIN: Next is interested state
24 issues. Well, the two interested states in this
25 proceeding are New Hampshire and the State of Vermont,

1 I'm sorry, the State of Massachusetts. Vermont is an
2 adoptor of the contention and is therefore technically
3 not an interested state, although I'm sure you're very
4 interested in this.

5 And the interested states, their rights to
6 produce documents and evidence, they didn't really
7 submit anything. Their right to cross examination is
8 a function of there's a right of the parties to cross
9 examination and no one has asked for cross examination
10 and so I don't know that there's a role, what role
11 they will play, but they certainly can be here and
12 they're welcome to be there.

13 An ultimate item, decorum in the court
14 room, hearing room, the last time we were up there for
15 an evidentiary hearing we had a couple of disruptions.
16 I know that's probably not within anyone's complete
17 control. But if you each could inform or get the word
18 out to your employees and to your members the nature
19 of this proceeding is judicial. It's not an
20 opportunity for people to talk or ask questions from
21 the audience and therefore if we can encourage -- so
22 they can have an accurate expectation of what this
23 process is.

24 I don't think it helps anybody if we end
25 up having to stop the proceeding, interrupt the

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1 proceeding or even move it down to Rockville. I mean,
2 the last thing it seems to me that the people of
3 Vermont would want is to have this whole thing removed
4 to Rockville because one or two people stand up and
5 try to filibuster and cause problems. I know you
6 can't prevent that, but I please ask you to encourage
7 people and inform people to the extent you can to help
8 us get through this and do it right because we're
9 going to try to do a fair and good job on it.

10 Finally, PDF searchable submissions, Judge
11 Reed, in particular, would appreciate it -- He's a
12 cutting edge electronic guy on this team and he's
13 trying to follow things electronically. So I believe
14 NEC is maybe the difficulty. Is it possible for you
15 to submit what I understand to be PDF searchable
16 statements, the initial statement of your position and
17 witness testimony? I know the exhibits themselves get
18 photocopied in. But, Judge Reed, perhaps you could
19 address that.

20 JUDGE REED: Yes. Thank you.

21 What I'd like to be able to do is to be
22 able to select the text and cut and paste and search
23 within the text and the way the NEC documents have
24 been filed the PDF files are simply images of the
25 text. I suppose they've been scanned in. And in the

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1 cases where you have prepared the documents
2 yourselves, I would hope that you would be able to
3 prepare and submit PDF files where we can search the
4 text and use cut and paste functions.

5 Is that clear?

6 JUDGE KARLIN: Would that be possible?

7 MS. TYLER: This is Karen Tyler. We can
8 submit document in that format if we created the
9 document.

10 JUDGE REED: Yes, that's all we're asking
11 for. We're not asking for all of your exhibits but
12 certainly your initial statement of position and the
13 testimony of witnesses and things, the documents that
14 you yourself have created. If you could submit them
15 in a form where we can search them, it would be very
16 helpful to the Board.

17 JUDGE KARLIN: Yes, and I think what we
18 would say we would exclude all exhibits except for
19 testimony of your witnesses. If you could do that,
20 we'd appreciate it.

21 Does any party have any objection to that?

22 (No verbal response.)

23 Okay. And I don't, Ms. Tyler, could you
24 check with your technical people and see if we could
25 have that done and have it submitted in a way that is

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1 copied to the other parties as well, I guess, or -- I
2 mean, I don't want to get into an ex parte or separate
3 document that somehow is differently paginated or
4 something else. It just would be the same one that
5 you submitted, just electronically searchable.

6 MS. TYLER: This is Karen Tyler. I don't
7 think that that would be a problem.

8 JUDGE KARLIN: All right. Great. I
9 appreciate that and perhaps you can work with Marsha
10 Carpentier if there are any questions to make sure we
11 get this through.

12 MR. ROISMAN: Mr. Chairman, this is Mr.
13 Roisman. Just one point on the PDF documents, I'm
14 assuming that you all are using the Acrobat
15 Professional format and I've used that to convert on
16 a page-by-page basis documents that have arrived that
17 are non-searchable into a searchable page, to do just
18 what Dr. Reed has proposed which is to cut and paste
19 material from them and most of the time you get the
20 document exactly right. If there's a lot of drawings
21 on the page, that won't happen.

22 JUDGE KARLIN: Okay. Well, that may be --
23 it sounds like a page-by-page effort.

24 MR. ROISMAN: Yes. If you have Adobe
25 Acrobat Professional 7.0 or higher, and I don't know

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1 it may be too on earlier ones, there's a link at the
2 top that says "Document" and if you click that it
3 opens a window and one of them says, "Convert to OCR"
4 and you can just press that. It will convert one page
5 at a time. It won't convert the whole document.

6 JUDGE REED: Well, that would be very
7 inconvenient to do it one page at a time in these
8 documents that are hundreds of pages long.

9 MR. ROISMAN: Right. I was just thinking
10 to deal with the question of the cut and pasting.

11 JUDGE REED: It's really more a question
12 of searching your documents.

13 MR. ROISMAN: Okay.

14 JUDGE REED: For particular references.
15 It would just be a whole lot more convenient to all of
16 us if these documents could be submitted in a way
17 where the text itself is visible to us other than just
18 as an image file.

19 MR. ROISMAN: Right. And I agree. That
20 is easier.

21 JUDGE KARLIN: Okay. Thanks for the
22 suggestion, Mr. Roisman. I won't pursue -- I mean,
23 we'll assume that Ms. Tyler is going to be able to
24 come up with some transmission that will achieve Dr.
25 Reed's results. So we'll work with Marsha. Ms.

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1 Tyler, if you could work with Ms. Carpentier about
2 that, that would be great. I appreciate your
3 indulgence on that.

4 Okay. I think we've covered all the
5 topics that we set out to cover and I appreciate your
6 participation. We will be issuing several or at least
7 one order perhaps regarding the evidentiary hearing
8 and perhaps calling for briefs. There may be more
9 than one. I'm not sure whether we'll try to do this
10 all in one document or a couple of shorter ones.

11 We do not at this point plan to hold
12 another pre-hearing conference call before the
13 evidentiary hearing. It's possible that something may
14 arise, a hanging moose, standby. We'll let you know
15 and try to give as much notice as possible if indeed
16 something like that is needed. For example, if we
17 decide we want oral argument on some aspect of a
18 motion that would be helpful to us, we might ask for
19 a quick thing sort of a week or two after Fourth of
20 July.

21 But otherwise we will see you all in
22 Vermont on July 21st. Thank you for your patience.
23 We will terminate the call at this point and go off
24 the record. Court Reporter, please stay on the line
25 so that the Court Reporter can get spellings of the

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1 names of anybody she doesn't have. But with that, off
2 the record.

3 (Whereupon, at 3:11 p.m., the above-
4 entitled matter was concluded.)

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This is to certify that the attached proceedings
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in the matter of: Entergy Nuclear Vermont Yankee

Name of Proceeding: Pre-hearing Conference

Docket Number: 50-271-LR;

ASLBP No:06-849-03-LR

Location: (teleconference)

were held as herein appears, and that this is the
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