

NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

In the Matter of: BRIEFING BY IE ON STATUS OF EMERGENCY
PREPAREDNESS IN NEW YORK STATE

DATE: April 22, 1981 PAGES: 1 - 30

AT: Washington, D. C.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BRIEFING BY IE ON STATUS OF EMERGENCY
PREPAREDNESS IN NEW YORK STATE

Room 1130,
1717 H Street, N.W.
Washington, D. C.

Wednesday, April 22, 1981

The Commission met at 11:10 p.m., pursuant to
notice, Joseph Hendrie, Chairman of the Commission,
presiding.

Commissioners present: Chairman Joseph Hendrie,
Commissioner John Ahearne, Commissioner Victor Gilinsky, and
Commissioner Peter Bradford.

Present for the NRC Staff/OPE:

D. Rathburn

Present for the NRC Secretary's Office:

S. Chilk

Present for the NRC Office of General Counsel:

L. BICKWIT, Esq.

Present for the Office of Inspection and Enforcement:

V. Stello
B. Grimes

DISCLAIMER

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P R O C E E D I N G S

1
2 CHAIRMAN HENDRIE: The Commission is meeting this
3 morning for a briefing by the Inspection and Enforcement
4 Office on the status of emergency preparedness up in my home
5 state.

6 Commissioner Bradford will join us directly.

7 For those who are interested in scheduling
8 matters, I will gavel this meeting down precisely at 12
9 noon.

10 Mr. Stello is here, and Kevin Cornell.

11 Vic, go ahead.

12 MR. STELLO: As we indicated at our last meeting,
13 when we discussed Indian Point., that we wanted to meet with
14 all of the parties to understand what the issues were. The
15 parties being the various licensees within the State of New
16 York, and various officials from the State of New York who
17 have responsibility for emergency planning, the various
18 local officials, principally and chiefly the County
19 Executives in the counties affected, the officials from FEMA
20 and, of course, ourselves.

21 We had that meeting on April 15th. It was a very
22 large meeting. I guess probably on the order of 100
23 people. There were members from the legislature of the
24 State of New York present.

25 COMMISSIONER AHEARNE: Were there any significant

1 absencies of people who should have been there?

2 MR. STELLO: No, everyone, as I recall was
3 represented. For the counties, I think in most cases the
4 County Executives themselves showed up. The utilities all
5 had one of their principal officials at the vice president
6 level attending the meeting. The Director of FEMA attended
7 the meeting as well, and the principals from the New York
8 State organizations were there.

9 COMMISSIONER GILINSKY: Did this cover emergency
10 planning throughout the state?

11 MR. STELLO: Throughout the state. It covered the
12 issues within the surrounding sites for all of the operating
13 plants, and also included Long Island Lighting, who
14 obviously doesn't have the same time schedule in terms of
15 getting the problem resolved, but they were represented as
16 well.

17 COMMISSIONER GILINSKY: Who ran the meeting?

18 MR. STELLO: Mr. David-Dorf?

19 MR. GRIMES: David-Off of the State of New York.

20 CHAIRMAN HENDRIE: You will recall that he was
21 here when we met with a number of State emergency planning
22 officials.

23 MR. STELLO: What I will do at this point is to
24 ask Brian to summarize the status as we see it. I think if
25 I can identify what I think is the biggest hurdle to

1 overcome, it is the need, as perceived by all parties, for
2 legislation to resolve the several issues at Barnwell
3 specifically.

4 Brian, why don't you start with --

5 COMMISSIONER GILINSKY: State legislation?

6 MR. STELLO: Yes.

7 MR. GRIMES: The first area of concern expressed
8 by the State and the counties was some confusion in the
9 existing State law over who evaluates the need to take
10 protective actions among the outside authorities, and
11 determines whether protective action, such as sheltering or
12 evacuation, should be taken.

13 The state believes that legislation is needed, and
14 has introduced legislation in the current session to give
15 the State clear authority to evaluate and decide on the need
16 for protective actions.

17 The second aspect, not apparently covered by the
18 currently introduced legislation, is a concern by the
19 counties that the County Executive should have more
20 operational authority over local response agencies. We
21 pointed out that in some other jurisdictions this is done by
22 agreement of all parties to the plan, but they felt that it
23 would be clearer and it would also give them authority over
24 other emergency areas if they had legislation to that
25 effect.

1 This was taken under consideration by the State.
2 On both of these issues there will be committees formed to
3 resolve the various problems. One of those will be a
4 committee on legislation, which will have representatives of
5 the counties, the State and the utilities, which will work
6 with the legislature to try to expedite that legislation.

7 The third area where the State and counties
8 believe legislation is required is on the resource
9 question. How resources will be made available on a
10 continuing basis.

11 The State and the counties were of somewhat
12 different opinions as to where the money should go under the
13 law, but that will need to be worked out also.

14 COMMISSIONER AHEARNE: In this legislation, are
15 they talking still on State, or are they talking about
16 national?

17 MR. GRIMES: State legislation which would, in
18 effect, tax the utilities to provide resources. The State
19 would like that to be controlled by the State, and the
20 counties would like that to come directly to the counties.

21 COMMISSIONER AHEARNE: Were they saying that they
22 need a law to require it, or they would need a law to permit
23 it?

24 MR. GRIMES: To require it.

25 COMMISSIONER AHEARNE: But at the moment, the

1 State Public Service Commission could permit it; is that
2 correct?

3 MR. GRIMES: At the moment, there have been
4 voluntary contributions by all of the utilities to the State
5 to hire consultants to develop plans.

6 So there is a mechanism to get the resources
7 there, but they believe that on a continuing basis, to
8 finally resolve the resource question, they find legislation
9 highly desirable.

10 MR. STELLO: These resources that we are talking
11 about, I am not certain of all the numbers, but I thought
12 that the two utilities at the Indian Point site, it was some
13 \$7 million that the utilities had provided for emergency
14 planning, and at Nine Mile Point it was on the order of \$3
15 million.

16 There are sizable sums that the utilities have
17 already provided, and pretty much on a voluntary basis.

18 MR. GRIMES: Those are start up costs, and the
19 legislation would address the continuing costs.

20 COMMISSIONER AHEARNE: You are saying that the
21 bullet is only one on which legislation has already been
22 introduced?

23 MR. GRIMES: There is legislation on the general
24 area on both who determines the protective actions, and the
25 resource question. It is not evident that there was

1 included in the legislation something to solve the counties'
2 operational authority and problems.

3 All of these first three items, we accept the
4 State's and counties' concerns. We think that if
5 legislation were not passed that there might be ways to
6 reach the state of emergency preparedness, but they are very
7 interested in achieving this legislation in a short period
8 of time, and believe they can do so.

9 They believe in the next couple months that the
10 legislation is likely to act on this.

11 COMMISSIONER AHEARNE: Is the first bullet agreed
12 to?

13 You say that the legislation will give the State
14 the authority, do the counties agree with that approach?

15 MR. GRIMES: The counties don't have a problem, I
16 believe, with the State evaluating the need for action.
17 Their concern was with the operational authority to control
18 local response resources in the event of an emergency.

19 There was some discussion of that, and I am sure
20 that will be further discussed in the committees they are
21 forming, but I did not perceive a fundamental difference
22 there.

23 COMMISSIONER GILINSKY: Is it unlikely that some
24 agreement would be reached in the absence of State laws?

25 MR. GRIMES: The State and the counties seem to

1 believe that that is the most expeditious way to do it, and
2 that there are contradictions in current State law that make
3 for at least theoretical problems that they would like to
4 get resolved immediately.

5 MR. STELLO: I don't think that they need to have
6 the legislation. I think at least one or two of the County
7 Executives indicated that they already had reached agreement
8 and understanding with some of the urban counties, like
9 Oswego County around Nine Mile Point.

10 They think they have the problem solved, and they
11 think that whether they have legislation or not, they
12 certainly could make it work.

13 In the counties where they don't have it solved, I
14 don't see any reason why they couldn't effect an agreement.
15 For example, if it is the 50-60 State police department, or
16 police departments, municipalities, or whatever, they could
17 effect an agreement that if there is an emergency, the
18 direction for what needs to be done would be provided by
19 form of government it is, county, or whatever.

20 So the problem can be solved, certainly with
21 legislation, but I think it can be solved without
22 legislation.

23 MR. GRIMES: We should note that Mr. Del Bello
24 specifically stated that it would be much more difficult for
25 in his case to achieve that agreement without the

1 legislation. He didn't say that it could not be done, but
2 he indicated a strong preference for having the
3 legislation.

4 MR. STELLO: Again, that is quite logical because
5 that is a county with the largest population, and the
6 largest number of municipalities, and different police
7 departments, fire departments, and school systems, which
8 would have to be brought together a blanket of an
9 agreement. But I don't see any reason why it can't be
10 done.

11 COMMISSIONER AHEARNE: It would be a lot easier if
12 there is legislation.

13 MR. STELLO: If there is legislation, then it is
14 done with the stroke of a pen.

15 MR. GRIMES: The other item on the page of
16 significant deficiencies is that FEMA has identified
17 deficiencies. Here is a letter of April 2nd summarizing
18 those deficiencies, and then the regional office sent to the
19 State on April 6 a letter detailing those deficiencies.

20 In summary, they are: conflicts in the
21 organizational relationship and assignment responsibility
22 which the legislation is designed to help; a lack of
23 specificity in several areas; and some portions of the plan
24 were yet to be developed, some subportions of the plan.

25 I think we should also say that I got a general

1 sense that the plan deficiencies were resolvable and
2 fixable, and that FEMA is committed to work with the State
3 and counties. There will be a working group for each site
4 put together to make sure that things are worked out.

5 I got a general sense that there is nothing in the
6 FEMA comments that could not be resolved.

7 MR. STELLO: Before you go on to the current
8 status.

9 There is at least a couple of points I think that
10 ought to be made, I will make them personal observations for
11 at least the moment.

12 The state of preparedness around the Indian Point
13 site, I think there was general complete agreement that it
14 is significantly better now than it had been in the past,
15 about the issues that came to pass, and the items that were
16 being requested by some of the county officials in what they
17 were dealing with is a very fundamental basis of
18 preparedness.

19 I had at least a simplistic view of our problem
20 with nuclear plants was going to be an add-on, and what we
21 had was a level of preparedness, and then we were going to
22 add on.

23 CHAIRMAN HENDRIE: In general, earthquake, fire,
24 flood, or what-have-you.

25 MR. STELLO: Based on what I saw on the state of

1 preparedness in New York, what we were having to face is
2 that first and fundamental level of preparedness, and it
3 just isn't there. So now, when we try to add on this
4 increment, it is obviously a much greater increment that we
5 are adding on, and it makes the job a great deal more
6 difficult.

7 COMMISSIONER AHEARNE: In many cases, what we are
8 doing is forcing counties or locales, who had never really
9 developed a coordinated emergency plan, to develop an
10 emergency plan.

11 MR. STELLO: Yes.

12 Again, I certainly want to note that the progress
13 is significant that has been made, but the level from which
14 we began was much, much lower than I thought it should have
15 been.

16 What the utilities are being faced with, and what
17 they are being asked for, at least in a sense of fairness I
18 would like to note, is to provide a state of preparedness
19 that has to deal with issues that are not particular to the
20 issues raised because of the existence of the nuclear plant,
21 but for the very fundamental state of preparedness that is
22 needed.

23 It is certainly unclear to me that the resource
24 impact ought to just automatically fall on the utility to
25 serve that purpose. I think it is going to be a difficult

1 issue in terms of resolving the resource question.

2 Nevertheless, the utilities are clearly cooperating in that
3 regard.

4 COMMISSIONER GILINSKY: Could you tell me what are
5 the most important things which are not in place that ought
6 to be, and what would these resources that you talked about
7 go for?

8 MR. STELLO: Do you have the list?

9 MR. GRIMES: Yes, the April 2nd letter.

10 MR. STELLO: Let me try to do it more from memory,
11 rather than trying to go through some list.

12 One of the issues that Brian has already covered,
13 is there was a need to take action, where does the authority
14 to start taking that action lie?

15 It is not brought together in one place with a
16 County Executive, for example.

17 MR. GRIMES: Or the Governor.

18 MR. STELLO: Or the Governor. If it were to
19 happen, they would do it, ad hoc, case by case, calling and
20 getting agreements. So the need to have that level of
21 authority straightened out is clearly an issue, and one of
22 the more significant issues.

23 The resource question, in terms of one of the
24 example, if we call the fire department or the police
25 department, and we put them on overtime pay, who is going to

1 pay for it. I couldn't care less, that is all after the
2 fact.

3 But in terms of some equipment that would be
4 needed, radios, and what-have-you, there are some of those
5 details which have not been settled, which I don't think are
6 quite important.

7 MR. GRIMES: There are a few examples, FEMA mainly
8 points them out in terms of need for identification of
9 radiological monitoring resources.

10 Part of the resolution of that will depend on
11 whether the county agrees that the State has the
12 responsibility for making off-site monitoring, confirmatory
13 measurements, rather than the county trying to staff up to
14 do it. We believe that that can be worked out.

15 If the roles are straightened out, many of the
16 resources that had been identified, for example, by
17 Westchester County would not really be needed. The primary
18 resource concern that I see lasting, after the authorities
19 and responsibilities are straightened out, is additional
20 people at the county level required to keep these plans
21 upgraded and in place.

22 Should there be a funding of person or two in the
23 country by whatever means, normally known in other counties
24 as the civil defense director or some kind of a staff which
25 would devote a reasonable amount of attention to keeping

1 these things current.

2 COMMISSIONER AHEARNE: As I recall, in that series
3 of letters from Westchester County, some of the items, in
4 addition to what they were saying they would need resources
5 for, were such things as vehicles for transportation. For
6 example, they were saying that they just would not have
7 enough school buses, and such, additional hospital
8 facilities, or at least staff to staff the hospitals in case
9 of emergency, medical supplies.

10 MR. GRIMES: Cots.

11 COMMISSIONER AHEARNE: Yes.

12 MR. GRIMES: In most of those cases, I think,
13 probably State resources or other resources will very likely
14 be identified, which could be brought in, or the local
15 resources could be supplemented by the transport of people
16 to a different hospital, or whatever the case might be.

17 I think it is important that both the State and
18 the counties identify who is going to do what, and that
19 there be adequate resources identified for each task. I am
20 not sure that in the end there is going to be a need for a
21 lot of specific additional medical facility equipment, for
22 example.

23 One item of interest was that during the
24 afternoon, as we were leaving, there was a session starting
25 between Westchester County and the State consultant who had

1 been paid for by the utility, and I think there was also a
2 utility representative, on the items listed in Mr. Del
3 Bello's letter. The consultant had detailed responses to
4 those.

5 In talking to one of the county representatives,
6 my impression was that most of those items would probably be
7 taken care by the consultant responses, but there were still
8 some concerns by the county in the transportation area, for
9 example, and that was yet to be discussed.

10 I think these things need to be worked out, and
11 maybe some specific resource items.

12 COMMISSIONER GILINSKY: Suppose there was an
13 incident today, and some form of public protection was
14 recommended by the NRC, or suppose an evacuation was
15 recommended, how would that work today?

16 Is it clear who would direct people from the
17 area? Is there a plan which could be followed?

18 MR. GRIMES: Both State and counties indicated
19 that if something were to happen today, they would use the
20 newly developed material as best they could. The State
21 specifically said that they were working the new changes to
22 the plan into their operation as they developed it.

23 With respect to who directs an evacuation, who
24 implements, for example, an evacuation, there is no
25 disagreement that the local authorities would be the ones

1 with that would be doing that. The question would be, who
2 recommends the evacuation.

3 The State believes it is the one that should be
4 doing that. There might be some consultation or maybe even
5 confusion between the State and the counties as to who as
6 going to finally make the decision, but I am sure that they
7 both know who the other party is.

8 The four counties do have a coordinated lead
9 between the State and the county, which would just have to
10 be worked out as to what should be done in that particular
11 case, and they would have to get a consensus, rather than
12 just one decide.

13 COMMISSIONER AHEARNE: Do the four counties have
14 any kind of an emergency coordinator amongst the four of
15 them?

16 MR. STELLO: Yes. They got together quite some
17 time ago, and they have been working on a coordinated
18 response in the four-country area. They are pulled together
19 under a common purpose.

20 MR. GRIMES: Westchester County is designated as
21 the lead county.

22 COMMISSIONER GILINSKY: I am all for clarifying
23 these lines of responsibility, but is there any suggestion
24 here that if, say, the NRC were to recommend evacuation, or
25 some other form of public protection, that one or another of

1 these groups might turn a deaf ear?

2 MR. GRIMES: Absolutely not.

3 MR. STELLO: No. On the contrary, I think they
4 all indicated that if there was a need, they would follow
5 the plan as it is laid out to the best of their ability, and
6 they did not expect to have any lack of cooperation.

7 That is still not the way it ought to be. There
8 ought to be a very clear --

9 COMMISSIONER GILINSKY: I agree, we want to get it
10 clarified. There is no question about that.

11 MR. STELLO: It is a significant improvement over
12 what was there several years ago.

13 COMMISSIONER GILINSKY: I am still not clear on
14 what is lacking on the resource side. You talked about
15 measurement capability.

16 MR. GRIMES: It has not been really defined
17 closely. We have what I would call an initial wish-list
18 from Westchester County which is being responded by the
19 State consultant, and it will just have to be worked out.

20 COMMISSIONER AHEARNE: If you recall, we got all
21 of Westchester County's requirements.

22 MR. GRIMES: The March 24th list of items, I am
23 saying that not all of those items will result finally in
24 the need for more resources. FEMA did not specifically
25 identify major resource lapse.

1 COMMISSIONER GILINSKY: Are the State and counties
2 deficient in their ability to monitor around the site in the
3 event of an accident?

4 MR. GRIMES: No, in the sense that they can call
5 DOE to perform most of that task, and the State also has
6 some capability it would bring.

7 COMMISSIONER GILINSKY: How fast could DOE get
8 there?

9 MR. GRIMES: Since they are at Brookhaven, I
10 believe it would be on the order of a couple of hours. That
11 was the guesstimate we heard.

12 COMMISSIONER AHEARNE: As I recall, one of the
13 things that the county argued is that they wanted to have
14 their own people.

15 MR. STELLO: They also wanted their own
16 laboratory. The State has a laboratory for doing
17 independent measurements, and the counties were suggesting
18 that they ought to have, again, their own laboratories.

19 COMMISSIONER GILINSKY: You have got division of
20 Brookhaven.

21 (General laughter.)

22 MR. STELLO: It is a continuing problem. You are
23 going to have a great deal of redundancy of off-site
24 measurements going on. You are going to have the utility
25 first and foremost, he is required to put out the monitoring

1 teams and does so.

2 Then you are going to have State and local
3 officials, the NRC, EPA, various county organizations that
4 have monitoring equipment.

5 COMMISSIONER GILINSKY: Those responsibilities
6 have not been clarified either.

7 MR. STELLO: I think the State thinks that that is
8 a State function, and they have the laboratory, and they
9 have the equipment, and if there is a need for independent
10 measurements, they have it.

11 I think it is question as to whether the counties
12 ought to have, in addition to what the State has, more.

13 COMMISSIONER AHEARNE: Do the FEMA rules or our
14 approach require the State and the county to have
15 monitoring?

16 MR. GRIMES: They have to have that capability,
17 but part of that capability can be DOE capability. So that
18 I would not expect the current State plus DOE capability to
19 be at all deficient.

20 MR. STELLO: All the states have monitoring
21 programs.

22 COMMISSIONER AHEARNE: But do our requirements
23 require separate programs by State and local?

24 MR. STELLO: No.

25 COMMISSIONER AHEARNE: This is more of a desire on

1 the county's part rather than our requirement?

2 MR. STELLO: Yes. We are attempting not to get in
3 the middle of the debate between the county and the State,
4 and they are sitting own, and as Brian indicated, and did
5 sit down to resolve these kinds of differences. If there is
6 an augmentation needed, I assume they will reach an
7 agreement on how to do that.

8 MR. GRIMES: The only other item of interest from
9 the meeting before I go to the status is that there was a
10 good bit of discussion on notification during emergencies,
11 and the credibility of the utility.

12 While this is not an area that we would find
13 deficiencies in, there may well be legislation introduced in
14 New York State to require some kind of automatic
15 transmission of parameters, or an individual from the State
16 --

17 COMMISSIONER AHEARNE: Maybe we can tap into it.

18 MR. GRIMES: Yes.

19 Or an individual from the State or county in the
20 control room 24 hours a day. Some of the counties, in
21 particular, expressed dissatisfaction with having to rely on
22 the utility for judgments as to when problems were
23 occurring.

24 I believe myself that this should be cured over
25 time by, I hope, some forced favorable experience requiring

1 notification even on minor events, which will build a
2 relationship between on-site and off-site.

3 COMMISSIONER GILINSKY: Is legislation being
4 drafted on the first point, the business of resolving --

5 MR. STELLO: There is legislation. I believe
6 there are bills in both the Senate and the Assembly side. I
7 have seen drafts of them, and they had a hearing to discuss
8 that up in New York City not too long ago. I think there
9 may be bills on both sides.

10 MR. GRIMES: There is a Governor's bill, and then
11 there is a bill by the Speaker of the House, which are both
12 going toward the same objectives, evidently somewhat
13 differently couched.

14 On the status --

15 COMMISSIONER GILINSKY: Before you get to that,
16 was there any other result of that meeting?

17 MR. GRIMES: I think we have covered the results
18 of that meeting.

19 The State indicated it believes that both the
20 legislation and the plant deficiencies could be resolved
21 within the four months.

22 COMMISSIONER AHEARNE: When you have the conflicts
23 in organization relationship and assignment of
24 responsibilities, is FEMA's conclusion that legislation is
25 required to sort that out?

1 MR. GRIMES: No. In fact, we suggested in other
2 states, everyone signing the front page of the plan, and all
3 the parties to the response sign the front of the plan, is
4 an adequate agreement that the parties will respond as
5 described in the plan.

6 However, there is, I think, a strong desire to get
7 this authority straight on the county level, at least, for
8 other than nuclear emergencies.

9 MR. STELLO: Nor do all the County Executives
10 believe in New York that that is needed. They are not all
11 in agreement that it is required.

12 MR. GRIMES: On the status, we have some detailed
13 deficiencies identified by FEMA in the FEMA Region data,
14 plus six letters to the State. We have discussed the
15 meeting of all parties held on April 15th in Albany.

16 We have mentioned already that the State counties
17 indicate new plans would be used to the extent feasible for
18 any current emergencies. We also mentioned that the State
19 believes that these problems can be resolved within a
20 four-month period.

21 We are in the process of starting a four-month
22 period under our regulation.

23 COMMISSIONER BRADFORD: How do you do that, Brian,
24 just by a letter?

25 MR. GRIMES: Yes, a letter, very likely from our

1 regional director, as an enforcement action on the
2 regulation, which sets out the provision of the rule and
3 asks for a response on the plan for correct actions within a
4 short period of time, let's say, 20 days, and indicates the
5 language of the rule that if these deficiencies are not
6 corrected at the end of 120 days, then the Commission must
7 make a decision whether to shut the plant down.

8 COMMISSIONER AHEARNE: The triggering item you are
9 using is FEMA's notifications?

10 MR. GRIMES: Yes, the FEMA letter of April 6 will
11 be used as the list of deficiencies, and the start date will
12 be our letter to the utilities which will start the
13 four-month period.

14 MR. STELLO: I would like to make sure that
15 something is clear, again, a problem that is clearly in the
16 regulation.

17 We send such a letter, we are going to send it to
18 the utility. We give him that responsibility, but I think
19 you have to recognize he has absolutely no authority with
20 which to cause these deficiencies to be removed whatsoever.

21 COMMISSIONER AHEARNE: I assume you are also
22 sending copies of the letter to everybody.

23 MR. STELLO: We will do all that that we can, but
24 again we have a requirement that we are placing on the
25 licensee.

1 COMMISSIONER GILINSKY: None of the deficiencies
2 relate to the licensee's own activities, or things under hi
3 control?

4 MR. GRIMES: Not at this point. We have not
5 identified any.

6 MR. STELLO: If there are, it is nothing major
7 that I have seen that would come into that category. The
8 liste is quite long, and I would not speak that not one of
9 those is in that category, but clearly that would be an
10 exception to what I said which I think would be rare.

11 COMMISSIONER AHEARNE: We understood that when we
12 were putting the rule together, it was the inherent
13 difficulty of trying to reach to the State and local
14 governments through the mechanisms that we had available to
15 us.

16 MR. STELLO: I clearly understand that, but I
17 wanted to make sure that while we are doing so, the utility
18 is placed in a position where he has absolutely no authority
19 with which to resolve and remove the deficiencies that are
20 identified.

21 COMMISSIONER AHEARNE: Nonetheless, by putting
22 everybody on notice, the people who would suffer would be
23 the people who get the electricity from the utility that had
24 to be shut down, and those are the voting constituents in
25 the area that are directly affected by the people who are

1 able to make the improvements and changes.

2 MR. STELLO: Truly, but with the lethargy of the
3 political process before the people's voice can be heard, I
4 am sure in most instances it would be somewhat longer than a
5 four-month time period.

6 COMMISSIONER AHEARNE: We have representatives in
7 the corner there.

8 MR. GRIMES: I think your statement is true in New
9 York State. It is not always true that the users of
10 electricity are in the service area.

11 COMMISSIONER AHEARNE: But in this particular
12 case, it is certainly true.

13 MR. STELLO: That is where we would stop.

14 COMMISSIONER GILINSKY: Has the order gone out?

15 MR. STELLO: We are drafting it now. We are going
16 to send it out to all of the utilities in New York State.
17 My expectation is that at the time we send the letters out,
18 then the issues will sharpen site-by-site, and I fully
19 expect, from what the County Executive in Oswego told me,
20 that it ought to be a minor problem.

21 But we will have to go through that process, and
22 then, of course, we will have to wait until the exercise is
23 finished.

24 This idea of this four-month clock, there are a
25 variety of places within the regulation where this issue

1 could be raised. It could be raised in July with respect to
2 warning system. It could be raised later when the exercises
3 are conducted, or the problems identified.

4 I think it is appropriate in light of what we now
5 know about the status of the planning in New York that this
6 is what we ought to do. It is real frustration knowing that
7 we are laying on a requirement, and telling somebody to do
8 something, which we also know he has no authority to do.

9 COMMISSIONER GILINSKY: But it has got to get done
10 one way or another.

11 MR. STELLO: I am not suggesting that we have any
12 other tools to use. It is the only tool we have. I am just
13 expressing a frustration in going forward on this matter.

14 COMMISSIONER AHEARNE: Was there a representative
15 of the Governor's Office at this meeting?

16 MR. STELLO: Yes. I don't know whether the actual
17 assemblymen were there, or some of the senators, but there
18 were a large number representing them.

19 MR. GRIMES: There was at least staff.

20 COMMISSIONER AHEARNE: Did you get any sense where
21 the Governor would come out on either assisting or resisting
22 this kind of legislation?

23 MR. STELLO: The Governor, I think, as Brian
24 indicated, has proposed some form of legislation to resolve
25 this, or is in the process somewhere in his administration

1 of doing so. So he is right on top of wanting to move this
2 as well.

3 COMMISSIONER BRADFORD: Our letter, I gather, is
4 keyed to the FEMA letter. Does FEMA letter itself pick up
5 all the deficiencies that we want corrected, or should there
6 be a further listing in our letter above and beyond what is
7 in the FEMA letter?

8 MR. GRIMES: We rely on FEMA for the off-site
9 deficiencies, and we have identified any others than what
10 FEMA is flagging.

11 For on-site deficiencies, if we find those during
12 our subsequent reviews of the plan or inspections, then we
13 will start another four-month period based on the time we
14 find those.

15 COMMISSIONER AHEARNE: As I recall, the rule says
16 that we will base our findings on the FEMA findings for the
17 State and local emergency plans.

18 MR. STELLO: To answer your question, as I recall,
19 they do raise issues of authority, and those are questions
20 are raised. I cannot think of any of them that are missing,
21 at least of those that came to our attention.

22 COMMISSIONER GILINSKY: Did I understand you to
23 say before that the situation varies from site to site. In
24 some cases, the counties have worked out a reasonable
25 arrangement with the State, or have decided to pursue some

1 course of action in the absence of legislation.

2 MR. STELLO: The County Executive in Oswego County
3 essentially said, legislation or not, they think they have
4 got it solved.

5 COMMISSIONER GILINSKY: We would, then, have to
6 look at these places site by site.

7 MR. STELLO: That is precisely my point. Once
8 these letters go out, it will become a site specific issue
9 in terms of the state of affairs. But I don't know how to
10 come to that point short of deciding now to move with the
11 letters.

12 MR. BICKWIT: I just want to clarify one point.
13 The rule does say that we will base our findings on a review
14 of the FEMA findings. It is contemplated under the rule
15 that these are our findings.

16 MR. STELLO: Sure.

17 MR. BICKWIT: As I understand what you are saying,
18 the letter will include findings made by the NRC.

19 MR. GRIMES: We would adopt, in reference to the
20 specific FEMA letter, those deficiencies which we believe --

21 COMMISSIONER AHEARNE: If you will recall, what
22 the language says is, we will base our findings on a review
23 of FEMA's findings.

24 MR. BICKWIT: That is what I just said.

25 COMMISSIONER AHEARNE: But it is our findings

1 based on theirs.

2 COMMISSIONER BRADFORD: Yes, but if FEMA for some
3 reason chose to overlook a glaring deficiency in the State
4 of New York, I would not expect that we would have to blind
5 ourselves to it, too.

6 MR. BICKWIT: No, under our rule, we review the
7 FEMA findings, and then we make our own findings.

8 COMMISSIONER BRADFORD: That is right.

9 MR. STELLO: Nor do I read it that if we find
10 something we thought was major, but not covered, we would
11 not hesitate to add it.

12 COMMISSIONER BRADFORD: No. That is really what I
13 was trying to get at. Your list of significant deficiencies
14 had four bullets, the last of which was the FEMA letter. I
15 gather from what you have said, though, that FEMA letter
16 picks picks up the first three as well.

17 MR. STELLO: The FEMA letter has a long list. It
18 is probably on the order of 100.

19 COMMISSIONER AHEARNE: But, Peter, at least the
20 sense I get from that is that neither FEMA nor we agree that
21 the first three are necessarily deficiencies that have to be
22 resolved by legislation. In other words, that the
23 legislation is not in our mind, nor in FEMA's, a necessary
24 deficiency that has to be resolved.

25 COMMISSIONER BRADFORD: I understand that, as long

1 as the substantive problems are cured some other way.

2 COMMISSIONER AHEARNE: Right.

3 MR. STELLO: In fact, we intend to cover that
4 point in the letter.

5 CHAIRMAN HENDRIE: Thank you all very much.

6 (Whereupon, at 11:55 a.m., the meeting was
7 closed.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

in the matter of: Commission Meeting

Date of Proceeding: April 22, 1981

Docket Number: _____

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Patricia A. Minson

Official Reporter (Typed)

Patricia A. Minson

Official Reporter (Signature)