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NUCLEAR REGULATORY COMMISSION

Title: Public Meeting to Discuss with Stakeholders:
(1) Backfitting and the Backfitting Process,
(2) the Roles and Responsibilities of the CRGR
and (3) Obtain Stakeholder Feedback

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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COMMITTEE TO REVIEW GENERIC REQUIREMENTS

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PUBLIC MEETING TO DISCUSS WITH STAKEHOLDERS: (1)
BACKFITTING AND THE BACKFITTING PROCESS, (2) THE
ROLES AND RESPONSIBILITIES OF THE CRGR AND (3)

OBTAIN STAKEHOLDER FEEDBACK

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TUESDAY

SEPTEMBER 13, 2016

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ROCKVILLE, MARYLAND

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The Public Meeting met at the Nuclear
Regulatory Commission, Two White Flint North, Room
T-2B01, 11545 Rockville Pike, at 9:00 a.m., Gene
Carpenter, Facilitator, presiding.

CRGR MEMBERS PRESENT:

EDWIN M. HACKETT, Deputy Director, RES

VICTOR McCREE, Executive Director of
Operations

BRIAN J. McDERMOTT, Deputy Director, NRR

1 VONNA ORDAZ, Deputy Director, NRO
2 JOHN TAPPERT, NMSS
3 LEONARD D. WERT, Deputy Regional
4 Administrator, Region II
5 K. STEVEN WEST, NSIR
6 EDWARD WILLIAMSON, Associate General Counsel,
7 OGC

8
9 INDUSTRY, NRC, AND PUBLIC PARTICIPANTS:

10 GENE CARPENTER, Facilitator
11 JERRY BONANNO, NEI
12 STEVEN DOLLY, PLATTS*
13 GREGORY HALNON, FirstEnergy
14 KEITH JURY, Exelon*
15 TONY LESHINSKIE, State of Vermont Public
16 Service Department
17 DAVID LOCHBAUM, Union of Concerned Scientists
18 GEARY MIZUNO, OGC, NRC
19 CHRISTOPHER NOLAN, Duke Energy
20 TONY PIETRANGELO, NEI
21 DARANI M. REDDICK, Exelon

22
23 * Present via telephone
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C-O-N-T-E-N-T-S

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and the Backfitting Tasking Memo (CRGR)

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Public Comments

General Discussion, Summary and Next Steps

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

2 (9:01 a.m.)

3 MR. McCREE: Well, good morning,
4 everybody. I imagine we have participants in the
5 meeting that have joined us by phone, so we'll speak
6 loudly and clearly for those at the table.

7 Many of you have been in this room before.
8 I guess part of the discipline is to press the mic
9 that's in front of you. The green light is on is when
10 you're active, when you're hot. When it's off, the
11 light is off, you're silent. I think it helps people
12 on the other end, if you're not speaking, to
13 extinguish the light to reduce the background noise.

14 But good morning, everybody. It's great
15 to see all of you.

16 The Committee to Review Generic
17 Requirements is charged with examining proposed NRC
18 actions for generic backfitting implications.
19 Backfitting, as you know, is an integral part of our
20 regulatory framework since the original promulgation
21 of the backfit rule, 10 CFR 51.09 in 1970, and with
22 significant revisions in 1985 and 1988.

23 A former boss of mine, when evaluating
24 issues, she used to ask the question why do we do this
25 and why do we do it this way? I've come to appreciate

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1 the value of asking a third question: Is there a
2 better way to do it?

3 So the ethos for the conversation today is
4 certainly to affirm why we do it, why we do it the way
5 we do it, but also to be open and transparent enough,
6 frank, candid, respectful enough to figure out is
7 there a better way to do it? And I'm sure my
8 colleagues will frame the "it" so that the
9 conversations are constructive and useful.

10 As you know, the intent of the Backfit
11 Rule is to subject proposed modifications or additions
12 to systems, structures and components or the design of
13 a facility resulting from a new or amended position in
14 the Commission's regulations to attest. In that test
15 there is a substantial increase in overall protection
16 of the public health and safety to be derived from the
17 backfit and at the costs are justified. The Backfit
18 Rule provides for consideration of both quantitative
19 and qualitative factors and the demonstration of a
20 substantial increase in that overall protection of the
21 public health and safety.

22 The Backfit Rule also provides two
23 exception to the above-mentioned test for issues
24 concerning adequate protection and compliance. The
25 exercise of the compliance exception to backfitting

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1 has been the subject of significant controversy over
2 the years and I expect it will be a key focus for your
3 discussions today.

4 Also, although backfitting is most widely
5 known and debated in the operating reactor arena, it's
6 also an integral part of our regulatory framework in
7 the materials and security arenas, and I know that
8 there are folks here today representing those arenas.

9 As a result of both internal deliberations
10 and external stakeholder feedback earlier this year I
11 convened a meeting with NRC senior managers and staff
12 involved in backfitting to discuss how well we were
13 continuing to adhere to the formal systematic and
14 disciplined review of new or changed positions that
15 was intended for the backfitting process and in a
16 manner consistent with our principles of good
17 regulation, independence, clarity, openness,
18 reliability and efficiency.

19 Following our deliberations and with the
20 intent of continuous improvement I tasked the CRGR and
21 NRC staff to conduct a rigorous review of our
22 guidance, or training and our expertise for assessing
23 issues of backfit implications and for responding to
24 questions and concerns raised by our stakeholders.

25 Today's meeting is part of that tasking,

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1 and we look forward to hearing your feedback and will
2 address the comments we receive at this meeting or as
3 part of the tasking.

4 A very significant and related NRC action
5 that has taken place since the initiation of this
6 backfit tasking is the evaluation of -- our evaluation
7 rather of a recent appeal from Exelon on the issue of
8 potential failures of pressurizer safety valves or
9 PSVs at Byron and Braidwood. The panel that I
10 empowered to review the appeal has completed its work
11 and I'm in the final stages of making a decision on
12 that matter. I plan to make that decision and make
13 the supporting materials publicly available soon.

14 That said, I hope and expect you to have
15 a very productive meeting. I wish I could remain for
16 the entirety of it, but my agenda is packed today. So
17 I'll remain for a few minutes after the kickoff, and
18 again I wish you a great meeting.

19 Gene?

20 MR. CARPENTER: Thank you very much. For
21 those of you on the telephone and on the web cast,
22 that was Victor McCree. He is our -- executive
23 director of operations. Pardon me.

24 MR. MCCREE: Yes, I have to think about
25 that, too.

1 (Laughter.)

2 MR. CARPENTER: You've worn so many hats,
3 sir. I have to remember which one you're wearing
4 today. So, yes.

5 I am Gene Carpenter. I am the agency
6 facilitator for this meeting today. Thank you all for
7 coming. As we pull up the rest of the folks here from
8 CRGR -- Ed, you guys can come on up -- we're going to
9 go ahead and get started.

10 I'm going to be doing a little bit of the
11 administrativia portion of this as they're getting
12 seated up here, and then we will go into the actual
13 meeting itself.

14 For those of you who are listening in via
15 the web cast or on telephone, must give you a word of
16 caution: The web cast about a 10-second delay, so if
17 you've got both the telephone and the web cast going,
18 you're going to hear a 10-second delay. So please
19 bear by with that.

20 The agenda for today's meeting, Vic has
21 just given the opening remarks.

22 Again, thank you for that, Vic.

23 And then we're going to go through the
24 CRGR background, a little presentation on that and a
25 discussion of backfitting. That's going to be

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1 provided by the staff that's joined us here at the
2 table. At that time we will go into a break for a few
3 minutes, and when we reconvene, then we will go into
4 general discussion and questions. That will take us
5 to lunch time.

6 We'll break for lunch. For those of you
7 in the room, we'll get you downstairs and then we'll
8 have people to escort you back up again when we're
9 ready to resume this afternoon.

10 This afternoon we flip the table and the
11 folks that are on the other side of the table, those
12 that are in the audience will be sitting up here and
13 they will be giving industry perspectives of
14 backfitting as well as the NGO perspectives: Mr.
15 Lochbaum, et al.

16 We'll also have time here for our
17 telephone. And when we go to the question and answer
18 period here, the general discussion, the way that I
19 generally like to do this is since we have two
20 definite time periods here that we'll do discussions
21 is in the morning we'll start with the folks in the
22 room and then we'll go to the telephone. And then
23 we'll flip that in the afternoon. We'll start with
24 the people on the telephone and go to the people in
25 the room second after that.

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1 This is an operator-controlled line, so
2 you'll have -- when we go to the operator, she will
3 tell you at that time -- I believe it's star, zero or
4 something like that that you'll have to press to
5 indicate that you'd like to ask a question.

6 So with that, we'll go ahead and start
7 with Ed.

8 MR. HACKETT: Thanks, Gene. We have a
9 short presentation planned to kick things off, but I
10 thought what we would do is we'll go around and have
11 the CRGR members introduce themselves since I think
12 those in the audience will probably see some new
13 faces, starting with me.

14 So I assumed the role when I moved to my
15 new position as Deputy Director in the Office of
16 Research in April. So I'm Ed Hackett. I'm the
17 chairman of the CRGR. And we'll just go around.

18 MR. WERT: I'm Leonard Wert. I'm the
19 Deputy Regional Administrator for Operations in Region
20 II in Atlanta, Georgia.

21 MR. WILLIAMSON: I'm Ed Williamson. I'm
22 with the Office of General Counsel. I'm the Associate
23 General Counsel for Hearings, Enforcement and
24 Administration.

25 MR. McCREE: Hey, Ed, can you try that

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1 again for the folks on the phone?

2 MR. WILLIAMSON: Okay. Yes. I'm Ed
3 Williamson. I'm with the Office of General Counsel.
4 I'm the Associate General Counsel for Hearings,
5 Enforcement and Administration.

6 MR. WEST: Good morning. I'm Steve West.
7 I'm the Deputy Director of NSIR.

8 MS. ORDAZ: I'm Vonna Ordaz. I'm the
9 Deputy Office Director for New Reactors.

10 MR. McDERMOTT: And Brian McDermott. I'm
11 the Deputy Director for the Office of Nuclear Reactor
12 Regulation.

13 MR. HACKETT: Thanks, you guys, for that.
14 And one of the other things I was going to say in
15 opening, we're lucky to have a mix of the committee.
16 So Len, myself, Vonna I think are very new to the
17 situation. I think we've been associated with CRGR in
18 the past, but not in these type of roles. Fortunately
19 we have Ed Williamson and Steve West and Brian
20 McDermott who have more experience and run time.

21 And particular thanks to Steve. As many
22 of you know, Steve is the former chairman and chaired
23 the activity for I think it was three years, right,
24 Steve? So thank to Steve. Steve was also I think, as
25 many of you know, at the Utility Working Conference at

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1 Amelia Island talking on this subject recently.

2 And then looking around the room, if I
3 could find Les Cupidon, I wanted to acknowledge --
4 Les, if you'd put your hand up.

5 Les is the rock of the CRGR. For those of
6 you who have been associated with CRGR over the years,
7 he is our full-time support and does an incredible job
8 at that. And hat's off to him.

9 And while I'm in the mode of giving some
10 thanks here, Nick DiFrancesco is in the room
11 somewhere. Nick is our TA in the Office of Research.
12 Really appreciate Nick for his assistance.

13 Gene Carpenter, obviously, and thanking
14 Gene for facilitating.

15 And my good friend and colleague from my
16 ACRS days, Mr. Theron Brown is in the Wizard of Oz
17 booth in the back of the room. So thanks to Theron.

18 Let's see what else I have here. I would
19 say any opening remarks from the members at this
20 point, if there's anything any of you wanted to say in
21 opening.

22 (No audible response.)

23 MR. HACKETT: If not, we'll go ahead and
24 proceed with the slide 2. So, I think we're on the
25 wrong slide at the moment. So, we'll go to the next

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1 one.

2 So these are the purposes of the meeting.
3 Pretty simplistic. The primary goal is to discuss
4 backfitting and its application. In our presentation,
5 discuss the roles and responsibilities of the CRGR.
6 They have changed and shifted somewhat over time, but
7 I think the essential role remains pretty much as
8 defined from its original charter, but if you're
9 looking at the charter, the current charter is 2011,
10 and that's what we're working towards currently. Vic
11 had just mentioned the 2016 backfit tasking that he
12 gave to us at the CRGR, and we'll go into -- we have
13 a slide that has some more detail on that. And we're
14 working towards a January 31, 2017 goal for completion
15 of that tasking.

16 And the most important, the final point,
17 point 4, is really to provide a forum for you all in
18 the room and all the stakeholders in the room and on
19 the phone lines or on the web stream so we can hear
20 your comments, questions, share insights regarding
21 backfitting and the role of the CRGR. So that's the
22 primary focus. So once we get done with our short
23 presentation up front here, that's the mode that we
24 will shift into.

25 Moving on further; and I think Vic covered

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1 this in his opening remarks, we have the long
2 explanation on here of what is backfitting. I think
3 that probably needs not much introduction for the
4 audience in the room, or maybe even those on the phone
5 lines or on the web stream.

6 So the second bullet has the long version
7 of backfitting. I prefer the bottom bullet that came
8 from some training that we received from our wise
9 lawyers. And basically the whole idea is don't change
10 the rules after you've started the game is really what
11 this is all about. And as Vic mentioned, not only is
12 the focus 51.09, which is the backfit rule for power
13 reactors, but also 70.76, 72.62 and 76.76 in the
14 materials arenas and fuel facilities are also in play
15 here.

16 And then moving to the next slide, don't
17 want to leave out Part 52, so for new reactors there's
18 backfitting-like protection. It is slightly different
19 than what you would see for 51.09, but it's for new
20 nuclear power plants covered under 10 CFR Part 52.

21 So moving to the next slide. So going
22 back and thinking about this more philosophically,
23 which I think Vic mentioned this meeting that we had
24 earlier this year, and I think it caused a lot of us
25 to think hard and scratch our heads about what we're

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1 doing currently, what we've been doing over the years,
2 the evolution of what we're doing about backfitting at
3 the agency, and including not only CRGR, but the
4 facility-specific backfitting, pretty much all things
5 backfitting.

6 But the bottom line is when we were
7 talking about that at this meeting, why do we the NRC
8 care about this and care deeply, and what Vic raised
9 at that meeting is basically it's our principles of
10 good regulation. And I think again most of the folks
11 in the room don't need an introduction to those, but
12 three of them are captured on here that I just felt
13 were probably the most important.

14 No. 1 is probably regulatory stability.
15 That was really the focus of the original Backfit
16 Rule, which a lot of that came out of the very
17 frenetic period following Three Mile Island. There
18 was an awful lot of regulation that was proposed and
19 engaged during that time and there were a lot of
20 concerns about regulatory stability. So the 1985 and
21 then subsequently 1988 versions of the Backfit Rule
22 were meant to address that.

23 There's also the clarity of our decision-
24 making, so clarity is one of our principles of good
25 regulation. And I know Darani is going to cover this

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1 in her presentation this afternoon, and Dick mentioned
2 it this morning, but compliance exception has been
3 very much a subject of controversy. And if you look
4 at our principles of good regulation; I think Vic put
5 the challenge to us, are we as clear as we could be in
6 how we navigate that area in particular? Not that
7 there have been that many decisions that are based on
8 compliance exception, but I think it's fair to say
9 they're fairly complex when we engage that particular
10 option. So that's the example I'd give for clarity.

11 And then there's openness and
12 transparency. In preparing for this meeting I
13 reviewed the records from the last two times the CRGR
14 met with the public, and those were in 2007 and 2009.
15 And one of the themes that came up from the industry,
16 from other stakeholders was the notion of enhancing
17 openness and transparency of NRC decision-making in
18 this arena. And as most folks know, to this day the
19 CRGR operates largely as an internal body, so one of
20 the things on the table is hearing your thoughts and
21 comments on openness and transparency and how we might
22 reflect that in any potential changes to CRGR
23 operations. So that's the main focuses to why we care
24 about this.

25 Moving onto the exceptions, I think

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1 they're also well-known. The top two are simpler. So
2 if you are looking at a decision where the Commission
3 needs to make a decision based on adequate protection,
4 that is relegated as you all know to the Commission.
5 And the same thing with defining or redefining
6 adequate protection. Those options are I guess more
7 readily engaged.

8 And then we just mentioned here the
9 discussion about compliance, and that is I think fair
10 to say a more complicated engagement leading all the
11 way up to the decision that Vic is getting ready to
12 render now in the Exelon case. We'll go into that on
13 a subsequent slide, but there's a fair bit more
14 complexity in that arena.

15 So moving on now to the role and
16 responsibility of the CRGR. At the highest level here
17 on this slide, it's fairly simplistic. Our primary
18 responsibilities are to the EDO for either approval or
19 disapproval of staff proposals that would involve
20 backfitting or potential implicit backfitting, and
21 also to assist the NRC program offices to help them
22 implement the Backfit Rules and the Commission's
23 backfit policy is really the highest level role of the
24 CRGR.

25 Then moving onto areas where now we have

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1 made some changes over the years. So I'll try to go
2 through this in a little bit more detail.

3 So the number one bullet is important:
4 Except for requirements which are determined to become
5 immediately effective. So either the EDO or the
6 office directors, if they decide there's a major
7 safety implication that has immediately effective
8 implications. Then CRGR may be gated out of those
9 reviews initially, but for others -- so we would look
10 at new and revised regulatory requirements.

11 And now here's where it gets more
12 complicated, as I know Steve reminded me in handing
13 off the chairmanship. We do not look at every new and
14 revised regulatory requirement. We are more
15 selective.

16 So how does that work? Normally Les is
17 going to get contacted by the NRC staff, or I might
18 get contacted directly as the chairman. And then
19 there would be discussion over selection of which we
20 would engage on. From my ACRS background it's
21 familiar to me because the ACRS also is very selective
22 in regulatory guidance and other requirements that
23 they review, and they have to be because they're
24 resource requirements.

25 And the same thing applies to the CRGR.

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1 So the same thing applies to generic correspondence
2 and regulatory guidance, Reg Guides, ISGs. Also
3 selected NRC staff guidance related to licensing,
4 inspection and enforcement, which could impose a
5 backfit. And one that has been in the news recently
6 on that was the open phase condition, which I know
7 industry had some comments on. That involved an
8 interim enforcement policy that is before the
9 Commission for decision now. So those are some
10 examples of the scope of our engagement.

11 Continuing on to the next slide, these are
12 some more items. So NUREGs and Standard Review Plans
13 if they involve articulation of new or modified staff
14 positions are items that would or could come to the
15 CRGR. There's also selected nuclear materials items
16 at the request of the NMSS office director or the EDO.
17 The security arena is also covered here. Probably
18 should have had that on the slide.

19 And then another important role that's
20 relative to our tasking this year is the CRGR is also
21 tasked with ensuring that we have the appropriate
22 administrative controls in place looking at the NRC
23 generic backfit management practices and that the
24 technical staff training is adequate. And we're in
25 the process of looking at that now. As you can

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1 imagine, these have been interesting times for the NRC
2 in terms of staff turnover. We have come down
3 significantly in our staffing in the last year or two,
4 and so there are constant challenges related to
5 knowledge management and knowledge transfer.

6 Importantly, the CRGR does not consider
7 plant-specific regulatory actions like the Exelon case
8 that Vic referred to.

9 So one of the items we've also engaged on
10 this year was the -- for those who filed a CRGR, we
11 were basically selected out of looking at rulemakings
12 by Commission direction in 2007, I believe that was.
13 And the idea there was that the offices would come to
14 CRGR and question whether or not reviews needed to
15 happen in rulemaking space if there were potential
16 backfit issues. What we found over the intervening
17 years is that didn't seem to be as effectively engaged
18 as it should have been, so we responded to further
19 Commission direction in the SRM that's noted there to
20 develop criteria to help the offices decide when the
21 CRGR should engage on rulemaking.

22 So those criteria are presented there, the
23 five criteria that are there. I was reminded by some
24 staff when we proposed these that doesn't this cover
25 everything? And it does kind of seem to cover an

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1 awful lot of ground, but the bottom line was to
2 default to the notion of bringing the information to
3 CRGR and letting us make a decision on whether or not
4 we would need to engage. So that's new as of May this
5 year. And that went to the Commission for information
6 to satisfy that SRM.

7 So now moving onto the next slide the
8 OEDO's Backfitting Tasking Memo really has the three
9 major parts that you see there. So we have this work
10 underway for a couple of months now. Like I said, at
11 the bottom of the slide there the goal is to have it
12 complete and to Victor by the end of January of 2017.

13 So starting off, looking at backfit
14 requirements, guidance and criteria. So we have the
15 management directive on facility-specific backfitting.
16 We have the NUREG-1409, which for those of you who
17 like to look at our history, that NUREG has not
18 revised since 1989, I believe. A lot of good
19 background information in there that remains
20 pertinent, but it also refers to OEOD, of course which
21 hasn't been with us for quite some time. Their roles
22 were transitioned to the Research Office. I think
23 that was in 1997. So we have some work to do to
24 update the requirements, guidance and criteria. And
25 we are -- we, the CRGR, are working with the offices

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1 and OGC to do that.

2 We have been in the midst of assessing
3 backfit training. This is both within the offices,
4 but also OGC as the repository of a lot of specific
5 knowledge in this area, particularly regarding the
6 exceptions. The CRGR was the beneficiary just last
7 week of some enhanced training from our friends in
8 OGC. I think that was -- I'm looking at Geary Mizuno
9 over across the way. And we had about a 60-slide
10 presentation that got into tremendous detail and was
11 very helpful. So we are in the process of assessing
12 backfit training.

13 And then I had mentioned knowledge
14 management previously. This is a constant challenge
15 for us. I think it's even more challenging in the
16 times that we have now. We have cycled a lot of
17 junior staff into our processes and we are finding
18 that you can get some folks that are not very well
19 informed about this process, partly maybe because they
20 don't feel they have to be or we just aren't doing the
21 best job maybe getting this word out.

22 So those are the three main elements. And
23 this meeting, as Victor mentioned, is part of that to
24 get your input. So we are in progress and due to
25 report that out by the end of January.

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1 And then my last slide before we go to
2 some discussion, we thought we'd just tee up some
3 topics that might be on your minds, could be plenty of
4 others, but at least some of the things that occurred
5 to us is we mentioned CRGR operations being an
6 internal operation for many years should that process
7 be changed or the recommendations in that area.

8 How consistent have we been over the years
9 in rendering decisions in the backfitting arena, again
10 with particular focus on compliance exception. The
11 openness and transparency of those decisions. I
12 think, like I said earlier, has been a focus also and
13 questioned by some. And the same thing with the
14 clarity. I think we -- I conclude fairly early on
15 that we certainly have some work to do with clarity in
16 connection with the next one on compliance exception.
17 And then I just mention the criteria for engaging CRGR
18 on rulemaking.

19 So there are just some items that we could
20 tee up for discussion. And maybe I'll pause at this
21 point to see if there are any questions, any comments
22 by my colleagues.

23 (No audible response.)

24 MR. HACKETT: Or if not, we might just
25 turn to Gene and move onto some initial discussion.

1 MR. CARPENTER: Okay. Thank you for that.
2 And now we'll go, as Ed said, into the discussion
3 period. As I mentioned earlier, what I'd like to do
4 is go ahead and start with folks in the room and then
5 I'll go to people on the telephone.

6 So at this point, does anybody in the room
7 have any questions/comments? We'll start with Mr.
8 Lochbaum. Please make sure the mic is on.

9 MR. LOCHBAUM: I had three comments.
10 First, do any other federal agencies have a rule
11 comparable to the Backfit Rule? And if so, has the
12 NRC benchmarked themselves against those other federal
13 agencies?

14 MR. HACKETT: Yes, great question, Dave,
15 and I'd look to Ed or one of the --

16 MR. WILLIAMSON: David, I don't think we
17 have anything in -- I think we have a unique
18 regulatory provision for backfitting, and it's
19 expressly created and disciplined by the ongoing
20 NUREGs and the management directive and discipline
21 bodies such as the CRGR. I think that's unique to the
22 NRC.

23 MR. LOCHBAUM: Okay. That's what I
24 suspected, but I'm glad to hear that confirmation.

25 MR. MIZUNO: This is Geary Mizuno, OGC.

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1 While it is true --

2 MR. CARPENTER: Geary, please identify
3 yourself.

4 MR. MIZUNO: Yes, I did. Geary Mizuno,
5 OGC.

6 (Laughter.)

7 MR. MIZUNO: Ed Williamson is true that
8 the Backfit Rule is a unique NRC construct, but there
9 are statutes throughout the Code of -- I'm sorry, the
10 U.S. Code applying to other agencies that have
11 backfitting-like protections in very specific
12 instances.

13 And so, the concept of backfitting and of
14 regulatory stability and predictability is something
15 that is -- I don't want to say imbedded consistently
16 throughout federal law and statutes, but they do
17 exist. And certainly we look to those statutes for
18 some guidance in terms of how we implement backfitting
19 as a policy.

20 MR. LOCHBAUM: Thank you. My second point
21 was to address your point about public transparency,
22 that issue. The Office of Investigations in the
23 Allegations Branch or Group, or whatever they're
24 called, issues the annual reports on the results from
25 their mostly internal processes that are very helpful

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1 to me to see how those activities are being done. I
2 don't recommend that you do an annual report, because
3 with Project Aim and the downsizing new work is tough,
4 but those are very effective in reaching that need
5 from our perspective. So for consideration you might
6 take a look at that.

7 And my last comment was -- and it's not
8 CRGR-focused, but I think it's related to the topic,
9 was retrospective assessments like the one that was
10 done in NUREG-1776 for the Station Blackout Rule might
11 be a good way to see whether the expectations set up
12 when a new regulation or revised regulation was
13 adopted had been achieved. And if not, it might
14 provide some insights on what needs to be done in the
15 future to avoid good intention, having unintended
16 consequences. But again, that's not CRGR-focused, but
17 it's related.

18 MR. HACKETT: Yes. Thanks, Dave. Good
19 comments. And I guess I'll cycle back to the annual
20 report. We do of course actually do an annual report.
21 And Les can correct me if I got this wrong, but that
22 is publicly available. So in fact, we have the
23 current one up with the EDO at the moment and hope to
24 have that approved shortly.

25 The same group, I would mention just as an

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1 aside, also does lessons learned for the agency. So
2 basically the CRGR members, the folks that you see
3 here before you, with exceptions, depending on the
4 regional rotation, also do Lessons Learned Oversight
5 Board stemming initially from the Davis-Besse
6 experience.

7 And I certainly appreciate the advice on
8 the retrospective evaluation. As I was doing my
9 homework for this meeting it was -- I think for a lot
10 of folks in the room this will be like déjà vu because
11 there was a 2007 public meeting, as I mentioned a 2009
12 public meeting, and then we've had this relatively
13 long gap.

14 But as I look back at the record -- and I
15 met Jerry Bonanno for the first time today, and Jerry
16 was involved with that, as were others from the
17 industry. David was involved in those meetings
18 previously. So a lot of good feedback. We made some
19 changes in the charter and the operation for that, but
20 I think we're at kind of a new and interesting
21 juncture here, and hence the reason for the current
22 meeting. So appreciate that input, Dave. Thanks.

23 MR. CARPENTER: Okay. Thank you. We'll
24 take one more question or comment here in the room and
25 then go to the telephone.

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1 MR. HALNON: We have several more, so I
2 think Tony has some and I have some.

3 MR. CARPENTER: We'll switch back and
4 forth. Okay? Who's first.

5 MR. PIETRANGELO: I think Dave had a third
6 point, but --

7 MR. LOCHBAUM: That was it.

8 MR. PIETRANGELO: That was it? Okay.
9 Well first, thanks for having this meeting. And I
10 would have thanked Victor personally, but he had to
11 go. But the charter you've been given to look at
12 backfit, its history, its implementation and what it
13 means to the agency I think is very, very timely given
14 where you're at and your history. So thank you again
15 for having this, because I think it's a very, very
16 important issue.

17 The one comment I had, when you went
18 through on slide 4, the kind of purpose of -- or I'm
19 sorry, slide 5, why do you care? And I don't disagree
20 with any of the bullets you have there, but I would
21 add one more, and I think it goes to maybe
22 fundamentally more about what the agency's mission is
23 and how important this particular rule is and that it
24 be safety -- it's a safety-focused rule, that we all
25 have limited resources. We can't do everything and

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1 you need some kind of threshold to determine the
2 amount of resources you want to allocate to a give
3 activity.

4 So you can call that risk-informed, you
5 can call that safety-focused, but I think this rule
6 implemented as intended -- and I think part of that
7 history -- I hope in your final report to Vic in
8 January you go through kind of the history of why this
9 rule was put in place, because it's very, very
10 important. And given that you have a lot of turnover
11 in the agency and new people coming on board,
12 capturing that in your activity I think will be
13 fundamental to your knowledge management.

14 But that safety-focused part I think is
15 what's maybe lacking here. And without that there's
16 a potential to spend a lot of time on issues that
17 don't have a lot of relevance to safety. Sometimes
18 they're compliance issues. Sometimes they're not.
19 But the Backfit Rule really gives you a tool to judge
20 do I really need to allocate resources for rulemaking
21 or generic communications? And there needs to be some
22 look up front, I think, whether it's through the CRGR
23 or another body, that determines whether it's worth it
24 or not to even go down that path.

25 So that could be subject to stakeholder

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1 review, but again I think it's very, very important
2 going forward given the limited resources everybody
3 has to deal with these issues.

4 MR. HACKETT: Good point. Thanks, Tim.

5 MR. CARPENTER: Okay. Thank you for that.

6 We will come back to the folks in the room.

7 Operator?

8 OPERATOR: -- then one and record your
9 name when prompted. Again, if you would like to ask
10 a question over the phone, please press star then one
11 at this time.

12 MR. CARPENTER: Anyone, operator?

13 OPERATOR: There are no questions at this
14 time.

15 MR. CARPENTER: Very good. Back to the
16 room then. Greg, I believe you were next?

17 MR. HALNON: Yes, I do. And this is the
18 right slide to park on for a minute.

19 When we went through this, Ed, it struck
20 me on this word "decision-making," at our target.
21 What is the level of decision-making you're talking
22 about? Is it when it gets to Victor or is it lower
23 levels? How far down are you talking about decision-
24 making?

25 MR. HACKETT: In my mind; and colleagues

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1 can chime in here, I think it's the whole process. So
2 as I am getting used to the role in CRGR, I think it's
3 how CRGR engages at even the lowest levels. And as
4 many of you know, a lot of times that's informal. We
5 can do the reviews if it's not overly complex. We
6 will do some of these reviews separately and then
7 compare notes by email. You know, more rigor when we
8 actually meet face-to-face.

9 And so, just like you said, Greg, looking
10 at that decision-making, are we being -- what would I
11 want to look for as chairman? Are we being
12 appropriately challenging in our questioning, you
13 know, the questioning attitude among the CRGR members?
14 And I think my initial conclusion; I'm sure Steve
15 would say the same, is that that's alive and well. So
16 we do have some very rigorous discussion and debate.

17 So I think it's at that level all the way
18 up to communicating with Victor and Mike Johnson and
19 Glenn Tracey at the highest levels in the Commission
20 to try to make sure we're articulating what we're
21 doing in decision-making space. So the whole range.

22 MR. HALNON: And that's kind of what I
23 thought. I think as I get into my presentation later
24 we'll talk probably more about it, but I think some of
25 the more critical decision-making is actually below,

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1 on down to the very inspector level sitting at the
2 document reviewing it on site.

3 So I would ask that maybe we look at --
4 broaden that out to decision-making from the whole
5 gambit, from the very eyes on the first piece of
6 information that thinks about this isn't right all the
7 way up to the Victor level. And we may -- doing that
8 right; and I'm not saying it's doing it wrong, but
9 doing that right can consistently -- will add to the
10 regulatory stability piece as well.

11 Further on this slide this openness and
12 transparency also struck me. There's a lot of
13 processes below the CRGR; I say a lot, and that's not
14 fair, one or two that we've been asking for some
15 transparency for a while. And I think we've made some
16 inroads in that. One is the TIA process, because a
17 lot of the backfits are actually adjudicated in the
18 TIA process.

19 And we've got a little bit more where we
20 at least get notified that there's one going on and we
21 get a pre-exit meeting when we get it back. But in
22 the middle of that, other than personal finesse of the
23 regulatory and executives there's really no input. So
24 we might want to look at those processes. Again, I'm
25 going to say below the CRGR, but maybe earlier in the

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1 process aspect.

2 And then the other one is my favorite, FAQ
3 process. I probably say "process" somewhat liberally.
4 FAQs are dangerous because they're a real avenue
5 towards being able to make things up as you go. And
6 I'm not saying that we have a severe problem in that,
7 but certainly we'll talk about the fire protection FAQ
8 just recently that came out that was canceled.

9 So the FAQ process, TIA process, we might
10 spend some time talking about. We might come up with
11 a couple more decision-making processes that could
12 have a little bit more transparency or maybe some more
13 stakeholder input at certain spots.

14 MR. HACKETT: Thanks, Greg.

15 MR. HALNON: The last question on -- kind
16 of struck me on regulatory stability when I was
17 reading MD 8.4. It talks about each of the regions
18 maintaining their own procedures. I was going to ask
19 the cross-regional guys, does each region have their
20 own specific procedures that may deviate a little bit
21 from each other based on -- in backfitting? Because
22 it says the responsibility of the regional
23 administrator is to maintain region-specific
24 procedures. Is that the case, that they're different
25 in two or three?

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1 MR. WERT: Well, there is a regional
2 office instruction that governs decision-making in
3 this area, at least in Region II, but it's mostly
4 limited to local aspects of how you would go about
5 that decision-making. It's not meant to proceed or do
6 anything against the higher-level documents.

7 MR. HALNON: Okay. Well, and again, as we
8 have formed fleets in the industry, one of the things
9 we've tried to do is to have the same procedure
10 everybody's working to. I understand there could be
11 you go left instead of right in the hallway, but that
12 might be a good place to assess cross-regionally to
13 see if there is anything that makes everyone parade
14 left in right from a regulatory stability, because
15 many of us operate in multiple regions and if we're
16 dealing with different procedural aspects, we've got
17 one office dealing with two different procedures, it
18 might be a little bit more difficult from a stability
19 perspective. So it's just another comment to take a
20 look at it.

21 MR. McDERMOTT: So if I could; this is
22 Brian McDermott from NRR, just address one of the
23 points that Greg raised. The issue of TIAs and how
24 much visibility the public and licensees have on how
25 NRC wrangles with questions that have been raised by

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1 inspectors about situations they find at the plant and
2 whether or not they conform with the licensing basis
3 as they try to move forward with their inspection
4 findings.

5 It's been an issue. It's been raised; and
6 Ed correct -- because I know personally I was at some
7 of the sessions where that's come up and there have
8 been some changes made. So we're just now working our
9 way through the first implementation of a process by
10 which we will look to licensees to do a fact check.
11 So we make the document publicly available and give
12 the licensee an opportunity to look through that to
13 see if we've made errors of fact before we make our
14 assessment or complete our assessment. And so, it's
15 a new process and we're still kind of working through
16 that. But I did want to just highlight that that's
17 one thing that we have done to try to open that
18 process up.

19 Another aspect that often gets raised in
20 that same context is the idea that we have individual
21 plant issues that end up being ultimately leveraged by
22 our inspectors as sort of generic issues. And so, we
23 are making an effort now to screen those issues out
24 and put them into processes for dealing with generic
25 issues.

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1 MR. HALNON: Yes, that's good Brian. And
2 I acknowledge that having the fact check added to this
3 would be excellent. I think the transparency -- and
4 I'm never going to say there's a lack of transparency,
5 because we can always pick up the phone and call.
6 It's really knowing what stage of the process you're
7 at, what information you're dealing with so that we
8 can understand the decision is being made with facts
9 instead of opinions and other potential biases. So
10 that's a really good thing. Thanks.

11 MR. WEST: If I could just add a little
12 bit to that. Not the TIA process itself, but I think
13 this could be captured by the thought I'm going to
14 throw out there. And one of the things I've been
15 involved in recently, as Vic mentioned, was the review
16 of the Exelon backfit appeal. And results of that are
17 not -- Vic is just -- I was wondering myself. He said
18 this morning it's going to be out soon, his decision.
19 So we have to wait for that and I can't say anything
20 about the review that he's looking at.

21 But the review did give the panel, a
22 number of us, an opportunity to kind of look at how
23 the staff processes a backfit in real time. And that
24 was a second appeal, so we saw an appeal also. So we
25 saw a pretty -- a continuum from an issue being raised

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1 at a plant through a couple of -- through a backfit
2 review, then through an appeal of a review. And then
3 we had it for another appeal.

4 And we developed some -- and I haven't
5 even had a chance to talk to my colleagues on the CRGR
6 about some of these ideas, but we did have an
7 opportunity to develop not only some decisions on the
8 backfit itself, but also the process that was using.
9 And that was a plant-specific backfit. CRGR would not
10 normally be involved in that.

11 I was involved in it because when the EDO
12 sets up an panel to review an appeal like that that
13 gets to his level, they like to have a CRGR member on
14 that so that there is some opportunities for CRGR to
15 learn from that review. And we're going to do that
16 through the tasking that we have. So, but it brought
17 a lot of things together.

18 And one of the thought is -- and it's just
19 a thought. I'm just throwing it out just so everybody
20 can hear it. And I think I saw maybe some of this in
21 some of the comments we got before this meeting from
22 industry. But when you're doing a review, a
23 significant review like something that comes in as a
24 TIA; would be one example, should there be more of a
25 conscious effort or a part of the process that says

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1 that that needs to be looked at for generic
2 implications?

3 Because we -- typically when you get
4 something from a region, which is where most of the
5 TIAs come from, I think; maybe all of them, they're
6 looking at some issue at their plant in their region
7 that an inspector found one day and he's pulling a
8 string on. Now, they occasionally I think will say,
9 well, we have this problem at Byron, so maybe it
10 exists at Braidwood. So maybe it gets a little bit
11 broader attention.

12 But maybe one consideration is does that
13 need to be looked at at an earlier stage as having
14 potentially generic implications? Because that could
15 change the way we do the review and who gets involved
16 in the review. For example, if we say, yes, this
17 looks generic, maybe the CRGR gets involved. Maybe it
18 gets into the GI Program which Research manages. So
19 there's that kind of consideration, I think, also.

20 I think what Brian just described, too, I
21 think would be of huge -- sounds to me -- just talking
22 to Brian, it sounds like a huge improvement to the TIA
23 process itself.

24 MR. HALNON: Yes, Steve, as part of my --
25 this is Greg Halnon. As part of my job I've been the

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1 NRUG chair since 2012, and the NRUG process is that we
2 take issues that the sites have and we talk about them
3 on a regional basis. And then if the issue looks like
4 it's going cross-region, we bring them up to the NRUG
5 process and we work with the OIWT at NEI to try to
6 resolve those.

7 But the point is is that a lot of the
8 regional issues that come up start at the plant level,
9 start at an individual inspection. And I would say
10 about half and half we say you guys just messed up;
11 you need to go back and fix it as opposed to it's
12 generic at least across the region.

13 So there is a process internally on our
14 side that we kick things back to the site before we
15 start raising flags. So I just want to let you know
16 that we don't just raise everything up as this is
17 generic and throw the flag on everything.

18 MR. WEST: I'm not suggesting that.

19 MR. HALNON: No, and I didn't say that.
20 So, I just wanted to let you know we do have a process
21 at least in our house, too, that we really try to
22 interrogate things to make sure that we don't -- if we
23 say something looks to be either regional generic or
24 cross-regional generic, we've at least gone through a
25 process that looks at that.

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1 One other comment I had on the last slide
2 and then I'll be quiet for a while; I'll try to, is
3 the CRGR operations. You mentioned informal versus
4 formal. And a couple of comments on that.

5 One is I've noticed that there's probably
6 many more informal than there is formal. I think
7 there's probably been a handful if not less formal
8 meetings in the last several years. Just the title
9 alone, informal versus formal, my issue was dealt with
10 in an informal way, doesn't sound good. You might
11 think about changing that from -- I think an informal,
12 if I'm correct, is a teleconference and a formal is an
13 actual face-to-face.

14 MR. WEST: Right.

15 MR. HALNON: There are probably better
16 titles to that that at least give you a better, or
17 give us a better feeling that it was talked about,
18 rather than just being informal.

19 MR. HACKETT: Yes, that's a very good
20 comment. I'm certainly sensitive to that from my
21 previous role with the ACRS. Whenever we tried to use
22 them or engage them remotely, as many of you know from
23 dealing with them, it's never the same as when they're
24 around the table.

25 And so, yes, I would say when -- and so

1 what you said, Greg, is true. And Steve would have
2 even more run time and data on that, and Les. But I
3 think we have done the majority of the review,
4 quote/unquote, "informally." The formal reviews, the
5 most recent one we did was on open phase, I believe.
6 That was I consider a very rigorous discussion. But
7 also, sensitive to the fact that I can sit up here and
8 say that or colleagues can say that. You all don't
9 see that other than hearing about the record of the
10 meeting.

11 So one of the things to expand on on the
12 notion of CRGR operations is -- I reviewed the records
13 from the last two meetings with the public from a ways
14 back now, like I said. There has been some focus and
15 recommendation that these meetings be conducted in the
16 open. And we are, not to sound like it's a pun --
17 we're open to that feedback. And I know Victor has
18 talked to me about that, as has Mike Johnson. So
19 we're going to look at that really hard this time
20 around in this tasking.

21 And so, what does that mean to folks? I
22 mean, could you not run the CRGR a lot like you run
23 the ACRS, for instance? So that would be what would
24 -- what's been put on the table before, that you have
25 the staff, you have the industry, you have the

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1 committee, not rendering decisions in the moment, but
2 taking all the inputs and then deliberating either
3 separately in private or in public. So all of these
4 are out there for us to consider.

5 MR. HALNON: Yes, and I wasn't suggesting
6 the informal was any less rigorous or anything like
7 that. I think it's just the label in itself speaks of
8 it. I'm pretty sure that you guys do a pretty
9 rigorous discussion on it. We do do teleconferences
10 at our fleet all the time and we understand the travel
11 and the timing schedules and all that.

12 So, but -- and I don't think you'll ever
13 hear an argument when you want to take a meeting out
14 that's not public and make it an open meeting, so
15 don't -- if you do get an argument for anyone the
16 industry side, let us know so we can get with them on
17 that. But that's always a good thing.

18 And of course the potential for
19 interaction is always a good thing, too. I know
20 you're looking at your public meeting definitions as
21 well, so that might be something that you can try to
22 have synergistic results with. Thank you.

23 MR. CARPENTER: Thank you. We'll do one
24 more in the room and then go to the telephones.

25 Ms. Reddick?

1 MS. REDDICK: This is Darani Reddick from
2 Exelon.

3 Ed, you mentioned training that the CRGR
4 had just received from OGC. I'm wondering if that
5 training is publicly available.

6 MR. HACKETT: Portions of it might be, but
7 I'm seeing Geary shaking his head. It was -- the
8 copies we received were listed as attorney/client
9 privileged. And so, that -- am I correct in saying
10 it's not open?

11 (No audible response.)

12 MR. HACKETT: It's not releasable in its
13 current form. I think there could be a version of it
14 produced that would be. And we have in fact an online
15 piece of training, more like a -- I forgot how many
16 slides it is. It's not very long. It's actually
17 pretty entertaining. And I believe that one's
18 probably -- should be, could be publicly available.
19 But the more detailed one I think gets into a lot of
20 the legal nuances that I think OGC consider
21 attorney/client privileged.

22 MR. MIZUNO: I think it would be fair to
23 say that as part of the EDO Tasking Memo the CRGR and
24 OGC will discuss whether we need to create separate
25 tools that are publicly available. We know that

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1 NUREG-1409 has to be updated and the only question is
2 whether there are additional aids, tools, whatever you
3 want to call them, that can further help ensure that
4 we have this understanding on both the external
5 stakeholder side and the internal NRC side on the many
6 different backfitting and issue finality provisions
7 that we have --

8 MS. REDDICK: Yes.

9 MR. MIZUNO: -- and how they get
10 implemented.

11 MS. REDDICK: I guess I would just ask OGC
12 to consider how much of that you could publicly
13 release. I think in terms of openness, transparency,
14 clarity and also application of the compliance
15 exception it would be really helpful for stakeholders
16 to be able to see how OGC is training the rest of the
17 staff on how the Backfit Rule should be applied.

18 MR. MIZUNO: Well, like I said, the EDO
19 Tasking Memo, they'll be looking at that. I think
20 that again we won't be -- a lot of our training is
21 going to involve -- is intertwined with our advice,
22 and we wouldn't release that to the public.

23 And so, I think that again as part of the
24 EDO tasking we will look at developing things that can
25 be released to the public so that to the extent that

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1 we can the nature of the messages that we're giving
2 and training the staff to will become clear so that
3 you understand how NUREG-1409, the positions are being
4 articulated there and the positions that are being
5 articulated in various written documents such as a
6 staff response to a backfitting appeal or a
7 backfitting claim. All those things that they're --
8 hopefully you'll see something that will represent
9 some level of consistency.

10 MS. REDDICK: Thanks.

11 MS. ORDAZ: This is Vonna Ordaz with NRO.
12 I think the brief answer would be yes, we'll look and
13 see if there is a version that we can get to you, or
14 make it publicly available. I think the training was
15 very good. I was in it. I think we were all in it
16 just last week, and it was very helpful information.

17 MS. REDDICK: Thank you.

18 MR. HACKETT: I would also add the -- in
19 particular looking back at the -- I know there is a
20 summary that I think Tony is going to present later,
21 but a number of the letters that NEI especially had
22 sent into the agency this year -- the January 20
23 letter, for those that are familiar with that in the
24 room, that Tony sent to Victor, had a list of criteria
25 that I think it's fair to say the staff has considered

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1 helpful in focusing in the compliance exception,
2 looking at things like known or established standards,
3 mistakes or omission of fact, and going through
4 hopefully a checklist that, as Darani is indicating,
5 that you want to get more hopefully focused and
6 disciplined in those reviews. So certainly consider
7 that helpful information.

8 MR. CARPENTER: Very good. Let's go to
9 the telephones. We'll come back to the room in a
10 moment.

11 And for those people who are in the room
12 that aren't at the table, there is also a microphone
13 right up here so we can -- if there's anybody who'd
14 like to ask questions when we come back to the room.

15 Operator?

16 OPERATOR: Thank you. Over the phone
17 lines if you would like to ask a question, please
18 press star then one. We do have a question from Keith
19 Jury.

20 Sir, your line is open.

21 MR. JURY: Thank you. Good morning, Ed.
22 This is Keith Jury from Exelon.

23 MR. HACKETT: Hey, Keith.

24 MR. JURY: And just a quick question; and
25 maybe it's an add-on to what Greg was asking about.

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1 And we've heard a couple times this morning about
2 trying to do a better job of identifying up front
3 potential generic implications. And I guess the
4 question I'd like to cue up is in -- or at least some
5 point today talk about if we can is how do we protect
6 the industry from potential generic conclusions that
7 aren't determined to be generic by the staff?

8 And I guess a better way to say it is
9 there are times when we see decisions get made that
10 don't get the review for a generic implication or it
11 gets missed that it's potentially generic. And is
12 there a role for CRGR in that process to perhaps be
13 the one that does the spot check or evaluate the
14 generic implications?

15 MR. HACKETT: That's for the question,
16 Keith. I think that's a good point. I think as I'm
17 hearing what Steve was mentioning earlier with -- the
18 TIA example is just one. I could think of ISGs I
19 think in the same sense, that kind of earlier
20 engagement at a different level would probably be
21 productive for us, because oftentimes we may not see
22 that at that level. So I think that's a really good
23 comment.

24 MR. JURY: Yes, and another aspect I think
25 you're spot on is the one other aspect that was coming

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1 to bear to me is to say there's times when there's
2 shared correspondence that comes out that -- whether
3 it's an information notice or different vehicles where
4 there's a -- by process there's not supposed to be a
5 new requirement or a change in position. And the
6 industry has in the past taken the position that in
7 fact there is a change.

8 And whether we hash through that or how we
9 hash through that kind usually works its way out, but
10 I'd say that there's a part in the process right up
11 front where we can help protect that decision from
12 being made erroneously. If we could explore that at
13 some point today I'd appreciate that. Thank you.

14 MR. HACKETT: Thanks, Keith. Good
15 feedback.

16 MR. CARPENTER: Okay. One more.
17 Operator, anybody else?

18 OPERATOR: There are no questions on the
19 phone lines.

20 MR. CARPENTER: Very good. Back to the
21 room.

22 MR. PIETRANGELO: And another question I
23 had; this is Tony Pietrangelo from NEI, the charter
24 you've been given from Victor, do you think it's
25 sufficiently broad to let you go where you need to go

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1 based on your initial work?

2 MR. HACKETT: Another good question. I
3 think we were worried about how broad it was when we
4 first got it. In fact, Steve and I were very involved
5 in our transition of the chairmanship with talking
6 with Victor and Mike Johnson and Glenn Tracey about
7 this, and Gary Holahan significantly. And one of the
8 struggles we have that we could mention here at this
9 meeting, don't mind declaring, that this body is of
10 course a part-time body. And so, one piece of
11 feedback that's come up already in the room today is
12 the resources and are we appropriately resourced for
13 that? We have Les and we have access to some other
14 resources.

15 But reaction to Tony's question, yes,
16 absolutely Victor engaged this in a very broad manner.
17 It was actually -- I would characterize it as a very
18 philosophical meeting that we had in February where I
19 think the EDO and the DDOs were really asking hard
20 questions about what are we doing? And as Vic opened
21 with his remarks, how are we doing it and can't we do
22 this better? Because I'm seeing some instances here
23 where I think he would have said he wasn't entirely
24 happy with where the state of the situation was.

25 MR. PIETRANGELO: Yes, the area I'm

1 thinking of that wasn't explicit up here is the
2 regulatory analyses that are conducted to see whether
3 substantial additional protection has been achieved,
4 and then subsequently if you have achieved that,
5 whether it's cost beneficial or not. I think there's
6 been a lot of debate over the years and questions
7 about use of qualitative factors in that process, use
8 of risk insights, etcetera.

9 So I'm hoping that your charter is broad
10 enough to take a look at that as well, because there
11 have been a lot of individual issues where it's come
12 down to something like that. And the proper rules of
13 application of qualitative factors, for example, I
14 think would be useful to the overall implementation of
15 the Backfit Rule.

16 MR. HACKETT: Absolutely. Yes, a really
17 good point. And it certainly brings back some
18 memories for me, because I know the ACRS was very
19 engaged when I was with them on the debate over
20 qualitative versus quantitative factors. And of
21 course as many of you know, the Commission was quite
22 engaged in that area, too. And as part of our charter
23 it recognizes that there are always going to be
24 qualitative factors inherent to what this type of
25 group does, what I would say more broadly inherent to

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1 what the NRC does.

2 And then the focus should be to use
3 quantitative analyses to the extent that it's sensible
4 and possible, but it's always going to be -- as you're
5 describing it, Tony, it's always going to be that sort
6 of middle ground that's hard to achieve. Yes, good
7 comment.

8 I guess I was going to make a couple of
9 other comments while we've got a pause here. Number
10 one comment is the agenda you will notice was loaded
11 a little bit differently. Initially we had envisioned
12 a larger front end presentation, so we did build in
13 more time here up front than is looking like it's
14 probably going to be necessary. So we might take an
15 extended break or figure that as we go here, but we'd
16 want to keep the rest of the agenda as is in deference
17 to stakeholders who are joining us remotely. So we'll
18 keep to that agenda.

19 I should have mentioned also in opening
20 Scott Moore is one of the members of CRGR and Scott
21 unfortunately had a personal conflict and couldn't be
22 with us this week, but we do have representation from
23 NMSS. John Tappert's with us over at the side table
24 and we will have rotating representation from NMSS
25 throughout the day. So just wanted to make sure I

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1 mentioned those items.

2 And then back to Gene to see if there's
3 any further discussion that we want to engage in now,
4 or this could be a good time for a break.

5 MR. CARPENTER: Let's go back to the room
6 one more, and then we'll try again on the telephone.

7 Anyone in the room?

8 (No audible response.)

9 MR. CARPENTER: I think you broke them,
10 Ed.

11 (Laughter.)

12 MR. CARPENTER: Operator, anybody online?

13 OPERATOR: Thank you.

14 MR. CARPENTER: Nobody online then?

15 MR. HACKETT: There are no questions at
16 this time.

17 MR. CARPENTER: Very good.

18 MR. HACKETT: Okay. Looks like we're
19 overachieving. Also forgot to mention my condolences
20 to Redskins fans --

21 (Laughter.)

22 MR. HACKETT: -- or congratulations to the
23 Steeler fans in the room. That was pretty brutal last
24 night. So maybe --

25 MR. CARPENTER: We've got one in the room.

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1 MR. BONANNO: Hi, Jerry Bonanno from NEI.
2 I just thought to kind of dovetail on the conversation
3 about facility-specific versus generic issues. I just
4 wanted to bring up one other point, which is I think
5 looking at the issue a little harder and trying to
6 figure out whether there's generic implications is one
7 way to address that, but I think the other thing you
8 all might want to think about is whether you actually
9 need two processes in backfitting space for facility-
10 specific versus generic issues.

11 Because I think historically that made
12 sense, but I think that when you watched these things
13 in the recent past, they almost -- the rule's generic.
14 It applies basically the same whether you're dealing
15 with one licensee or the entire fleet. So I think
16 that's just another way to come at it, from the top
17 down instead of the bottom up.

18 MR. HACKETT: Thanks, Jerry.

19 MR. CARPENTER: Any other comments in the
20 room? Dave?

21 MR. LOCHBAUM: This is Dave Lochbaum with
22 UCS again. A question on the CRGR process. When you
23 review something for potential generic implications,
24 how do you ensure that -- because reactors have a such
25 a wide ranging design in the licensing basis, how do

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1 you make sure that you've bound the reactor that has
2 the most stringent requirements with the reactor that
3 has the last stringent? How do you ensure that
4 whatever's being done has captured both ends of that
5 wide spectrum? Or do you just go for the middle?

6 MR. HACKETT: Yes, I think that's a
7 particularly good question, Dave. So I think I'll
8 answer it one way and my colleagues might have some
9 other comments to add.

10 I think part of the structure of the
11 committee being deputy office directors historically
12 I think is to -- hopefully with folks that have been
13 here as long as some of us, that we have some depth of
14 experience to cover the range of things that have been
15 seen in the reactor and materials or security arenas.
16 So I think we historically have had adequate
17 representation, as you said, to try to bound that with
18 the experience of the group, but in thinking about it,
19 I'm sure that shifts and changes over time, clearly as
20 the membership just has now. So I think that's one
21 answer.

22 And then there's the depth of the reviews
23 that you would go into as those individuals and others
24 we could consult with -- including former, recently
25 former members like Gary Holahan, who's now reporting

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1 directly to Victor. So we have access to I think a
2 wide variety of resources through the constitution of
3 the committee itself and then reaching out to others
4 within the agency. But at least that's one potential
5 answer, because that's a difficult question to be able
6 to bound those areas.

7 I don't know if you guys have anything to
8 add to that.

9 MR. WEST: I'll just add -- I don't know
10 if this gets to your question exactly, David, but
11 remember the CRGR is looking at generic issues, so by
12 definition the things that are brought to the CRGR for
13 our review are things the staff has decided have
14 generic implications and we need to look at it. So
15 we're not necessarily -- we're not as a group looking
16 at a plant-specific issue and saying this -- you
17 brought us this as a plant-specific issue, but we
18 think there's generic implications, so you need to
19 look closer. And that's what I was suggesting maybe
20 we need to add some kind of step like that.

21 So like Ed was saying, when we do get a
22 generic issue, we do have a lot of experience on the
23 CR -- we added up the years of experience I think last
24 year to answer congressional questions. It's like 150
25 or 200 years of experience, something like that. So

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1 we do have that experience. And we do ask questions
2 when we get that.

3 But most of the things, when the staff
4 brings it to us, we're reviewing the results of their
5 work, and they do lay out why it's a RIS or something
6 that needs to be issued that addresses a class or all
7 plants. So, but I think that piece I mentioned
8 earlier -- because I think you're kind of looking --
9 linking up with that is maybe something we need to
10 look at.

11 MR. CARPENTER: Anyone else in the room?

12 (No audible response.)

13 MR. CARPENTER: One last time to the
14 phones and then we'll go for a break. Operator?

15 OPERATOR: There are no questions in queue
16 at this time.

17 MR. CARPENTER: Thank you very much.

18 In that case, since we, as Ed mentioned,
19 we have over-achieved, let's go ahead and take a
20 break. According to the clock on the wall it's 10:09
21 right now.

22 MR. HACKETT: 10:30?

23 MR. CARPENTER: 10:45 or 10:30?

24 MR. HACKETT: 10:30.

25 MR. CARPENTER: 10:30?

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1 MR. HACKETT: Yes.

2 MR. CARPENTER: Very good. For the folks
3 in the room, if you'd like to us restrooms, it's right
4 outside the door to the left. Elevator lobby. We
5 also have the café down on the first floor. There
6 will be staff available to bring you back up whenever
7 we're ready for the break to be over.

8 And for the folks on the telephone, we
9 will resume at 10:30 Eastern Time. Thank you.

10 (Whereupon, the above-entitled matter went
11 off the record at 10:09 a.m. and resumed at 10:30
12 a.m.)

13 MR. CARPENTER: Thank you for returning.

14 Operator, we'll be set to take calls from
15 people on the phone in just a couple of minutes.
16 We'll go back to the room here.

17 We said that we'd resume the discussion
18 here at 10:30. The time is nigh, so we'll start here
19 in the room again. Anyone in the room that would like
20 to make a comment, discussion?

21 (No audible response.)

22 MR. CARPENTER: Don't everybody jump in at
23 once.

24 (Laughter.)

25 MR. HALNON: Well, I think the only --

1 this is Greg Halnon. The only hesitation we have is
2 that we can start giving away our presentation
3 notes --

4 MR. CARPENTER: Understood.

5 MR. HALNON: -- and make the afternoon
6 kind of quiet, or we can have a quiet time now. I
7 mean, it's up to you.

8 (Laughter.)

9 MR. CARPENTER: And as Ed said earlier,
10 because we have published this agenda and there may be
11 people on the telephone who are specifically waiting
12 to hear some of the things that you will be talking
13 about this afternoon, we didn't want to run through it
14 before lunch and then they'd miss it because they
15 expected to call in at 1:00 and have that discussion
16 at that time. So we're trying to be mindful of the
17 who are on the telephone.

18 MR. HACKETT: To credit Mr. West, he told
19 me we could probably get by with half a day, and looks
20 like that might have been prophetic. So we apologize
21 for that because we may not have enough to fill the
22 remainder of the morning as Greg is indicating. So
23 we'll just go to the lines and see. If not, the
24 cafeteria is open at 11:00.

25 MR. CARPENTER: So with that, we'll try

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1 again on the telephones.

2 Operator, anybody online?

3 OPERATOR: Thank you. We will not begin
4 the question and answer session. If you'd like to ask
5 a question, please press star, one, un-mute your phone
6 and record your name clearly. Your name is required
7 to introduce your question. If you need to withdraw
8 your question, press star, two. Again, to ask a
9 question, please press star, one.

10 It will take a few moments for the
11 questions to come through. Please stand by.

12 MR. CARPENTER: Standing by. Thank you.
13 And we'll go back to the room once we see if anybody's
14 on the telephone.

15 MR. PIETRANGELO: Yes, I'm not going to
16 wait for this afternoon. There's no such thing as
17 quiet time here. Okay?

18 (Laughter.)

19 MR. PIETRANGELO: Even part of what we've
20 discussed thus far this morning --

21 MR. CARPENTER: One second, please.

22 Anyone on the telephone, operator?

23 OPERATOR: We show no questions at this
24 time.

25 MR. CARPENTER: Okay. Thank you very

1 much.

2 MR. PIETRANGELO: Okay. CRGR is not a
3 line function in the NRC, right? You're kind of an
4 advisory body to different elements, principally to
5 the EDO, but I think you do inform a lot of the other
6 offices, the regions, etcetera. And because you all
7 have day jobs, you can't possibly do that as a line
8 manager.

9 So I think this activity is less about
10 CRGR and more about the culture of a regulator and the
11 culture of the industry when we're looking at safety.
12 You want everyone to have a questioning attitude in
13 the agency, I think. And you do, and that's part of
14 your culture. We expect the same thing in our
15 industry to self-identify problems and to question why
16 things are the way they are and to correct things when
17 we do find stuff. So that's okay. You have to have
18 the latitude to do that.

19 I think the feedback or the observation
20 over time is that often folks don't know what process
21 they need to turn to when they do have a differing
22 perspective or disagree with maybe the decision on
23 someone's specific licensing basis from 20 years ago.
24 I think David's question was an excellent one. All
25 the licensing bases are slightly different, depending

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1 on when the plant was licensed. That was kind of an
2 iterative way that that was done. So they are a
3 little different. So it really I think begs the
4 question of how generically do you look at that?

5 But I think you can't do it as a CRGR,
6 because that's all you would do. You'd have a full-
7 time -- I don't think you would have enough time in a
8 year to deal with all those. So it's got to be
9 something that's ingrained in the culture and covered
10 in the processes for whether it's an inspection and
11 there's a -- whether it's new information or new
12 opinion on whether something that particular licensee
13 is doing meets the requirements or meets the licensing
14 basis. And if it is a different position, that
15 there's a process to go to.

16 And I think one of the things maybe to
17 consider as you go forward are those processes clear
18 enough so that everybody knows you don't have to just
19 say, well, that's how they did it 20 years ago and you
20 have to accept that. That's not the right answer, but
21 if you do have new information or a different
22 perspective, that you have the correct process to go
23 to. That's where the stability comes from I think
24 that we're all looking for in the process and the
25 predictability, that everybody has a place in the

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1 process to go and that these issues get properly
2 vetted. And it really has to be cultural, because you
3 can't do it as a body. You don't have enough time to
4 do that. It's got to be kind of infused into the
5 culture and processes that you have in place.

6 Same thing on the licensee side. I mean,
7 we're going to talk about this afternoon how licensees
8 acquiesce in the inspection process because it might
9 be something that's fairly minor, it's just better off
10 to go along to get along, and they do it. As an
11 industry we can't continue to do that either. I mean,
12 we're trying -- and it's not a regulatory initiative,
13 but trying to undo some of the things we do to
14 ourselves that kind of add layers of process and
15 oversight that really in a lot of cases removed the
16 accountability from the person doing the job and the
17 line manager. And that's not a good thing to do
18 either.

19 So I think this is a very broad thing.
20 It's not just the CRGR question. It's something to
21 think about for the agency. And again, that's why I
22 started with this is really a safety-focused rule. I
23 really shudder when I hear that this is a rule
24 designed to protect licensees. Okay? That's not the
25 purpose of the Backfit Rule. It's not there to

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1 protect licensees. It's in one of your points, David.

2 MR. LOCHBAUM: All of my points.

3 (Laughter.)

4 MR. PIETRANGELO: It's a safety-focused
5 rule to make sure we focus on the right things. And
6 if it's not, then we need to correct it and get to
7 that point, because that serves everybody. It serves
8 the public, it serves the agency and it serves the
9 licensee.

10 MR. McDERMOTT: Well, thank you, Tony.
11 Appreciate that.

12 MR. CARPENTER: Got some reaction.

13 MR. McDERMOTT: No, I do. I think it's on
14 point. I think it's reflective of the challenges that
15 we see in a lot of areas.

16 The framework we have for making changes
17 to the license, the facility, enables licensees a good
18 deal of flexibility with changes under 50.59, but when
19 you throw into that mix other changes that are made
20 with submittals, the specificity of those requests,
21 the application of certain standards to very specific
22 changes or pieces of equipment, I think that creates
23 a very complex picture leads to some of the challenges
24 we get into when -- whether it's an inspection issue
25 or a TIA, or whatever the prompt is for us to examine

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1 the licensing basis of the facility.

2 So I appreciate your comment and just want
3 to say it resonates with me and the challenges that we
4 are dealing with day to day.

5 MR. CARPENTER: Steve?

6 MR. WEST: This is Steve West. I also
7 want to agree with a lot of what Tony said. In fact,
8 Ed and I were talking during the break. I'm not sure
9 where you were standing, Tony. Was it right behind
10 us, because we were --

11 MR. PIETRANGELO: No, I was --

12 (Laughter.)

13 MR. WEST: We were basically saying the
14 same thing, that the CRGR is certainly not a magic
15 bullet to fixing anything about backfit. And there is
16 no magic bullet. We were saying the same thing.
17 Really based on our experience on CRGR and our years
18 of experience at the NRC there is cultural aspects of
19 this that need to be dealt with, and it has to really
20 be at a lower level, really in the divisions with the
21 staff and through the director level.

22 And if you look -- if you did see all the
23 interactions we have when the CRGR is doing a review,
24 there's a lot of activity, and a lot of it that has
25 nothing to do with backfit. It's questioning the

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1 regulatory process we're in. Does it really make
2 sense to issue a RIS on this? Should it be something
3 else?

4 And so, we're adding a lot of value, but
5 it's in other areas. And we've got to I think drive
6 that down into lower levels of the organization so
7 that the stuff that comes up has already got that kind
8 of layered in into the decision-making that's been
9 done. So I really think that you've got a great
10 insight, because it's the same as mine.

11 (Laughter.)

12 MR. WEST: And we've had other -- we've
13 had discussions like this with the members, but you're
14 right, it -- CRGR did used to be a part of the line
15 organization years ago in NRC and it shifted to this
16 many years ago, this format. And it is an important
17 role. I think it needs to continue, but I think we
18 really need to look at it. And I think through this
19 tasking memo that Ed is talking about we are looking
20 at it, and probably already some of us have already
21 identified that there's a need for probably more
22 guidance, more training and look at procedures and the
23 guidance documents that are already out there that are
24 maybe not up to date. So I think there's going to be
25 a lot coming out of it. But I don't think it's going

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1 to be any major change to the CRGR.

2 MR. HACKETT: Okay. Good discussion. I
3 was going to go back to the time management aspects of
4 this meeting and being open to on-lining with those of
5 us here in attendance. My colleagues were talking to
6 me about might we not adjust the meeting? And I'm
7 willing to entertain discussion on that in the
8 interest of not wanting to waste folks' time that have
9 come to the meeting and then the -- in part the reason
10 I would do that, I know sensitive to folks that travel
11 to the meeting, but also that we are keeping a
12 transcript and it is being web-streamed.

13 So if we -- I don't know if there's
14 consensus in the room that we just go ahead and
15 proceed on with the afternoon agenda early. There's
16 pluses and minuses to this, but I'm open to any --
17 Gene, do you have any insights on that?

18 MR. CARPENTER: Again, it's entirely your
19 meeting. Okay? But the only concern that we had, as
20 we had discussed when we were setting this up, is do
21 we have anyone on the telephone who -- members of the
22 public that we --

23 MR. HACKETT: Right.

24 MR. CARPENTER: -- that are specifically
25 interested in this? To that end, let me go to the

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1 operator.

2 And for the folks who are on the
3 telephone, you have heard what Ed suggested about
4 changing the agenda and perhaps going to some of the
5 afternoon presentations before lunch time. Is there
6 anyone on the telephone who has any heartburn with
7 that?

8 OPERATOR: One moment. We have a call
9 coming in.

10 MR. CARPENTER: Thank you.

11 OPERATOR: Go ahead, caller. Your line is
12 open.

13 MR. JURY: Yes, this is Keith Jury. That
14 works for me.

15 (Laughter.)

16 MR. HACKETT: Thanks, Keith. I think what
17 we're going to do -- as Gene said, we got the command
18 decision, so let's go ahead and do that in the
19 interest of not wasting folks' time. So we will
20 vacate the front seats here and let our colleagues on
21 the other side of the table come forward and then
22 proceed with the agenda that's listed to commence at
23 1:00.

24 MR. CARPENTER: So for those people who
25 are on the telephone and watching the web streaming,

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1 we are switching desks, as Ed said. And we'll go to
2 this and we'll try to make sure that anybody who has
3 concerns online can communicate them to us.

4 So very good. One moment while everybody
5 plays musical chairs.

6 (Whereupon, the above-entitled matter went
7 off the record at 10:43 a.m. and resumed at 10:44
8 a.m.)

9 MR. PIETRANGELO: Okay. Well, I've said
10 everything pretty much I wanted to say about five
11 minutes ago.

12 (Laughter.)

13 MR. PIETRANGELO: But I will walk through
14 the slides and do the due diligence.

15 This isn't the first time we've talked
16 about backfit. We've referenced several letters we've
17 sent and that LMS sent to the agency on different
18 elements of the Backfit Program from the compliance
19 exception, weighing in on the appeals that Exelon has
20 made, as well as on things like qualitative factors
21 used in regulatory analysis, etcetera.

22 So we have a broad interest in this.
23 Again, I think this is more than just the CRGR thing,
24 that it's really down to what processes we use when we
25 do have new information or new opinions that come into

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1 the regulatory process and how we deal with those.

2 So our problem statement, I don't want to
3 make too much of it, but we think there's a way the
4 backfit should be implemented to ensure that -- and to
5 me this is the real intent of the rule is to focus on
6 the most safety or security-significant, cost-
7 justified regulatory actions.

8 And when we go to the text of the rule
9 itself; I think David's presentation has all the text
10 in it, you have to have substantial -- if it's not a
11 compliance exception, if it's not adequate protection,
12 the other way to get the requirement in the books is
13 through a regulatory analysis that says that this has
14 substantial additional protection, one, and, two, that
15 it's cost-justified. And you don't see a lot of those
16 analyses conducted from start to finish a lot.

17 And CRGR's role in that is limited. I
18 think on rulemakings it's been deferred to OGC for the
19 most part. So I think there is maybe a more front-end
20 role for CRGR to play, particularly on rulemakings;
21 I mean, that's the most generic thing the NRC does are
22 rulemakings, to have a center of expertise that has
23 people who are familiar with the rule, familiar with
24 the background that could provide perspective to first
25 the senior management of the agency as well as the

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1 Commission.

2 What are the causes of this? Again, I
3 think it's more cultural as an industry. The
4 relationship between the licensee and the regulator is
5 very important. It is guarded by all licensees out
6 there. They want to make sure they have good
7 relationships with the NRC. So my observation over
8 the years is when the word "backfit" is thrown across
9 the table, it tends to polarize the sides and you stop
10 having very good discussion about the particular
11 issue. So for industry we tend to acquiesce if it's
12 something that doesn't cost a lot. And if it makes
13 the inspector happy, they'll do it. Okay? That's not
14 the real though -- to me gets at the real intent of
15 the rule, which is to make sure we're focusing on
16 things that matter.

17 On the agency's part, if you can avoid
18 having the -- because the regulatory analysis, the
19 ones I'm familiar with are pretty lengthy and pretty
20 labor-intensive. So if you can find an easier path to
21 do that, you take it.

22 And I think the second bullet goes to the
23 training, the new people coming into the agency.
24 Without that historical context and -- we talked about
25 the difference in licensing bases. There's not one

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1 plant to another where the licensing basis is exactly
2 the same. And how backfit plays into that, I think
3 that's a useful training topic, or at least historical
4 context that everyone in the agency should have, not
5 just the people on CRGR.

6 All right. Next slide. So the end state
7 we're looking for is again that we're focused on the
8 right things, that our resources are allocated to
9 regulatory actions that yield demonstrable --
10 demonstrable safety and security benefits.

11 And I think this stability piece is the
12 second one. And the other things that were in the NRC
13 slide presentation on transparency and such, I totally
14 agree with, but this is kind of what we're looking for
15 out of this review of backfitting requirements.

16 We hope that as a result of this activity
17 you give recommendations to the EDO and subsequently
18 perhaps to the Commission that provides clear
19 direction on these issues where there's been a lot of
20 back and forth throughout the years and any changes to
21 agency guidance that are necessary. I think it helps
22 us all when there's a body like yourselves, whether
23 you call it CRGR or something else, that provides an
24 independent look, not at everything, but things that
25 kind of make it through the process and have cleared

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1 several hurdles to get a perspective that's consistent
2 and that both the staff and the industry look to
3 provide guidance on these things. And again, I think
4 training on the foundation of the rule and its
5 implementation, both for industry folks and NRC folks,
6 would be useful.

7 Your role. I think Project Aim has
8 identified some of these centers of expertise with the
9 agency. CRGR could be one of those centers of
10 expertise on backfits. Perhaps an expanded role to
11 get more involved in the rulemaking process. Again,
12 I mean, if you don't look at rules, then how generic
13 are your responsibilities? And transparency and maybe
14 having more public interactions for stakeholders to
15 weigh in on some of these issues.

16 And as I said before, this is broader than
17 just the CRGR. This really involves the whole NRC and
18 the industry, but there could be a larger role for
19 CRGR in the solution.

20 That completes my remarks. Thank you.

21 MR. CARPENTER: Did you have a question,
22 Steve?

23 MR. WEST: Yes, I did if you were --

24 MR. CARPENTER: Yes, go ahead.

25 MR. WEST: Tony, I had a question just on

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1 your comment you made; it's on your last slide, about
2 the open phase issue. Was there no industry
3 involvement in looking at the issue?

4 MR. PIETRANGELO: Oh, there was a lot if
5 industry involvement. In fact --

6 MR. WEST: What is your stakeholder could
7 have been helpful? What's --

8 MR. PIETRANGELO: Which part on you on,
9 Steve?

10 MR. WEST: The improved transparency. It
11 says stakeholder input could have been more helpful in
12 reviewing open phase evaluation. I was just wondering
13 what specifically you thought could have been done
14 differently that would have been --

15 MR. PIETRANGELO: I going to need some
16 help from my able staff.

17 MR. WEST: Okay.

18 MR. BONANNO: Hi, Jerry Bonanno again from
19 NEI. I think what we're referring to on that slide is
20 the review of the documented evaluation. There was a
21 lot of industry involvement in the technical issue,
22 but I think the review of the documented evaluation by
23 CRGR, there wasn't a whole lot of involvement. I
24 think we caught up -- we saw a lot of that stuff after
25 the fact through when public documents were made, or

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1 documents were made public in ADAMS and things like
2 that. So that's what that sub-bullet is referring to.

3 MR. PIETRANGELO: Okay.

4 MR. BONANNO: Thank you.

5 MR. PIETRANGELO: Thanks.

6 MR. WEST: Thanks for that clarification.

7 I'm asking the question because one thing that CRGR
8 does definitely pay attention to when we're reviewing
9 something is what has been the engagement with
10 stakeholders? And we take steps to make sure we fully
11 understand what the engagement has been and what the
12 outcomes have been from that engagement.

13 MR. PIETRANGELO: Right.

14 MR. WEST: And it's an area where we are
15 always looking for -- not only the CRGR, but I think
16 the agency is looking for ways to make sure we take
17 full advantage of stakeholder input engagement. So
18 this would be an area I think we're looking at as part
19 of the tasking also. But appreciate the comment.

20 MR. HACKETT: I think my comment was
21 similar to Steve's. When I look at what you said,
22 Tony, on the larger role, I guess that's what I was
23 envisioning as part of the larger role that we would
24 be -- in this case, as Steve is indicating, more of an
25 entrée to what Jerry mentioned, that there would have

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1 been maybe more awareness or information you wanted to
2 provide, some mechanism for doing that that doesn't
3 exist now. So that's part of like what you meant as
4 part of the larger role.

5 MR. PIETRANGELO: Okay.

6 MR. HACKETT: Thanks.

7 MS. REDDICK: Okay. So I'm going to be
8 going through facility-specific backfits, in
9 particular the backfit appeal process. As Dave and Ed
10 have mentioned today, Exelon is going through one of
11 those right now and we eagerly await Mr. McCree's
12 decision. And I'll also be speaking the compliance
13 exception in particular.

14 Of course the NRC can forego a backfit
15 analysis when it's necessary to bring a facility into
16 compliance with NRC requirements or licensee
17 commitment, but the rule itself doesn't really give
18 any additional explanation as to how the compliance
19 exception should be applied.

20 The statements of consideration for this
21 exception though do clearly articulate the
22 Commission's intent, which as we've seen before is to
23 address situations in which the licensee has failed to
24 meet known and established standards because of
25 omission or mistake of fact. And importantly the

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1 Commission went on to say that new or modified
2 positions or interpretations of what constitutes
3 compliance does not fall within the compliance
4 exception. So in those cases of course a backfit
5 evaluation would have to be prepared.

6 And I'll note that in a recent Senate
7 Environment and Public Works hearing in response to a
8 question on the proper application of the Backfit Rule
9 Chairman Burns did state that when looking at the
10 decision to be made for the compliance exception these
11 words and the statements of consideration are the,
12 quote, "persuasive words," or "persuasive criteria"
13 that the Commission set at the time.

14 So the first part of this standard is what
15 is a known and established standard? Of course we
16 have to know standard the licensee is being held to,
17 so for that reason it must be specific, it must exist
18 at the time of the prior NRC approval, but not only
19 must it exist at the time of the NRC approval, but it
20 had to have actually applied to that licensee at the
21 time of the prior approval. And it must be based on
22 a legally binding requirement or licensee commitment
23 to meet that requirement. So in other words, it can't
24 just be based on guidance that the NRC has put forth
25 as one way of satisfying a requirement.

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1 The second part of the test is whether
2 there's an omission or a mistake of fact. Again, this
3 is not defined in NRC Regs or in the guidance, and we
4 have to look at it in the context of the rule itself.
5 So it really doesn't make sense to allow the exception
6 to be applied in a way that would render the rule
7 meaningless or allow the exception to swallow the
8 rule.

9 We recently saw for the first time, at
10 least that I'm aware of, the staff in the open phase
11 condition backfit evaluation that was just referenced
12 defined what an omitted fact could be. Omitted fact
13 -- I actually haven't seen that term before this, so
14 that was new to me. But the definition is put here on
15 this slide. But the staff included in this definition
16 that an omitted fact could include information that
17 did not exist at the time of the prior NRC approval.

18 I think that's troubling because a plain
19 language definition of omission is something that was
20 left out, so how do you leave out something that did
21 not exist? And that really I think doesn't square
22 with the purpose of the Backfit Rule. Of course as
23 Tony mentioned, obviously it's to promote safety, also
24 provide regulatory stability.

25 So if you allow an omission to be

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1 something that is new information that didn't exist at
2 the time, it sort of creates this moving target,
3 right? We can always have new information, new
4 research, new technology, but then the target on what
5 satisfies the rule could constantly move. And in
6 fact, new information can be used to legitimately
7 support when a staff has a new or modified
8 interpretation of compliance. But of course then in
9 those cases it would not fall within the compliance
10 exception.

11 So some examples, basic examples of what
12 an omission could be. It could be material
13 information that existed at the time that should have
14 been considered in the prior approval but wasn't, and
15 had it been considered would have changed the staff's
16 position, would have caused the staff to determine
17 that a licensee was non-compliant.

18 An example, very basic example of a
19 mistake of fact could be the licensee prepared a
20 calculation. It was mathematically erroneous. The
21 staff relied on that to approve a licensee's position.
22 Had that calculation been correct, the staff would not
23 have found the licensee to be compliant.

24 So just to reiterate, obviously a new or
25 modified interpretation itself cannot be an omission

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1 or mistake of fact based on the words from the
2 Commission's statements of consideration, as well as
3 new information that didn't exist. And I think the
4 bottom line in allowing the compliance exception to be
5 read this broadly, if you read omission or mistake of
6 fact that broadly could really be taken to an extreme
7 in which any NRC prior approval, no matter how
8 explicit it was or how thorough it was, how documented
9 it was, the current staff could always say, well, that
10 prior approval itself was a mistake of fact simply
11 because it doesn't like the prior staff's analysis or
12 conclusions. And that really allows you to sort of
13 drive a truck through the whole compliance exception
14 and the rule.

15 So I'll switch gears a little bit now to
16 talk about the backfit appeal process. This is just
17 a sort of high-level overview of our recent
18 experience. As Mr. McCree mentioned, we have gone
19 through the appeal process regarding pressurizer
20 safety valves, the compliance exception to forego a
21 backfit analysis for our Byron and Braidwood stations.
22 We did appeal that to the director of NRR who upheld
23 the staff's backfit determination. And we've since
24 appealed that again to the EDO where it is currently
25 pending, but apparently will be issued soon. So we'll

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1 see.

2 Just some observations on that process and
3 on the backfit for the compliance exception in
4 particular. The first two are really about the
5 compliance exception. I think even though the
6 compliance exception has existed for over 30 years,
7 the fact that we're having this discussion still shows
8 that there is not a meeting of the minds on that. I
9 think we believe that the Commission's intent was very
10 clear in what the compliance exception was intended to
11 cover, but based on our recent experience it seems
12 like perhaps elements of the staff are not as
13 convinced that it's as clear as we think it is. So
14 guidance on this, on the consistent application of it
15 would be a very useful.

16 Also, we've seen a lot of examples
17 recently not only with our facility-specific backfit
18 for Exelon, but the open phase condition as well.
19 We're citing the general design criteria. That can
20 present a lot of difficulties, right, because GDCs are
21 so broadly written that it can raise questions as well
22 about the applicability of a GDC to an operational
23 issue versus a design issue. And I think one of the
24 letters mentioned in Tony's slides, the July 2016 NEI
25 letter, speaks to this issue quite well.

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1 So regarding the backfit appeal process
2 itself, we went through two staff management appeal
3 and there is no automatic role for the CRGR unless the
4 CRGR is appointed as the appeal panel.

5 So that sort of raises two questions in
6 our mind. One, do we need to staff management
7 appeals? And should there be an automatic role for
8 the CRGR, or should there be some sort of center of
9 expertise, as Tony has used the term, to look at the
10 facility-specific issues, especially when they have
11 generic implications?

12 And last but certainly not least; and
13 we've talked about this a little bit earlier today,
14 the independence of the backfit process is really
15 fundamental to its fairness, right? And of course the
16 director of NRR and the EDO, as well as the appeal
17 panel -- they have access to the NRC staff who was
18 originally involved in the backfit determination and
19 they can easily call up those members of the staff,
20 call them to their office, convene a meeting and talk
21 to them about those issues.

22 So I would suggest that in your review you
23 look at the perception of fairness that that creates
24 if those meetings are held, or those discussions are
25 held behind closed doors. For example, for our appeal

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1 the appeal panel that Bill Dean convened held a public
2 meeting with Exelon where they gave us an opportunity
3 to present our and we answered their questions. We
4 had some dialogue there. Should a similar approach be
5 taken when dealing with the staff who were involved in
6 the original backfit evaluation?

7 Or similarly, if you're allowing the staff
8 involved in the original determination to provide
9 input to a draft recommendation on an appeal, should
10 that be made publicly available? Should the licensee
11 have a similar opportunity? So some of these have
12 come up, questions have been raised I think in the
13 context of our appeal just in terms of not suggesting
14 that it's not a fair process, but what that perception
15 could lead to and how that perception affects
16 licensees' willingness to even undergo the appeal
17 process.

18 And that's all for me. Thank you.

19 MR. HACKETT: Yes, Darani, thanks. Very,
20 very helpful because I think you got to the heart of
21 all of our struggles with compliance exception.

22 I guess I have a specific question
23 regarding your views on the GDC or arguing for or
24 against or using a GDC in this context.

25 MS. REDDICK: Yes, I think it's very

1 difficult, and we do have some precedent from I think
2 a prior director's decision. It might be a Pilgrim
3 case. I'm looking at Jerry to nod if that was correct
4 or not. And also a Susquehanna Safety Evaluation that
5 talks about the applicability of the GDCs in
6 operational space versus design space. I think I have
7 that quote here.

8 I think it just becomes very difficult
9 because obviously the GDCs are very broadly written,
10 and at a certain point more specific requirements or
11 your tech specs or whatever come into play, which I
12 think are -- in terms of citing compliance are much
13 more clear cut. And the statement from the
14 Susquehanna Safety Evaluation I'm referring to they
15 concluded that, and I'm quoting, "GDCs are
16 requirements only to the extent the applicant is
17 required to describe conformance with them in a
18 preliminary safety evaluation report." It goes on to
19 state that verification of GDC compliance is
20 accomplished, quote, "through the staff plant-specific
21 design review." So it raises some questions whether
22 -- the role of that GDC in an operational compliance
23 issue.

24 MR. HACKETT: Thanks. That's a great
25 clarification because I was sensitive to your -- I

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1 think your quote was drive a truck through some of
2 this and --

3 MS. REDDICK: Was that an over-sell?
4 Sorry.

5 MR. HACKETT: -- I think -- well, I for
6 one I think, and colleagues on the committee -- we
7 struggled with that in the open phase condition
8 because that's -- GDC-17 I believe was in play there.
9 And you said, very broad. It's a pretty big umbrella.
10 So obviously I think there's more satisfaction with
11 arguing against something much more specific in the
12 licensing basis, back to Tony's comments earlier.

13 MS. REDDICK: And I think it's a lot
14 easier as well for NRC staff positions to evolve on
15 GDC when they are that broad, when there's less --
16 there's a lot of wiggle room, I guess, for -- as new
17 inspectors come in or new staff come in to sort of
18 tweak those positions, but those actually do establish
19 new and modified interpretations of compliance. But
20 because it's so broadly written, it's perhaps harder
21 for the licensee to say, well, no that's not what we
22 originally held to.

23 MR. HACKETT: Thanks.

24 MR. WILLIAMSON: I just wanted to mention,
25 Darani; this is Ed Williamson, we're probably in

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1 violent agreement with many of your observations. The
2 CRGR is looking at many of those things that you've
3 spotted. I know you've spotted in the context of
4 Exelon. We're looking at it more in a broader sense
5 than the Exelon appeal. You're correct in the two key
6 standards being known and established standard is one
7 criteria. And also what does it mean omission and
8 mistake of fact?

9 Now, as lawyers we see that terminology a
10 lot in the legal context. I don't think the staff
11 does. So there's plenty of opportunities to clarify
12 what that -- what is meant and how do you get there?
13 Obviously to the degree that interpretations changes
14 and interpretations are the red flag for backfit, but
15 it's how that interpretation -- what was the basis for
16 that interpretation change? Was it based on an
17 omission or a mistake of fact? So we have to dig
18 deeper than just accepting that someone has a change
19 in their interpretation.

20 MS. REDDICK: Right. Absolutely agree.
21 And I think that part of the rub there is where there
22 becomes a situation where the current staff is saying,
23 well, the prior staff's interpretation -- that
24 interpretation was itself a mistake of fact. They
25 just interpreted the regulation incorrectly. And

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1 there's your mistake of fact, therefore, the
2 compliance exception is justified.

3 And I think when you look -- this is what
4 I mean by looking at the context of the compliance
5 exception in the overarching rule. It becomes one of
6 those situations where you really don't even need the
7 rule if that's how you're going to apply the
8 exception. Thanks, Ed.

9 MS. ORDAZ: Vonna Ordaz with NRO. I was
10 just going to say thank you, Darani. I agree with
11 your points. I think it feeds right into the need for
12 consistency, transparency and also addressing the
13 perception. So right on. Thank you.

14 MS. REDDICK: Thanks, Vonna.

15 MR. NOLAN: Good morning. I'm Chris
16 Nolan. I'm the Director of Regulatory Affairs with
17 Duke Energy. I appreciate the opportunity to speak in
18 front of you.

19 When I prepared my presentation, I was
20 thinking in my mind about backfit as a process more
21 than a product or an issue, and most of our discussion
22 this morning were things that were referred to CRGR as
23 a product. If you think about it as a process, you
24 may get to different outcomes.

25 Also, I'm speaking to you not only as CRGR

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1 members, but the deputy directors for the offices
2 across the agency that lead the resources and the
3 processes where backfit issues come from. And from
4 Duke's perspective it starts with the inspection, and
5 the CDBI inspection is the inspection most
6 demonstrative of the point.

7 So we have six sites in our fleet and the
8 CDBI is an intensive inspection focused on original
9 design and licensing basis. And at Catawba, McGuire
10 and Harris it's a predictable process. So we know how
11 to prepare for it, we know how to execute it and it's
12 a very stable platform.

13 At our Oconee, Robinson and Brunswick
14 sites the preparation is hard, the execution is
15 harder. It's not always clear how to close the issues
16 that come out of that. And the difference is the age
17 of the plants. So the Oconee, Robinson and Brunswick
18 predate the Standard Review Plan and there's
19 significant time during the inspection focusing on
20 those differences between our current licensing basis
21 and what the Standard Review Plan describes.

22 And so, as Tony talked about it earlier,
23 it is cultural. We do spend a lot of time describing
24 our licensing basis. The willingness to listen and
25 for that discussion to get traction I think has

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1 changed with time making those inspections more
2 challenging.

3 And so, one of the contrasts we have is
4 clarity versus detail, and the absence of detail in
5 the licensing basis for the older plants does not
6 detract from its clarity. If the FSAR makes a
7 statement, that is the licensing basis. There's a lot
8 of discussion about the whys behind it that would show
9 up in the FSAR for Catawba, McGuire and Harris, but
10 don't show up in the FSARs for the other plants. So
11 you have to look for correspondence, and it may not be
12 documented because it may be based on engineering
13 judgment.

14 Compliance versus safety. If there's a
15 safety issue, Duke will address it. Compliance issues
16 become more challenging because the staff is aware
17 that if they find us in violation, we're required to
18 take corrective action. So sometimes there's a rush
19 to the end to see what the end would look like to get
20 -- that frames the discussion at the beginning. And
21 the dynamic is inefficient and the dynamic can be a
22 distraction on safety.

23 And so, I'll give you two examples that
24 kind of illustrate the point for your consideration.

25 The first one is the Oconee cable

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1 separation issue. Right now it's the subject of a
2 TIA. It was first raised in 2013 as part of the PSW
3 inspections. It was picked up in the 2014 CDBI and
4 the team exited with a URI on the topic that later
5 resulted on a TIA. NRC raised safety concerns
6 associated with Duke's locating control power and
7 power cables and control cables together in the same
8 trench, and we understood those issues. The TIA is
9 much broader than the URI, and as part of the TIA
10 process we voluntarily submitted documents in May and
11 August of 2015 to describe what our licensing basis
12 was in our interpretation.

13 There's no real role in the TIA process to
14 do that, so we just did it proactively. And we talked
15 earlier about clarity in comments, so the fact check
16 process, I think, Duke would highly endorse as a
17 positive. I think it lent some frustration on the
18 inability to dialogue. We could dialogue during the
19 inspection, but once the TIA was in place, it limited
20 communications. And not knowing where the issue makes
21 the regulatory process unpredictable.

22 So we did modifications to remove the
23 control power from the trench to address the staff's
24 primary concern. The control power we used in that
25 trench was not the standard cable we used at the

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1 plant. We used a bronze tape that's jacketed because
2 we wanted to run a mile-long continuous cable rather
3 than splice it in the middle of the trench. And the
4 staff raised that issue and we accepted that part of
5 the issue.

6 For Oconee, McGuire and Catawba we used
7 the armored cable. We've done cable fault testing.
8 The testing for the armor was done back in the '70s
9 and written into the McGuire Safety Evaluation. It
10 was approved at Oconee under engineering judgment.
11 For the bronze tape we did fault testing last fall to
12 show the application. And we submitted an alternative
13 to accept the as-is configuration with some
14 enhancements and the testing.

15 And we did it for two reasons: One reason
16 was it created a vehicle to have communications. It
17 was a different process. It wasn't the TIA process.
18 And another reason was we were trying to address the
19 safety concern. We were trying to implement the
20 corrective action. Compliance hadn't been determined
21 yet, but we were trying to be proactive to resolve the
22 issue. So differences in the interpretation remain.
23 A lot of focus on compliance. I think the safety
24 issues have been addressed.

25 Independence and review. We provided the

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1 information as a result of the TIA fact check, but
2 it's not any different than what we've been saying
3 along the way. So there was very little new in the
4 TIA. There was very little new in our response to the
5 TIA. And the reason I'm bringing this up is that TIAs
6 aren't generally reviewed by CRGR. And in our
7 response back we identified a number of indications
8 where we believe there's new and different
9 interpretations being taken. And so, when you
10 consider the scope of your review and the role of
11 CRGR, understand that this dynamic bypasses you by
12 process.

13 The next issue I'll talk about is our
14 external flooding issue at Oconee. It was originally
15 licensed as a dry site. We did a PRA analysis for it
16 back in the mid-'80s at the direction of FERC. It was
17 the standard for all dams. And we submitted that to
18 NRC for awareness. And we got a white finding back in
19 2006. We did an enhancement to the plant to add a
20 flood wall. It had a slot in it. We passed cable
21 through the slot. We left the cable in there for a
22 long time because it was above the calculated flood
23 height. We didn't see it as a safety issue. The
24 inspectors saw that we used the top of the wall in our
25 PRA and part way up the wall in our design, and so

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1 that became a Maintenance Rule violation.

2 We disputed it because we didn't think
3 something outside of our licensing basis should be a
4 greater than green finding and outside of our design
5 basis. And as a result of that, and other issues
6 going on in the industry, there was a focus on dams
7 and upstream dam failures. We got a 50.54(f) letter.
8 And one could argue that it should have been a DFI.
9 But that gets back to interpreting the licensing basis
10 and compliance.

11 And so, we did deterministic analysis to
12 support the 50.54(f). There was a CAL. There were
13 comp measures put in place. The NRC issued a Safety
14 Evaluation, but there was no submittal from us other
15 than the 50.54(f) letter, so it wasn't in a licensing
16 process.

17 And so, why do I go through all that time
18 period? Because for five years we were talking about
19 compliance. When Fukushima happened, the dynamics
20 switched to safety. And so Fukushima created a
21 process where we could get a product in front of the
22 staff to make it an adequate protection, reasonable
23 assurance kind of finding. We put mitigating
24 strategies in place. We added some modifications to
25 enhance the robustness of the site from flooding. The

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1 NRC accepted our flood hazard reevaluation.
2 Modifications were completed. The CAL is closed. We
3 have response strategies in place that's been added to
4 our licensing basis as beyond-design-basis of that.

5 And so, the point of bringing this example
6 up is for the first five years we talked about
7 compliance and what compliance meant. For the last
8 five years we talked about safety, and that's where
9 the resolution was found. And so, when we talk about
10 cultural issues and we talk about backfit, earlier
11 engagement can result in a more stable regulatory
12 process and get more timely resolution and more
13 economical resolution. So this project was over \$100
14 million. The cable separation is at about 20 million
15 now.

16 And so, these are the some of the things
17 that we did. We elevated power lines to get them out
18 of flood plains. We put in walls to divert the flow.
19 We put in valves inside the plant to prevent drains
20 from backing into the plant if there were over-
21 topping, and we put in reinforcements in our earthen
22 structures near critical components to make sure that
23 they weren't susceptible to erosion. So significant
24 improvements to the plant. The mitigating strategies
25 are a significant enhancement. I think safety was

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1 served. I think the first five years we were caught
2 in a compliance paragon.

3 And to be honest with you, the word
4 "backfit" never really came up during the whole
5 discussion. And maybe if there was a process that we
6 got into, we could address the safety issues and got
7 to an outcome sooner. So I really believe Fukushima
8 was a turning point in the resolution of this issue.

9 So when I think of the path forward, I
10 recognize that compliance is important, but the focus
11 should be on safety and compliance shouldn't be a
12 distraction from that.

13 Bill Dean has talked about the low-risk
14 compliance issue, and Duke highly supports that. But
15 we're treating a symptom. I think inspection
16 oversight is really an opportunity. We just had our
17 CDBI at Robinson and we had a number of these types of
18 issues come up, and they got discussed with the team
19 and resolved satisfactorily. So I recognize
20 difference in performance.

21 And so, we appreciate that. And so, there
22 are opportunities for success. And I think there is
23 a role for CRGR in driving those changes, both as
24 members of the committee and also in your normal roles
25 in the line organization.

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1 I think independence is important because
2 the inspectors are raising issues that they believe in
3 personally, and they should. And so, there needs to
4 be another place to go where differences can be heard
5 to make the process more efficient.

6 Not all issues involving backfit to CRGR.
7 That's something that you can look at. And plant-
8 specific issues have generic implications. The
9 armoring issue at Oconee effects Catawba and McGuire,
10 and the issue that Exelon is facing at Byron and
11 Braidwood we're watching closely to see how it will --
12 what the outcome will be and how it will affect us.

13 In our opinion a clear and transparent
14 process is the key to the path forward. And if we get
15 into the backfit dialogue sooner, we may get more
16 successful outcomes quicker.

17 Thank you. Happy to answer any questions.

18 MR. WERT: So I'd offer a couple comments,
19 Chris. This is Len Wert. I'm somewhat familiar with
20 the Oconee issues, having spent a lot of time there.
21 I agree with your comments with respect to early and
22 full engagement by the branch chief and the leader of
23 the team.

24 In the Robinson case that you specifically
25 cited there wasn't any magic bullets there. It's just

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1 that we've been hearing discussion points about these
2 inspections and about some of these processes, and we
3 kind of revitalized our focus on some aspects of our
4 inspection.

5 And I think in this case -- and of course
6 it did take cooperation on the part of the licensee to
7 dig up some of the answers, because there still is an
8 aspect there of we're looking for today's type
9 documentation for older issues. That's still there a
10 little bit and you guys have to do a lot of work on
11 your side. So there's no magic solution that worked
12 in that case except for just more, I think, diligent
13 inspection oversight was instrumental there.

14 Your comments on getting the issue to
15 safety, get the issue to what the safety issue -- what
16 is the safety implications of the issue and step back
17 from what IEEE standard is part of the licensing
18 basis. I think that is a key issue here. That's a
19 key element. And you might be encouraged to know that
20 from the beginning of the Oconee TIA issue that has
21 been the discussion on the table often times between
22 the managers and the NRC and the staff is what's the
23 safety issue?

24 Because I agree with your statement,
25 Chris, that if Duke Power understands that there's a

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1 safety issue, they're going to take it on and they're
2 going to fix it. And those issues that are involved
3 with that TIA, we have not been successful, I don't
4 think, on each side in understanding where we stand as
5 far as the safety implications.

6 I think another element that you kind of
7 touched on a little bit but has been instrumental to
8 me; and Ms. Reddick's comments earlier on brought it
9 back to mind -- I started as an inspector at a site --
10 back in the '80s at a site that was an older site.
11 And so, it was drummed into me from the beginning that
12 you have to have a healthy respect for licensing basis
13 differences. And for some reason I think we've gotten
14 away from that, because I can -- I mean, I can today
15 see my senior resident inspector explaining to me if
16 you're going to cite a general design criteria and
17 that's all you've got, you'd better think twice. And
18 that's always been like a little third rail out there.
19 Find something else to go about it.

20 So, I guess that's just a long way of
21 saying that I agree with these aspects today. And
22 maybe -- I agree that part of the solution is we've
23 got to have better processes and we got to be able to
24 steer our staff that you need to have more guidance,
25 what questions do you ask, what things do you

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1 consider, but I think part of the answer just is truly
2 back to the basics.

3 MR. NOLAN: Thanks for your comments.

4 MR. WERT: Thanks.

5 MS. ORDAZ: I agree with Len's point;
6 Vonna Ordaz with NRO, on guidance to staff and I
7 think, Greg, you mentioned earlier about decision-
8 making and where is that done? And I think that's
9 part of the point, which is getting the decision-
10 making down to the lowest level possible. So I think
11 that's helpful.

12 The one thing you mentioned, Chris, on
13 independence, I think that's a really important point
14 and I think I heard it elsewhere this morning, but the
15 independent staff review is needed. I mean, that
16 falls right into our principles of good regulation
17 that we know Vic is very, very strong speaking about
18 and doing. And we fully agree with that.

19 And then the focus on safety, I know you
20 and also Tony mentioned some things on the need to
21 focus on safety, and couldn't agree more. So
22 appreciate the comment.

23 MR. NOLAN: Thank you.

24 MR. HALNON: Well, good morning. I am
25 going to talk a little bit -- probably add on to what

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1 Chris has said and hopefully not be too repetitive.
2 Different examples, maybe. But there have been some
3 -- you know, several high-profile backfit cases over
4 the last five or six years that kind of steal the
5 headlines.

6 We kind of -- most of these, if not all,
7 have started with an inspection issue, and we kind of
8 react to those, usually the result of questions
9 dealing mainly with the plant design. And typically,
10 a lot of these result in some physical modification or
11 procedure change to the plant. Modifications of any
12 kind in a plant are difficult. Most of them are very
13 expensive. They are disruptive to operations. They
14 require special plant configurations. You've got
15 materials, you've got new stock items in the
16 warehouse, initial and continuing training, new
17 systems engineering knowledge and abilities, ongoing
18 preventative maintenance, initial and operational
19 procedure changes.

20 You can -- I can just go on forever how
21 just a small modification in a plant touches a lot of
22 tentacles, including training and other things, so we
23 take any and all modifications very seriously, and we
24 want to make sure that we don't treat them as a small
25 task, but only be done when they are absolutely

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1 necessary.

2 Compliance issues where the cost of the
3 modification, at least in our opinion, far outweighs
4 the safety benefits, must be carefully adjudicated,
5 especially in today's world that we've been talking
6 about. I mean, clearly, you all are living the same
7 type in Project Aim, or living it in Delivering the
8 Nuclear Promise. We're looking very -- very closely
9 at cost.

10 So there is a category of what I want to
11 -- that are backfits that I want to bring to your
12 attention. They never really come to the attention of
13 the CRGR because they never get to that label, and --
14 and Tony has mentioned it about the acquiescence and
15 whatnot. There are items that are identified by
16 inspectors during inspections. Usually these are in
17 design basis inspections, sometimes and most often
18 reactive inspections, maybe some other deep dive
19 inspections such as heat sinks, that start as a
20 question, but sometimes feel like a quest to prove the
21 original licensing basis wrong.

22 And I know that is probably unfair in some
23 situations because the questions, you know, are
24 usually followed up by more questions and whatnot, but
25 I think Chris mentioned it. Engineering judgment that

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1 is not documented is very difficult to reconstitute
2 after many many years, and sometimes, the folks that
3 are being questioned on compliance with a standard are
4 the very authors of the standard itself. Back in the
5 '70s, we'll see so-and-so wrote this, did the review,
6 accepted it, and now in the 20-whatevers, the
7 inspector is saying, well, that person was wrong.
8 Well, it is hard to -- hard to understand.

9 So we will talk through a couple of those.
10 It is a difficult process, and it puts both us and the
11 inspector in a difficult position when we have to
12 trust half-century-old statements that are very
13 conclusionary and don't have a lot of documentation
14 backing them up.

15 So what I am going to do is talk about
16 these things, and I don't want to take away from the
17 compliance backfits that we've been talking about, but
18 it is not a volume problem. There's not a whole bunch
19 of these. Some very high-profile ones. I have five
20 from 2011, from 2011 to 2015. It is not all that
21 many, so you're talking about 100 reactors, and you
22 have five compliance-specific facility backfits.

23 But, you know, since -- well, since 2005,
24 there has been two cost-justified. They were both
25 generic. Adequate protection was benign. They were

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1 all generic. Admin exemption, whatever that is, there
2 has been two, Part 52 and aircraft and spent fuel pool
3 instrumentation. And the compliance exceptions, since
4 2005, there's only been nine, all plant-specific, all
5 from inspections, except for the Condition 2, the 3
6 thing that is going on that I don't understand, so we
7 won't go into that.

8 But the inspections that we have every
9 day, they contain numerous backfits in our opinion.
10 Some get to the TIA space and are ruled as backfits.
11 In 2005, DC Cook had a degraded voltage design issue
12 that was asked to be -- through TIA's URI, TIA, the
13 region wanted to give it a violation. TIA came back,
14 said it's not a violation, it's a backfit.

15 Palisades 2008, they had a fast transfer
16 scheme issue. Again, TIA found in the CDBI, came back
17 as a backfit. Fermi 2008, under-voltage design time
18 delays, you know, ruled a change in staff position.
19 Hatch 2011, under-voltage design. It was approved in
20 1977 and 1995, but it was found in error in accepting
21 that approach. And then we're undergoing presently an
22 issue with Perry, again, under-voltage design. And
23 I'm not going to go into any details on any of these
24 unless you want to. I don't have all the details, but
25 they all seem to come out to the right spot.

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1 But most do not, and here lies the
2 problem. Many inspections contain these types of
3 discussions, and in some cases, many cases, they turn
4 into arguments, ranging from trying to understand why
5 an approval in the past was an error to why it is
6 right now versus not then when the author of the
7 document who wrote the standard says it was in -- I
8 mean, it was approved.

9 In some cases, we actually have almost on
10 top of each other a branch technical position being
11 issued in 1972, and two months later, an approval in
12 an SER, and then now that is wrong, and it befuddles
13 us how the authors of the original document could be
14 wrong when they were reviewing the actual issue.

15 This -- this happens in CDBI space; some
16 other inspections, but CDBI mainly, because that is
17 the deep dive, it does look at the inspections, so
18 -- . We find that inspectors don't like the word
19 "backfit." It is a very legalistic process. It tends
20 to put everybody on their heels, except for the
21 attorneys, who just can't wait.

22 (Laughter.)

23 MR. HALNON: So -- so when you say
24 backfit, it just feels like you're going to court, and
25 it's a hard word to come out of your mouth. But it is

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1 a common point of discussion behind the scenes with
2 senior management at the site. Any time an inspection
3 issue may result in a modification or a significant
4 procedure change, especially the high-profile
5 procedures like EOPs and other things like that, we
6 talk about backfit, what are we going to do, is it
7 worth saying that word and going through the process?
8 Who do we have to get involved? And of course, as
9 soon as you say attorneys, that's something, you know,
10 kind of tables kind of turn on you.

11 But -- but we do talk about that often,
12 and we -- we assess the -- the risk of actually
13 bringing it up, because attempts at claiming the
14 backfit before the inspection in exit meetings are
15 sometimes met with dismissiveness: in other words,
16 it's not really, or we'll figure it out, or something
17 like that. And -- and I think we're not sure what
18 happens behind the scenes at the lower levels, and we
19 talk -- go back to decision-making, and that's partly
20 our fault because we don't make the phone calls. We
21 tend to back up and draw a line rather than to really
22 get into it.

23 I know that the recent Perry issue,
24 excellent interaction with us and the region relative
25 to what decisions are being made, what information is

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1 being needed, and how can we help, and I think that is
2 going to come out. I am not going to presume, but I
3 think -- at least I know everything is understood
4 between both the region and the site, so that -- that
5 is an issue that I would say we didn't hesitate to
6 pick up the phone and call, but often, when we hit
7 this backfit discussion, we -- we tend to draw a line
8 in the sand, and we back up and say, okay, now it is
9 a legal process. But sometimes informally, by saying
10 that, it just feels threatening, so we tend to not say
11 it.

12 So I think hopefully, as we -- there is
13 more public dialogue about this, it will get that fear
14 out of our vocabulary. We won't have to worry about,
15 you know, does it feel threatening?

16 The other piece of this that -- and I've
17 changed this bullet a lot of times, alienating the
18 inspector. We don't want to make them mad. We don't
19 want to make them feel like we're saying they're
20 wrong. We don't want to ruin that relationship
21 because, frankly, that is an important relationship to
22 ongoing dialogue. And we often get a -- a statement
23 that informal -- that the NRR concurs. Well, the
24 formal use of that is TIA, but a lot of times, they're
25 calling their buddy from the region to the NRR, and

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1 yes, yes, I get that. That is the way it feels like.

2 So it is important that we understand what
3 goes on behind the scenes, so the transparency aspect
4 is important. But one of the things that -- that
5 comes up is this voluntary -- if we voluntarily change
6 whatever we -- you know, the acquiescence, that I
7 guess is what I'm trying to get to.

8 So MD 8.4 says voluntary is without force
9 of -- this is where it gets really legalistic, even in
10 your own procedures here -- without force of legally
11 binding requirement or NRC representation of further
12 licensing enforcement action. Any time that you
13 disagree that a modification or procedure change needs
14 to be made, there is an implicit representation of
15 further enforcement action, so we feel like the
16 acquiescence or the agreeing to something to change it
17 is -- is really the -- the better way out at times
18 when we don't really believe it is. So that open
19 dialogue is important on that respect.

20 Some other high-profile backfits that
21 maybe we may or may not have talked about backfits is
22 the -- the OP DRV, or the operation that could
23 potentially drain the reactor vessel. TIA at Fermi
24 provided some guidance on just how much of a drip is
25 -- is potentially draining the vessel. The BWR

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1 industry took that and wrote that into their
2 procedures, and because it seemed to make sense, then
3 an operator at another plant in Region III mentioned
4 to a branch chief or -- or an inspector, hey, you
5 know, these control rod drives on the bottom of the
6 vessel, they leak a lot. I'm not sure why that's not
7 an OP DRV. And then suddenly, the whole definition
8 from TIA, from Fermi, went out the window.

9 Everybody was now changing their outages
10 and changing the way the procedures called OP DRVs,
11 and it was a tense moment because many plants were
12 heading into outages that were taking credit for the
13 way the procedures were written. Now I know that
14 every TIA decision from one point is not applicable to
15 every plant, but there is frankly some generic
16 guidance in TIAs that come out, especially when you
17 are talking definitions of words that are used. There
18 was really no definition for this OP DRV.

19 So, you know, literally, you could take
20 that to the extreme and say one drip that could drain
21 the vessel in 450 years is an OP DRV, and that's --
22 you know, we got this plain language reading of the --
23 of the tech spec. So there was no -- that probably
24 never was talked about about a backfit, but every BWR
25 changed their procedures based on that.

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1 The risk plus the EGM, this is an
2 interesting one because I think we're in a good place
3 now, but I -- so I don't want to adjudicate the actual
4 technical aspects of this, but it is how sometimes you
5 can put some well-meaning actions together that really
6 forces you to a backfit. So the risks in the tornado
7 said that if you didn't have it, well -- this is the
8 original at the very first public meeting -- if you
9 didn't have -- if you don't have a good explanation in
10 your licensing basis of why your tornado protection is
11 okay, then we will assess that to today's guidance.
12 And when we do that, we will give you three years to
13 fix anything before we take any enforcement action.

14 So the risks in itself, clarifying your
15 licensing basis is a good idea, doing today's guidance
16 backfit, telling you that you better do it in the next
17 three years, otherwise, if you find something, you
18 will be shutting down the plant. We won't give you
19 enforcement guidance -- or enforcement's discretion.
20 That whole equation turns into a pretty significant
21 backfit because you're basically, by enforcement
22 action, forcing us to go off and assess our plants and
23 change it to today's guidance.

24 Now that, over time, and after that first
25 public meeting, it moderated. The explanation I got

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1 when I raised that issue in that public meeting was
2 that we just had not done a good job in the last 30
3 years of inspecting this. It was not a real
4 satisfying answer to why now?

5 So again, those types of things, they
6 occur, and I think you have to look at the totality of
7 an action rather than just individual documents that
8 may come out. The flooding 50.54(f), in Phase 1, we
9 had to go off and reevaluate our flooding hazards to
10 the present day regulatory guidance. 50.54(f) is
11 information gathering, so we sent the information in.

12 Phase 2 says if necessary, and based on
13 results of Phase 1, determine whether additional
14 regulatory actions are necessary. That is correct.
15 You would take that information, decide whether or not
16 a backfit is required at a plant based on the present-
17 day guidance. But the backfit was for sites where the
18 reevaluated flood exceeded the design basis, we were
19 requested to submit an interim action plan, documents
20 actions planned or taken to address the reevaluated
21 hazard. That is a backfit.

22 It said interim evaluation, actions taken
23 or planned to address any higher flooding hazards
24 relative to the design basis prior to the completion
25 of the integrated assessment must be described, and

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1 actions, additional actions beyond requested
2 information taken or planned to address flooding
3 hazards, if any.

4 One of our plants, we reevaluated it over
5 the design basis for the present-day guidance. We did
6 not put any interim actions in place. We got called
7 on the carpet by the NRC. I explained to them it
8 would have been backfit. This -- throughout this, it
9 says there is no backfit from 50.54(f), and we were --
10 we, you know, eventually came to a quiet time on the
11 telephone.

12 So the JLD industry-wide guidance
13 specifically said not to do any backfits, so again,
14 here we are with, you know -- I used to call it the
15 north- and south-going Zax. So I don't know if you
16 were ever Dr. Seuss fans, but it's a story about two
17 Zax that stand nose-to-nose. One would not go north,
18 one would not go east, west, the other one would not
19 go east, west, or south, and they just stood there and
20 looked at each other, so sometimes that happens.

21 And at the 805 incipient fire detection,
22 I don't want to, again, adjudicate the technical issue
23 here, but the FAQ process put in a number for
24 incipient fire detection credit in your PRA. At least
25 ten sites got licensed to that. I think there's three

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1 that are pending. Numbers may be a little bit off,
2 but that is about right.

3 And a draft NUREG came out and had
4 different credit. The staff canceled the FAQ and
5 turned in, said you have to follow the draft guidance
6 in the NUREG, which changed by orders of magnitude
7 some of the credit we were able to take from incipient
8 fire protection, or detection. Now, I know that Joe
9 Giitter is working on that. He has, you know, been
10 working with the industry, working through that, so I
11 don't want to say that it's not going in the right
12 place, but it is the behavior issue that we're talking
13 about at the decision-making level below some of the
14 SES levels, and I think that's what I am trying to
15 exhibit here. A lot of this is being done much lower-
16 level, the decision-making that is causing this
17 tremendous amount of work.

18 Several years ago, Perry had a GDC-17 and
19 an under-voltage -- well, I don't want to talk about
20 that one. Perry Unit 1 Start Up Transformer was
21 several years ago. Perry Unit 1 was completed, Unit
22 2 was canceled. Perry Unit 2, electrical distribution
23 was completed so that it would give Perry Unit 1 a
24 robust defense in depth.

25 One of Unit 1's transformers failed. Unit

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1 2 was still there. And suddenly, we're out of
2 compliance with GDC-17. That was discussed with the
3 resident, said I don't think you're in compliance, and
4 the plant immediately took that and shut down for 11
5 days as we were trying to get in an emergency tech
6 spec amendment.

7 The bottom line is that, when you look
8 back at it, GDC-17 was reevaluated or reinterpreted to
9 say you needed two instant available startup
10 transformers for your offsite power when that is not
11 what GDC-17 requires, so it comes back to GDC versus
12 compliance versus operational aspects of it.

13 So again, these were being done at the
14 inspector level, resident inspector level, and it was
15 a fair question, but when someone -- when an
16 inspector, NRC inspector, had asked you -- or
17 challenges your compliance with tech specs and GDC,
18 you take it very seriously and -- and take action.

19 So I -- I illustrate those only because
20 they were not classic backfits that we talk about.
21 They were not legalistic. They were operators talking
22 to operators, very smart people talking to very smart
23 people, and trying to find the right place. And I
24 think the idea, if you focused on safety rather than
25 compliance, I think you come out to a better spot

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1 faster, and I think that is the key thing.

2 I don't think there is a safety issue in
3 any of these to the point where we would have to shut
4 down plants or -- or, you know, make significant
5 modifications. However, there is some issues
6 obviously that we need to work through.

7 Now -- one more. Okay. Most of our
8 plants are -- are 40 plus years in operation. There's
9 been numerous design-related inspections. I say
10 numerous, I don't even think you could count them. I
11 mean, through the years, the old out process at
12 different light, you know, and EDSFI, I can throw out
13 the alphabet soup if you want, but I am sure you could
14 probably think of more. And many went through some
15 type of design basis reconstitution process in the 90s
16 based on generic letters and whatnot, so -- and many
17 have gone through the license renewal process.

18 All these things are very intense looks at
19 licensing basis and design basis. So I ask the
20 question: do we have, today, reasonable assurance that
21 our plant designs are adequate? And I think the
22 answer has got to be yes. But we sometimes enter into
23 these inspections with I don't think that that is
24 necessarily true, but we do have words in our SCRs
25 that says your design is hereby approved. And

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1 sometimes the engineers call me up and say, I just
2 don't know if that is true or not going into -- as I
3 am preparing for this inspection, I don't know if I
4 can take credit for what the reviewers did back then.
5 Should I be doing calculations to prove those
6 statements before these -- before these inspections?

7 So the -- the moving target comment I
8 think is -- is well -- well-based. And the other
9 thing is this new information actually removed that
10 reasonable assurance. You know, usually, the more
11 engineering judgment, the more margin you probably use
12 because you -- you're looking at it, but -- but to
13 have an engineer come and ask me if the original SCR
14 approvals are still valid is -- is a difficult
15 question.

16 So would it be better to serve -- serve
17 the focus of -- would it be better to serve plant
18 safety inspections on the -- rather than the -- in
19 design basis itself, more in the maintenance of that
20 design basis, improving the safety going forward? In
21 other words, take reasonable assurance that you've got
22 a good design now. It has operated for 40 years. You
23 have had many inspections, you've had many
24 reconstitutions and design basis time to see that this
25 design works well.

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1 Now, there has been some very high-level
2 events over the years that may ask questions about
3 that, but those high-level events like TMI-2, Davis-
4 Besse had an event, we did a good job of going in and
5 doing extended conditions on the industry and really
6 fixing those. But would it be better served to now
7 focus our inspections going forward, looking forward
8 to improving safety and making sure that that design
9 is maintained going forward, if not made better.

10 If indications of weakness in design
11 attributes surface, then it would be a good time to
12 just do a deep dive, and we do that. We have many
13 events you can go back to where a deep -- I mean, I
14 will just go back to the Perry under-voltage degraded
15 voltage design issue. We had an SIT come in and take
16 a look because we had an event. We had a fuse fail,
17 and we lost the division of power, including the
18 diesel generator, and that didn't feel right to the
19 folks at the region. It didn't feel right to us.

20 And when we looked at it, we did find an
21 area that we needed to fix. But it was not a
22 significant safety issue because we had two divisions
23 left of power that didn't have any -- didn't have the
24 effects, so we didn't have a significant design
25 problem, but we had a compliance issue that we're

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1 going to be fixing. And we also did focus on what
2 would be safer for the plant.

3 So when we have these indications, a
4 reactive inspection such as rather than having the
5 CDBI be a baseline inspection for plants and PEO who
6 have been operating safely for 40 plus years, make it
7 a reactive inspection, do a deep dive when you have an
8 event, go in there and take a look at the design and
9 make sure that there is no weakness in there. So that
10 is kind of a going forward thing, and we're continuing
11 to discuss that with the NRR staff on -- on better
12 ways of doing the CDBI.

13 So in -- in the path forward, I don't
14 think the CRGR as it stands right now, which is, like
15 you mentioned, the part-time committee, should get
16 involved in every design-rated inspection finding
17 because that just would be too laborious. So -- so
18 clearly, we need to get the NRC inspectors and us, I
19 say, as the industry, trained on what -- what should
20 we do when we come to a meeting, you know, a line in
21 the middle that we can't really come to agreement on
22 what a licensing basis statement means?

23 The NRC inspectors are applying today's
24 desires for detail and documentation, which is much
25 greater today than it was back in the 1970s, so it is

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1 almost unfair to the inspectors to say take that
2 statement and agree with it when there is no backup
3 documentation or other -- other things to it, so, you
4 know, the questions are natural. And I would expect
5 my system engineers to know the answers and be able to
6 use that same type of judgment because they need to
7 know and have confidence that the design basis is
8 adequate as well.

9 And -- and the focus, again, should be on,
10 you know, future for the safe operation. And so some
11 -- there should be an easy and a rapid process to
12 adjudicate these backfit claims from inspections and
13 not be afraid to say, okay, that is a backfit, but
14 they are -- they are well below the level of what we
15 call backfits now, and to -- to not even consider cost
16 is -- I think is wrong in this time frame.

17 And I will -- there is just slight, one
18 thing. In Management Directive 8.4, it says because
19 -- this is for when the backfit analysis is not
20 required -- because a backfit analysis is not
21 prepared, staff does not need to make a finding of
22 substantial safety improvement and does not consider
23 cost.

24 In today's world, that is just not right.
25 If it -- you know, we need to consider cost

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1 regardless, and -- and to not make a finding of
2 substantial safety improvement just kind of relieves
3 any responsibility to continue to save -- save this
4 industry from, you know, premature shutdown because of
5 cost.

6 So a while back, we tried to develop a
7 process that we call the risk prioritization process
8 as part of the cumulative impact movement that we had,
9 and I know we are looking at the low-risk compliance
10 issues, but I think the movement is still moving. I
11 think it is just we're looking for the right process,
12 and I think we need to continue to look for an easy
13 and rapid place that we could -- whether it be a
14 Center of Excellence, right now, we have four Centers
15 of Excellence, essentially we have each region that
16 adjudicates the backfit claims, and then we have the
17 CRGR, which is across, so maybe there's five Centers
18 of Excellence.

19 Having a -- a place that we can go from a
20 process perspective to get that quickly done so at the
21 end of the inspection, could be a two-week, three-week
22 inspection, we are done with that issue rather than
23 continuing to argue and develop calculations and
24 analyses and that sort of thing. So I know I was kind
25 of way, you know, all over the place on this. I tried

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1 to kind of rack in a lot of stuff. But I will be
2 happy to take your questions, and I'll look for help
3 from my folks who cued up a lot of these issues.

4 MR. WERT: So Greg, this is Len Wert. I
5 would ask, on page 6, when you talk about an easy,
6 rapid process to address backfit claims from
7 inspections, have you guys thought about how you would
8 do that, if you were the NRC? I mean, what kind of --

9 MR. HALNON: We have thought --

10 MR. WERT: What do you look at --

11 MR. HALNON: -- of a lot of ways to do
12 things if we were the NRC.

13 (Laughter.)

14 MR. WERT: No, I mean, we have all these
15 -- I think what you're trying to say is we need to,
16 you know, pull or extract certain pieces of certain
17 processes we already have, like unresolved item
18 disposition, things like that, and somehow turn it to
19 something that identifies, hey, this is something we
20 need to look at in a different light.

21 MR. HALNON: Yes. To answer your
22 question, Len, no, I haven't sat down and thought,
23 well, what does that process look like? But I think
24 we have got things already in place that can do that.
25 The TIA process could be used, but unfortunately, it

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1 is usually the result of a URI that usually has to be
2 exited out and stuff like that. If we can have a
3 formal question to the folks that -- that -- well,
4 first of all, let's -- we can -- earlier than that,
5 the decision-making piece.

6 MR. WERT: Yes.

7 MR. HALNON: If we can provide -- not be
8 afraid to talk about backfits, and afraid is a -- that
9 is kind of an extreme word, but if we can't be
10 hesitant to talk about that this is a backfit and why
11 and here's the checklist that makes -- you know, that
12 makes it a backfit. Backfits are not a bad thing,
13 because sometimes, they are necessary, sometimes, they
14 may prevent having to do an action. But if it -- if
15 it is a backfit for safety, I don't think there is
16 anyone who is going to argue that that needs to get
17 done, and that is why we voluntarily wrote a letter
18 committing to do the modification at Perry for under-
19 voltage design because we did see a safety issue that
20 we wanted to fix.

21 But it is a backfit, and it is -- you
22 know, even though we have already committed to do it,
23 that is still an open issue that has not been
24 resolved, still a URI. So again, we are way -- like
25 Chris said, we are way in front of it because of the

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1 safety issue.

2 Now, if that comes through that it is a
3 backfit but you didn't do enough, or, you know, your
4 modification doesn't address the full compliance issue
5 -- we're addressing the safety issue. Is it going to
6 -- we don't know. So there is some uncertainty there
7 that we're moving forward with.

8 Now -- so I think it is already in place,
9 but we need to figure out how we can make it a rapid
10 process rather than such a series process with
11 inspection, URI, TIA, answer, modification, backfit --
12 of backfit letter modification, when here we are with
13 inspection issue, commitment to modify. Now we're
14 still in a URI, TIA, we haven't gone through the rest
15 of that process yet. Somehow we should be able to
16 short-circuit that.

17 MR. WERT: So two quick comments in
18 response to that: you know, the -- I understand your
19 point about threshold and the value of this process,
20 and looking at it from a threshold -- I mean, and I
21 see a lot of parallels with the 50.59, some aspects of
22 50.59 in that same -- in that same vein. So I get
23 that part of it, but I think sometimes we're -- we're
24 actually getting into some of the messes that we get
25 into because we take comfort in a process. I called

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1 it an unresolved item, I wrote a TIA, that's it. I
2 don't have to go and think about anything else.
3 That's kind of why I was asking that question, because
4 I think that is a trap --

5 MR. HALNON: I think you are right. I
6 think we're sometimes more focused on getting the
7 process --

8 MR. WERT: Yes.

9 MR. HALNON: -- completed than actually
10 getting the product out of the process.

11 MR. WERT: Yes.

12 MR. NOLAN: So Len, just some thoughts.
13 I think it is a population, and it is also timing. So
14 right now, if the NRC issues a violation, I have the
15 opportunity to dispute it, and that is the entry into
16 the process where at that point, I could claim a
17 backfit. But I have to get to that point, and on some
18 of the issues that are contentious, it could take
19 years to get there. So if I know I feel that way now,
20 is there a way I can refer the issue?

21 And then the second is a devil's advocate
22 within the NRC, because a lot of the people that have
23 the technical expertise to look at the issue
24 technically were involved in raising the issue in the
25 first place, and so how do I go to an independent set

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1 of experts that could look at it without a bias? You
2 know, as Darani said, have the staff and the industry
3 have equal access, you know, to -- to make their case
4 on -- on the issues, similar to the 2.206 process,
5 where the -- the person -- the petitioner and the
6 utility, you know, both have an equal forum in terms
7 of raising their issues?

8 So I don't have it clear in my mind
9 because if I did, I would be a lot smarter than I am,
10 but I think it is both the timing -- can we get into
11 it earlier, and I think your comment about familiarity
12 is important because I think it is -- I think it is
13 not familiar to people, and they shy away -- it is
14 viewed as a barrier for that reason alone -- but it's
15 also the population of people that would hear it.

16 MR. WERT: Thanks for that. But one
17 comment I would say is it's interesting to me that you
18 talk about violations as the entry point of the
19 process because I think the genesis of many TIAs is
20 because someone up in the NRC management chain at one
21 point said I don't get the contrary to the statement
22 here. Where is it? And that probably resulted in a
23 generation of at least some, if not many, of the TIAs.

24 So it is -- it is kind of like, in some
25 respects, we're putting the cart before the horse if

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1 we were to just, okay, let's write a violation. I
2 mean, an example of that would be when you read Duke's
3 response to the fact check on the TIA that is
4 currently open, you know. I read that, you can see a
5 lot of parallels between what would be a denial to a
6 notice of violation. So just -- just another aspect
7 of it, I guess. Thanks.

8 MR. HALNON: And one thing, you know, when
9 you say that violation is the entry point, the
10 violation sometimes in itself is the backfit because
11 we're required to come back into compliance. So if
12 you find a deviation from the design basis that
13 happened in 1972, and you say, well, now it is a
14 violation because we've changed the way we -- we
15 changed the way we interpret that branch technical
16 position, well, if we accept that violation, we
17 basically have accepted the backfit to go back and fix
18 that deviation.

19 So it is a -- the violation is very much
20 of a short circuit to the backfit. And sometimes,
21 that is when Tony was mentioning acquiesce, sometimes,
22 we just say we know where this is going to end up if
23 we try to fight it, so we're just going to accept it.
24 And most of those are in the green, non-significant
25 area, low-significance area. You will see a little

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1 bit more pushback obviously as it gets into the more
2 higher levels of colors and violations just because of
3 the more significant portions of it.

4 MR. WERT: Yes, no, thanks for that, but
5 I -- I think that goes to the point I made earlier
6 about, you know, part of this is just basic discipline
7 and adhering to basic principles because the aspect of
8 something being a green NCV, so the industry doesn't
9 push back, I mean, I understand, you know, there is --
10 you've got to do some analysis of that, and you don't
11 want to disrupt the relationship, but to some
12 respects, that sometimes reinforces poor behavior.

13 And a great example of that that we often
14 see at regional management level is a minor violation.
15 Something is called a minor violation, but when you
16 take a step back and you say well what's the contrary
17 to statement, and that's where the wheels come off
18 because we didn't look at it that hard, and neither
19 did you, because it was a minor violation. But the
20 problem is now you have reinforced, okay, that is a
21 violation, when maybe it wasn't.

22 MR. HALNON: Right, thanks, or if it is
23 not characterized the way we would characterize them.

24 MR. McDERMOTT: Greg, if I could take it
25 back to slide four in the presentation? So I am

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1 familiar with some of the examples on there, and --
2 and, you know, I -- I don't dispute those examples in
3 terms of issues where we've got disagreement or a lack
4 of clarity around, you know, what is the licensing
5 basis? I think the only one I -- I would challenge
6 you on is the -- the incipient fire detection. You
7 know, that is -- that is an issue -- there have been
8 a lot of briefings lately on that topic, by the way --
9 you know, that goes back --

10 MR. HALNON: You know more than I do, so
11 you are already on the --

12 MR. McDERMOTT: It goes back over seven
13 years, but you know, we're not talking about licensing
14 basis in exactly the same way. That issue, for those
15 who have been following it, revolves around EPRI
16 testing that -- that supported I guess in their view
17 credit for those systems at -- I would say at a high
18 level, a factor of -- of 170-something or so. The
19 manufacturers of those devices would represent that it
20 was much higher.

21 And at that time frame, NRC said well,
22 folks are working on their PRAs for NFPA 805. We will
23 accept a factor of 50 because we don't really agree
24 with everything that has been said so far, but we see
25 value in -- in this. After several years of -- of

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1 research and testing that folks had opportunity to
2 comment on, research comes back and says well, there's
3 some factors here that make it much lower credit, and
4 what that has caused us to do is go back to that FAQ,
5 which said here is an interim value you can use until
6 we get better data. Well, now the better data comes
7 back and says, that credit was too high. And so we do
8 need to address that. We can't just leave that
9 hanging out there.

10 It is not the world coming to the end.
11 There's a lot of different things you credit when you
12 fire a PRA, and a number of factors are changing, and
13 over time, the expectation with those documents is
14 that they get updated and there's a periodicity to it,
15 so we see it kind of in that ballpark.

16 MR. HALNON: I don't disagree with you,
17 Brian, and I think that is -- I made the earlier
18 comment today about my favorite process is the FAQ
19 process because that in itself is -- it is -- there
20 are some pitfalls in it from the standpoint that
21 plants were licensed to that number with that credit,
22 and -- and changing the credit in a draft NUREG and
23 then having the staff say you have to follow the draft
24 NUREG is problematic in itself from just the language
25 that they use.

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1 And I know Joe is working on it, but
2 nevertheless, this comes to the point of risk-informed
3 anything where you are using a PRA and new information
4 comes out and you are updating it, so I told my
5 executives that when we go to any kind of risk-
6 informed, you have licensing actions such as 805, you
7 have to recognize you are accepting an automatic
8 backfit any time new information comes out that
9 changes your PRA substantially to the point where you
10 have to make a modification in the plant, and that
11 opened their eyes to wonder if risk-informed is worth
12 it because it changes your design basis from a static,
13 I know where it is at, to a dynamic. It changes with
14 new information.

15 So that's -- so I think that is something
16 we need to put on the table and talk about because I
17 think it is a danger to regulatory stability going
18 forward, and I think it is also a hindrance to wanting
19 -- you know, we all want to do a risk-informed
20 environment in the future, but I think it is a
21 hindrance to it because these plants maybe have 20
22 years left, maybe if you go for another 40, and some
23 of these licensing actions take four, five, six years,
24 which is a significant portion of the remaining life.
25 You have to ask yourself the cost/benefit to doing

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1 that, and I think it is a hindrance to the direction
2 we all want to go into, which is to risk-informed and
3 make it from a safety perspective.

4 MR. McDERMOTT: And I don't disagree with
5 you. I accept the idea that it does have a potential
6 to change it in one direction, but I think on balance,
7 you have to look at all of the changes that go the
8 other direction as well --

9 MR. HALNON: Yes, I agree.

10 MR. McDERMOTT: -- and it is that net --

11 MR. HALNON: That is why we need to open
12 this up and talk about it and see what the best for
13 the industry is.

14 MR. NOLAN: If you think about it, you
15 know, plants made a financial decision to install
16 those systems based on the credit that -- that was
17 advertised that was available, and so it is
18 interesting. NFPA 805 approved the process, but not
19 the PRA, and so -- so we're making decisions based on
20 the PRA, so, you know, it really opens up the
21 question, was it appropriate for NRR to do that,
22 right? It shifted the workload from NRR to the
23 region. It shifted it from the license amendment to
24 the inspection, but it really skirted the backfit rule
25 as well because you can change the safety of our plan

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1 on paper, and you can change the value of that
2 investment through an FAQ.

3 MS. ORDAZ: Right. No, go ahead. Just a
4 couple of things that stood out in your slides.

5 The behind the scenes, whether that is
6 perception or a possible reality, I think it is
7 important, came out in a couple of bullets, that we
8 take a look at that, and any specific feedback you
9 have in that area would be really helpful, whether now
10 or later. But I think it is important for us in our
11 effort to make this as transparent as possible.

12 The other item I heard you mention is the
13 informality of the process, and I think that there is
14 a great opportunity for us to -- to look at that as
15 well and see where we can tighten it up, and
16 especially if you are adding different processes
17 together and that equals a, you know, x plus y plus z
18 equals backfit, we need to understand your logic and
19 your understanding of that so we can help clarify the
20 process.

21 MR. HALNON: Yes, and that does not happen
22 real often, but the Fukushima one probably somewhat
23 demonstrates that. The original draft RIS for the
24 tornado plus the EGM in that first public meeting were
25 where that thought really came to my mind, anyway,

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1 because of the way that it was being put out, and I
2 mentioned that both -- both of those got to where they
3 needed to be, but it is not without that consternation
4 and arguing and all that stuff that is probably an
5 unnecessary distraction to the real issue up front.
6 If we can get through that piece of it to where we're
7 aligned on that aspect of it, or at least go back and
8 not have to spend a couple years to figure it out, I
9 think that would be the best thing.

10 The informal use of NRR concurs. You
11 know, we often ask the inspectors what is NRR's
12 opinion? Check with NRR. And that is what we usually
13 get, but we don't know if it is a phone call, we don't
14 know if it is a letter, we don't know if it is
15 something we can FOIA, we don't know if there is any
16 -- what it is, an email or anything like that, so --

17 MS. ORDAZ: I turn to Brian on that one.

18 MR. HALNON: I mean, we don't want to
19 discourage or make everything a formal, oh, you've got
20 to write that down type of thing, but when it comes
21 down to a decision-making that we think that we should
22 -- at least should be able to see what the process is
23 behind a decision made, so -- .

24 And again, part of it is us. We've got to
25 pick up the phone call -- phone and call, or, you

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1 know, that is -- part of the thing that we don't do
2 well enough is communicate when we need to, and it is
3 on us a lot of times. I am not going to say it is not
4 always the, you know, NRC behind the scenes, it is us
5 not trying to get -- just pick up a phone call and
6 call somebody.

7 MR. CARPENTER: Okay. Thank you all.
8 This has been I think a very fruitful conversation.
9 Obviously, for the people who are calling in from
10 outside, we -- we changed around the agenda a little
11 bit. At this time, I would like to go ahead and call
12 lunch and go ahead and break. We are scheduled to be
13 back, according to the agenda, at 1 o'clock, but since
14 we're an hour and a half ahead already, let's go back
15 at 1:15, 1:30?

16 MR. HACKETT: 1:30.

17 MR. CARPENTER: 1:30, okay. And at that
18 time, Mr. Lochbaum, we'll go to you to give your
19 presentation, and then we will spend the rest of
20 however long the conversation goes with the open
21 dialogue, okay?

22 MS. ORDAZ: All right.

23 MR. CARPENTER: Very good. Thank you all,
24 and we will resume at 1:30.

25 (Whereupon, the meeting went off the

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1 record at 12:08 p.m. and resumed at 1:30 p.m.)

2 MR. CARPENTER: So we're ready to get
3 started again. For those -- everybody in the room
4 obviously knows this, anybody who is joining us for
5 the first time online, we did go ahead and accelerate
6 the schedule this morning and the presentations that
7 were made by the industry perspectives that were
8 scheduled from 1 to 2:30 were made this morning. That
9 took us to approximately 12:15 at which time we broke
10 for lunch. We're now ready to restart again. Mr.
11 Lochbaum will give the first presentation of the
12 afternoon. After that, we will go into the open
13 discussions and continue that until everybody gets too
14 tired to talk or whatever is necessary from there.

15 I will remind everybody in the room that
16 we do have public meeting feedback forms in the back
17 of the room. If you wish to fill those out, tell us
18 what we're doing good, what we're doing bad, what we
19 could do better. And then for the rest of this, thank
20 you very much.

21 Mr. Lochbaum.

22 MR. LOCHBAUM: Good afternoon. I
23 appreciate the NRC accommodating the schedule to
24 include UCS's participation. I do have one small
25 favor to ask is that you don't let news of this

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1 meeting get back to UCS, particularly the Board of
2 Directors. I have four people on the industry panel
3 and only one USC. Usually, the board thinks it's like
4 10 to 1 or 12 to 1. They wouldn't be happy to know
5 that it's only four to one. So please don't let that
6 get back to our board.

7 I have a few slides at the beginning that
8 basically are just background, that provide some of
9 the regulations. The real reason for that is first of
10 all, I want to get the most slides award. There is no
11 cash prize for that, but it helps me pad for that.
12 And second, is my reviewer gets bored after the first
13 three or four, so he doesn't really look at the heart
14 of the slides, so I get a scant review that way.

15 I really wanted to start with our first
16 point from the regulations. It's been discussed
17 several times before and I like Tony's point that the
18 backfit rule is safety focused and that's basically
19 what this slide says. New regulations are not
20 supposed to be imposed unless they're determined to be
21 necessary for safety. And there's a formal process
22 that leads to that decision or that outcome.

23 Next slide, we went through a number and
24 a bridge list of the guidance that backs up the
25 regulation from NUREG 1404 through the regulatory

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1 analysis, NUREG, management directives, and NRR Office
2 instruction including the CRGR itself, and a fairly
3 recent backfit audit report. So there's a lot of
4 guidance available to help individuals implement the
5 backfit rule.

6 I do agree with some of the comments that
7 several people made this morning that could probably
8 be supplemented by additional training so that people
9 have a better awareness of what the words in these
10 various documents mean or how they're applied.

11 So the second point was basically that not
12 only do you have a regulation on the books, there's
13 quite a bit of guidance and implementation --
14 implementing documents that are available to help the
15 NRC staff avoid imposing requirements that aren't
16 needed for adequate protection for lack of justifiable
17 cost.

18 I guess where I disagree a little bit with
19 Tony where the backfit regulation is really there to
20 protect the owners from the NRC imposing requirements
21 that are not necessary for safety or not justified for
22 their cost. So if the process works right, no new
23 regulatory requirements are issued unless it's
24 necessary for safety or it's cost beneficial.

25 It's basically restating that the

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1 regulatory requirements are not imposed unless all
2 those requirements are met. So if it's a safety-
3 focused rule, then once that process is done, that is
4 what is needed for safety, no ands, ifs, or buts. XYZ
5 is what is needed for adequate protection of public
6 health and safety.

7 To restate it a third time, location,
8 location, location, the real estate trick, is that
9 when unnecessary and unjustified requirements are
10 proposed, the backfit rule protects the plant owners
11 from that happening. Or that's the way it's supposed
12 to work.

13 What our concern is is once that process
14 defines what is necessary for public health and
15 safety, what process protects the public when those
16 requirements aren't being met, are being relaxed.
17 It's a safety-focused rule, safety-focused
18 regulations, so what protects the public from those
19 regulations not being met at reactors? We're
20 concerned that there's not the same rigor, the same
21 robustness, the same formality on the other side of
22 the same coin. It's hard to have a one-sided coin.

23 So the question we ask is backfit versus
24 back off. What regulation and associated guidance is
25 used by the NRC staff to determine when it's okay not

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1 to enforce or to delay enforcement of a regulation
2 adopted because it has a safety focus and it's needed
3 for adequate protection of public health and safety?

4 The concern is that there's really not
5 much. There is no formal process with few exceptions.
6 Notices of enforcement, discretion, there's a process
7 that is followed, but by and large, the NRC and the
8 industry can wink-wink, nudge-nudge, and decide not to
9 enforce a regulation that was imposed because it's
10 necessary to adequately to protect public health and
11 safety. For example, does a CRGR review NOEDs to make
12 sure that that process was proper? No. Does the CRGR
13 review scheduler exemptions to confirm that the extra
14 time is justified, is warranted? No. Does the CRGR
15 review decisions to allow reactors to continue
16 operating despite known violations or noncompliances
17 with federal safety regulations that that's proper?
18 No. In NFPA 805 is an example. 805 is apparently how
19 many years it's going to take to come into compliance
20 with that regulation.

21 Why not? If it takes ten people to ensure
22 a process to ensure that the plant owners are
23 protected from an undue regulation, why isn't a
24 similar process there to protect the public from the
25 NRC waiving or ignoring or looking the other way at

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1 non-compliances with that regulation? So basically,
2 what we think needs to happen is a CRGR, too, the
3 committee to review generic relaxations.

4 The industry is protected by CRGR. There's
5 nothing equivalent to that to protect the public from
6 regulations that are not being enforced, not being
7 met.

8 A couple of examples, out of many,
9 unfortunately, was Browns Ferry. Browns Ferry was
10 shut down for roughly 22 years. When Browns Ferry
11 Unit 1 restarted in 2007 it sought and obtained
12 permission from the NRC to start up despite not being
13 in compliance with fire protection regulations that
14 its own fire prompted. Is there an analysis of that
15 showing why that's okay to not meet a regulation
16 that's necessary for adequate public health and
17 safety? No.

18 To be fair to the NRC, they did not grant
19 that exemption until TVA asked for it, so they didn't
20 impose the relaxation on TVA until they asked for it,
21 but there was not similar formal process that ensured
22 that that was the right decision.

23 So for 22 years, they couldn't find time
24 in that two decades plus period to come into
25 compliance with fire protection regulations that were

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1 adopted by the NRC in 1980 because of the Browns Ferry
2 fire. And yet, the NRC allowed that plant to restart
3 despite knowing it didn't meet those fire protection
4 regulations. By the way, from a risk perspective, the
5 Browns Ferry fire was the closest to core melt that
6 we've come since Three Mile Island. So it wasn't just
7 a cross your t and dot your i's type of thing. It's
8 fairly risk significant.

9 Where was the regulatory analysis? Where
10 was the comparable type of formal rigor applied to the
11 imposition of regulatory requirements that was applied
12 to the waiving of those regulatory requirements?
13 There wasn't anything like that. We think that
14 whatever protects the owners from undue regulation
15 should protect the public from undone regulations.

16 Second example is more recent. It was the
17 fire protection fixes under an NFPA 805 at Oconee. On
18 May 30th of 2008, Duke applied to the NRC for a
19 license amendment to transition to the NFPA 805
20 process. I'm not sure why I included that one, unless
21 I was going to make sure I won the most slides award.

22 December 29th of 2010, the NRC approved
23 the license amendment for the transition to NFPA 805
24 at Oconee. And part of that license amendment that
25 was granted imposed a deadline that the modifications

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1 of procedure changes and all the other things that
2 went in the license amendment request had to be fully
3 implemented by January 1st of 2013 which was four and
4 a half years after Duke requested the changes, so it
5 wasn't a rush job imposed on poor Duke.

6 July 31st of 2012, Duke comes in and says
7 they need more time to meet that now six and a half
8 year deadline or whatever it was. And they needed two
9 more years to meet the deadline for the transition in
10 NFPA 805.

11 January 15th of 2013, the NRC denied the
12 request for an extension, two-year extension, which
13 doesn't happen very often, but the NRC did deny the
14 amendment request. In the body of the denial letter,
15 the NRC said the reason -- I must have learned a new
16 trick -- the reason for that was that the risk
17 increase was four times what the NRC would find
18 acceptable. So the two-year extension was denied
19 because the risk implications were too high.

20 So on July 1st of 2013, the NRC issued an
21 order requiring Duke to implement the fixes within
22 four years. Two years was too risky, so take four
23 years. We'll take four years to do it. That would
24 have made more sense if it had been issued on April
25 1st, 2013, but instead it was issued on July 1st.

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1 So the new deadline, after two years, and
2 an extension to 2014 was too risky, was November 15th
3 of 2016. Again, there was no regulatory analysis, no
4 rigor, no similar process. The imposition of the
5 regulation that became NFPA 805 to the NRC waiving it
6 and giving Oconee more time to come into compliance
7 was also done outside the Administrative Procedures
8 Act.

9 The license amendment was a public
10 process. The public could have intervened and said
11 that waiting until January 1st of 2013 was too late.
12 It was issued that way. The public just assumed the
13 NRC would back up its words. So when Duke came in and
14 asked for more time, that's not done with any public
15 participation. It's all done between a closed-door
16 negotiation between the NRC and the licensees in a
17 request that was too risky was ordered to be taken in
18 four years. There's something totally wrong with a
19 process that allows nonsense like that.

20 So you had this public process that first
21 developed NFPA 805 regulation. That is necessary for
22 adequate protection of public health and safety. Then
23 you had a public license amendment process that
24 allowed the public to say that was taking too long or
25 that wasn't sufficient. The NRC issued a license

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1 amendment that said you will do this by this date.
2 But then without any kind of CRGR or backfit-type
3 process to ensure that that imposed regulation could
4 be waived, the NRC waived it. We think that's wrong.
5 We think something similar to the measures that
6 protect the public from undue regulations again need
7 to protect the public from regulations that are not --
8 that are undone. And right now, the public is not
9 getting that protection.

10 Other back off examples, you've got the
11 scheduler exemptions from Fukushima Orders. Fukushima
12 Orders were taken because the measures were deemed to
13 be necessary for public health and safety. And the
14 rulemaking process that would normally impose that
15 would take too long. So it was necessary to jump the
16 gun, get these out, get these safety upgrades
17 implemented for public health and safety reasons.
18 Then licensees asked for more time. The NRC said
19 sure. Not until you ask though. We won't grant you
20 an exemption until you ask for it.

21 Where is the process that shows that those
22 exemptions, that additional time is warranted, when on
23 the front end additional time was deemed inappropriate
24 from a public health and safety standpoint. How can
25 you have both be right?

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1 If you look at the -- we're coming up on
2 the 20th anniversary of GSI-191, the PWR containment
3 sump issue. In September of 1996, the NRC accepted
4 GSI-191 and said it was a "high priority" safety
5 matter. There are some plants that are still not
6 fully compliant with the measures implemented
7 allegedly to solve GSI-191.

8 We sometimes facetiously say license rules
9 are necessary to give the time necessary to come into
10 compliance with these safety measures and it's
11 unfortunately true, but it should not be a burden
12 undertaken by the American public.

13 Oconee is still working -- basically, any
14 issue out there, Oconee has got it. Oconee is still
15 working towards resolution of tornado protection that
16 were identified sometime last century. Sometime this
17 century perhaps they'll be resolved. There's been no
18 analysis like that done for imposition of new
19 regulatory requirements that can say taking decades to
20 solve a safety problem is okay. And yet, it's being
21 done.

22 And reactors, except Seabrook, are
23 operating despite not complying with GCG-17 as it's
24 implemented in the current licensing basis and yet
25 there's not been an analysis shown why that's okay, an

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1 analysis comparable to that that's done when
2 regulations -- regulatory requirements are imposed.

3 So the point between backfit and back off
4 is that they're worlds apart in how this Agency
5 handles it. On the backfit side, there's a regulation
6 and accompanying guidance to ensure that poor plant
7 owners aren't burdened by unnecessary safety upgrades,
8 unless they're required for safety or cost beneficial.
9 The regulations et al. protects the owners from that
10 outcome.

11 Nothing like that protects the public when
12 the NRC decides that a regulatory requirement does not
13 have to do that at a licensee or more than one
14 licensee.

15 It takes X, Y, and Z to protect the owners
16 from undue regulatory requirements than it should take
17 a very similar process X, Y, and Z to protect the
18 public from the NRC relaxing those requirements
19 unnecessarily. It's only fair. We talked this
20 morning about fairness. It's unfair to only protect
21 the owners from a rogue agency and not protect the
22 public from that same agency.

23 The NRC has got some very fine people, but
24 the regulations and accompanying guidance ensures that
25 those very fine people don't burden the licensees

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1 unnecessarily. All we're asking for is something
2 equal to that to protect the public from those fine
3 people putting -- transferring the undue burden on the
4 public for regulations needed for safety that that
5 aren't being met.

6 I should point out that we don't contend
7 that if those processes existed that any of the
8 decisions would have been different. We think at
9 least some of them would have been different, but
10 we're not throwing this up saying if you have this
11 process, all of those decision would have been
12 prevented. What we're saying is if you had that
13 process, either way, whether the decision was to allow
14 more time or allow a regulation not to be met or not,
15 at least it would be transparent. People could see
16 what that reason was, what that basis was, what that
17 justification was, and could understand it. When you
18 don't provide that process, when you don't provide
19 that evaluation, you create a vacuum that our
20 imaginations fill. And trust me, when we fill that
21 vacuum with motives, it's very seldom charitable to
22 the NRC. So if you went through the process and you
23 explained and made public the reasons why a regulation
24 adopted for safety doesn't have to be met, maybe we'd
25 agree with it. But you at least owe the public that

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1 information.

2 The bottom line here was that we deserve,
3 the public deserves, comparable protection against
4 unnecessary and unjustified back offs that the poor
5 plant owners get from unnecessary and unjustified
6 backfits. Again it's the same process leading to the
7 same answer. If the focus is on safety, it's
8 ridiculous to focus on safety and then wander away
9 from it informally or casually and that's what's
10 happening right now and that needs to stop.

11 I want to finish up with the regulatory
12 analysis slide. This is a transparency or openness
13 issue. We look at some backfits or some regulatory
14 requirements that are imposed and cannot for the life
15 of us figure out how that happened. On the left is
16 the backfit rule as it's supposed to work. On the
17 right is how we see the process working. It's one of
18 those where because adequate process is like beauty,
19 it's in the eyes of the beholder. It's not really
20 defined, it's up to whatever anybody thinks. And
21 because the cost beneficial analyses you can adjust
22 the costs or you can adjust the benefits as you want
23 to get any outcome you want, you've got enough choices
24 here. You can pretty much come up with any answer you
25 want to. Claim something as adequate protection,

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1 claim something that's cost justified. And you can
2 iterate until you get the answer you want, either not
3 to do it or to go ahead and do it.

4 There's no -- you put ten people in a
5 room, you are going to -- there's only two answers.
6 But you're going to get a number of votes -- it should
7 be repeatable. You should be able -- whatever
8 decision is reached by the Agency, whether they impose
9 a backfit or not, it should be that reasonable people
10 understand why that outcome was reached and that's not
11 the system we've got right now.

12 Some examples, again, out of many that we
13 could fit, this is per the elaboration, adequate
14 protection is so vaguely defined that it can be
15 invoked or revoked at whim. Same with cost benefit
16 studies. You could either show that something is
17 ridiculously cheap and should be imposed or you can
18 show that it's way too costly and should not be
19 imposed. So you basically have the answer and you
20 work backwards through that silly process to come --
21 to justify either doing it or not. If that's the
22 case, just eliminate the silly process and tell us
23 you're going to do it or you're not, since it's all
24 fun and games, voodoo regulation or whatever. Just
25 skip the voodoo. Just tell the answer.

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1 The last point there was that the process
2 is objective, both the industry and the UCS object to
3 it, but that's not the objective that it needs to be.

4 Some examples of backfits that basically
5 don't make any sense to us was the spent fuel pool
6 level instrumentation order that was issued on March
7 12th of 2012. It was obviously something that was
8 wanted by the NRC and we were able to navigate the
9 wickets to impose it on the industry. I'm a big fan
10 of spent fuel pool safety and security, but spent fuel
11 pool level instrumentation doesn't make any sense to
12 me at all.

13 If you go back to the NRC's spent fuel
14 pool consequence study that concluded the risk of
15 spent fuel accidents is very small after 60 days, if
16 that were anywhere close to being true, you should
17 have ordered calendars instead of level instruments.
18 The level instruments, even if they were free, it
19 wouldn't make much sense to install them, but that was
20 deemed to be necessary for public health and safety.
21 It makes no sense to us.

22 Unwanted by the NRC and not imposed is the
23 expedited transfer of irradiated fuel from unsafe and
24 unsecured spent fuel pools into safer and secured dry
25 storage. If you look at those two, which one really

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1 protects public health and safety? It's not the level
2 instrumentation at all. That was done just to show
3 the Government that you did something after Fukushima.
4 It had nothing to do with safety. It was all politics
5 and PR.

6 What would have really protected the
7 public was transferring the fuel from overcrowded
8 spent fuel pools into more secure dry storage, but you
9 manipulated the process and subjected process and were
10 able to justify two answers that were both wrong.

11 And then the last one which is my classic,
12 you can justify or not justify the same thing
13 depending on whether you want it or not. At one
14 point, the NRC wanted filters, the NRC staff, wanted
15 filters and containment vents. Then they were told by
16 the Commission that was the wrong answer. So they
17 went back and played with the numbers and now it
18 became unnecessary and it was not imposed. So again,
19 just skip all those, the nonsense, the foreplay, and
20 tell us what the answer is. And don't use a gamed,
21 silly process to justify a pre-ordained answer. Just
22 go straight to the -- it saves a whole lot of time.
23 And we try to read this and try to make sense of it
24 and it just frustrates the crap out of us. So if you
25 just eliminated that nonsense and came straight out

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1 with the answer, we may not agree or disagree, but
2 we'd save a lot of time reading that nonsense and
3 trying to make sense of it. That's our fault, I
4 guess. We shouldn't read nonsense and try to make
5 sense of it.

6 There's something fundamentally wrong with
7 the process when the answers that the NRC reaches
8 don't make any sense based on the issues. So that
9 would be great if that could be fixed, but enough on
10 that.

11 If you do one thing along the way is do
12 something to protect the public when the NRC sets
13 asides, waives, relaxes, whatever, regulatory
14 requirements. That's not being done. The public
15 deserves that. The public expects that. You need to
16 start doing that. With that, I think that's all I
17 had. Thank you.

18 MR. CARPENTER: Thank you very much.
19 CRGR, any follow up questions or comments of Mr.
20 Lochbaum?

21 MR. HACKETT: Thanks, Dave. I appreciate
22 the participation and the viewpoints. I think it
23 comes back to a lot of the discussion we had earlier
24 on discipline and rigor. And I think it's fair to say
25 there's some instances where I think if you went

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1 around the table here you featured some areas where we
2 weren't at our finest. And particularly, I resonate
3 with GSI-191 and other issues like that. Thanks for
4 the feedback.

5 MR. CARPENTER: Other comments? In that
6 case, thank you very much.

7 We'll now go into the last portion of our
8 agenda and that is the public comments on the various
9 discussion items.

10 As promised this morning, we'll go first
11 to the folks on the telephone. And again, for those
12 who are just tuning in, if you were expecting to hear
13 the industry, we went ahead and accelerated the
14 schedule this morning, so we did those presentations
15 earlier. If you do have comments for the
16 presentations that were given by the industry and
17 would still like to provide them to the staff, please
18 take a look at the meeting notice. You'll see the two
19 contacts, Les Cupidon, Nicholas DiFrancesco. And they
20 have their emails there. So please, go ahead and send
21 any comments to them that you may have.

22 At this time, operator, do we have anybody
23 on the line?

24 OPERATOR: Yes, we have one caller. Go
25 ahead, your line is open.

1 MR. LESHINSKIE: Hello. I just want to
2 make certain people can hear me. I am Tony
3 Leshinskie. I am with the State of Vermont. I am
4 currently Vermont's State Nuclear Engineer.

5 And I have to admit I came into this
6 meeting really not quite certain what to expect.
7 However, I felt that it was important to monitor this
8 meeting mainly because several months ago regarding
9 the Vermont Yankee decommissioning and the pending
10 anticipated Notice of Proposed Rulemaking regarding
11 decommissioning, I felt that it was important to
12 monitor this meeting simply because the Attorney
13 General's Office of Vermont did provide some comments
14 regarding backfit rulings as it would apply to reactor
15 decommissioning.

16 So to the people working on modifying
17 backfit rules, I would certainly ask that you review
18 the comments that State of Vermont, along with several
19 other states, have provided regarding backfit.

20 As I heard the discussion this morning and
21 also Director Lochbaum's presentation just a few
22 moments ago, I realized that there was a lot more
23 going on in this meeting and I did not necessarily --
24 I was not necessarily prepared to really fully follow
25 what was going on.

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1 Part of that, I think, was simply the
2 explanation of what this meeting was intended to cover
3 maybe did not get into what was really the point. And
4 I think that leads to a general concern that I have
5 and I think Director Lochbaum alluded to this as well.
6 There's just not -- there are times where what is
7 actually going on in the discussion between the NRC
8 and a particular licensee or the industry in general,
9 it isn't -- it's difficult to follow.

10 You guys are making some good attempts to
11 be transparent, yet when we get into the technical
12 information, we get into the concerns. The
13 discussions tends to fall into jargon of the industry
14 and jargon of the regulation that isn't apparent even
15 to someone who has -- such as me, who has experience
16 in the nuclear power industry, but may not necessarily
17 have experience in dealing with a particular phase of
18 reactor regulation.

19 So what I would encourage the NRC to
20 consider is that when you have meetings, when you have
21 discussions regarding a particular phase of
22 regulation, particularly with backfit, make certain
23 that there is a great opportunity for participation by
24 other stakeholders. And when I say other
25 stakeholders, certainly -- well, yes, I am a state

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1 employee, so I would certainly say that yes, the host
2 states and the host communities really need a greater
3 opportunity to be involved.

4 We have in addition to the individual
5 licensees, we do participation by groups such as the
6 Nuclear Energy Institute. There are times that the
7 states and the host communities need that degree of
8 involvement. So if there is a way to encourage that,
9 if there's a way to make that happen, please pursue
10 that.

11 I was making notes as I went along to the
12 meeting and I just want to -- I just have one or two
13 more quick points. With regards to the process of
14 assuring that backfitting is addressed appropriately,
15 I know very early on in the conversation it was raised
16 that the need for backfit really stems from findings
17 from NRC resident inspectors or maybe some inspection
18 by another group of NRC experts. And there was -- as
19 is done with many things in engineering, there is
20 certainly an effort to try to develop a consistent
21 process. And frequently with those processes, we get
22 into a number of questions that the individual walking
23 through the process is supposed to ask themselves and
24 consider. And what I would suggest in this area,
25 recognize that the way we word a question sometimes

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1 can impact how we think about that question.

2 And if you ask a question one way, maybe
3 it raises a lot of alarm, a lot of concern from one
4 individual and depending on that person's background,
5 the next individual will say oh, that's no big deal
6 because oh, I know this about the plant and it's not
7 a problem.

8 I would suggest that with regards to
9 backfit evaluation that we step back and we look
10 really at how psychological evaluations are done for
11 unfettered plant access. Let's focus a little bit on
12 asking the very simply questions or asking the same
13 question maybe in a couple different ways to assure
14 that we have a way of triggering the desired thought
15 process in people that fundamentally think
16 differently.

17 We're all trained -- most of us are
18 trained as engineers, but probably how we reach a
19 conclusion within our heads is not the same in every
20 individual. Therefore, let's --- you know, I know
21 engineers and I admit I'm this way, too. You want to
22 ask the question once and move on. Let's -- in this
23 case, we're back to let's ask a single question
24 several different ways to assure that we trigger that
25 process. If we do this correctly, yes, we will raise

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1 more issues, but it also -- to someone who is really
2 good at thinking, this may also bring us the idea that
3 hey, look at this several ways, maybe the issues can
4 be eliminated. So I know late in the discussion there
5 was concern about really unnecessary -- or backfits
6 that were not cost beneficial. Maybe if this is done
7 properly, we can address both sides with this repeat
8 of questions.

9 And I'm just -- if you excuse me for a
10 moment, I just want to make certain I caught
11 everything in my notes.

12 Okay, I do have one more and then I will
13 stop.

14 One thing I think should also be
15 considered is whether the option to convene the CRGR
16 to evaluate a specific backfit issue is that in the
17 process right now. I know early on it was pointed out
18 that CRGR should not be in every backfit evaluation.
19 I agree. That's more than a full-time job. But very
20 much like the NRC has requirements now for licensees
21 and for nuclear vendors to have correction action
22 processes, part of the correction access process is to
23 have an option for what is sometimes called a
24 technical review committee or a technical review
25 board, but independent assessment of a particular

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1 issue when the people involved with that issue on the
2 day-to-day basis really aren't sure where to turn for
3 a fresh set of eyes.

4 So I would ask that option be included as
5 well.

6 And other than that, I thank you very much
7 for your time and I will entertain any questions if
8 there are questions on what I just said. Thank you.

9 MR. CARPENTER: Thank you, sir. CRGR, any
10 follow up or clarification questions?

11 MR. HACKETT: Tony, this is Ed Hackett.
12 I would just say thank you for the feedback. I think
13 a lot of it goes to the effectiveness of our
14 communications and some of the points you make are
15 quite compelling in that regard. We strive for plain
16 language and to try to do better in those, but we do
17 have a lot of shorthand that we tend to talk. Anyway,
18 thank you for all that feedback and that will be on
19 the record and we'll make sure to address it. Thank
20 you.

21 MR. LESHINSKIE: Okay.

22 MR. CARPENTER: Any other? No? Very
23 good. Thank you again, sir.

24 MR. LESHINSKIE: You're most welcome.

25 MR. CARPENTER: Operator.

1 OPERATOR: Again, as a reminder, please
2 press star 1 on your phone and record your name if you
3 have a question.

4 Our question comes from Steven Dolly. Go
5 ahead, your line is open.

6 MR. DOLLY: Yes, good afternoon. This is
7 Steven Dolly with PLATTS. I edit our newsletter
8 "Inside NRC."

9 I have to apologize. I've been ducking in
10 and out of the webcast of this meeting trying to deal
11 with some other things and also the schedule change
12 threw me off a little bit. So if this has already
13 been discussed, I apologize, but I was hoping to get
14 some sense of what, if any, path forward for actions
15 is being contemplated by staff on the future role of
16 the CRGR and that the fact that reforms was this more
17 general spleen-venting session so industry and other
18 stakeholders could get their various concerns on the
19 record.

20 MR. HACKETT: Steve, this is Ed Hackett.
21 Thank you for the question. I guess there's always a
22 certain amount of venting that inherently goes on in
23 these sessions, but the go forward position is we are
24 looking to drill through the record from this meeting
25 in addition to the other tasking that you may have

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1 heard, either myself or Victor McCree talk about
2 earlier today. And then basically, rolling that up
3 into a set of recommendations as to what we would see
4 any difference as being in the future role of the CRGR
5 as recommendations from the CRGR to the EDO.
6 Hopefully, we'll have that in the December-January
7 time frame is what we're shooting for right now, with
8 the deadline to the EDO being January 31, 2017.

9 I don't know if that gets to answer your
10 question or if there's more.

11 MR. DOLLY: So the CRGR is going to make
12 a set of recommendations to the EDO in the December-
13 January time frame with the deadline of January 31st?

14 MR. HACKETT: Correct.

15 MR. DOLLY: And I was in and out of some
16 of the earlier sessions, but you say you and Victor
17 discussed in your presentations what the issues are
18 that will be discussed in those recommendations?

19 MR. HACKETT: What we discussed is some of
20 the specifics of the tasking. The backfit tasking
21 memorandum is as Ed Williamson is showing me here is
22 dated June 9, 2016 and it is publicly available. That
23 gets sent to details of the tasking from the EDO.

24 MR. DOLLY: Okay, the tasking for the
25 recommendations that will go forward are in this June

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1 9, 2015 memo?

2 MR. HACKETT: Yes, broadly they are, 2016,
3 sorry.

4 MR. DOLLY: 2016, June 9, 2016 memo. And
5 I'm sorry, that's from you, Ed, or who is --

6 MR. HACKETT: That is basically from
7 Victor McCree to the CRGR, and other Agency folks
8 involved in backfitting.

9 MR. DOLLY: Well, okay, that should be
10 enough for me to pull it up then. Thanks very much.
11 That's all I had.

12 MR. HACKETT: Sure thing.

13 MR. CARPENTER: Okay. Thank you very
14 much. As we did this morning, I went to people in the
15 room and then I went to the telephone. Since we've
16 just done two callers, let me go to the room now. Any
17 comments, questions?

18 MR. LOCHBAUM: This is Dave Lochbaum. I
19 wanted to circle back to a question I think Ed raised
20 this morning about transparency and perhaps having the
21 CRGR meetings being public. I somewhat disagree with
22 Greg. I don't mind if some of them are not public if
23 that will facilitate the discussions. It could be
24 more frank and candid. The caveat on that is the
25 outcome. There should be a documentation of what it

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1 was.

2 So the discussions would be okay if they
3 were not public, if that would facilitate things. As
4 long as at the end the decisions, there was something
5 on that end to satisfy the transparency of the
6 public's needs. That's all I have to say on that
7 subject. Thanks.

8 MR. HACKETT: Thanks, Dave.

9 MR. CARPENTER: Next in the room.

10 MR. HALNON: One thing I wanted to put
11 out, this is Greg Halnon, when we talked about being
12 safety focused, one question is hard to say to when
13 you're asking for modifications, does this make the
14 plant more safe? And almost always you say yes, to
15 some extent, otherwise you wouldn't -- it would be
16 clear you wouldn't make the modification.

17 When we're talking through this process,
18 it might be good for these older plants to ask the
19 question does the present configuration, the approved
20 configuration, cause the plant to be unsafe? And if
21 the answer is no, then that might lead to a different
22 result than asking it the other way. Because that's
23 what we come across a lot in our inspections is what
24 is unsafe about this? Okay, it's a compliance issue.
25 I can understand that, but if it's not unsafe, and I

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1 know that's -- that's somewhat objective, subjective
2 in some cases, but David is talking about the time
3 taken to resolve these issues. If it's not unsafe,
4 let's take the time necessary to resolve these issues.
5 I have to disagree with Dave on one part because he
6 disagreed with me.

7 So I ask the question is that an approved
8 configuration, the approved licensing basis, the
9 approved design basis. Is that unsafe rather than
10 the opposite of will this modification make it more
11 safe because you can't answer that no because you
12 wouldn't make modifications otherwise. Maybe the two
13 asked together, it might be something that we've put
14 in the process.

15 MR. WERT: Thanks for that. This is Len
16 Wert. I just have to comment a little bit on that.
17 I'm somewhat adverse to anything that would task the
18 staff with proving that something is unsafe. That's
19 just not characteristically the way we would approach
20 things. In fact, it's one of the discussion points
21 that I make when I do license certificate
22 presentations to reactor operators and SROs to try to
23 avoid that mindset.

24 I think I understand your point though,
25 but I'm just -- if someone took that out of context --

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1 MR. HALNON: No, I understand that. I'm
2 not asking you to make a judgment of unsafe or -- you
3 do that every day or the inspector does that every
4 time she sees a work order and sees a Commission
5 report written on a plant. Should be a cognitive
6 decision whether or not I need to pursue this from a
7 safety perspective or not.

8 What I'm trying to do to the process is
9 how much time do we have to fix this. And if the
10 answer is that it makes it unacceptable to operate or
11 at least unsafe, then of course we're not going to
12 take much time to fix it. The problem is that if we
13 don't focus on -- if we always focus and always should
14 focus on safety, if we only go by that yes/no, does it
15 make it more safe, then clearly, we're going to be in
16 a situation of always saying yes, if we're going to do
17 a modification or a procedure change.

18 And I think it's not the end all. You
19 can't just take any one of these questions in
20 isolation and say that's the question. You have to ask
21 all of these so you get a full characterization of the
22 issue.

23 MR. CARPENTER: Okay, very good. Let's go
24 back to the telephones and operator.

25 OPERATOR: As a reminder, please press

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1 star 1 on your phone and record your name if you have
2 a question. One moment, please.

3 MR. CARPENTER: Thank you.

4 OPERATOR: I show no further questions at
5 this time.

6 MR. CARPENTER: Thank you, Operator. I
7 always feel like when we're waiting for people online
8 to come in and ask questions, we should be playing the
9 Jeopardy theme song or something.

10 Going around the room, any other questions
11 or comments? Yes, sir.

12 MR. BONANNO: This is Jerry Bonanno from
13 NEI. Earlier, there was some discussion on maybe the
14 need to update NUREG-1409, I think that was finalized
15 in 1990 or so. But there's also parallel effort
16 that's going on to revise the staff's cost benefit
17 guidance. I think that's described in SECY 14-002.
18 And I think probably by the end of the year we'll see
19 a draft of the first revision to NUREG-BR-0058. So I
20 guess the question is is the CRGR going to be wrapped
21 into that -- those revisions or see the revisions to
22 BR-0058? I think the original plan was to kind of
23 roll 1409 in as an attachment to that document.

24 MR. HACKETT: Good question, Jerry. I
25 guess I don't have that answer for the reg analysis,

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1 we're not plugged into that at the moment. We
2 probably should be at some level. Like you said, as
3 the companion to 1409 we may end up recommending 1409.

4 MR. BONANNO: I just have one other
5 comment or question. I think you've kind of hear a
6 lot of comments about transparency and you know, our
7 federal position is more access to the CRGR from our
8 point of view would be better, but I think wherever
9 you guys come out on, whether we have access to you
10 when you're reviewing specific backfits, I think
11 another layer is more meetings like this where maybe
12 it's not related to any specific backfit, but just
13 periodically have a chance to interact with you all,
14 I think, would be a big net positive from our
15 standpoint.

16 MR. HACKETT: Thanks for that. In fact,
17 a lot of the homework I did for this meeting, our
18 charter actually calls for that on a greater period
19 than we've been doing recently. So we'll commit to
20 doing that for sure.

21 MR. CARPENTER: Thank you. Any other
22 comments in the room?

23 On the telephone?

24 OPERATOR: Yes, we have one question. One
25 moment, please.

1 MR. CARPENTER: Thank you.

2 OPERATOR: Go ahead, caller. Your line is
3 open.

4 MR. LESHINSKIE: Can you hear me now?

5 MR. CARPENTER: Thank you, yes.

6 MR. LESHINSKIE: Sorry, I inadvertently
7 muted you guys. My apologies. This is Tony
8 Leshinskie again. I promise that this comment will be
9 much shorter than my last one and this is the last one
10 I plan to make today.

11 Going back to some of the earlier
12 discussion we started getting into the context of or
13 the idea of the omission of fact or a mistake of fact
14 and as we got to that specific point what I started to
15 realize was much of that discussion sounded like a
16 legal concept I've heard some of the attorneys I work
17 with now as being similar to the concept of benign
18 neglect.

19 And without really going into this point
20 or that point, the general comment that that brings up
21 to me is that when you do start looking at potentially
22 changing backfit evaluation rules, also you look at
23 different concepts. You may find that there is
24 something that is really needed in assessing backfit
25 in a concept that is called something else. So do

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1 take a look at other concepts and see if there's
2 anything that could be applied to it.

3 And thank you again, for this opportunity
4 to provide these comments. If someone could tell me
5 what the deadline would be for written comments so I
6 know, it may had been mentioned, but when you do dial
7 in to say yes, I'd like to speak, you lose the audio
8 for about 30 seconds.

9 MR. HACKETT: Okay, thanks, Tony. I think
10 if you have anything written, again as Gene Carpenter
11 mentioned earlier, you can send that to Les Cupidon or
12 Nicky DiFrancesco, the two main contacts somewhere in
13 the next week, let's say. That would be great.

14 MR. LESHINSKIE: Okay, thank you very
15 much.

16 MR. HACKETT: Thank you.

17 MR. CARPENTER: Thank you. Operator,
18 anybody else?

19 OPERATOR: We show no further questions at
20 this time.

21 MR. CARPENTER: Thank you. Back to the
22 room. We really ought to get that Jeopardy theme song
23 going here.

24 MR. HACKETT: The first thing I would do
25 in trying to summarize is turn to my colleagues to see

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1 if any of those CRGR members had any final points or
2 thoughts they wanted to add. Steve?

3 MR. WEST: I would just like to thank
4 everybody for participating. I think we had a good
5 turnout today, especially this morning. A lot of good
6 discussion and feedback.

7 There's a lot of discussion going on
8 internally. We didn't get into a lot of that today,
9 but there's been meetings with all of the offices, a
10 lot of the staff, and managers that are involved in
11 backfitting and other activities that the CRGR gets
12 involved in reviewing.

13 I worked with Ed and Vic McCree on the
14 tasking memo. He said it himself this morning, but I
15 can reinforce, he's very serious about getting a good,
16 thorough, comprehensive review done and
17 recommendations from Ed and the committee. And I
18 think we're taking this very seriously.

19 I appreciate the comments and I hope we
20 came across as being sincere in our ideas that we're
21 pursuing. There's a lot of other ones, but again,
22 thanks for turning out and helping us. As Ed just
23 mentioned to Tony on the phone, if you do want to
24 submit anything else to us after hearing the meeting,
25 comes up to you later, please send it in. We've got

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1 a couple more months of review to do, so I'm sure we
2 can take comments up until basically the very end.

3 MR. HACKETT: Absolutely. Thanks, Steve.
4 Anybody else? Brian.

5 MR. McDERMOTT: I'd just like to thank all
6 of our guests, as Steve said. I'm looking back over
7 my notes. One of the things that clearly stands out
8 to me is both our industry panelists and David both
9 provided one common note that I could see. Both
10 focused on safety, but also both into the repeatable
11 performance from the regulator. And that's something
12 that clearly is on our radar. We want to make it
13 easier for the staff to do these reviews. The idea
14 that maybe we can do things along the way to ease the
15 process on the front end so that inspection findings
16 kind of come into the process we have a more rapid way
17 of assessing those things against the licensing basis
18 to find out if there's really a delta there.

19 We always address the safety issues first
20 and I think if you talk to many of the NRC staff,
21 there's no question about that. We tackle those
22 issues, I think, right up front. I think where we get
23 wrapped around the axle sometimes is on these issues
24 that are designed basis, long term, low safety
25 significance compliance issues. And those are the

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1 most challenging for us to dispatch in an efficient
2 and effective manner. And so that's where I would see
3 our focus in these efforts going forward.

4 Thank you for all your input today.

5 MS. ORDAZ: And I would echo all the
6 comments mentioned here. And I would say there's no
7 better time than now to offer changes, suggestions,
8 ideas, comments. We're wide open. It is a relatively
9 new team, right? I think Steve, you're the
10 continuity. And Brian.

11 So feel free. Bring them in. A week --
12 you mentioned one week for the turnaround for the
13 comments for this, but if there's other thoughts or
14 ideas, I know we would welcome those. The assignment
15 is due at the end of January, so we'll be working part
16 time to get this done. And any comments are welcome.
17 Thank you.

18 MR. WERT: I don't have anything to add.
19 I agree with the points that were made. Thanks.

20 MR. WILLIAMSON: I'd also like to add my
21 appreciation of the comments that were made, both from
22 those that were present to those that are present.

23 Not only are we having this meeting, we
24 also --- I know members of the CRGR also monitored the
25 Commission's public stakeholders meeting when the

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1 backfit issue came up. We're going to see how that
2 rolls out as well.

3 There's a great deal of outreach. I know
4 Steve West went recently and I participated in a
5 listening mode in a panel last month. So where we're
6 going with this is this is your opportunity to
7 comment. This is your opportunity to raise your
8 concerns and this is your opportunity to suggest
9 improvements to the process.

10 MR. HACKETT: Great. And I'd do the same,
11 I guess we're getting redundant here, but certainly
12 echo my colleagues in thanking everyone for the
13 participation. We got a lot of great feedback.

14 I heard some themes for sure. I think
15 I've heard a cultural theme. I've heard a level of
16 decision-making theme and how that feeds into the
17 group. I resonated with Greg saying words are
18 powerful and in this arena I think they are very
19 powerful.

20 I think we just heard from Tony Leshinskie
21 on the line that I think reinforces what we've been
22 saying, backfit scares people apparently, and
23 including some of our inspectors possibly or not fully
24 understanding. So appreciate all that feedback.

25 I'll just conclude with where Vic started.

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1 He referred to a former boss of ours, I don't think
2 he'd mind me saying that boss was Bill Kane. When we
3 used to work for Bill and Bill was our deputy
4 executive director, he would always ask us why are we
5 doing something and the corollary is why are you doing
6 it this way? And then Vic has added his own recently
7 in how can we do this better?

8 And as Steve said in our meetings with Vic
9 and the senior leadership, that's where they're coming
10 from. They think we can do better in the interest of
11 continuous improvement, that's what we're focused on.
12 So we're focused in that way on executing that
13 particular mission and hopefully we'll succeed in a
14 timely manner, given that December isn't always our
15 most productive month. That's why we're in January,
16 is the deadline. So we will do our best to achieve
17 that goal. So thanks to everyone.

18 MR. CARPENTER: Operator, was there
19 anybody else on the phone before we close the meeting?

20 OPERATOR: We show no questions at this
21 time.

22 MR. CARPENTER: Very good. Thank you all
23 who called in. Again, especially for those who are on
24 the telephone, all the presentations that were made
25 today are available on our external website after the

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1 meeting notice.

2 If you do have any further comments,
3 please contact the two meeting contacts, Les Cupidon
4 or Nick DiFrancesco. Their emails are on there and
5 again thank you to all of the participants. With that
6 I believe we're done. Thank you.

7 OPERATOR: That concludes today's
8 conference. Thank you for participating. You may
9 disconnect at this time.

10 (Whereupon, the above-entitled matter went
11 off the record at 2:27 p.m.)

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