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 Access Authorization and Fitness-for-Duty
 Determinations Rulemaking

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON
ROLE OF THIRD PARTIES IN ACCESS AUTHORIZATION AND
FITNESS-FOR-DUTY DETERMINATIONS

RULEMAKING

+ + + + +

WEDNESDAY,

NOVEMBER 16, 2016

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ROCKVILLE, MARYLAND

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The Commission met in the Commissioners' Hearing Room at the Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, at 1 p.m., Lisa Clark presiding.

PANEL MEMBERS:

LISA CLARK,

DANIEL DOYLE, Project Manager, Office of Nuclear
Reactor Regulation

NORMAN SAINT-AMOUR, Senior Attorney, Office of the
General Counsel

MARK RESNER, Senior Security Specialist, Office of
Nuclear Security and Incident Response

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BRADLEY BAXTER, Security Specialist, Office of Nuclear
Security and Incident Response

BETH REED, Security Specialist, Office of Nuclear
Reactor Regulation

WILLIE LEE, Health Physicist, Office of Nuclear
Material Safety and Safeguards

MELANIE GALLOWAY, Director, Division of Nuclear Policy

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C O N T E N T S

| | <u>Page</u> |
|----------------------------------------------|-------------|
| Introductions..... | 4 |
| Logistics and Expectations of Meeting..... | 5 |
| Opening Remarks by Melanie Galloway..... | 8 |
| Staff Presentation for Regulatory Basis..... | 13 |
| Non-Power Reactor Community Concerns..... | 35 |
| Materials Community Concerns..... | 41 |
| Union Concerns..... | 47 |
| Power Reactor Community Concerns..... | 73 |
| Non-Governmental Organization Concerns..... | 86 |
| Open Discussion Comment Period..... | 88 |
| Closing Remarks..... | 100 |

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P R O C E E D I N G S

1:00 p.m.

OPERATOR: Good afternoon. Thank you all for standing by. Welcome to today's conference call.

At this time your lines have been placed on listen only for today's conference until the question and answer portion of our call. At which time you will be prompted to press star, one on your touch tone phone.

Please ensure that your line is unmuted. And please record your name when prompted so that I may introduce you to ask your question.

Our conference is being recorded. And if you have any objections, you may disconnect at this time.

I would now like to turn the conference over to our host, Mr. Daniel Doyle. Sir, you may proceed.

MR. DOYLE: Thank you very much. Good afternoon. My name is Daniel Doyle. I'm a Rule Making Projecting Manager in the NRC's Office of Nuclear Reactor Regulation. I am coordinating this rule making activity.

Joining me at this table is Melanie Galloway, a Deputy Director from the NRC's Office of Nuclear Security and Incident Response; Norman Saint-Amour, Senior Attorney from the Office of General

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1 Counsel; Mark Resner, Senior Security Specialist; and
2 Brad Baxter, Security Specialist both with the Office
3 of Nuclear Security and Incident Response.

4 Ms. Beth Reed, a Security Specialist with
5 the Office of Nuclear Reactor Regulation; and Mr. Willie
6 Lee, a Health Physicist from the Office of Nuclear
7 Material Safety and Safeguards. And Facilitating
8 today's meeting, we have Ms. Lisa Clark.

9 The purpose of today's meeting, there are
10 two main purposes. The first is to provide information
11 to the public about this NRC rule making activity on the
12 role of third-parties and licensee access authorization
13 and fitness for duty determinations.

14 And to offer an opportunity to the public
15 to express views on this rule making activity. And I
16 will now turn it over to our facilitator, Lisa Clark for
17 some logistics and expectations for today's meeting.

18 MS. CLARK: Thank you, Dan. Good
19 afternoon everybody. As you heard, my name is Lisa
20 Clark. And I am going to be facilitating this
21 afternoon's meeting.

22 And my role today will just to -- is to give
23 you some logistics. And to make sure that the meeting
24 is productive for everyone involved.

25 I'd like to take a few moments before we

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1 begin the substance of the meeting to go over some ground
2 rules. First, some logistics.

3 Restrooms are located outside these double
4 doors to your left. No food and drinks are allowed in
5 the Commission Hearing Room.

6 And pretty much -- oh, and you'll find
7 handouts, including the slides on the ledges to the --
8 next to the doors. You'll also find meeting feedback
9 forms at the same location.

10 Okay. I'd like to talk a little bit about
11 what you can expect this afternoon. The meeting is
12 going to begin with the Staff's presentation. And this
13 will be followed by an opportunity for you to ask
14 questions or provide comments.

15 We recognize that the topic of today's
16 meeting involves a number of different stakeholders.
17 And for that reason we've organized the meeting to --
18 into segments for the public feedback portion.

19 And during those specific segments, will be
20 targeted for certain stakeholders. And that will be
21 your opportunity to speak.

22 The first segment we're going to hear from
23 concerns from the non-power reactor community. Our
24 next segment is for concerns of the materials community.

25 This is followed by concerns of the unions.

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1 Then we will turn it over to the power reactor community.
2 And lastly we will open the floor to the concerns of the
3 non-governmental organizations.

4 We are going to make every effort to ensure
5 that all stakeholders from these groups have the
6 opportunity to speak today. To help us make sure that
7 happens, we ask that you please keep your questions or
8 comments brief. And please keep them focused to the
9 subject at hand.

10 We also have a minor adjustment to our
11 schedule today. Following those portions of the open
12 comment period, we are going to take a ten minute break.
13 And this will be followed by another open discussion
14 time where we can take follow up questions or comments,
15 or hear from anybody who hasn't had an opportunity to
16 speak up to that time.

17 Our meeting today is being transcribed.
18 For that reason we want to make sure that the transcript
19 is correct and clear.

20 For that reason I ask that before you speak,
21 please give your name and your affiliation. It's also
22 very important that only one person speak at a time so
23 that we can be sure that it's accurate.

24 We also have people participating in
25 today's meeting on the phone. So, we want to make sure

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1 that all of them can hear all of the things that are going
2 on in here. For that reason, I ask that everybody in
3 the room speak using a microphone.

4 We have a microphone here by this -- the
5 standing microphone here. If you prefer, you just
6 signal me and I can bring you over this mic if you prefer
7 to speak from where you're seated.

8 And just a reminder about the importance of
9 our public meeting forms. We take these very
10 seriously. We use the input that we get from you to try
11 to improve our public meetings.

12 So, please be sure to get one and fill it
13 out. You can leave it here for us to pick up. You can
14 put it in the mail. Our postage is free.

15 And for those of you participating on the
16 phone, meeting feedback forms are available on the NRC
17 public website. You simply log into the meeting under
18 the public meeting schedule. And you will find the
19 feedback form.

20 And at this time, I'd like to turn the
21 meeting over to Melanie Galloway.

22 MS. GALLOWAY: Thank you, Lisa. My name
23 is Melanie Galloway. I am the Director of the Division
24 of Security Policy. Which is in our Office of Nuclear
25 Security and Incident Response.

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1 And this Division is responsible for access
2 authorization for licensees. And Brad and Mark are the
3 staff members assigned to this responsibility.

4 First of all before I start my opening
5 remarks, I do want to say how very much we appreciate
6 your being here. Both those that are here in person as
7 well as those on the phone.

8 It is extremely important to NRC and its
9 work that we understand what stakeholders affected by
10 our rule makings actually think that that rule making
11 will result in and how it would affect them.

12 And it's very important that we hear your
13 views so that we can consider those as we work through
14 our rule making process. So, thank you very much for
15 being here.

16 In the realm of security the NRC and its
17 licensed community are charged with providing
18 reasonable assurance of adequate protection. In order
19 to achieve this, the fundamental foundation of security
20 must be designed to have a reasonable assurance to not
21 fail.

22 We are talking about personnel and their
23 behavior. And the determination to remain a
24 trustworthy and reliable employee while having or being
25 granted unescorted access at an NRC licensed facility.

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1 While certain NRC regulations state that
2 the decision for granting unescorted access lies with
3 the licensee, in 2012 the U.S. Court of Appeals for the
4 Seventh Circuit, ruled that the NRC security
5 requirements are not entirely clear. And do not
6 prohibit arbitration of licensee denials or revocations
7 of unescorted access authorization.

8 A little bit in the way of background. The
9 history of NRC regulations on third party access
10 authorization determinations found in 10 CFR 7356, and
11 the arguments that led to the 2012 court ruling, are
12 spelled out in detail in a staff paper that was issued
13 last year, specifically on November 30, 2015. And it's
14 identified by our numbering system as SECY 15-0149.

15 We believe the Court's decision is contrary
16 to the staff's longstanding view that the NRC
17 regulations require licensees to be accountable for the
18 safety and security of their facilities.

19 In June of this year, the Commission
20 approved the staff's recommendation to proceed with the
21 rule making process to further explore the issues raised
22 in the staff's paper, while taking into consideration
23 options for a robust appeals process as well as comments
24 offered by unions, licensees, and other interested
25 stakeholders on the topic, and not precluding

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1 arbitration outright.

2 The rule making process will also consider
3 the merits of maintaining the status quo in which
4 arbitrators have a role with certain licensees for
5 making final access determinations. And no rule
6 changes will be contemplated.

7 Per the Commission direction, the staff
8 will ensure that any proposed revisions to our
9 Regulations are as narrowed in scope as is necessary to
10 ensure public health and safety and security.
11 Throughout the rule making process, the staff will
12 consider how the NRC's goals can be achieved while still
13 allowing employee redress ability.

14 So let me talk a little bit about the
15 process upon which we are embarking. The NRC staff has
16 begun assessing the clarity of the Commission's
17 regulations in defining the roles of licensees and
18 arbitrators and making the final determination of
19 whether an employee should be granted unescorted access
20 to nuclear power plants and other facilities licensed
21 by the NRC.

22 As part of this assessment, the staff will
23 consider the role of third party arbitrators in such
24 decisions. As well as what a robust appeals process
25 might look like for those employees denied such access.

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1 In our evaluation of these issues, the NRC
2 will focus on balancing the due process rights of
3 employees with the safety and security needs of
4 licensees to ensure that only people deemed trustworthy
5 and reliable and fit for duty that is not impaired, are
6 granted unescorted access to nuclear power plants and
7 other facilities licensed by the NRC.

8 The first step is to develop a regulatory
9 basis which will describe exactly what that is in the
10 staff presentation, to support future agency actions.
11 The staff will hold public meetings starting with today,
12 to present its early thoughts and hear the views of all
13 of you, labor unions, licensees, and other interested
14 parties, as part of our specific outreach effort for
15 this rule making.

16 After the meeting, the NRC staff will
17 consider the public's input as it prepares this draft
18 regulatory basis. Which will be published for public
19 comment in early 2017, with a final regulatory basis
20 scheduled to be issued later next year.

21 If the final regulatory basis concludes
22 that changes to the regulations are appropriate, then
23 the NRC will proceed to the next step in the rule making
24 process, which is to develop a proposed rule. There
25 will be additional public outreach during this process,

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1 and opportunities for input during this proposed rule
2 stage, including a written comment period, and at least
3 one or two more public meetings.

4 Finally, while the staff is undergoing the
5 normal rule making process, we, per the Commission
6 direction to us, will maintain awareness of ongoing
7 arbitration of access authorization and fitness for
8 duty determinations so that if needed, orders can be
9 prepared in any case in which Commission intervention
10 is deemed necessary to ensure the safety and security
11 of a nuclear power plant.

12 So again, thank you very much for your
13 participation here today. I'm going to turn it back
14 over to Dan to start the staff presentations.

15 MR. DOYLE: Thank you, Melanie. Okay.
16 We'll go onto slide two, please.

17 So, this is our agenda. I will do the staff
18 presentation. Which includes a review of the purpose
19 of today's meeting, background on how we got here.

20 The status, the current status of this rule
21 making activity. We listed some suggested topics for
22 discussion that we made available several weeks ago to
23 help guide the discussion to input that we feel would
24 be helpful as we develop the draft regulatory basis.

25 And then we'll have the public feedback

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1 portion that Lisa reviewed from the different
2 communities. And then -- or from the different groups
3 of stakeholders.

4 And then we'll have an open discussion.
5 And then at the end I will review the next steps in this
6 process.

7 So, on slide three, again the purpose of
8 today's meeting, because we are in the early stages,
9 this is our first public meeting in the rule making
10 process. And we are providing information about this
11 activity. And we are asking for input from
12 stakeholders to help us produce a better product in this
13 stage of the rule making process.

14 So here is the background. So what I
15 listed, what we listed on this slide are the major
16 documents in the history that led us to -- directly to
17 where we are today.

18 So, the first one in March 2012 there was
19 a court decision from the U.S. Court of Appeals for the
20 Seventh Circuit. They ruled that the NRC regulations
21 do not prohibit third party arbitration of licensee
22 unescorted access denials and revocations in certain
23 situations.

24 There is legal discussion in there on if
25 it's included in a collective bargaining agreement.

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1 And that's kind of a general statement there on the
2 screen.

3 But the decision was that it was -- that the
4 regulations did not prohibit that. And part of the
5 court decision looked at -- was based on their
6 interpretation of the NRC's Regulations. And they
7 looked at the rule making history as part of the basis
8 for their decision.

9 That decision prompted the Nuclear Energy
10 Institute, or NEI to submit a petition for rule making
11 in January 2013 requesting that the NRC amend its
12 regulations in 10 CFR 73.56. The petition stated that
13 the effect of the court decision was that a person who
14 has been determined not to be trustworthy and reliable
15 by a licensee as part of a comprehensive evaluation
16 required by NRC regulations could nevertheless be
17 granted unescorted access to a nuclear power plant.

18 The petition further stated that this
19 possibility raises serious security and regulatory
20 compliance issues for nuclear power plant licensees.
21 Specifically the petition requested that the NRC modify
22 its access authorization regulations to impose a
23 limited scope of third-party review denials or
24 revocations of licensee unescorted access decisions to
25 ensure that such decisions cannot be over turned by any

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1 third party.

2 Stating that these revisions -- they also
3 stated that these revisions would clarify that
4 unescorted access decisions are solely the
5 responsibility of reactor licensees subject to
6 oversight by the NRC. This is a summary of what the
7 petition requested and their basis for that.

8 In the time since NEI submitted that
9 petition, there was further work on an industry guidance
10 document that was developed by the NEI, called
11 NEI-03-01. And in January 2015, NEI submitted a letter
12 to the NRC stating that if the revised guidance document
13 were endorsed by the agency, then that implementing
14 guidance would address NEI's concerns raised in the
15 petition.

16 And therefore, they were withdrawing the
17 petition for rule making. I would like to note that
18 when the NRC was considering that petition for rule
19 making, we did a docket. We followed our typical
20 petition for rule making process. And we did solicit
21 public comments on that petition for rule making.

22 We received 81 separate comment
23 submissions. And people who are involved in this
24 process may be wondering, what are we planning on doing
25 with those comment submissions. So, I'd just like to

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1 briefly address that.

2 As we go through this rule making process,
3 this is a new activity so to speak. But obviously, it
4 is related. And what we're going to be considering in
5 this rule making is, all available information,
6 including those comment submissions.

7 But I just want to be clear that we are not
8 formally carrying those over. We're not going to be
9 formally responding to those comments that were
10 submitted in the docket for the petition for rule
11 making. That docket is closed.

12 But, that is all obviously publically
13 available information. And it is related.

14 But those comments were specifically
15 tailored to what was proposed and the basis that was
16 provided by the NEI petition, which may or may not be
17 the same thing that the agency develops when it polishes
18 its draft regulatory basis and the final regulatory
19 basis. And then further stages if we proceed to the
20 proposed and final rule making stages.

21 So I just want to be clear that if you did
22 submit a comment on that petition and would like the NRC
23 to consider and respond to it, then please continue to
24 follow this process. And when we do solicit formal
25 comments, you can either resubmit a similar letter, or

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1 make sure that it gets into the docket for this rule
2 making action. So, I just wanted to be clear about
3 that.

4 In November 2015, the NRC staff submitted
5 a paper to the Commission that provided options to
6 clarify that only a licensee can make final decisions
7 on authorization/fitness for duty determinations. The
8 staff recommended that the Commission approve
9 development of a proposed rule.

10 That the paper would serve as the
11 regulatory basis. And that the staff would proceed
12 directly to the development of a proposed rule that
13 would make clear that only licensees can make final
14 access authorization determinations and do so through
15 an expedited rule making.

16 So, that was the staff's recommendation in
17 that November 2015 paper. In June 2016, the Commission
18 issued their direction to the staff in a memo. It's
19 dated June 6, 2016. It's referred to as a Staff
20 Requirements Memorandum, or SRM.

21 And that is the key document that is
22 providing direction for what we are doing in this
23 activity right now. That is the document that directly
24 authorized what we're doing today.

25 So, in that June 2016 SRM, the Commission

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1 approved proceeding with the rule making process. So,
2 I'd just like to take a few minutes to talk a little bit
3 about that staff requirements memorandum.

4 It's only one page. If you have not read
5 it, I highly recommend that. If you go to the meeting
6 notice for today's meeting that -- and pull up the
7 slides, that link will open up a -- each of those links
8 will open up the documents.

9 So just for the Staff Requirements
10 Memorandum, I'd just like to just review some of the
11 major points from that just to be clear. What they said
12 was that the staff -- the Commission approved the
13 staff's option 1A to proceed with the rule making
14 process to further explore the issues raised in the
15 staff's paper, and then the divergent comments offered
16 by unions and licensees on the topic.

17 I know a number of people have reviewed the
18 vote papers. There's the process where the individual
19 Commissioners provide their individual views. And
20 that there's a merging process that results in this
21 document. This is the direction.

22 This is the official direction to the
23 staff. And that's the first sentence that's in there
24 that they approved proceeding with the rule making
25 process to further explore the issues.

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1 Next major point is that what the staff
2 should do is ensure that any proposed changes are as
3 narrow in scope as is necessary to ensure the public
4 safety and security. The staff should not
5 unnecessarily preclude arbitration outright but should
6 consider how the NRC's goals can be achieved while still
7 allowing redress ability with respect to a licensee's
8 access determinations. That the staff should make
9 specific outreach to potentially affected labor
10 organizations regarding proposed content and time frame
11 of this action in addition to its normal outreach
12 efforts.

13 That any further rule should ensure that
14 there's a reasonable and balanced accommodation of
15 interests. And access determinations that the
16 proposed rule should include a robust appeals process
17 for workers whose access authorization is denied or
18 revoked.

19 The staff should also address fitness for
20 duty determinations in the same rule making. That was
21 a recommendation in the paper, the staff's paper.

22 And that the staff should maintain
23 awareness of ongoing arbitration of access
24 authorization determinations so that orders can be
25 prepared in case that's necessary.

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1 So, those are the major points from the SRM.
2 And I just want to be clear that the staff did provide
3 a clear view and a clear recommendation on what it felt
4 was the appropriate action for the Commission to take.

5 And the Commission is the group that sets
6 the official policy for the agency. And there is that
7 relationship between the Commission and the staff.

8 And what we're doing here is, we're
9 following the direction. We work for the Commission
10 obviously. And that we're following their direction to
11 proceed with the rule making process.

12 But I just want to be clear that -- well,
13 let me go onto the next slide. So, that reviewed the
14 SRM. So that leads us to where we are today with the
15 status of this activity.

16 What they recommended was option 1A. And
17 if you do go to the paper and you look at option 1A, it
18 does recommend that -- it would require the staff to
19 engage in the normal rule making process beginning with
20 the development of regulatory basis.

21 So that's what we're doing. We're
22 developing a regulatory basis. And a regulatory basis
23 evaluates the status quo which includes the effect of
24 that court decision as part of the status quo, and what
25 are the regulatory concerns that we have and would it

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1 be appropriate for us to take regulatory actions.

2 So, we're examining the status quo, what
3 are the issues, and what are the options to address those
4 issues. And I just want to point out that we are
5 relatively early in this stage. And we have not ruled
6 out any options.

7 But we're still collecting information.
8 That's part of the purpose of this meeting. Is to fully
9 understand what the issues really are. Clearly last
10 year we did send up that paper. And we felt that we had
11 a sufficient basis for that recommendation.

12 But, the Commission told us explicitly, go
13 develop a regulatory basis to put that in writing.
14 Fully consider that. And to explore the issues and do
15 further outreach with various groups of stakeholders.
16 Specifically, potentially affected labor
17 organizations.

18 And then just the last sentence for option
19 1A. To point out that the regulatory basis would
20 include an analysis of whether to proceed with the
21 proposed rule.

22 So it is not completely certain at this
23 point if we would be doing that. But that's what we're
24 looking at. And that's what the regulatory basis will
25 discuss and recommend.

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1 So, the status of the rule making activity
2 on the slide, the staff is developing a document that
3 will describe the regulatory issue, options to address
4 it, and the recommended option. This document is
5 called a regulatory basis.

6 And this document will discuss the scope of
7 the problem and possible options. It will consider
8 legal, technical - policy, technical, cost benefit
9 analysis. And identify a preferred regulatory action.

10 There can be a range of possible options
11 depending on what we determine to be a regulatory
12 problem. And that could include to maintain the status
13 quo, would that be acceptable or not. What, if any,
14 changes to the Regulations could be made to address
15 issues. Would it be possible to address it with just
16 revising guidance? And perhaps the Regulations don't
17 need to be changed to address the concerns. Or possibly
18 other options.

19 And that's part of what we'll be looking at
20 when we do publish our draft regulatory basis to get
21 feedback on did we get each of those elements right.
22 And what views do you have? And what information can
23 you share with us to have a better product and a better
24 outcome? So that is the status.

25 So, for today's meeting we had some

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1 recommended topics for discussion to help focus some of
2 the input that we might receive today. The first two
3 questions listed on this slide here are pretty similar
4 and just have a few words that are different.

5 Does allowing a third-party arbitrator to
6 overturn a licensee's access authorization
7 determination pose a regulatory problem? If so, what
8 is the nature of this problem? If not, why not?

9 There were obviously a lot of comments that
10 were submitted on the Petition for Rule Making with
11 different views about this. But we are taking a fresh
12 look at this. And we're looking for your input on that
13 question.

14 Second question, does allowing a
15 third-party arbitrator to overturn a licensee's access
16 authorization determination pose a safety human
17 performance or security vulnerability? So we want to
18 have a good understanding of that. Next slide, please.

19 The third question, we have a few subparts
20 under there. If the NRC determines that there is a
21 regulatory problem, what potential solutions do you
22 recommend that we consider?

23 And for each of those solutions we're
24 interested in hearing about how does it affect this
25 potential safety or security vulnerability? How would

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1 it affect due process concerns? If it does, how could
2 those concerns be mitigated?

3 What are the unattended consequences may
4 seem like a silly question. But that, you know, could
5 be more directed at other people that are questioning
6 other options that are proposed.

7 I guess if they were unattended, you know,
8 you'd maybe be aware of them. But we're looking to hear
9 about consequences that may not be immediately obvious
10 with certain changes.

11 And with our regulations we do need to
12 include a discussion of cost and benefit. And until you
13 have a very clear idea of what changes you're making,
14 it's hard to do that.

15 So, we're not expecting to have a lot of
16 detail until we do have our options clearly defined and
17 our recommendation. But, if you're aware of cost
18 drivers associated with options you're recommending,
19 we'd like to hear about that also. Next question,
20 please.

21 The final question that we included. What
22 are the elements of a robust appeals process? What has
23 been your experience with arbitration of access
24 authorization denials or revocations or fitness for
25 duty determinations? We are interested in hearing from

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1 individuals that may have experience that would be
2 relevant here.

3 Are there alternatives to arbitration by
4 third-parties that balance employee rights with the
5 responsibility of licensees to ensure trustworthiness
6 and reliability? So, this question in general is
7 intended to help us address an item from the SRM that
8 said that we should include a robust appeals process if
9 we do proceed with a proposed rule.

10 A robust appeals process for workers whose
11 access authorization is denied or revoked. So, we're
12 looking for input on what you believe that would look
13 like. Next question.

14 Okay. So, we are ahead of schedule. I
15 feel like that was a reasonable discussion of the items
16 that we had there. Which is good though. Because it
17 leaves more question for, I think, what's more important
18 about today's meeting is hearing from the public.

19 And at this point I will turn it over to Lisa
20 to facilitate comments from those in the room and the
21 callers. So --

22 MS. CLARK: Thank you.

23 MR. DOYLE: So, Lisa?

24 MS. CLARK: All right. So, our first
25 according to our schedule, we'd first would like to hear

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1 from those who have questions or comments from the
2 non-power reactor community.

3 MR. DOYLE: Okay, I'm sorry, Lisa? I'm
4 sorry. Just I noticed that there was a hand raised.
5 Was there a question or something that you had?

6 MS. TEITELBAUM: I just had sort of a
7 general -- I think I'm free to say that we decided that
8 there's -- to rule making that are not in, I guess, the
9 options that the staff at this point. If that's what
10 they need us to have in that November 30, 2015 memo.

11 And I guess my question to you all is, are
12 you interested in hearing the actual facts that might
13 be relevant to a regulatory basis? Because in reading
14 the November 30 staff memo, --

15 MS. CLARK: They can't hear her.

16 MS. TEITELBAUM: Which dealt with a lot of
17 cases that I have personal knowledge of, and people have
18 personal of here, there were a lot of incorrect acts in
19 there.

20 I'm not blaming you all. Whatever acts of
21 editing is what you know.

22 MS. CLARK: Excuse me. I'm so -- I'm sorry
23 to interrupt. But, I realize I was reminded that our
24 people on the telephone cannot hear you. So, here.

25 MS. TEITELBAUM: I'm sorry.

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1 MR. DOYLE: Can you also please identify
2 yourself and just --

3 MS. TEITELBAUM: Oh, okay. My question
4 was, because it -- what I understand -- what? Oh, I'm
5 Marilyn Teitelbaum from Schuchat, Cook & Werner. I
6 represent various IBEW Locals, and in particular Local
7 15 IBEW, who is also here today.

8 And I just wanted to understand what you all
9 are looking for from us? And to -- that seemed to be
10 saying to me that you -- it's not yet clear. And you
11 are looking to decide whether or not you're going to --
12 there's a regulatory basis for pursuing rule making.

13 And so in that light, I'm asking you, given
14 the November 30, 2015 staff memo, has the facts on which
15 you had made your initial recommendation to the
16 Commission, is this -- is the staff interested in
17 hearing from us of the mistaken facts that we think are
18 in that November 30, 2015 memo?

19 And I'm saying that I'm talking from
20 personal knowledge that there is significant facts that
21 are incorrect in there. Because I handled a number of
22 those cases. Local 15 who is also here, was involved
23 in most of those cases and knows the facts.

24 And since this is a public meeting, my
25 question is, are you interested in making sure you have

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1 the correct facts in making sure there is a regulatory
2 basis for moving forward with rule making?

3 MR. KURNICK: And excuse me, my name is
4 Robert Kurnick. I'm an attorney for the IBEW
5 International Union. If I can just follow up on
6 Marilyn's comments.

7 The part of your presentation that struck
8 me as personally the most problematic, is your assertion
9 that you had a basis for the recommendation that was
10 included in the SECY that was intro -- that was
11 introduced in November.

12 We've been working on this problem for a
13 very long time. We see all sorts of less than accurate,
14 less than specific statements about security risks
15 posed by various arbitration cases. But I have yet to
16 see anyone identify a single arbitration case that
17 presented a genuine safety or security risk.

18 And if you're going to contemplate
19 depriving tens of thousands of employees of their
20 collectively bargained rights, rights that they've
21 exercised for decades now, without any evidence that
22 there have been any security or safety issues as a
23 result, in addition to providing you with the
24 information we have, we would very much like to hear from
25 you the information, the specific information that

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1 you're relying on to make this recommendation.
2 Something that goes beyond the sort of generalities that
3 we saw in the SECY.

4 MS. CLARK: Oh, thank you, very much. It
5 sounds to me just briefly to recap that we have first
6 a question about whether we are interested in hearing
7 whether input as to whether the facts that we have
8 recited are correct.

9 And also, we have a question that I think
10 relates specifically to our unions. As I understand.
11 Okay.

12 Maybe what I will ask is if we can respond
13 to the question about facts. And if you could hold your
14 question. Because we're trying to keep these segments
15 maybe on the unions.

16 Unless we want to maybe briefly address
17 that now?

18 MR. DOYLE: I think we can respond to that
19 up front just to be clear on -- I think that kind of helps
20 inform the purpose of today's meeting and the types of
21 comments that we're looking at.

22 Norm, did you want to respond to those?

23 MR. SAINT-AMOUR: There's a number of
24 issues that you've raised. The staff did make a
25 recommendation in the November 2015 paper to go to an

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1 expedited rule making. The Commission rejected that
2 option.

3 If you have information, factual
4 information that is germane to what we're doing in this
5 area, of course the NRC wants to hear it. I'm not sure
6 that there's value in rehashing the basis of the
7 recommendation in the staff's November 2015 paper,
8 because that's been rejected by the Commission. We're
9 not going down that route.

10 With respect -- but if you have facts that
11 are germane to the overall issue of the role of
12 third-parties in access authorization determinations,
13 of course we want to hear that from you.

14 With respect to what is the staff's
15 position at this point in time, in the SRM the Commission
16 directed the staff to engage in the normal rule making
17 process. The initial stage of any rule making process
18 is, you look to see if there's a regulatory problem that
19 needs to be addressed. And what are the methods of
20 addressing that regulatory process.

21 That could be engaging in a rule making.
22 It could be doing nothing. It could be in any other
23 number of potential ways of responding to what has been
24 identified as a regulatory problem.

25 At this point the staff is not convinced

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1 there even is a regulatory problem that needs to be
2 address through rule making. They have -- the staff
3 does have some concerns. The purpose of these kinds of
4 public meetings is to get feedback to enable us to
5 determine what is the problem and how it should be
6 addressed.

7 So, your assumption or your question, has
8 the staff determined that a rule making is needed at this
9 time? No. Engaged in the rule making process does not
10 mean you will automatically go to a rule making itself.

11 We will get feedback from all stakeholders.
12 We will evaluate that. We will determine if there's a
13 regulatory problem that needs to be addressed, and the
14 best way of addressing that regulatory problem. That
15 does not necessarily imply engaging in a rule making.

16 If we engage in a rule making, the
17 Commission has directed the staff to consider certain
18 things. And we will follow this -- the Commission's
19 direction if the recommendation to the Commission is to
20 engage in a rule making. That has not been determined
21 at this point in time.

22 I hope that answers your question.

23 MR. DOYLE: Melanie, do you want to say
24 anything else about that? All right. Okay. Let me
25 just take another second just to follow up on what Norm

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1 said about -- I could understand that this might seem
2 confusing to some people.

3 Let me just try to help clarify that we're
4 in the rule making process. But we're not in the rule
5 making process. This is just generally referred to as
6 a rule making activity.

7 The Commission approved, in their SRM,
8 proceeding with the rule making process. So that's
9 what we're doing. We are in the rule making process
10 generally speaking.

11 But that's maybe not the best term for
12 exactly what we're doing right now. Because they said
13 the normal rule making process, the first stage is
14 develop a regulatory basis.

15 Which is going to look at the status quo,
16 what is the problem, what are the options to address
17 that? What's the preferred path forward? The
18 preferred path forward maybe a change to the Code of
19 Federal Regulations. Or something else.

20 So, that's the distinction of the, kind of
21 the second meaning of the word rule making. That what
22 we're doing is evaluating options that could result in
23 changes to the Code of Federal Regulations.

24 Or it could result in other actions that we
25 could take as an agency to address what we see as a

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1 problem. Including possibly changes to guidance or
2 other sorts of generic communications. There are other
3 things that the agency can do besides changes to the Code
4 of Federal Regulations.

5 So, I just wanted to be clear.

6 MR. SAINT-AMOUR: Or it could mean taking
7 no action.

8 MR. DOYLE: Or it could be taking no
9 action. So, I just wanted to be clear on that.

10 Okay. So I think we'd like to continue
11 with the plan that we had laid out for focusing on the
12 opportunity for various stakeholder groups
13 specifically.

14 MS. CLARK: Okay. Do we have anybody here
15 today who would like to address concerns of the
16 non-power reactor community?

17 (No response)

18 MS. CLARK: I don't see anybody here. How
19 about on the telephones? Operator, do you have anybody
20 who would like to ask a question or make a comment?

21 OPERATOR: If you would like to ask or
22 question or make a comment on the phone, please press
23 star one and record your name at this time.

24 Once again, please press star one and
25 record your name to ask your question. I have a

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1 question from Louis Quintana. Your line is open, sir.

2 MR. QUINTANA: Hi. My name is Louis
3 Quintana with GE Hitachi Nuclear Energy. I guess my
4 general question here, or the Comm SECY, or rather the
5 SRM was entitled Access to -- Unescorted Access to Power
6 Reactors. But there's unescorted access at test
7 reactors which access the safeguards information, and
8 there's access to, you know, Category One and Category
9 Two byproduct material.

10 Are all of those in scope in this potential
11 rule making or regulatory basis? Or just unescorted
12 access at power reactors?

13 MR. DOYLE: Okay. Thank you. That was a
14 good question. That's -- it's only dealing with the
15 unescorted access issue at this time. That's the
16 scope.

17 MR. QUINTANA: Yes. Power reactors only?

18 MR. SAINT-AMOUR: It wouldn't be limited
19 only to power reactors. It would be limited to any
20 facilities that provide unescorted access to material.

21 It would not cover SGI. We don't believe
22 it would cover SGI at this point. It will also deal with
23 fitness for duty determinations that are made by the
24 MRO.

25 We understand that there has been some

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1 efforts to arbitrate those kinds of decisions as well,
2 fitness for duty decisions. And the Commission has
3 directed that we include fitness for duty.

4 But we're not talking about anything other
5 then unescorted access to facilities and to material.
6 And the trustworthiness and reliability determination
7 that goes along with granting unescorted access at those
8 types of facilities to material.

9 So we don't think at this point in time it's
10 going to implicate access to safeguards information. I
11 hope that answers your question.

12 MR. QUINTANA: Yes. It did. Thank you.

13 MS. CLARK: Operator, do we have anybody
14 else on the phones who would like to ask a question or
15 make a comment?

16 OPERATOR: Yes. We have one. Dan
17 Cronin. One moment. Your line is open.

18 MR. CRONIN: Yes. Hi. I'm sorry, I
19 missed a lot of that last portion of the discussion
20 because I was trying to get in the queue to ask a
21 question.

22 But, I -- so hopefully I don't repeat
23 anything. But, going back to the SECY, it makes the
24 comment that the vulnerability or the contextual
25 ambiguity that was found in 73.56 does not exist in

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1 73.57(g) .

2 So, I'm wondering, you know, is that
3 something that -- is there a -- I don't see a need to
4 address non-power reactors in this. Because that
5 ambiguity isn't there.

6 It's a strict -- in my mind it's a strict,
7 you know, if there is no recommendation from the NRC
8 authorized individual for unescorted access, then there
9 is no access period.

10 However, then the licensee needs to retain
11 the ability to do that check again if necessary with a
12 different NRC authorized access individual. And make
13 that decision.

14 My concern was that this would be turned
15 around somehow. And that NRC authorized individuals
16 would somehow overturn the licensee's decision, or
17 prevent -- basically hold the licensee hostage in
18 effect. And say no, you can't bring in this new manager
19 and give him access because I said so, you know.

20 So, the question is, are non-power reactors
21 going to be in the scope contrary to the SECY? And what,
22 you know, what type of changes do you envision? Because
23 it's kind of hard to ask questions until we have an idea
24 of what the proposed changes might be or what the
25 thoughts are.

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1 Thank you.

2 MS. REED: Yes. Thanks for your comment,
3 Dan. I believe when the SECY was written, the staff was
4 not really even thinking of other licensees other than
5 power reactors.

6 But in discussions we realize that if this
7 does go into writing new regulations, we need to be
8 careful since there are other licensees that use this
9 process. And we don't want to adversely impact the
10 other licensees.

11 So, this regulatory basis is going to be
12 examining, do we need to do anything else for the
13 non-power reactors or the radiological material
14 licensees. It may come to the point where at the end
15 of the regulatory basis we say no.

16 As you stated in 73.57(g), is very plain.
17 And we don't need to do anything else. However, you
18 know, we're not through the regulatory basis yet. So,
19 we can't state whether, you know, it is or isn't.

20 So, that is what we're embarking upon right
21 now. Is to study, do we need to do anything else. I
22 hope that answers your question.

23 MR. CRONIN: Well, it sounds like you
24 already have the answer. You just haven't formalized
25 it yet. Is that correct?

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1 MS. REED: No. Because we need input like
2 what you were just saying about the difference between
3 licensee and NRC approved reviewing official. We need
4 that type of input to weigh, do we need to do anything
5 else?

6 We -- you have a unique perspective that I
7 don't think we've thought about. And -- or at least the
8 way you worded it. So, that's a good comment we'd like
9 to examine.

10 And so, we have not concluded one way or the
11 other yet.

12 MR. CRONIN: Okay. Thank you.

13 MR. DOYLE: I'd just like to -- that was Ms.
14 Beth Reed by the way, from NRR. Thank you, Beth.

15 I'd just like to respond to the statement
16 that it is difficult to -- it's challenging to provide,
17 you know, specific or very helpful feedback without
18 knowing exactly what's changing.

19 So, it's a bit of a chicken and the egg
20 problem. What we're doing at this meeting is trying to
21 be clear and open about the process that we're engaging
22 in and where we are. And looking for early feedback.

23 So, we understand that it's challenging to,
24 you know, provide specifics when we haven't told -- or
25 we haven't given you a recommendation yet.

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1 But, that will be coming next year. That
2 will -- the first opportunity to see the NRC staff's
3 recommended initial, you know, draft basis and options
4 and recommendation, will be in the draft regulatory
5 basis.

6 And at that point, you can provide specific
7 feedback on that.

8 MS. CLARK: Operator, do we have any
9 additional comments or questions?

10 OPERATOR: We have no additional comments
11 or questions at this time.

12 MS. CLARK: Thank you. Anybody else here
13 in the Commission room?

14 (No response)

15 MS. CLARK: I don't see any for now. But
16 of course we can always revisit later at our open
17 discussion.

18 We'll now ask for any concerns from the
19 materials community. Is there anybody here at the
20 meeting who would like to speak?

21 (No response)

22 MS. CLARK: Operator, do you have anybody
23 on the phone lines?

24 OPERATOR: If you would like to ask a
25 question or make a comment, please press star one and

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1 record your name at this time.

2 Louis Quintana rejoins. Your line is
3 reopened, sir.

4 MR. QUINTANA: Thank you again. I'm also
5 interested in the material side. And it sounds like
6 what I heard before, just to confirm, is that the
7 materials facilities and their requirements for
8 unescorted access, whether it's S&M or anything else,
9 would be essentially all have the same sort of either
10 rule based, reg basis, or otherwise.

11 Is there any staff thought that in any way
12 these would be different?

13 MR. DOYLE: Willie, did you understand the
14 question? Is that -- can you provide a helpful response
15 to that?

16 MR. LEE: Well, this is Willie Lee with the
17 Office of Nuclear Material Safety and Safeguards, NRC.
18 And the only thing I would have to say is that from a
19 material standpoint would be looking at what would
20 happen with Part 73 to see how it would impact Part 37.

21 Because there are some similarities or some
22 differences in access authorization requirements. So,
23 we would certainly be looking at what would happen with
24 Part 73 to be informed about what we might need to do
25 or might not need to do for Part 37.

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1 MR. DOYLE: So I think the answer to your
2 question is, is basically that it's -- we are early.
3 And we don't have -- we will probably need to see what
4 the specific recommended changes are.

5 And then to consider how those might affect
6 the materials community. And if that would be
7 acceptable or not.

8 MR. LEE: That's correct.

9 MR. QUINTANA: Okay. Thank you.

10 OPERATOR: And we have a question from
11 Andrew Rander. Your line is open.

12 MR. RANDER: Hi. This is Andrew Rander
13 from BWXT. So, I guess I have one question related to
14 how this might play with the Part 11 requirements for
15 access to special nuclear material.

16 And then separately would ask whether the
17 NRC considers an access authorization decision a
18 licensed activity? And if so, how any organization
19 that's not licensed by the NRC could actually make that
20 determination beyond the actual licensee involved?

21 MR. DOYLE: Willie, is that -- can you help
22 with that one?

23 MR. LEE: I can't help with the special
24 nuclear material part of it. As far as from a Part 37
25 perspective, we might have an issue with what we call

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1 non-manufacturer/distributor service providers.

2 And that's something we would have to take
3 a close look at. Those folks who would be implementing
4 the access authorization requirements that may not
5 actually possess certain quantities of risk significant
6 material, that's something we're looking at now.

7 But there again, we would have to wait and
8 see probably what would happen with Part 73. And try
9 to be closely aligned with what we need to do for Part
10 37.

11 But I can't address the special nuclear
12 material part of it.

13 MR. SAINT-AMOUR: This is Norman
14 Saint-Amour with OGC. And I want to make sure I'm
15 understanding the nature of the question that you have.

16 I know at your fac -- first of all, if a
17 facility is not licensed by the NRC, it's not subject
18 to our access authorization regulations. And we would
19 have no jurisdiction over that facility to impose our
20 access authorization regulations on that facility.

21 And it's important that we make the
22 distinction between our access authorization
23 regulations and the regulations that govern the
24 granting of clearances to entities that may need a
25 clearance for classified information.

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1 And I'm wondering if that BWXT is -- was
2 that what you were referring to?

3 MR. RANDER: So yes, in part. So we have
4 -- all of our personnel have clearances for access to
5 classified information.

6 However, the NRC in Part 11 has an access
7 authorization program for access to special nuclear
8 material.

9 MR. SAINT-AMOUR: Right.

10 MR. RANDER: So we're basically talking,
11 you know, Cat 1 material. So, I'm wondering how that
12 fits into this question.

13 And then kind of separately, you know, my
14 question about whether an access authorization is a
15 licensed activity or not, really gets to the question
16 if a licensee makes an access authorization decision and
17 that's a licensed activity, it would seem to me that any
18 organiza -- you know, you couldn't go to a third-party
19 organization to get that reviewed. Because they'd
20 essentially be conducting a licensed activity without
21 a license.

22 MR. SAINT-AMOUR: That is certainly one
23 aspect of what we're looking at in addressing this
24 position. The Commission established a policy in 1991
25 that arbitrations of licensee access authorization

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1 determinations was permissible.

2 That is the interpretation that the Court
3 made in 2012. And it seems to be consistent with the
4 Commission's position in 1991.

5 It may be inconsistent with how the staff
6 has interpreted our access authorization regulations.
7 And as the Court pointed out, and I think the Commission
8 would agree with this, staff cannot overturn an
9 established Commission policy in a guidance document.

10 That's what has essentially raised this
11 issue to us. You make a -- I understand the point that
12 you're making about third-parties engaging in a
13 licensed activity. We have to explore the
14 ramifications of this.

15 And again, that's separate from the whole
16 clearance process. So, yes. You've raised an
17 important point. We don't have an answer to it yet
18 because we haven't explored the full ramifications of
19 this issue.

20 MR. RANDER: Okay.

21 MR. SAINT-AMOUR: We are in the early
22 stages. And these are the kind of things that we are
23 addressing now as the working group moves forward.

24 That's the best answer I can give you at
25 this point in time. Unless someone from the Commission

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1 wants to weigh in.

2 MR. DOYLE: We have someone else coming up
3 to the table.

4 MR. HARRIS: Yes, hi. My name is Paul
5 Harris. I'm the Senior Program Manager for the Drug and
6 Alcohol Testing Provisions in Part 26. And I wanted to
7 add on what Norm was talking about regarding the BWXT
8 issue.

9 There is a second item that will affect the
10 Category 1 fuel cycle facilities. And that is in
11 subpart C to 10 CFR Part 26. Which is -- the title for
12 that provision is Maintaining Authorization. I'm not
13 quoting it. But it's like Maintaining Fitness for Duty
14 Authorization.

15 And the applicability of subpart C is
16 applicable to those entities and licensees described in
17 26.3(a) and (b). And 26.3(b) applies to those
18 licensees who maintain control, transport, and store
19 strategic special nuclear material.

20 So, that's another element that the staff
21 is reviewing within the scope of this paper. Thank you.

22 MR. RANDER: Okay. Thank you. I
23 appreciate that. We had recognized that as well as a
24 potential issue for us.

25 MR. DOYLE: Thank you for the comment.

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1 MS. CLARK: Operator, do we have any
2 further comments on the phone?

3 OPERATOR: No. We have no further
4 comments at this time.

5 MS. CLARK: Okay. Anybody else here?

6 (No response)

7 MS. CLARK: Not seeing anybody, let's move
8 onto concerns of the unions. And is there anyone -- ah,
9 yes. Would you like me to bring you a microphone?
10 Okay.

11 MS. JERRY: Thank you. We want to say
12 first and foremost we -- yes. First and foremost my
13 name is Anna Jerry. I'm with the IBEW, the
14 International Brotherhood of Electrical Workers.

15 We represent over two-thirds of all nuclear
16 plants facilities here in the U.S. And we also
17 represent facilities in Canada as well.

18 We very much appreciate the opportunity to
19 be here today. And to have input into the stakeholder
20 process. We think this is a very important part of the
21 NRC's way that they do business. And we think -- we
22 absolutely appreciate the opportunity for this input.

23 We do want to say that the safety and
24 security of our nuclear -- all nuclear facilities is
25 absolutely paramount to us. We think that that is

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1 important. And we certainly support the NRC's endeavor
2 as they move to make sure that our plants are safe.

3 However, we do differ some on maybe the
4 thoughts surrounding the access arbitration issue.
5 And we would just like to say that we support the current
6 application of the Regulation.

7 Which has allowed third-part --
8 third-arbitrator review, third-party arbitrator review
9 without compromising security. And without any other
10 adverse consequences that we're aware of.

11 We believe that our workers deserve due
12 process in these unescorted access cases. And we
13 believe that by their ability to use third-party access
14 determinations to have them weigh in that it gives our
15 workers the belief in the NRC's rules and regulations.

16 That they are not attempting to override
17 their rights as workers. That they are fair and
18 impartial. And so for that reason, we ask that you guys
19 not create a rule in regards to this.

20 And obviously we would want, you know,
21 input into any rule that is created if you so choose to
22 do that. Thank you.

23 MR. PHILLIPS: Hello. My name is Bill
24 Phillips. I'm an Assistant Business Manager with Local
25 15. And I'd like to mirror Anna's comments too.

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1 I'd like to thank you for the opportunity
2 to come talk about this topic. It's very important to
3 us as well.

4 Our Local represents about 17 hundred
5 nuclear workers in Illinois. And we have, you know,
6 maybe as broad a history on this topic as anyone. So
7 I'd like to just share, you know, a few things with you
8 that maybe you are or aren't aware of.

9 We looked back at our records since 2005,
10 so about 12 years. We've had 27 employees or members
11 terminated and had their access revoked as part of that
12 termination.

13 Out of those 27 we've only arbitrated five
14 of those cases. So that's about 18 percent. I think
15 that number shows you how important we believe this to
16 be as well to the public safety.

17 We don't take the decision to arbitrate
18 lightly. Out of those five arbitrations only one has
19 resulted in an employee coming back to work. That
20 employee is back to work today. Has been back to work
21 for about a year.

22 Just recently talked to that employee's
23 department head. The department head shared with us
24 that that employee is exceeding expectations. No
25 performance issues.

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1 I'm just trying to gather my thoughts. I
2 don't do this often. So, you know, for us I think it
3 truly is our only avenue for an independent look at the
4 process.

5 I'm involved in the grievance process and
6 the arbitration process. And many times the grievances
7 we meet have the same managers in them that made the
8 decision to terminate or revoke access.

9 As far as the appeal process goes, we've
10 never had access revocation overturned through that
11 process. So, if the decision was made to eliminate
12 arbitration, it would truly eliminate our only
13 independent look at the process.

14 I also want to, I guess, close with saying
15 that, you know, our workers have learned that this
16 grievance and arbitration process is their process.
17 And whatever the end result of that process ends up
18 being, they accept it. They understand it.

19 And I'm afraid if we entered into any kind
20 of rule making that removed that process as an option
21 for them, it would really impact the trust and
22 relationships at the sites for the managers and the
23 employees. Thank you.

24 MS. TEITELBAUM: Okay. So, if I
25 understand this correct -- Marilyn Teitelbaum. If I

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1 understand this correctly, we're at this determining
2 regulatory basis.

3 And I want to tell you, we really appreciate
4 hearing that from you. That you haven't already made
5 the decision. There is a basis for it.

6 And I assume you're going to make that
7 decision of whether there's a regulatory basis based
8 upon facts. And we are, and I'm not saying the
9 utilities aren't also, but I think you need both sides
10 the utility and the union input.

11 We're in a unique position to give you facts
12 and information. Some of which like Bill just gave you,
13 about how many cases are actually arbitrated.

14 And Local 15 is probably the biggest un --
15 represents the most employees of a single union in the
16 nuclear industry. Representing about 17 hundred.

17 We can give you those facts. And it is
18 important for you to let us give you those facts.
19 Because I know, Mr. Saint-Amour you said the 11 --30.15
20 is a nullity because the Commission rejected that.

21 Although they looked at it and they -- some
22 of the Commissioners sort of repeated the facts that
23 were in there. Some of them didn't. Some of them had
24 modifications.

25 But, in any event, I assume those facts are

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1 in your files, in the staff's files and in the staff's
2 heads. And I just want to tell you that a number of
3 those cases that are in that memo, the way they are
4 described here are incorrect.

5 And for ex -- and I know as I said, a
6 personal fact because I'm involved in it. We can give
7 you, not at a public meeting, we'll give you the
8 documents. We'll talk to you about the facts.

9 We can give you transcripts, evidence. We
10 can give you all that information that will let you see
11 the actual facts. And I -- although not every single
12 one of them was at Local 15 and my firm's involvement,
13 I think most of them.

14 So, and I assume that if I can tell you now,
15 I can prove to you a number of those facts are incorrect.
16 Including the one about the FFD. I think that is -- my
17 copy's blanked out.

18 But I -- the names weren't in there. I
19 think that is a case that I handled. And I'm going to
20 tell you that we never were planning to, and never did
21 argue, and would not have argued to an arbitrator that
22 an arbitrator had the power to make a second
23 determination.

24 We can read. The union can read. I can
25 read. You can trust us to read. And if we don't read

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1 it right, certainly a court will tell us or an
2 arbitrator.

3 But, it's very clear. They can't do a
4 redetermination. And that's not what we would ask for.
5 I'm not going to take up people's time about what we were
6 asking for.

7 But, we got a settlement which included
8 what we were -- which was what we were asking for in that
9 case. So, if that is the case that kicked off your
10 concern about these FFD, somebody fed you wrong
11 information.

12 So, all what I am requesting is to know from
13 you -- I -- on behalf of the unions, to know from you
14 what are -- what is the factual basis that you're even
15 looking at now? So that we can respond.

16 And maybe you're only getting one side or
17 incomplete information. And we want to make sure you
18 get the right information, the correct information.
19 And we promise you we'll prove it. You won't have to
20 just take our word for it. We'll prove it.

21 MR. SAINT-AMOUR: Okay. Let me just
22 respond quickly to that. The NRC would welcome factual
23 information from all parties on issues that all of you
24 believe are germane to this topic.

25 So, any member of this meeting who has

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1 information that they think is germane, relevant, feel
2 free to submit it to the NRC. And I believe Dan will
3 give us a process at the end by which you can submit
4 factual information, other types of information that
5 you believe is relevant.

6 We recognize at this stage in the process
7 of the -- moving forward we don't have all the facts.
8 And we went to get all the facts, or all of the relevant
9 facts.

10 So, if you have factual information, if you
11 have other types of information you think are relevant,
12 please feel free to submit it.

13 MS. TEITELBAUM: Thank you. But the
14 additional -- and we will. But what we need from you
15 to be able to do that and get to the heart of the matter,
16 is we need to have you all identify for us what these
17 arbitrations are that have brought concern.

18 I mean, I don't know everything across the
19 country. And there's a few mysterious things that are
20 mentioned in the November 30, 2015 memo that we're
21 trying to track down.

22 But I think at least the public has a right
23 to know what are these things that you think create some
24 kind of a security problem? Or might form a regulatory
25 basis for rule making? So that we can respond to them.

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1 Thank you.

2 MR. SAINT-AMOUR: So, let me just --

3 MS. TEITELBAUM: Respond to that -- if you
4 could just respond to whether you will provide that
5 information.

6 MR. SAINT-AMOUR: That information will be
7 part of what is contained in the draft regulatory basis
8 that is submitted to the public for comment. And you
9 will certainly have the opportunity to provide comments
10 on the draft reg basis.

11 Which will then inform the development of
12 a final reg basis.

13 MS. TEITELBAUM: But wouldn't it be better
14 to let us have that information ahead of time? Just the
15 underlying facts. Not how you conclude about them.

16 So that we can be sure you've got all of it
17 before you go that far.

18 MR. SAINT-AMOUR: So, let me talk about
19 that a little bit. You know, it sounds like you're
20 asking for, you know, our kind of basis that we have
21 right now.

22 Or you want to see kind of the facts that
23 we're looking at to make sure that they're correct. And
24 see if you have additional information to help us before
25 we get to the draft stage, before we publish that.

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1 So, we're not planning on publishing
2 anything or releasing anything right now. The first
3 thing that we would be releasing would be the draft
4 regulatory basis.

5 However, the paper last year is, you know,
6 it is connected. It is relevant. If there's something
7 in there that you think is incorrect and you'd like to
8 submit information, we do have a process where we can
9 receive information that contains personal information
10 or proprietary information, and control that. And
11 limit it from inappropriate distribution.

12 I'm not prepared right now to ex -- you
13 know, explain that or lay out a detailed method for doing
14 that. But I can certainly follow up on that and you're
15 welcome to contact me if there's something that you want
16 to submit in writing. Or we can discuss it further.

17 This is exactly what the Commission
18 directed us to do in exploring the issues and the
19 divergent comments offered by the unions and the
20 licensees. To make specific outreach to the
21 potentially affected labor organizations.

22 So we see this as exactly what the
23 Commission is directing us to do. To try to collect
24 this kind of information and make sure we have a good
25 understanding.

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1 MS. TEITELBAUM: Thank you.

2 MR. KURNICK: This is Robert Kurnick. I'm
3 attorney for the IBEW. And I wanted to follow up on
4 something Marilyn said.

5 Which is, we don't know the factual basis
6 on which you're proceeding. But at least within the
7 IBEW, we've been keeping very close track on these
8 arbitration cases, on access of the cases that go
9 through the grievance procedure and the results.

10 And what we see is over a period of 20 years,
11 arbitrators have been deciding access cases in all sorts
12 of circumstances without any adverse consequences to
13 either safety or security. So, I think I speak not only
14 for myself, but everybody here, representing the IBEW
15 and IBEW Local union, that we need to know what, if any,
16 basis you are proceeding upon?

17 But I think there's something else that you
18 need to consider. I'm not sure, and when I speak to
19 people at the NRC and NRC staff, I'm not sure they really
20 appreciate how opaque and unfair the access revocation
21 and access denial process can be.

22 Employees whose access is revoked
23 typically receive a form letter that doesn't tell them
24 why the access is being revoked. Other than to say they
25 are no longer deemed trustworthy and reliable.

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1 And then when they participate in the
2 appeal procedure mandated by regulation, which to be
3 perfectly honest, is nothing more than a sham, they get
4 another form letter with a box checked off that says
5 appeal denied. And that is the -- without arbitration,
6 that is the full extent of their due process rights.

7 So they lose their jobs. They lose their
8 careers. And they never know why.

9 When you look at the administrative record
10 that the Commission adopted, I believe, in 1991 when the
11 access regulations were first adopted, it said that it
12 was very important for the employees themselves to
13 believe in the fairness of this process. So that they
14 would willingly participate.

15 Let me tell you that without some
16 independent third-party review by an arbitrator,
17 employees will not be convinced that this is a fair
18 process. And you are undermining their participation
19 in this entire system that you have set up.

20 The other point to consider is that by
21 adopting regulations that would either limit the scope
22 or completely eliminate arbitration, you are disrupting
23 -- you would be disrupting collective bargaining within
24 nuclear plants across the United States.

25 And when you talked earlier, I heard some

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1 comments about unintended consequences. One of the
2 unintended consequences would be to make labor
3 relations within the nuclear industry much more
4 contentious and much more difficult.

5 And I hope that in the days ahead that's
6 something that you'll consider.

7 MR. DOYLE: Thank you for your comment.

8 MR. PHILLIPS: I'd just like to quickly add
9 to the -- Bill Phillips again, Local 15. To add to the
10 appeal process.

11 Again, I've been a part of that with many
12 different members who employment was terminated. And
13 every time that I've requested a face to face meeting
14 for one of these employees, the company has rejected
15 that opportunity.

16 So, you know, once the member gets this
17 letter that Bob just discussed, it's a fairly standard
18 letter. It doesn't give a lot of detail. And they ask
19 for a face to face. They're denied that.

20 And they're told that -- they're told that
21 they can have a telephonic meeting. Or they can, you
22 know, write a letter summarizing their issues with very
23 limited information and no support from the union.

24 So, I just wanted to clarify.

25 MR. KURNICK: Thanks Bill. I just wanted

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1 to mention something else. About, I guess, a year or
2 two ago, when -- oh, I'm sorry. This is Robert Kurnick,
3 attorney for the IBEW.

4 About a year or two ago one of the -- I've
5 forgotten whether it was NEI or Exelon, but one made the
6 assertion that we really don't need arbitration.
7 Because we have this regulatory mandated appeal
8 procedure, which protects the rights of employees.

9 So we said, okay. Let's find out how it
10 works. And we submitted under the National Labor
11 Relations Act requests to several different licensees
12 to ask how many appeals have there been? And how many
13 times have the -- as a result of the appeal, the initial
14 decision on access been either modified or revoked?

15 Well, I can tell you that initially all ten
16 refused to answer. And so we filed unfair labor
17 practice charges against each of them. And forced each
18 of them, using the authority of the National Labor
19 Relations Board, to answer our questions.

20 And what we found is that over a period of,
21 I believe, about four years, there had been 26 appeals
22 from an initial decision to revoke an employee's access
23 authorization. None, not a single one of them had ever
24 been modified or reversed as a result of that appeal
25 process.

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1 The message that the employees get, the
2 obvious message, is that this procedure is a sham. And
3 it has completely undermined the confidence of the
4 employees in that process.

5 They look to arbitration for an objective,
6 fair consideration of their cases. Certainly not to
7 the industry's so called appeals process.

8 MS. CLARK: I would like at this time just
9 to give the people on the phone an opportunity to speak
10 as well. Operator, do we have anybody on the phone who
11 would like to make a comment?

12 OPERATOR: Once again, if you'd like to ask
13 a question from the phone lines, please press star then
14 one and record your name when prompted. One moment
15 while questions queue up.

16 We do have one question from the phone
17 lines. It comes from Bill O'Brien. Your line is now
18 open.

19 MR. O'BRIEN: Thank you. Good afternoon.
20 I am counsel to multiple IBEW Locals in the upper
21 Midwest, Minnesota, Wisconsin and the Dakotas. And
22 also including IBEW Locals 949 and Local 160, which have
23 multiple bargaining units of nuclear workers in and
24 around Minnesota.

25 And I would like too first endorse the

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1 comments from Ms. Teitelbaum and Mr. Kurnick as being
2 absolutely on point here. I have been practicing for
3 in excess of 30 years representing employees in
4 grievances regarding terminations from nuclear
5 positions. And access determinations for about 20 of
6 those years.

7 I do not think that there is a regulatory
8 problem. There is no problem that needs addressing.
9 And I really fear that an effort to address it will
10 undermine fundamental protections, due process
11 protections that employees in the nuclear industry
12 particularly require because of the absolutely
13 debilitating impact of an access, an unfavorable access
14 determination has on those workers.

15 It amounts almost always necessarily to the
16 loss of their immediate job. But what I have also
17 learned is that it constitutes a black mark. It becomes
18 a nearly impossible impediment to get over to ever work
19 again in the nuclear industry.

20 So, to not have some ability to review
21 access determinations leaves those workers, multiple,
22 thousands of IBEW workers vulnerable to determinations
23 that can end their career in the nuclear industry.

24 I'd like to also add that it seems that the
25 impetus for the NRC's activity now is this Seventh

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1 Circuit decision. Which is absolutely nothing new.

2 All the Seventh Circuit did is recognize
3 what's been going on for 20 years. Arbitrators have
4 been reviewing termination and access decisions in the
5 nuclear industry for decades.

6 And like Ms. Teitelbaum and Mr. Kurnick, I
7 think the focus of the NRC should be not the potential
8 for an access determination to be overruled by an
9 arbitrator, which is certainly there. But the question
10 is whether there's any evidence that suggests that in
11 20 years of arbitration history, in those instances
12 where access determinations have been overruled,
13 whether those decisions are abhorrent.

14 And whether they posed any kind of security
15 or safety risk. That seems to me the determina -- what
16 the focus should be.

17 And in the absence of that sort of data that
18 is showing that arbitrators have gone far afield
19 creating security risks, I don't think there's any basis
20 for a ruling.

21 And I can tell you that I too have studied
22 those few arbitration decisions, three of which are mine
23 in the Eighth Circuit, where arbitrators have overruled
24 access determinations. And there were exceedingly
25 compelling reasons for that to happen in the cases that

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1 I have handled.

2 Where there is this presumption that access
3 personnel have the training and the know how to make
4 these determinations. But there seems to be complete
5 ignorance of the fact that they are fully capable, like
6 many humans on the planet, of acting arbitrarily,
7 capriciously, and exceeding the authority they have
8 been granted by nuclear regulation.

9 Which is precisely the basis that the
10 arbitrators in the cases that I have handled where
11 access was over -- denial was overturned, they found
12 that there was very real, and very significant
13 impropriety on the part of access personnel.

14 Another point to keep in mind is that in
15 every case where access determinations have been
16 overturned, that I'm aware of, the remedy from the
17 arbitrator is invariably to return the decision to
18 access for proper processing.

19 To undue the due process violation. And to
20 process with accuracy. So, it's more in the nature of
21 a remand authority than anything else.

22 Not to mention that never has the licensee
23 in the cases where access determinations have been
24 overruled in my jurisdiction, has a licensee exercised
25 its right to vacate the arbitration award if it was

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1 decided on improper grounds. Never.

2 And I believe that's because the licensees
3 have always recognized that the arbitrators have been
4 very cautious in their determinations. They have been
5 very focused on staying within the regulatory authority
6 that they have in making these determinations. And
7 that ultimately their determinations were proper.

8 I just want to reiterate that the loss of
9 access to nuclear workers is exceedingly debilitating.
10 And if in fact we all agree that there must be robust
11 review of access determinations. And if we agree that
12 robust necessarily entails independent review, the only
13 conclusion you reach is that independent review must be
14 neutral review.

15 We have that review. It has served us well
16 for nearly 25 years. And there's absolutely no reason
17 to overturn it now. Thank you.

18 MS. CLARK: Thank you. We are on time.
19 Coming up close to the time where we want to move onto
20 our other stakeholders. So, I think we have time for
21 maybe two more comments.

22 Do we have anything else on the phone?
23 Anyone else on the phone?

24 OPERATOR: We do have one from Alan Sage.
25 Your line is open.

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1 MR. SAGE: Yes. This is Alan Sage. I'm
2 the Business Rep for IBEW Local 77. And I represent
3 workers at the nuclear plant in Washington State.

4 And we did have a recent case, excuse me,
5 go before an arbitrator in the first part of the -- or
6 end of this -- or excuse me, beginning of this year.
7 And I just want to say two things.

8 I totally agree with the statements made on
9 the evaluation performed by the company as far as your
10 remediation of your -- the decision. It's a sham, I
11 think as Robert stated it. Very well put.

12 There's no manager anonymously and
13 confidentially on the record going to go against the
14 senior or VP of a company of their decision. Secondly,
15 you have to look at the arbitrator.

16 And when I look at the arbitrator's
17 decision, they're very clear and very understanding of
18 the safety and security risks involved in a nuclear
19 plant. And they took that very seriously in their
20 decision.

21 Thank you.

22 MS. CLARK: Thank you. So we have -- is
23 there anybody else in the room here?

24 MR. JURSS: My name is David Jurss. I'm a
25 Control Operator at Point Beach Nuclear Plant, and an

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1 officer of IBEW Local 2150.

2 The International Brotherhood of
3 Electrical Workers Local 2150 represents approximately
4 450 clerical, physical professional and technical
5 workers at Point Beach Nuclear Plant. Local 2150 is
6 opposed to limiting the scope of third-party reviews of
7 licensee decisions denying or revoking an employee's
8 unescorted access to a nuclear power plant.

9 Explicitly restricting unescorted access
10 appeals to the company's internal appeal process would
11 effectively eliminate any negotiated, independent, and
12 impartial review of site access related issues. The
13 grievance and arbitration provisions in the Collective
14 Bargaining Agreement is the union's primary process for
15 resolving differences between the company and the union
16 on behalf of our members.

17 Prior to the United States Seventh Circuit
18 Court of Appeals ruling that compelled arbitration
19 regarding the discharge of an employee without just
20 cause, we experienced a number of trustworthy or
21 reliable related unescorted access denial
22 determinations. Resulting in employment termination.

23 Our employee terminated multiple employees
24 without the benefit of a just cause review by revoking
25 unescorted access. Which is a condition of employment.

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1 10 CFR 73.56, personal access
2 authorization requirements for nuclear power plants,
3 requires an appeal process for access authorization
4 denial. Local 2150 supports current application of the
5 Regulation which has allowed third-party arbitrator
6 review without compromising security and without any
7 other adverse consequences.

8 Limiting appeals unnecessarily removes the
9 ability of unions to negotiate true independent review
10 of access authorization decisions. Changes to the rule
11 that will eliminate third-party arbitrator review, if
12 implemented, would restrict our ability to challenge
13 these terminations through the negotiated grievance
14 arbitration process.

15 Thank you.

16 MS. TEITELBAUM: Marilyn Teitelbaum. I
17 just want to get just a little perspective that perhaps
18 this concern by the staff about this issue was raised
19 beca -- or it came about because of a utility having over
20 reacted and prematurely gone into court in several
21 different cases.

22 First, the Seventh Circuit case, which they
23 went into court before there was even an arbitrator's
24 decision. And in -- it turned out -- so they spent all
25 this time. It went up and down.

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1 And it turned out that the arbitrator ruled
2 in one case that the employee was -- justifiably had the
3 access denied. And in the other case that the employee
4 did not.

5 And in the case in which the employee did
6 not, there was ultimately a settlement. So he never
7 went back to work, contrary to that paper. He was never
8 reinstated. The arbitrator ordered it.

9 And in the other one that was premature, was
10 the one that you thought there was a problem with the
11 FFD and the SAE recommendations. Because -- or
12 decisions. Because you thought somebody told you we
13 couldn't read the -- what the Regulation had.

14 And what they did in that case is also
15 prematurely go into court. And the court ultimately
16 told them hey, they're not asking for that. And so then
17 we go back to the arbitrator. But we've got it
18 resolved.

19 But, I think these -- when I say those were
20 premature, it involved the utility and a lot of
21 unnecessary litigation, which made you all feel like you
22 had a problem. Is because it was unnecessary because
23 there was an easy solution.

24 Had they waited, and had, for example, in
25 the FFD we'd done what they claimed we were going to do.

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1 Although we told them we weren't going to do it, they
2 could have vacated -- filed a motion to vacate the award.

3 They probably wouldn't even have to do
4 that. Because I would know an award couldn't come down
5 like that. And they could do it in the other cases.

6 So there are existing remedies that have
7 been existing from the beginning of time. And it's
8 probably why you haven't had a problem with this issue.
9 And that is, motions to vacate an award if a -- on the
10 basis of public policy if the arbitrator in fact does
11 exceed his jurisdiction or violates public policy.

12 And as you know, you all can issue orders
13 of enforcement. And the licensee is not going to
14 reinstate an employee if, after hearing all the facts
15 and the evidence in the case, he -- the licensee still
16 believes there's a problem.

17 And I am absolutely sure, the one -- the
18 case that just recently went back that is mentioned in
19 the November 30 one, I do not believe that you all would
20 have let that employee return if you thought they were
21 a security risk.

22 And I am sure the licensee wouldn't have let
23 the employee return and present an award if they were
24 a security risk. They went back. And for over a year
25 now the employee has been a good employee.

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1 It wasn't a security risk. The licensee
2 made an error. But it illustrates what Bob and Bill and
3 others have said, there is no independent review.

4 They are going to stick to their -- if they
5 make a decision, they're going to stick to their guns
6 until an impartial arbitrator tells them they're wrong.
7 And that's what happened in that case.

8 And had we not had impartial arbitrators,
9 you would have had a woman's life and her family's life
10 ruined. That was her career. That was her career.

11 And because of an impartial arbitrator, she
12 still has this career. She has a livelihood for her
13 family.

14 And I challenge you to show us a single case
15 in which an arbitrator ordered reinstatement and they
16 in fact reinstated them where there was a problem. Or
17 that they ordered reinstatement and you thought there
18 was a problem and couldn't immediately remedy.

19 Show it to us. Let us look at it. Let us
20 explain. If there is a problem, we're here to help fix
21 it. But we don't see a problem. If there's not a
22 problem, there's not a regulatory basis. And this
23 should end it. Thank you.

24 MS. CLARK: Thank you. I think we're
25 going to end now and move onto our next group of

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1 stakeholders.

2 MR. SAINT-AMOUR: Lisa?

3 MS. CLARK: If you -- yes?

4 MR. SAINT-AMOUR: Can you just let me
5 respond?

6 MS. CLARK: You want to respond?

7 MR. SAINT-AMOUR: For a minute.

8 MS. CLARK: Sure.

9 MR. SAINT-AMOUR: It's important to
10 understand where the NRC is in the process. The first
11 step in what the NRC is doing in this process is to try
12 and determine if there is a problem.

13 And so when you say, tell us what your
14 concern is, our concern is to identify whether or not
15 there is a problem. That hasn't been done yet at this
16 point.

17 Clearly the union has a set of views.
18 Other stakeholders have other set of views. The NRC has
19 to review all of the information that's provided to it
20 and then determine, is there a problem that needs to be
21 addressed?

22 If there is a problem, and that dec -- that
23 determination hasn't been made yet. If there is a
24 problem, how is it best addressed?

25 So, I hear what you're saying. We can't

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1 show you what the problem is yet because we haven't
2 determined if there is a problem that needs to be
3 addressed.

4 That's where we are in this rule making
5 process at this point in time. Did you want to add
6 something?

7 MR. DOYLE: No.

8 MS. CLARK: Thank you. Okay. So, we're
9 going to move onto the power reactor concerns. Keep in
10 mind, we will have another opportunity for everybody to
11 provide comments.

12 So, if we haven't addressed everything,
13 you'll still have other chance. But at this time I'd
14 like to open up the floor to any comments from the power
15 reactor community.

16 Is there anybody in the room who would like
17 to speak?

18 MR. DiPIETRO: Hello. And thank you for
19 having us here today. I'm Nick DiPietro with First
20 Energy. I'm the Fleet Manager for Access Authorization
21 and Fitness for Duty.

22 Just a couple of comments. One, Melanie
23 stated that we need to have reasonable assurance. I
24 believe 73.56 provides high assurance.

25 So, my job as a reviewing official for our

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1 company is to give my company high assurance that the
2 individuals in our nuclear facilities are trustworthy
3 and reliable and fit for duty to safely and competently
4 perform their assigned duties.

5 So, that's a big task. And it's a serious
6 responsibility. And I think every licensee in the
7 country takes it very serious.

8 We had some numbers thrown out, and I'm not
9 disagreeing with the IBEW. We have -- IBEW represents
10 -- our company covers five States. We have 22 different
11 bargaining units that we deal with.

12 IBEW is certainly part of that. They're
13 part of our organization. And the things they bring to
14 the table, they make our company stronger. Okay?

15 So, I'm not here to dispute anything the
16 IBEW had to say. I'm just giving you my perspective as
17 a Program Manager.

18 But, we adjudicate thousands and thousands
19 of cases each year. Individuals coming into our plants
20 applying for unescorted access. A very small number of
21 those are denied access. That's why we do take it
22 seriously.

23 And the individuals are afforded an
24 independent appeal. And that process to me is robust.
25 And it works.

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1 And we've had people in my organization
2 that have appealed my decision or one of my employee's
3 decisions to deny an individual access, and they have
4 been overturned through our independent appeal process.
5 So, I just want to get that out and make that clear.

6 The other thing is, our programs are
7 audited and inspected by the Nuclear Regulatory
8 Commission. And every time I've had an inspection,
9 they've always looked at the denials and making sure
10 that those decisions were made fairly and there was a
11 standard applied to all of those decisions.

12 We're not saying hey, this guy was in
13 management, so we're going to cut him a break. And this
14 person's in the union, so we're going to deny him. You
15 know, that standard's the same across the board.

16 And one of the things I see right now, when
17 you asked if there's a problem, well, I think there is
18 a problem. Because in some cases there have been some
19 utilities that have followed the arbitrator's decision
20 to overturn an employment separation.

21 Which ultimately leads to the individual
22 having their unescorted access reinstated. And some
23 licensees have received violations for making the
24 determination. Okay?

25 The other thing is, you know, we have a

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1 standard that we have to maintain consistency in our
2 programs and our processes. And with the third-party
3 arbitration only being available to IBEW or represented
4 employees, it's inconsistent.

5 So, I think that is a problem. So, what the
6 solution is, I don't know. But, whatever the solution
7 is, it must cover all workers that have been denied
8 unescorted access.

9 Whether they're the lawnmower, management
10 person, non-bargaining unit, bargaining unit, it needs
11 to be the same for all individuals. Not just because
12 that you happen to be covered by a bargaining agreement.
13 You have this option of having a third-party.

14 And I believe that's the only comments I
15 have right now.

16 MS. CLARK: Thank you. Is there anyone
17 else?

18 (No response)

19 MS. CLARK: Okay. Then we'll go to the
20 phones. Is there anyone there?

21 OPERATOR: Yes. We have one from Barry
22 Quigley. Your line is open, sir.

23 MR. QUIGLEY: Thank you. I have three
24 comments. My name is Barry Quigley. I am an employee
25 of a power reactor.

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1 Last fall I had my access denied for medical
2 reasons under 10 CFR 73.56. So I am very interested in
3 a robust appeals process.

4 In my appeal I proved additional medical
5 information. And my appeal was denied by a non-medical
6 reviewer, i.e., someone who is not qualified to review
7 the information I provided.

8 Also, my appeal was rendered ineffective
9 due to lack of information. I asked what attribute I
10 displayed that made me unreliable or untrustworthy, and
11 I received no response.

12 Unfortunately some of the other gentlemen
13 used the word I was going to use, which is a sham.
14 Because that is what it is.

15 I will simply have to say that the appeal
16 is a rubber stamp. It is not effective.

17 Second, arbitration. I am a management
18 employee. I don't have a union. So, whatever you do,
19 you have to do for everybody.

20 Third, there's a third-party that I'm not
21 sure we have considered. And that is the Equal
22 Opportunity -- Equal Employment Opportunity
23 Commission.

24 Some denials are made for mental health
25 reasons, which is a covered disability under the

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1 Americans With Disabilities Act. So, it is possible
2 that an employee could file a complaint with the ADA,
3 and they would find that he was discriminated against
4 because of a covered condition.

5 So that is a third-party that also needs to
6 be considered. And that is my comment.

7 MS. CLARK: Thank you for your comments.
8 Operator, is there anybody else?

9 OPERATOR: Yes. I have one from Johnny
10 Rogers. Your line is open.

11 MR. ROGERS: Thank you very much. And
12 good afternoon to everybody. I appreciate everybody's
13 comment thus far this afternoon.

14 My name is Johnny Rogers. I'm a 30-year
15 veteran of Dominion Generations Access and
16 Authorization Program. I'm a fitness for duty
17 professional and also a clinically trained substance
18 abuse professional.

19 I've been making these decisions a long
20 time. Been involved in this process a long time. And
21 I've heard a lot of talk about the robust appeals
22 process.

23 And I'm thinking there's probably not
24 enough definition built around the word robust. And I
25 think if you tour the nation and talk to various

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1 utilities you'll find that appeals are handled slightly
2 differently from utility to utility.

3 From my perspective, our process is very
4 sound. It's a three-panel committee made up of, you
5 know, various managers and directors.

6 We're very, very concerned about our
7 process and giving due process and treating everyone the
8 same. We have had several, and I don't have status or
9 numbers. But we have many, many cases that have been
10 overturned, you know, because there was valid evidence
11 presented.

12 I heard the call from the gentleman before.
13 We had a recent case not long ago where an individual
14 tested positive for marijuana.

15 So he appealed his case. And ordinarily
16 if, you know, there's a positive, you know, for an
17 illicit drug then, you know, the decision's pretty
18 obvious.

19 But he submitted compelling evidence that
20 he was using marijuana oil in a test case, in a pilot
21 case with a -- with his wife who had cancer. And the
22 evidence was overwhelming and compelling. And we
23 reversed that decision.

24 And we've done so on many other cases. So,
25 the discussion around robust appeals process troubles

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1 me. Because we're very concerned about that hear at
2 Dominion. And I know other utilities have equal
3 concerns.

4 I don't know why we don't put more emphasis
5 in that appeals process. I see no reason why union
6 members cannot sit on that panel and committee. I see
7 no problem with that. And I would invite that as a
8 person who oversees the appeals process.

9 Secondly, I think in terms of these cases
10 where it's overtly obvious the rule has been violated
11 and the rule is specific in many cases including
12 substance abuse, I'm just trouble by arbitration over
13 that rule.

14 And for that reason I think rule making is
15 needed and necessary. Particularly when you violate
16 the rule twice.

17 And we've had a case like that that went to
18 arbitration. And I just think in those cases we need
19 rule making.

20 Because when you violate the rule, when
21 there's compelling and overwhelming evidence that the
22 rule has been violated, and, you know, that has to go
23 to arbitration. And an arbitrator has to decide
24 whether there's an inherent threat or risk.

25 We made a decision in that case. And that

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1 decision is, not only was poor judgment exercised, not
2 only did the employee come to a nuclear power generating
3 facility intoxicated, but they did it twice.

4 And how in the world that's arbitratable,
5 is just beyond me. But, that's why we're here. That's
6 why we're talking.

7 And so, I would offer that comment for
8 consideration. End of comment. Thank you very much.

9 MS. CLARK: Thank you. Anymore, any
10 additional comments on the phone?

11 OPERATOR: We have no other comments at
12 this time.

13 MS. CLARK: Okay. I see we have one more
14 here.

15 MR. DiPIETRO: Nick DiPietro with First
16 Energy. I had one additional comment I didn't get a
17 chance to make.

18 But, also with this process, anybody that's
19 involved from a utility perspective, there's a certain
20 amount of screening and background. And most of the
21 people that work in the access authorization program or
22 fitness for duty program are part of the critical group.

23 Okay, so they're kind of held to a higher
24 standard like operations and security officers are.
25 So, when we go outside of that to an arbiter, we have

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1 no idea of what the credential or the background of the
2 arbiter is.

3 They may have preconceived prejudices.
4 You know, and I know they're not supposed to do that.
5 That's part of their job.

6 But you just don't know. Because there's
7 no screening or standard for them to meet as far as it
8 relates to understanding unescorted access or fitness
9 for duty programs as it relates to access to a nuclear
10 power plant.

11 Thank you.

12 MS. TECHAU: Hi. Susan Techau, Access
13 Authorization and Fitness for Duty Program Manager from
14 ExGen. And I just would like to thank the NRC for
15 providing this platform and hosting this meeting today
16 so all of the issues and concerns could be verbalized.

17 And ExGen will take those into
18 consideration when we provide our written comments if
19 a regulation or document comes out.

20 MR. ENGLUND: Good afternoon. Jason
21 Englund from Arizona Public Service. I wanted to echo
22 some of the comments we've just heard about the
23 differences between arbitration and the obligations of
24 the licensee.

25 To underscore the regulatory dilemma that

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1 licensees face in this context. Because the licensee
2 is ultimately responsible for complying with the access
3 regulations.

4 And there's certain specific requirements
5 that the licensee must follow. And they have
6 professionals who are trained and have undergone their
7 own access credentials to get to make that
8 determination.

9 And labor arbitrators do not have that
10 background. They certainly serve a valuable purpose in
11 the employment context.

12 But, they have a very different goal in
13 mind. They are there to apply a just cause
14 determination. Which is not what the NRC requires.

15 They do not have the training. They are
16 not subject to background checks themselves. And the
17 propensity of arbitrators to split the difference in
18 certain cases is well documented.

19 And they may have incentives at certain
20 times to, this is not to disparage arbitrators, but
21 there is a tendency often to even their record. To keep
22 a neutral record. Or to side with their either labor
23 management, whichever side they're traditionally known
24 to back up.

25 And that is not something that is

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1 appropriate in the context of national security. And
2 so, we believe at APS that there's a process in place
3 that's followed. That is very robust based on what the
4 NRC provides.

5 But, this ruling from the Seventh Circuit,
6 although I understand people believe this has been
7 happening for over 20 years, is that it puts licensees
8 in a position of they're ultimately responsible for the
9 decision.

10 And if a labor arbitrator comes in and
11 overturns it, then they are faced with the dilemma of
12 either overturning their own denial of access based on
13 what the arbitrator has said, and then potentially
14 facing an enforcement action from the NRC for not
15 following the regulations, or otherwise they may be
16 facing enforcement litigation by the union or an unfair
17 labor practice.

18 And then stepping back aside from
19 particular cases, this affects the bargaining process.
20 Licensees going into collective bargaining who know
21 that they're ultimately accountable for whatever access
22 determinations they make, who do not want to give that
23 up in a negotiation because they believe they cannot
24 delegate that under the current regulatory environment,
25 if they refuse to bargain and they're subject to an

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1 unfair labor practice, so they're forced to give up,
2 make concessions to the union in order to protect what
3 they believe they cannot currently give up.

4 So, that's part of the dynamic that I think
5 is lost if you're focusing on particular cases and what
6 happens in a specific labor arbitration. This impacts
7 the collective bargaining agreement itself.

8 And finally, I would like to point out that
9 the NRC does have some role in providing oversight.
10 Others have mentioned this.

11 That there is recourse to employees if they
12 believe that the appeals process or the access
13 authorization determination process is a sham, as we've
14 heard today, that's unfortunate. But, there can be
15 allegations brought to the NRC to investigate.

16 That's something that's available.
17 Workers in the nuclear environment have more avenues to
18 pursue complaints in the NRC than in other environments.

19 And that's something that is available and
20 should work. And to the extent that there is any role
21 for third-parties in access authorization
22 determinations, I wouldn't speak on behalf of the other
23 members of the industry, but that whole -- would lie with
24 the NRC, in our opinion. Because the NRC is responsible
25 for overseeing the access authorization determinations

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1 by members, by licensees.

2 And if there's going to be a neutral review,
3 it should be by other experts. Not by labor arbitrators
4 who serve a function but come from a very different
5 background.

6 That could either be direct NRC review or
7 a panel of a member of the licensee, a representative
8 of the NRC, and a representative of the worker. Which
9 as we've heard, is not always union.

10 Not all of our nuclear workers are
11 unionized. And they should have the same opportunity
12 to have a representative and have the same process that
13 their counterparts in the unionized environment have.

14 MS. CLARK: Anybody else like to speak?

15 (No response)

16 MS. CLARK: Well, we're -- we still haven't
17 gotten to the non-governmental. So let's get to them
18 first.

19 So, okay. So now it's non-governmental
20 organizations. Let's start on the phones first.
21 Operator, do we have any calls?

22 OPERATOR: Please press star one if you
23 would like to make a comment regarding this topic.

24 (No response)

25 MS. CLARK: So it sounds like we don't have

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1 anybody on the phone. How about here in the room?
2 Anybody representing non-governmental organizations?

3 (No response)

4 MS. CLARK: Okay. So it looks like we've
5 covered all the groups. Dan, would you like to -- how
6 would you like to proceed with our break now?

7 MR. DOYLE: Yes. What we'd like to do at
8 this time, is take a ten minute break. There is a
9 restroom as Lisa had mentioned, right outside this door
10 to my right.

11 And then we will start back at 3:05 on this
12 clock right here. Thank you.

13 (Whereupon, the above-entitled matter went
14 off the record at 2:50 p.m. and resumed at
15 3:06 p.m.)

16 MR. DOYLE: This is Daniel Doyle. And we
17 are going to get started after -- again, after our break.

18 So, we've gone through the listed slides
19 that we had. Where we were looking for specific
20 feedback, if there was any, from certain groups of
21 stakeholders.

22 And we're at this point in the agenda for
23 open discussion. And basically the idea for this was
24 if there were any additional comments from people that
25 maybe had already spoken.

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1 Or if they wanted to react to perhaps
2 something someone else had said. This is just
3 additional time where we're looking for additional
4 comments if there are any other thoughts from those in
5 the room or on the phone.

6 MS. CLARK: Okay. I see some in the room.
7 So I'll bring up my microphone here.

8 MS. TEITELBAUM: Marilyn Teitelbaum. You
9 know, I don't want to be repetitive. But I've heard --
10 I keep hearing something that to me is contrary to facts
11 we all know.

12 And that is a claim that going to a
13 third-party neutral arbitrator will cause a licensee to
14 violate its obligations to have trustworthy and
15 reliable people. And might subject them to enforcement
16 action.

17 And if in fact, if in fact after all the
18 evidence is in, cross examination, confrontation, none
19 of which is available under the independent review
20 procedure. Having representation. None of that is
21 available on any client's that I know of.

22 If after that the licensee still believes,
23 and the arbitrator has ordered reinstatement, which is
24 a very few cases, and the licensee still believes that
25 this person is a threat, there is an existing legal

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1 remedy without you all engaging in this very impac --
2 potentially impactful rule making.

3 It exists in Federal law to file a -- it's
4 a Motion to Vacate. It's quick. It's easy. It's
5 inexpensive. You don't even have to go through the
6 petition process.

7 It's available in Federal law. And they
8 don't have to reinstate him. They can file this. They
9 never have to be in violation.

10 And for somebody to say that a third-party
11 isn't necessary to make these decisions in the first
12 place, or is not capable, and then maybe to argue a judge
13 is not capable. Our judges do the most important
14 national security cases.

15 And for them to not be able to understand
16 these regulations, then I must say Exelon's attorney's
17 certainly do an excellent job of letting arbitrators and
18 educating arbitrators on what the regulations are.
19 They do make a decision.

20 And one of them who was picked for an
21 arbitration in an access case, the company picked them
22 a second time to be the arbitrator. The first time he
23 didn't reinstate an individual's access.

24 The second time with another individual,
25 they did. That's -- the second one is the one that was

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1 there -- he has now been there, reinstated and been there
2 for a year. And he's clearly not a security risk.

3 That employee would not have been there but
4 for having that representation that included direct,
5 cross examination, confrontation of witnesses, and
6 having representation there. That's why she won.

7 And after it, the company agreed to put her
8 back as the arbitrator directed. And she's a good
9 employee.

10 MR. KURNICK: This is Robert Kurnick from
11 the IBEW. I do want to say a few words in response to
12 the gentleman from Arizona Public Service in defense of
13 arbitrators.

14 There is a substantial body of Supreme
15 Court law on the ability of arbitrators to decide
16 complicated questions. So, for example, the Supreme
17 Court has said that arbitrators are perfectly capable
18 of deciding complicated EEO cases, complicated RICO
19 cases, and complicated antitrust cases.

20 So I think if they can decide those types
21 of cases, they can decide these. And remember,
22 arbitrators are people who on a daily basis have to
23 evaluate the credibility, the trustworthiness of
24 witnesses.

25 It seems to me from our point of view, they

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1 are very much uniquely qualified to make the kind of
2 determination that they need to make whether somebody
3 is genuinely trustworthy and reliable.

4 And the other -- the third point is this.
5 The arbitrators are not like judges. They are not
6 assigned. They are chosen by the parties.

7 And if -- and frankly, I would say speaking
8 on behalf of the IBEW, and I think the licensees would
9 agree, it is in the interest of both parties to have
10 arbitrators who are capable of deciding these issues.

11 Who are capable of understanding what's
12 involved in making these determinations. But, if it
13 appears that an arbitrator is not able to make that
14 decision, they can simply choose somebody else.

15 So, I think it's simply wrong, wrong-headed
16 to accept the proposition that there is something so
17 inferior about arbitrators that they are incapable of
18 making rational, informed decisions on issues of access
19 authorization.

20 MS. JERRY: I would just -- this is Anna
21 Jerry, IBEW International Office.

22 I would like to say just in regards to costs
23 surrounding this initiative, we have been working
24 tirelessly to keep our nuclear plants open and running
25 in the current regulatory and deregulated States that

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1 some of our plants are in.

2 And when we looked at the SECY on this issue
3 earlier in the year, we noted that the cost to manage
4 this had not been put into the NRC's budget at that time.

5 And we would just like to encourage NRC to
6 use the funds that the NRC has to help us keep those
7 plants open. Rather than to argue over an issue that
8 we really see as a non-issue. Thank you.

9 MS. CLARK: Operator, do we have anybody on
10 the telephone with a comment or question?

11 OPERATOR: We have Barry Quigley. Your
12 line is open, sir.

13 MR. QUIGLEY: Yes. This is Barry Quigley.
14 Two of the commentators have used the phrase that I'd like
15 to clarify.

16 They said that this is a matter of national
17 security. I don't agree with that. I will go so far
18 as saying this is a public health and safety issue.

19 The national security implications,
20 basically people with the Atomic Energy Act of 1946 is
21 where it was first used. And at that time it was the
22 job of the Atomic Energy Commission to make nuclear
23 weapons.

24 We don't make weapons. We make
25 electricity. That phrase is also carried forward in

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1 the Atomic Energy Act of 1954.

2 Also, -- and that's when commercial power
3 first came in. And at the time, the Atomic Energy
4 Commission still had a national security function as far
5 as weapons go.

6 So, I'd just like to clarify that this is
7 not a national security issue. This is a public health
8 and safety issue. Thank you.

9 MS. CLARK: Thank you. Any other calls on
10 the line?

11 OPERATOR: We have no other callers at this
12 time.

13 MS. CLARK: Very well. Is there anybody
14 else present here? Yes?

15 MR. ENGLUND: Thank you. This is Jason
16 Englund from Arizona Public Service again. I wanted to
17 respond to the comments from the IBEW about labor
18 arbitrators. And to clarify my comments.

19 Labor arbitrators and arbitrators
20 generally serve an invaluable role in certain contexts.
21 But they perform a certain function, which is
22 fundamentally different from the type of access
23 authorization decisions that are required of licensees.

24 These are predictive in nature. They are
25 analogous to national security decisions. Although I

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1 support the comment that was just made that this is a
2 public health and safety issue, not strictly a national
3 security issue.

4 However, it's a helpful analog. Because
5 the Supreme Court has held in the military context that
6 a security clearance is not something that can be ruled
7 on by a judge.

8 It's not something that can be ruled on by
9 a third-party like an arbitrator. Because this is
10 something that's predictive in nature.

11 And they're not equipped, don't have the
12 expertise. Which is why the Department of Defense has
13 a separate adjudicatory body with an ALJ type review of
14 denials of security clearances.

15 And that would be, I think, a useful analogy
16 for this context. Where it's not simply a matter of the
17 individual worker's right, but also the implications
18 for the public health and safety of the public at large.

19 MR. DiPIETRO: Nick DiPietro again with
20 First Energy. Just one more comment I think that's
21 important that we -- you need to take a look at.

22 Is that, you know, a lot of this revolves
23 around access authorization. And we very briefly
24 touched on the fitness for duty piece.

25 And a lot of the fitness for duty pieces of

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1 it aren't solely a positive drug test result or that type
2 of thing. There's parts in -- there's words and
3 requirements in Part 26 that talk about determinations
4 of fitness by licensed professionals.

5 So, we have cases where a licensed
6 psychologist will make a recommendation that a person
7 be granted or not granted unescorted access. We got
8 medical review officers. We have substance abuse
9 experts. Okay?

10 So, we had a case, and the individual was
11 exhibiting abhorrent behavior. We sent the person out
12 for a psychological review.

13 The psychologist did not recommend the
14 individual for unescorted access. And subsequently
15 the individual was separated from the company.

16 It went to arbitration. The arbiter in
17 reviewing the case said oh, well, you're not going to
18 let a third-party make your employment decisions.
19 Reinstate the person.

20 So, we reinstated the person. You know,
21 made him whole as far as wages and everything else.
22 But, I still cannot give the individual unescorted
23 access, because I didn't have a piece of paper from a
24 licensed psychologist that said he's recommended for
25 unescorted access.

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1 So, it took a year and a half of sending this
2 individual through counseling and other kind of
3 treatment. And then we finally were able to get the
4 person reinstated and come back, you know, for
5 unescorted access.

6 So, that person really wasn't productive to
7 our company in that capacity. But, I just wanted to
8 make the point and not argue the specific case.

9 But make the point that there's times where
10 we rely on outside professionals and their licensure to
11 make recommendations as it relates to trustworthiness,
12 reliability, or fitness for duty.

13 And just because a third-party says hey,
14 make the person whole and bring them back to work.
15 There maybe circumstances where we can't do that.

16 So, that's another piece of this I think you
17 need to take a look at when you're trying to figure out
18 which way we want to go with this. Thanks.

19 MS. CLARK: Anybody else in the room?

20 (No response)

21 MS. CLARK: Operator, any further callers?

22 OPERATOR: No, ma'am. We have no further
23 commentators.

24 MS. CLARK: Okay. I guess that concludes
25 our open discussion. I'll turn it back over to Dan.

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1 MR. HARRIS: I'd like to respond to that
2 last comment on fitness for duty. Hi, this is Paul
3 Harris, Senior Program Manager for -- in the NRC.

4 A number of discussions were on fitness for
5 duty determinations involving medical review officer
6 and substance abuse experts' determinations. I'm
7 familiar with many of them.

8 Nick DiPietro's comment there is apropos to
9 this conversation as well as Anna Jerry of the IBEW and
10 her comments associated with fitness for duty
11 determinations, as well as the individual up in
12 Minnesota, the lawyer up there representing the unions
13 up there.

14 So, I would be very open to hearing
15 suggestions and comments based upon public involvement
16 in Part 26. Those sections in 26 would be dealing with
17 the medical review officer in 26.185 and 26.187 as well
18 as possibly the appeals process associated with Part 26.
19 Which would be the 26.39 provision.

20 So, all those are within the scope of this
21 regulatory review that we're going to be undertaking.
22 And we'll look forward to your comments.

23 MS. TEITELBAUM: So Paul, are you saying at
24 this point we should be submitting comments and
25 information on whether or not -- or what kind of

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1 independent review process it should be?

2 I thought we were just at the regulatory
3 basis part? And so now we should just be commenting on
4 whether there should be any rule making in the first
5 place.

6 So, if you could clarify that for me. And
7 whether there's a due date. Bob wants to know.

8 MR. DOYLE: Right. So, we're not
9 accepting -- we're not soliciting written comments at
10 this, you know, associated with this meeting or this
11 step in the process. That was stated in the meeting
12 agenda.

13 So, just to be clear, we're not asking for
14 comments right now, written comments. And there is not
15 a deadline for that.

16 However, we spoke earlier in the meeting,
17 you said you had some specific information you felt was
18 important to share about information that you felt was
19 maybe not correct in the paper last year. And as I said,
20 we have been directed to do specific outreach to the
21 union.

22 So, what I'm going to do is get more
23 information on how -- what the process is for submitting
24 that kind of information. And I mean, the NRC gets
25 letters all the time.

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1 So, I'm -- I guess I'm just trying to be
2 careful a little bit of we're not -- I'm not trying to
3 open the floodgates and get, you know, a tidal wave of
4 letters.

5 That's not the step that we're at right now.
6 And there will be an opportunity to submit written
7 comments. At least two occasions as we go through this
8 process.

9 First when we do put out the draft
10 regulatory basis. Second, if we do get to the proposed
11 rule stage, there will be a written comment period
12 associated with that.

13 However, so just trying to be clear, I
14 guess, that if you want to submit written information
15 about that, I will get back to you and let you know how
16 to do that.

17 MS. TEITELBAUM: Right. And I did
18 understand that. Thank you.

19 But I thought when Paul added that about,
20 and we're looking at the issue of a review process, I
21 would think that that wouldn't be there -- we wouldn't
22 need -- you wouldn't be even addressing that until first
23 you found that there was a regulatory basis for doing
24 anything.

25 MR. DOYLE: So it sounds like maybe the

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1 best path would be to see, you know, what the NRC
2 includes in the draft regulatory basis. And then
3 provide comments on that.

4 I don't think I can provide any more helpful
5 info right now. Other than that we're not -- we don't
6 have a broad request for comments on that.

7 And if there's a need for some other action
8 or some other kind of outreach that we need to do, we're
9 open to doing that. But, that's -- we're not just
10 soliciting written comments in general at this point.

11 Does that -- is there anything else you
12 wanted to add Paul?

13 MR. HARRIS: No. Thank you.

14 MS. CLARK: All right. I'll ask one last
15 time if there's any further comments or questions?

16 (No response)

17 MS. CLARK: Hearing none, Dan, do you want
18 to make some closing remarks?

19 MR. DOYLE: Okay. Thank you. So, we are
20 -- have a few more slides just to wrap up before we
21 conclude the meeting.

22 So, listed on this slide we have the next
23 steps for this stage in the rule making process that
24 we're in right now. We're anticipating early 2017 to
25 publish a draft document that would lay out the elements

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1 that we described earlier.

2 It would be a draft. We are planning on
3 having a written comment period on that. There would
4 be a public meeting during the comment period to
5 facilitate understanding of what's in there.

6 And that would be a more detailed
7 discussion on what we see as the issue, and what we see
8 as the options. So, we anticipate that early next year.

9 There is flexibility for additional public
10 feedback. And -- next year. So, we'll do that as
11 necessary.

12 I would just like to point out that we did
13 get a request from IBEW, Ms. Anna Jerry did send an
14 email, which we put into our documents, electronic
15 document system. And we did provide a response last
16 Thursday.

17 And that will also be in that document
18 system and on the docket here. To be responsive to
19 their request for additional outreach.

20 So, we will be following up on that. And
21 reaching out to other potentially affected labor
22 organizations.

23 The other ones that I'm aware of, that I had
24 specifically reached out to before this public meeting
25 was UWUA, I think stands for Utility Workers United

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1 America, I think. And the AFL/CIO. So, I did have
2 contacts identified for those two organizations as
3 being potentially affected.

4 So, that is something that we're -- that we
5 will follow up on as described in that response to Ms.
6 Jerry.

7 Late 2017, we're anticipating publishing a
8 final regulatory basis. If we do proceed to the
9 proposed rule stage after that, then there would be
10 additional opportunity for public input.

11 There would be at least one more public
12 meeting on that. And a written comment period. And
13 then the final rule process.

14 And both of those, the proposed rule and the
15 final rule would be submitted to the Commission for
16 their review. They may have additional public meetings
17 to help them make their decision also. That will
18 sometimes happen.

19 So, those are the next two stages after the
20 regulatory basis stage. If we do recommend a change to
21 the Regulations. Next slide, please. Thank you.

22 So, you can find information about this
23 rule making activity by going to Regulations.gov. That
24 is a Federal government wide portal for information
25 about rule making activities.

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1 And you can submit comments using that
2 website. So, to find the information for this
3 activity, you'd search for the Docket Number, the Docket
4 ID listed on the slide, NRC-2016-0145.

5 And if you look at it right now you would
6 see the meeting notice for this public meeting. And the
7 presentation slides that we used.

8 So, if we do additional relevant documents
9 will be placed in that folder. And it will be
10 conveniently located together. Next slide.

11 So, backing up to slide 17. We are
12 interested in hearing your feedback on the
13 effectiveness of this public meeting. And how it could
14 have been -- if you have suggestions for improvement.

15 And we definitely look at that. So, you
16 can use -- either scan this code, if you have that
17 ability to do that with your phone or some other device.

18 Or you can go to the NRC's public website.
19 Click on the public meeting section, today's date, find
20 this meeting.

21 And there will be a link in there to submit
22 a feedback form electronically. Also, there are paper
23 feedback forms on both sides of this room.

24 One other thing I just wanted to mention on
25 Regulations.gov, there is an opp -- there is a feature

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1 where you can sign up for email alerts. So, if you
2 search for that Docket, open the Docket folder and click
3 the link to sign up for email alerts, it will notify you
4 whenever documents are added.

5 And it expires after a year. So you might
6 have to renew that if it takes longer.

7 Also, just wanted to mention that a summary
8 and transcript of this public meeting will be made
9 available and placed in that Docket.

10 One other thing to mention that if you did
11 not sign the sign-in sheet, there was one on this table
12 over here. There's another one on the ledge over there.
13 If you haven't already signed that, I would appreciate
14 it if you could sign that so we could note the attendance
15 at the public meeting today.

16 And we have collected that information for
17 those on the webinar and the telephone. So, we'll be
18 including a list of attendees in the public meeting
19 summary.

20 Did any of the other NRC staff have any
21 comments they wanted to make before we conclude the
22 meeting?

23 MR. RESNER: We really appreciate the
24 feedback. Thank you all.

25 MR. DOYLE: Okay. We very much appreciate

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1 your participation and feedback. I think this is very
2 productive and useful for us. And that concludes the
3 meeting. Thank you very much.

4 MS. TEITELBAUM: We appreciate your
5 feedback as well.

6 OPERATOR: That does conclude today's
7 conference call. We thank you all for participating.
8 You may now disconnect. And have a great rest of your
9 day.

10 MR. DOYLE: Thank you, Jill.

11 OPERATOR: You're very welcome. Thank
12 you.

13 (Whereupon, the above-entitled matter went
14 off the record at 3:31 p.m.)

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