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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the matter of:

PENNSYLVANIA POWER & LIGHT COMPANY,

ET AL.

(SUSQUEHANNA)

DOCKET NO. 50-387, 50-388

Place: Wilkes-Barre, Pennsylvania

Date: March 21, 1980

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(SUSQUEHANNA) :
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Courtroom No. 2
U.S. Federal Building and
Courthouse
197 South Main Street
Wilkes-Barre, Pennsylvania

Friday, March 21, 1980

The Prehearing conference was held, pursuant to
notice, for presentation of the above-entitled matter, at
9:00 a.m., Chairman Charles Bechhoefer, presiding.

BEFORE:

Mr. Charles Bechhoefer
Dr. Oscar Paris

On behalf of the NRC Staff:

JAMES M. CUTCHIN, IV
ROY P. LESSY, JR.

On behalf of Pennsylvania Power & Light Company and
Alleghent Electric Cooperative:

JAY SILBERG . BRIAN A. SNAPP, ATTORNEY
MATTHEW DIAZ

On behalf of Citizens Against Nuclear Danger:

MR. THOMAS HALLIGAN

1 On behalf of Susquehanna Environmental Advocates:

2 MR. GERRY SCHULTZ

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P R O C E E D I N G S

CHAIRMAN BECHHOEFER. Good morning, ladies and gentlemen.

Before we start this morning-- Well, first I have left the sign-up sheet, the same one we had yesterday, over on the table for limited appearance requests.

After we finish consideration of the Applicant's motion against CAND and the remaining matters which SEA wish to raise, we will take limited appearance statements. If you have already signed up either on the typewritten list or on the list we left yesterday, you do not need to sign up again. If you are here for the first time, the list is over there.

Are there any preliminary matters before we begin, any party wishes to raise?

MR. HALLIGAN. Just one matter for clarification. I don't think we need any discussion. You said that there was a draft Environmental Statement prepared on the flow augmentation reservoir, the so-called Pond Hill Reservoir; is that correct?

CHAIRMAN BECHHOEFER. No, I believe the staff said that.

MR. HALLIGAN. What is the status of that, sir?

MR. CUTCHIN. It should be issued by the 31st of this month.

CHAIRMAN BECHHOEFER. I presume when it is issued, all parties will be issued copies.

MR. CUTCHIN. Of course, it will be circulated just as the draft statement was with copies to all the parties.

MR. HALLIGAN. Now has that been consolidated

1 and will there be like an appendix to it?

2 MR. CUTCHIN. It will be identified as a supplement
3 to that new REG, what is it, "06"--

4 MR. HALLIGAN. 0564.

5 MR. CUTCHIN. 0564.

6 And it will be clearly identified as a supplement
7 to the Susquehanna.

8 MR. HALLIGAN. The citizens did file a "Comments"
9 with another agency of the NRC another department, indicating
10 that a DEX filed on a reservoir for flow augmentation was a
11 piecemealing and a violation of NEPA. And we made that into
12 the record and this, apparently, is moot at this point. It
13 is not piecemeal. It will be part of this. It will be an
14 appendix to it or a supplement to it.

15 CHAIRMAN BECHHOEFER. Well, certainly the environmental
16 statement, the final environmental statement which will be the
17 one that is introduced into evidence on the merits, I guess
18 these will be introduced to show the staff prepared them.

19 MR. CUTCHIN. I am not even sure they will, Mr. Chairman.
20 I am not sure we will introduce anything other than the final
21 environmental statement.

22 MR. HALLIGAN. It will include the reservoir.
23 The original didn't.

24 MR. CUTCHIN. The final environmental statement will,
25 indeed, include--as I understand it now--will include both the
information that appears in the draft there and in the draft

1 supplement which is yet to come.

2 CHAIRMAN BECHHOEFER. So all this will be introduced
3 and everybody will also get copies of that.

4 MR. HALLIGAN. Another point I just want to mention
5 here. We indicated when we passed this document around, the
6 rescheduled meeting of the case load forecast panel which is
7 now on the premises of the Berwick Plant. The NRC panel is
8 making inspections here for scheduling and other purposes whatever.

9 It has been brought to my attention yesterday by an
10 officer of the PP&L that in addition to the one resident NRC
11 inspector, a Mr. Gallow, there is now on the premises there
12 a second resident safety inspector from the NRC. We have read
13 recently in publications of the NRC that these men who are highly
14 trained and specialized are in short supply and even some operat-
15 ing plants in this country don't yet have a resident inspector.
16 Here is an incomplete plant under construction that now has
17 two.

18 I think that is indicative of possible problems we
19 have been alleging all along. I want to bring that to your attention
20 there, sir. This apparently should be confirmed and evaluated.
21 There now two resident safety inspectors from the NRC at the
22 Berwick site in addition to this visitation by the safety inspectors.

23 CHAIRMAN BECHHOEFER. Well, I don't think the fact
24 that the Berwick has some more than some other sites is anything
25 that we can do anything about, unless we think there are too
many of them at the Berwick site.



1 MR. HALLIGAN. Yes.

2 MR. CUTCHIN. I am not even sure that the Board could
3 do anything then, Mr. Chairman. I think it is indicative of
4 the fact that the management in the Office of Inspection Enforce-
5 ment has chosen to put one resident inspector per unit. That
6 is a two-unit site and they are gradually building up to one
7 inspector per unit. That is all it is indicative of.

8 CHAIRMAN BECHHOEFER. I don't think we have any authority
9 to tell I&E they should put inspectors at other sites. Maybe
10 they should and maybe they shouldn't.

11 MR. HALLIGAN. I just note it for the record.

12 CHAIRMAN BECHHOEFER. It is not significant for this
13 particular proceeding.

14 MR. HALLIGAN. All right, here the other point is
15 the Rogovin report which was just published. On page 143 calls
16 for an office--or 142--an Office of Public Counsel. It is a
17 recommendation and it is an in-house evaluation and recommendation.
18 And they call for, quote-- They note that other agencies of
19 the Federal Government fund citizen participation and even,
20 as under the Clean Air Act and Federal Water Act, citizen law
21 suits. Rogovin is recommending that this type of program be
22 instituted by the NRC and that the--through an Office of Public
23 Counsel--and that such decision to reimburse these citizens
24 be made by either the commissioners or the licensing board.

25 So, I am wondering if this is imminent. Would you
take this under advisement to look into this matter to see how



1 imminent that there would be funds available in the near future,
2 either this summer or before or during the licensing hearing.
3 We would like to be advised of that, informed of it, in the
4 memorandum.

5 CHAIRMAN BECHHOEFER. Well, the Board understands
6 that the Commission is considering various recommendations of
7 all the Rogovin Report and the Kemeny Report, and a number of
8 others. It has before it, the question of financial assistance
9 in a particular proceeding, TMI Restart, where it indicated
10 it might authorize it. If the Commission changes its policy,
11 we will become aware of it--

12 MR. HALLIGAN. Not necessarily.

13 CHAIRMAN BECHHOEFER. --and we, well--

14 MR. HALLIGAN. This is what we were asking the Board
15 to do.

16 CHAIRMAN BECHHOEFER. If the Commission authorizes
17 it, if nothing else we will read about it in The Washington
18 Post but I am sure we will be told about it.

19 If the Commission indicates that it is willing to
20 entertain requests for reimbursement or other forms of public
21 funding it will make it very clear to--

22 MR. HALLIGAN. All right, send us the applications,
23 please.. We will be the first ones to fill them out.

24 CHAIRMAN BECHHOEFER. We have ruled earlier that the
25 Commission does not permit reimbursement and that has been its
policy all along. But if it changes it--just like its ruling



1 on S₃ caused us to change our ruling earlier to accord with
2 current Commission policy; we would do the same. If the Commis-
3 sion changes its rules, we are bound by it and, in fact, we
4 would certainly advise all the parties to the extent it can
5 assist them in this proceeding. So, if we find out about it,
6 a change in policy, the parties will be notified. They might
7 be notified before we could do it by the staff. The staff normally
8 does this type of thing also. So--

9 MR. HALLIGAN. I am sure it would be published in
10 the Federal Register and there would be copies to all parties
11 in all proceedings and, I am sure, Mr. Chairman, widely disseminated.

12 CHAIRMAN BECHHOEFER. There won't be any secrets kept
13 on this kind of thing so--

14 MR. HALLIGAN. Another point. In all communications
15 to the Board, it is listed in the docket here, "In the Matter
16 of Pennsylvania Power and Light Company; Allegheny Electric
17 Cooperative," who was 10 percent participant in the proceedings.
18 We know now that the Atlantic City Electric Company has now
19 purchase, I believe, 10 percent of the Berwick Plant.

20 MR. SILBERG. That is not correct.

21 MR. HALLIGAN. Could you clarify that; the status
22 of the Atlantic City Electric.

23 MR. SILBERG. There was no purchase by any other party
24 of any ownership interest in the plant.

25 MR. HALLIGAN. What is the status of Atlantic City?
What is their 10 percent share in this?



1 MR. SILBERG. It is a firm power contract for a limited
2 period of time.

3 MR. HALLIGAN. Like ten years, or something like that,
4 after?

5 MR. SILBERG. I believe there is a long-term commitment
6 of 10 percent and we are wondering if the Pennsylvania Power
7 and Light Company is not, in fact, selling off or parceling
8 out a large part of the power that will come from that plant.
9 I think the anti-trust laws should be reviewed on this matter.

10 CHAIRMAN BECHHOEFER. We have no jurisdiction to anything
11 about anti-trust implication. The Commission has separate proceed-
12 ings for anti-trust concerns. I don't know what the status
13 of the Susquehenna one is or was. But we have no jurisdiction
14 at all over power--sales of firm power.

15 If an application were filed to join Atlantic City
16 or any other company as a part owner, that would have to go
17 before the Commission for license amendment.

18 MR. HALLIGAN. Would it affect this licensing proceedings?

19 CHAIRMAN BECHHOEFER. They would either have to amend
20 their construction permit or--

21 MR. SILBERG. There are no plans to sell 10 percent
22 or any other percent to Atlantic City.

23 CHAIRMAN BECHHOEFER. No, all I saying; if there were
24 an opportunity for hearing would be afforded on that and it
25 might well be assigned to this Board, or it might be assigned
to some other Board but--



1 MR. CUTCHIN. Not necessarily would there be an oppor-
2 tunity for hearing, Mr. Chairman, on anything but perhaps the
3 anti-trust aspects. There have been many instances in which
4 plants have been--that owners have been added and if it does
5 not involve a significant hazards consideration, it does not
6 necessarily require that a hearing be offered.

7 CHAIRMAN BECHHOEFER. Well, I saw what happened in
8 the Seabrook Case where 2 percent share was sold and an offer
9 of a hearing. I don't know that anybody took it but--

10 MR. SILBERG. There was, in fact, an opportunity for
11 a hearing on the sale of 10 percent, the Susquehenna Plant to
12 Allegheny Electric. No one requested a hearing.

13 MR. CUTCHIN. But there may or may not be, is all.
14 I was saying.

15 MR. SILBERG. There was also an anti-trust review in
16 connection with that transfer.

17 MR. HALLIGAN. Well, Mr. Chairman, then the Citizens
18 Against Nuclear Danger would move that the intervenors be informed,
19 any opportunity for or notice for public hearing dealing with
20 this matter or any other company that might be buying power
21 in large blocks, in the near future. We would want this Board
22 have a hearing on that matter.

23 CHAIRMAN BECHHOEFER. Well, this Board would have
24 to be picked by those who pick Boards.

25 MR. HALLIGAN. Oh, I see. Well, the licensee-- anti-trust.

CHAIRMAN BECHHOEFER. Well, to the extent we found out



1 about it we would certainly advise the parties. And I am sure the
2 staff would also but--

3 MR. CUTCHIN. Mr. Chairman, there is always-- "Notice"
4 means publication in the Federal Register, normally in local
5 newspapers and the like, and I am sure if there were an active
6 hearing going on such as in this case, every party to that hearing
7 would be given individual notice as to the situation.

8 CHAIRMAN BECHHOEFER. This has happened in another
9 case that I am in where the Commission gave an opportunity for
10 a hearing on a show cause order in connection with that-- I
11 am sitting on the operating license hearing and there was a
12 show cause proceeding that was initiated. The staff attorney
13 sent notices of that opportunity for hearing talk to the parties
14 in that proceeding.

15 It is common practice for this and the Board didn't
16 have to do it because the staff had done it before the Board
17 found out about it, even. So--

18 MR. CUTCHIN. If it will ease someone's mind I will
19 undertake to serve each individual party with such a notice
20 should that eventuality occur.

21 MR. HALLIGAN. Fine. That brings us then to the final
22 point then, sir. Yesterday you indicated that a third member,
23 a Mr. Bright. Is he the engineer expert on the panel by the
24 way? What is his speciality?

25 DR. PARIS. Nuclear engineer.

CHAIRMAN BECHHOEFER. Yes, Dr. Paris is the environmental



1 scientist on the Board and--

2 MR. HALLIGAN. Dr. Paris, are you more or less a
3 chemist or--

4 DR. PARIS. I am an ecologist.

5 MR. HALLIGAN. An ecologist. Would you cover water,
6 air--I mean all of the biological implications. And the Chairman
7 is a legal expert on nuclear regulations.

8 Mr. Bright, you indicate he apparently had an accident
9 or something. Approximately, when did he report off work? Was
10 it just last week or a month ago or--

11 DR. PARIS. About two weeks ago.

12 MR. HALLIGAN. About two weeks ago.

13 DR. PARIS. Yes.

14 MR. HALLIGAN. And is this an indefinite like--

15 CHAIRMAN BECHHOEFER. I think I mentioned we hope
16 that he will be back by the end of April. That is the latest
17 we have been--

18 MR. HALLIGAN. Is it normal to have a two-member panel?
19 I understand you cite-- What is the citation you said for a
20 quorum?

21 CHAIRMAN BECHHOEFER. That was the quorum rule.

22 MR. CUTCHIN. 2.721.

23 CHAIRMAN BECHHOEFER. 2.7?

24 MR. CUTCHIN. --21.

25 DR. PARIS. We have, Mr. Halligan, discussed the avail-
ability of Mr. Bright with the Chairman of the Atomic Safety



1 and Licensing Board Panel and we have agreed that if Mr. Bright
2 is not back on duty by the time we go to hearing, we will certainly--
3 he will certainly appoint a substitute.

4 MR. HALLIGAN. But not before then. I think a 30-
5 day period would be--

6 DR. PARIS. It would depend on the availability of
7 Bright, when he thinks he would be back.

8 MR. HALLIGAN. Both you gentlemen are fulltime staff
9 workers or, you know, officials with the NRC. You each serve
10 on what-- Dr. Paris, you are on more than one panel. Could
11 you name the other ones you are on?

12 DR. PARIS. I am on more than one Board.

13 MR. HALLIGAN. Yes, what-- Do you know the number?

14 DR. PARIS. The number of Boards?

15 MR. SILBERG. Mr. Chairman, I really think we are
16 getting pretty far afield.

17 MR. HALLIGAN. No, this will end the-- I just want
18 to know what Board each of you is on. To verify it, it is in
19 printing some place but I don't know.

20 DR. PARIS. Well, I don't think this is relevant,
21 Mr. Halligan, but we have nothing to hide.

22 MR. HALLIGAN. No, I didn't say that. I just wanted
23 to indicate it.

24 DR. PARIS. I am on the Big Rock Point Board, Spent
25 Fuel Pool License Amendment. I am on the Shoreham Operating
License Board.



1 MR. HALLIGAN. Wait, Spent Fuel--and the last one
2 there?

3 DR. PARIS. Shoreham.

4 MR. HALLIGAN. Yes.

5 DR. PARIS. Shoreham Operating License.

6 MR. HALLIGAN. Yes.

7 DR. PARIS. I am on the Turkey Point--that is a license
8 amendment for a steam generator repair. Let's see. I am on
9 several that are more or less dormant now. New Haven is a con-
10 struction permit application. That is dormant.

11 Exxon Fuel Reprocessing Plant is dormant.

12 I think there are some more but I can't remember.

13 No more that are active, I guess.

14 CHAIRMAN BECHHOEFER. I am on eight different cases.

15 MR. HALLIGAN. You are on eight different ones. Are
16 they listed primarily, about seven or eight. They are listed
17 here?

18 CHAIRMAN BECHHOEFER. I doubt it because those documents,
19 I think are only--

20 MR. HALLIGAN. Here is the one. There is Ferme, LaCrosse--

21 CHAIRMAN BECHHOEFER. Pardon?

22 MR. HALLIGAN. LaCrosse?

23 CHAIRMAN BECHHOEFER. Two LaCrosse proceedings.

24 MR. HALLIGAN. Palisades?

25 CHAIRMAN BECHHOEFER. Palisades, the steam generator
replacement there. Not the show cause order. And I am on South



1 Texas.

2 MR. HALLIGAN. Susquehanna, of course and Zimmer I?

3 CHAIRMAN BECHHOEFER. Zimmer I, right.

4 MR. HALLIGAN. Is there another one you said that
5 might be--

6 CHAIRMAN BECHHOEFER. I am on Montague Construction
7 Permi, but that is a dormant case. That is not an active case.

8 I am on the LaCrosse Spent Fuel Pool but we already
9 rendered an initial decision in that. It is on appeal but--
10 by the staff, not by the--

11 MR. HALLIGAN. You are not working fulltime on Susque-
12 hanna I mean, it is impossible.

13 CHAIRMAN BECHHOEFER. No one is working fulltime on
14 any case.

15 MR. HALLIGAN. Mr. Bright would also be on half a
16 dozen or so probably.

17 CHAIRMAN BECHHOEFER. That is correct. He is on Zimmer
18 with me but I don't know which others.

19 MR. HALLIGAN. Okay, thank you. That is all.

20 CHAIRMAN BECHHOEFER. Now going to the motion against
21 CAND, the Board has reviewed the various motion papers and we
22 have looked at the answers or non-answers to interrogatories
23 which CAND has come up with. We see that unlike SEA and unlike
24 ECNP, CAND has not answered one single interrogatory. Except
25 at one point I guess you said you had picked out no witnesses
for anything. That would be an answer if supplied under oath

1 or affirmation. But as far as the Board can see, you have not
2 either answered any questions or attempted to answer any questions.
3 And we would tend to agree with both the applicants and staff
4 in this that you are clearly in default. And, in addition,
5 we were very disturbed by the time when we attempted to set
6 up a conference call concerning one of CAND's motions and I
7 asked Mr. Cutchin to try to arrange it because you were very
8 hard to reach. And we were told that you didn't want to be
9 reached, and that you would not accept any telephone calls.

10 Well, we consider that as contemptuous because the
11 Board thinks it could have resolved some of the questions that
12 we were talking about here yesterday and today if we had--

13 MR. HALLIGAN. What issue are you referring to, sir?

14 CHAIRMAN BECHHOEFER. I refer to it as the one that
15 was late in January. Mr. Cutchin advised me--and I had called
16 him and asked him to try to set up a conference call at any
17 time during the following day that you could be reached and
18 other parties could be reached. But it was basically considering
19 your motion so it would have involved you and the applicant
20 and staff and any other parties we could reach and who wanted
21 to be included.

22 But we were told that you would not receive any telephone
23 calls at all. This we regard as completely contemptuous. When
24 the Board wants to have a conference call we think it is desire-
25 able to find out information at a given time. What we really
wanted to find out then was whether you had any intention to



1 answer interrogatories at all, and we certainly are going to
2 find out about that today, too.

3 But we were hoping when you filed one of your motions--
4 maybe it was late December, but probably the January 1, January
5 11--your January 11 one; that is the one we wanted to talk about.
6 Because at that time discovery was due on January 18th and one
7 of the things we were going to say is that if you were in the
8 process and just couldn't complete answers we would have given
9 you an extension of time right on the telephone, if we had had
10 some sort of a commitment to file some answers.

11 Well, all we were greeted with was that if you want
12 to get in touch with me, do it in writing. This, we can't tolerate
13 because there are item matters that do not need either a full
14 order or a full conference to decide. This, in terms of partici-
15 pation in the proceeding, cannot be tolerated. We often have
16 to have conference calls because when we are as far away as
17 we are we can't be running up here all the time and setting
18 up a conference. We did this when there were three motions
19 to consider and we had wanted to hear some limited appearances.
20 But we can't do this on every item that arises, and often we
21 also cannot contact anybody ex parte except on procedural matters.
22 We certainly can do it on scheduling and that type of thing.

23 But we, again, tried to reach you-- This time we
24 were unsuccessful so I don't know. But head of your organization,
25 we reached Mrs. Manowitz, I think, and she didn't want to be
talked to either. Now that was in connection with the ECNP



1 had indicated some inconvenience in getting here yesterday and
2 we were going to try and inquire, as I read on the record yester-
3 day, whether some other time would have been more convenience.
4 And, particularly, we were trying to inquire whether ECNP would
5 have preferred to show up today, in which case we would have
6 allowed it to do so and not come yesterday, or we would have
7 at least set up a conference call because of other parties'
8 commitment. But when we have things like this we cannot--often
9 there isn't time to issue written orders, and we need to talk
10 to people on occasion.

11 I know the first time we informed Mr. Cutchin that
12 we would be available the whole following day, so that any time
13 during the day that you could have spared 15 minutes to take
14 a telephone call, obviously at our expense, because we would
15 reach you at wherever you had to be reached--

16 MR. HALLIGAN. Mr. Chairman, apparently an explanation
17 is in order here. I think I am entitled to it.

18 CHAIRMAN BECHHOEFER. Oh, you are going to-- What
19 I am saying is that these things collectively would indicate
20 to us that your party, CAND, should be dismissed. We want to
21 hear from you why you don't think so.

22 I might say before, since it is the applicant's motion;
23 do the applicants want to add anything at this stage before
24 we hear from Mr. Halligan or not.

25 MR. SILBERG. We have nothing to add other than has
already been set forth in our pleadings.

1 CHAIRMAN BECHHOEFER: Right. And we have reviewed
2 that and we view your group as completely different from the
3 others which have tried to answer. And we have been quite lenient
4 with them and we have not imposed any of the sanctions sought.

5 Your group is quite different and we would like to
6 have an explanation and, really, give us some reason why you
7 shouldn't be thrown out.

8 MR. HALLIGAN. Yes, sir. Well, first of all I wasn't
9 aware this was on the agenda and I didn't bring any phone memos.
10 I don't know the exact date you are referring to.

11 CHAIRMAN BECHHOEFER. To the best of my recollection--

12 MR. HALLIGAN. --I don't know the exact date. It
13 might have been around the middle of January. And I returned
14 home late one afternoon and there was a note to call a certain
15 number and the name was something like Cutchin. I figured,
16 you know, that is when it might have been.

17 CHAIRMAN BECHHOEFER. Well, we asked Mr. Cutchin to
18 call you--

19 MR. HALLIGAN. Well, he didn't talk to me directly,
20 sir, that day. I was not at home. That is where the call went.
21 At about 10 minutes after 5:00 in the afternoon that day I called
22 the number that was left and it rang and rang and rang; and
23 the same evening about 7:30 p.m. the phone rang and somebody
24 identifying themselves as a switchboard operator from the NRC
25 wanted to put a call through to a Mr. Halligan, and I believe
from a Mr. Cutchin.



1 There was no mention of a conference call. I swear
2 there was no mention of any other party on the line and--

3 CHAIRMAN BECHHOEFER. If that situation--that is correct.

4 MR. HALLIGAN. --there was no mention of you or the
5 purpose of the call. So I told the operator, apparently was
6 an operator-- Sir, we don't deal too much over the telephone
7 on this matter because telephone conversations have been inter-
8 cepted, illegally, we believe. Some of our lines have been
9 tapped and we just don't believe people, when we get a call
10 over the phone. I am sorry. And I did not turn down any call
11 to Mr. Bechhoefer.

12 CHAIRMAN BECHHOEFER. I will not call people personally,
13 usually. I might if I have to but--

14 MR. HALLIGAN. There was no mention of a conference
15 call. That was not the message that that woman gave. And I
16 told here that-- This is at 7:30 at night, you understand.
17 It seems irregular to me. I don't know how you do business.

18 CHAIRMAN BECHHOEFER. Well, but you were not--

19 MR. HALLIGAN. But it seemed to me it wasn't the proper
20 time.

21 I said, "I am not taking any call."

22 Because I was not authorized, I could not speak for
23 the Citizens Against Nuclear Danger without consulting with
24 this lady here and other people in our group. I was not in position,
25 you know, I mean--in hindsight, I am telling you, all I could
have said over the phone was, "I can't give you any decision



1 on this because I am not in that position. I would have to
2 hold a meeting with people 50 miles away in Berwick, you see.

3 So the next day, or the day after, apparently--I think
4 the Western Union called and we got this here notice here that
5 the Licensing Board has denied CAND's Motion for Reconsideration.
6 "CAND must respond to outstanding discovery requests by January
7 18, or it will not be permitted to present a direct case. Failure
8 to respond may also result in CAND's dismissal from the proceeding."

9 Now I think this was an over-reaction. This message
10 was given over the telephone to an elderly woman who could not
11 understand or take down this information properly. The previous
12 day--I don't know what time Mr. Cutchin called, but the person
13 who took the call was an elderly woman who could not understand
14 and she said he talked very fast and Mr. Cutchin has a slight
15 accent--very good diction, very good speaker--but over a telephone
16 it was not very comprehensible. So whatever he said was not
17 relayed to me directly, I regret to say. I am not aware of
18 what he said over the telephone.

19 I was not in contempt of any Board, member, or any
20 regulation. Now one other extenuating circumstance. I cite
21 here the order denying request for ECNP dated December 6, 1979.
22 We had instructions that, first of all, well, I don't know as
23 of this date--there was some mix-up--we decided that because
24 zip code numbers were wrong on some of our people and they were
25 sending our correspondence to the wrong zip code and we would
get it like a week late, and so forth, and some of these deadlines



1 went by without our getting them we had to relay some of this
2 information up to Scranton, back to Berwick, different--back
3 and forth. In the process, as I indicated, we told the Chairman
4 only send out immediately first class mail. Anything that pertains
5 to Citizens Against Nuclear Dangers.

6 Clearing on the heading of this document it says,
7 "Order Denying Request of NCNP" but on the last page, page
8 nine, the very end, it says, "Therefore, our October 30, 1979
9 order is modified to extend from December 14, 1979 to December
10 18, 1980 the time within which discovery request on environmental
11 contentions must be answered."

12 I didn't get this until about two weeks ago. This
13 was around Christmas-time when this was sent out. This was
14 dated on the 6th but-- I didn't get it. I wasn't even aware,
15 when I was supposed to file these. In addition--

16 CHAIRMAN BECHHOEFER. Well, the--

17 MR. HALLIGAN. That is an oversight, but it was an
18 error of mix-up.

19 CHAIRMAN BECHHOEFER. But I might say, you would have
20 had to have done it by December; because December was our other
21 date. If you didn't--

22 MR. HALLIGAN. Oh, I did. I did file on the 11th
23 of December a reply.

24 CHAIRMAN BECHHOEFER. But that wasn't answers.

25 MR. HALLIGAN. What?

CHAIRMAN BECHHOEFER. But that wasn't answers.



1 That was a reply but it wasn't answers.

2 MR. HALLIGAN. We said December 11th that we were
3 filing, unprotest, an answer.

4 CHAIRMAN BECHHOEFER. Yes, but that wasn't an answer.

5 MR. HALLIGAN. Let me read you just an excerpt of
6 it. "The issue is being--has been resolved, apparently, in
7 disregard to due process."

8 And we said in that forward that the NRC has shown
9 an obsession with trying to place the burden of proof on the
10 citizen intervenors. And we also indicated that the mandate
11 to probe the Berwick operation in a diligent manner, that the
12 NRC staff has not submitted so much as one discovery question
13 before the Board for the applicants to answer prior to evidential
14 hearings. But the NRC has asked several--

15 CHAIRMAN BECHHOEFER. Well, I might interrupt you.
16 The NRC doesn't ask the applicant for discovery. The NRC sends
17 numerous questions from, not the lawyer, but from the staff
18 representatives to the applicants asking hundreds of questions.
19 I don't know whether all these get distributed--

20 MR. HALLIGAN. Well, that is-- I want a clarification
21 on that then.

22 CHAIRMAN BECHHOEFER. --to the parties or not. These
23 are matters that are not necessarily in issue. There are hundreds
24 of questions get asked back and forth between the staff and
25 the applicant and some of them, I guess, are distributed and
some of them are not. The FSA--

1 MR. HALLIGAN. Oh, well, that is--that is the rub.

2 CHAIRMAN BECHHOEFER. Yes, they all go to the FSAR
3 and I, I think after the FSAR, I think there are numerous amendments
4 to the FSAR which include answers to staff questions.

5 MR. HALLIGAN. That is the one point I was going to
6 ask later.

7 CHAIRMAN BECHHOEFER. There are hundreds of pages
8 of those things go back and forth.

9 MR. HALLIGAN. These questions that are asked of the
10 NRC Safety Departments of the applicant, applicants, are they
11 de facto discovery questions? They weren't filed as such. But
12 is that-- Are they, in fact--

13 CHAIRMAN BECHHOEFER. The wouldn't be, because--

14 MR. HALLIGAN. --discovery questions?

15 CHAIRMAN BECHHOEFER. --the staff and the applicant,
16 no, they are not. The staff sends out numerous questions which
17 they have about the application. The applicant sends in an
18 answer, usually in the FSAR.

19 MR. HALLIGAN. Which we never get. We haven't gotten
20 any of their answers back.

21 CHAIRMAN BECHHOEFER. Well, I don't know if--
22 It is in the local docket room.

23 DR. PARIS. It is in the local docket room. If you
24 will look in the index of the FSAR you will find--

25 MR. HALLIGAN. We don't have it. Give it to us.

DR. PARIS. It is in the local docket room.



1 It is probably--the volume is as long as this table.
2 That is why you don't have it.

3 CHAIRMAN BECHHOEFER. It is about 15 volumes or more
4 long.

5 DR. PARIS. If you will look in the index you will
6 find "Answers to Staff Questions," and then you can turn to
7 the appropriate pages and read them and see what the questions
8 are, and read what the applicant's answers are.

9 CHAIRMAN BECHHOEFER. There are just huge numbers
10 of volumes of these things and--

11 MR. HALLIGAN. I am wondering--

12 CHAIRMAN BECHHOEFER. The Wilkes-Barre document room
13 has a copy of that and I presume it keeps it up to date.

14 MR. HALLIGAN. At this point we will just indicate
15 that the docket room in Wilkes-Barre is not for our use. Now
16 the Board has directed and the coalition has received at Penn
17 State, at their convenience, a set of the documents. The Wilkes-
18 Barre advocates are conveniently situated so that they can get
19 to these documents. But Berwick, round trip to Wiles-Barre, is
20 50 miles for one visitation. We would need dozens of people--
21 some of the experts that we want to bring in here are located
22 near Binghampton, New York; Strasberg, Pennsylvania and Bloomsburg,
23 Pennsylvania and other outlying area where a round trip, one
24 time, would be a 100-mile trip. We feel that is unreasonable.
25 We have requested, since December 4, 1978, that the Citizens
Against Nuclear Danger be given one set of the complete documents



1 and a file of this proceedings. And, I would say, if there
2 was forty or fifty intervenors I could understand why there
3 would be a cost factor. But there are only four and, apparently,
4 we are the only group that have demanded, more or less, that
5 we receive a set, which I understand costs about \$2,000--which
6 is not an exorbitant sum of money. But we cannot afford this
7 fee. And we so indicated this to other sources.

8 On the very same day that you ordered that we were
9 restricted from not giving a direct case, we had sent to Washington
10 to the Comptroller General, a cover letter with our filing of,
11 I believe, December 11th. It may be just a coincidence, but
12 we asked Senators Hines and Senator Schweiker to use their good
13 offices to assist us in getting due process involved. So I
14 don't know if there is any over-reaction of the Board in that
15 regard.

16 CHAIRMAN BECHHOEFER. We would still like to hear
17 why we should allow you to stay in.

18 The parties want to know something about your contentions.
19 You must have had something to raise your contentions. You
20 are not telling anybody anything.

21 MR. HALLIGAN. Well, just for about two or three minutes,
22 let me just pinpoint a couple of things for the record here.

23 On December 4, 1978 the Citizens did request, among
24 other things, that the United States General Accounting Office,
25 independently monitor-- Well, we said that they had prepared
a Nuclear Regulatory Commission Needs to Aggressively Monitor



1 and Independently Evaluate Nuclear Power Plant Construction.

2 That was a document based on an investigation. We
3 used that as a basis saying that this should be broadened to
4 other hearings and so forth. And we asked that we receive a
5 complete set of documents. To us, that was the beginning of
6 discovery. Now this was sent to the Commissioner, the Secretary
7 of the Commission and everyone on the service list. We didn't
8 even get a reply--not even a response. And that was back in
9 December of '78.

10 Then in May--

11 CHAIRMAN BECHHOEFER. Are these things that we should
12 consider with respect to whether or not we dismiss you?

13 MR. HALLIGAN. Yes, positively.

14 CHAIRMAN BECHHOEFER. You will have to explain why.
15 Because so far nothing you have said is relevant to why you
16 haven't tried--either answered or--either filed an answer to
17 whatever the question is or saying, "Because we lack a certain
18 document we can't answer," or "We are developing our answer."
19 You have said nothing like that.

20 You have said a lot of statements about, "Well, we
21 are being harassed, " and, well, "You should have--"

22 MR. HALLIGAN. No, I didn't use that term.

23 CHAIRMAN BECHHOEFER. Well, you did-- I could go
24 through it.

25 MR. HALLIGAN. We said "intimidated." You said,
"harassed."



1 CHAIRMAN BECHHOEFER. Take your pick.

2 MR. HALLIGAN. All right.

3 CHAIRMAN BECHHOEFER. Whatever you said.

4 You haven't given any answers to questions. And you haven't
5 also--

6 MR. HALLIGAN. That is what I am here this morning
7 for.

8 CHAIRMAN BECHHOEFER. --given any indication that
9 you are trying to answer questions. And give some people ideas
10 of what is behind your case. Now, whether some other body does
11 an investigation of the NRC or this Board is completely irrelevant
12 to whether you can assist in the resolution of those issues.
13 If you indicate, or you don't indicate that you either any ability
14 or information on which you are acting, it is not going to
15 help us resolve those issues to just have somebody come up and
16 make a speech. So, we--what we want to see is what good reason,
17 given your--what we regard as a default up to date--why should
18 we leave you in.

19 Now, for instance, would you commit yourself to answer
20 the questions which ECNP has done and which SEA has done, in
21 terms of Supplements by May 1? They have answered a number
22 of the questions but we are going to indicate which ones they
23 haven't answered.

24 MR. HALLIGAN. Are you referring here to these handwritten
25 replies by Colleen Marsh, is this--

CHAIRMAN BECHHOEFER. Those are perfectly satisfactory

1 answers.

2 MR. HALLIGAN. All right Colleen Marsh answered the
3 NRC defendant interrogatories on 12 handwritten pages. This
4 is about six handwritten pages. She sent to the applicants
5 about 20 handwritten pages. This would be about 10 or 12 typewritten
6 pages. Is this what you want? No sweat. We can give you this
7 in a couple-- This is nothing. We wanted to say something more
8 meaningful.

9 CHAIRMAN BECHHOEFER. Well, why don't you? As long
10 as it is true. As long as it is true. Nobody is-- As long
11 as you don't have information at a given--

12 MR. HALLIGAN. Oh, well--we are going to submit a
13 lot more. Now for the record, Mr.--

14 CHAIRMAN BECHHOEFER. Now I won't say-- Now wait
15 a minute. I won't say that some of the answers won't leave
16 some of your contentions open to dismissal, because if you
17 say you have no information; at some point you have to have
18 information on your contentions.

19 MR. HALLIGAN. We never indicated we didn't have any
20 information. As a matter of fact we--

21 CHAIRMAN BECHHOEFER. Well, but you haven't given
22 any of it.

23 MR. HALLIGAN. --in any of our correspondence that
24 we filed with this Board, we never once indicated that we would
25 not answer the questions. We never refused to answer the questions.
We said we will answer them when we get the information we need

1 to answer those questions. And that still stands today. We
2 will have to do it otherwise if--

3 CHAIRMAN BECHHOEFER. That is only a good answer,
4 by the say, if you have no information at all. You must have
5 had some information to raise a contention.

6 MR. HALLIGAN. Or if you want, well--

7 CHAIRMAN BECHHOEFER. And if you--

8 MR. HALLIGAN. I am just stating for the record. I
9 can go through this in a few minutes and then I will answer
10 their questions about the environmental ones precisely and see
11 what information we do have.

12 CHAIRMAN BECHHOEFER. It is only the environmental
13 ones we are talking about now. I think there are five of your
14 contentions of which two you have raised alone. Nobody has
15 raised the--

16 MR. HALLIGAN. Yes, but I did--

17 Well, I will respond to them in due time.

18 CHAIRMAN BECHHOEFER. Particularly those; the transmission
19 line one about the UHF transmission lines. You must have some
20 information which gives you reason to believe that those lines
21 may be dangerous.

22 MR. HALLIGAN. Positively. Yes, sir.

23 CHAIRMAN BECHHOEFER. Just tell us; or tell them.
24 It doesn't have to be complete. You can say you are undergoing
25 further investigation, but you ought to give some information
about you think--why you thought when you filed your contention,



1 that that contention might have some merit, why there should
2 be some problem with using UHF transmission lines rather than
3 some other kind of transmission lines.

4 MR. HALLIGAN. I will do that right now.

5 CHAIRMAN BECHHOEFER. Well, you can't do it right
6 now.

7 MR. HALLIGAN. All right.

8 CHAIRMAN BECHHOEFER. But you can do it in terms of
9 a written statement.

10 MR. HALLIGAN. Well, wait a minute. What was that?

11 CHAIRMAN BECHHOEFER. Pardon?

12 MR. HALLIGAN. I want to answer--you want me to answer
13 his question why, about the transmission line, or do you want
14 me to wait a while to do it?

15 CHAIRMAN BECHHOEFER. Well, I think what we want to
16 find out is if you will live up by the same commitment the other
17 parties are going to, that by May 1st you file answers to the
18 various interrogatories. You have to do it part by part.

19 Each one you can say, "For that we have" either "no
20 calculations" or "We are doing calculations."

21 But you must have had some information. At the very
22 least ECNP referred to some statements that Dr. Kempford had
23 made in other proceedings and we have some idea there about
24 where they stand on issues. Not complete--they are going to
25 supplement it.

MR. HALLIGAN. All right.



1 CHAIRMAN BECHHOEFER. And that is what they committed
2 to do.

3 DR. PARIS. Mr. Halligan, if you have got information
4 there in your hands now, why didn't you give it to the applicant
5 and staff earlier?

6 MR. HALLIGAN. Well, you will have to let me speak
7 and then you will understand.

8 CHAIRMAN BECHHOEFER. Can you tell me why you didn't
9 do it earlier?

10 MR. HALLIGAN. Yes, I am trying to. On May the 22nd
11 of 1979 we filed questions with the applicants and with the
12 NRC, and question number 16 was-- We asked the applicants to
13 furnish a transmission line right-of-way listing associated
14 with the Berwick Station identifying the name, address and so
15 forth, the grantor, the sellor, and so on. We wanted it on
16 small scale letter-size map.

17 Now these are filed in the Recorder of Deeds Offices
18 and we are talking about a transmission line that goes 230-some
19 miles. I think the line has been relocated since this original
20 one so we-- They would not furnish us this information. We
21 wanted--

22 MR. SILBERG. I beg your pardon. Let me interrupt.
23 This is-- I just can't remain silent.

24 On June 29, 1979 in our answers to CAND's interrogatories,
25 Item 16 we gave him exactly what he wanted.

MR. HALLIGAN. No, you didn't. No, you didn't. That



1 is the bone of contention, you see. We asked for--

2 MR. SILBERG. You never once mentioned that, any time
3 after that, specifically that we didn't give you the appropriate
4 information in response to your interrgoatory 16.

5 MR. HALLIGAN. Yes, I did.

6 MR. SILBERG. You show it to me.

7 MR. HALLIGAN. I am looking for it right now. It
8 will take me a moment.

9 CHAIRMAN BECHHOEFER. Now I might say the normal practice
10 is, when you are dissatisfied with an answer, within a very
11 few days--like ten--or ten plus mailing time, you are supposed
12 to file a motion to compel further answers. That--

13 MR. HALLIGAN. That is easier said than done.

14 CHAIRMAN BECHHOEFER. That is procedures that--

15 MR. HALLIGAN. I wasn't familiar with the rules then.
16 I am a little more familiar with them now. Back in June, I
17 wasn't. At that time we like Dr. Johnsrud, we were intervening
18 in other ways. We were sending in documents on the TMI. We
19 were submitting comments. We were dealing with the emergency
20 evacuation situation which is pending, the health system agency
21 plan which is a Federal five-year study, has nothing in there
22 so far about evacuation for this plant or any safety or medical
23 treatments and so forth--a lot of the work on the project.

24 I didn't understand-- I was under the impression,
25 apparently, misconception--that this licensing Board would act
fairly and would simply order the applicants to answer our

1 interrogatories, but not to-- I didn't understand-- This is
2 the problem with the Citizen intervenor. These technical points--
3 you gave them a protective order, prematurely I believe, which
4 locked us out of that--

5 CHAIRMAN BECHHOEFER. No, we gave it to them because
6 we didn't have an answer and the rules say when you don't respond
7 to a motion you can hold--

8 MR. HALLIGAN. But this is Catch 22. This is why
9 we have gone to the GAO. The point is we need that information,
10 because it is in the deedbooks in the counties all over the
11 place but the real estate department of the PP&L has the copies
12 of that. It lists precisely who owned or leased that land.
13 We feel that is a very important matter.

14 MR. SILBERG. Mr. Chairman, let me, let me-- I really
15 can't sit for this. Let me read to you our response.

16 On June 29, 1979, in response to his Interrogatory
17 request 16 we said the following: A list of grantors, grantors
18 addresses where available, the deedbook and page number of each
19 transaction document and plan and profile drawings scale 1 inch
20 to 400 feet showing the right-of-way and each tract of land
21 it crosses relating to the transmission lines associated with
22 the Susquehenna Steam Electric Station are included in Exhibit
23 C-10 and are transmitted under separate cover.

24 We never heard once from him in the nine, ten months
25 since that time that that--

MR. HALLIGAN. Yes, you did.



1 MR. SILBERG. --that that information was satisfactory.
2 We have made available other information to them. We have a
3 document room set up in Allentown with a hundred thousand pages
4 of documents. Not once have they ever come even to look at
5 that information.

6 MR. HALLIGAN. Allentown is too far for any real estate
7 expert to go free of charge to volunteer to do this.

8 MR. SILBERG. We gave you the information. We sent
9 it to you.

10 MR. HALLIGAN. We want-- No, you didn't.

11 We wanted the maps. We wanted--

12 CHAIRMAN BECHHOEFER. Hold it. All right, are you
13 ready?

14 MR. HALLIGAN. Yes. We definitely needed that, because
15 the people who signed over leases or right-of-ways on the eminent
16 domain and so forth, we believe that they did not know or will
17 not know the environmental health effects of the ultra high
18 voltage electricity that will pass by their property and the
19 herbicides and pesticides that may get into the streams and
20 nearby waterways. What we wanted to do was to get the small
21 map that would indicate exactly where the right-of-way was.
22 Then we were going to get the U.S. Geological Survey Maps, reduce
23 these maps and superimpose them on a whole set of these maps
24 of the U.S. Geological Survey, which indicate where all the
25 streams flow to. Because in this state every Citizen in the
commonwealth has a constitutional right to clean air and clean



1 water and if the utility is going to contaminate that air and
2 water in the vicinity of their property or state game lands
3 which is bought with a license fee money of three million men
4 and women who hunt and fish in this state; and state parks,
5 other state institutions and grounds, the health and safety
6 of these people would be possibly injured.

7 We want to know for the Board's benefit where this
8 transmission line will go so we can determine if these people
9 were informed of these potential dangers, if they possibly knew
10 about this, if there was any damage that might effect them and
11 we wanted to know-- We were going to use that as direct evidence.

12 CHAIRMAN BECHHOEFER. Well, it might well--

13 MR. HALLIGAN. He did not give us the maps.

14 We cannot afford to go to Allentown. That is a cop-
15 out. Because they are talking about several hundred papers
16 which they have in file which they could copy for us at a nominal
17 sum. I am sure it would be no problem. But they Stonewalled.
18 They didn't give us the information. And that hindered our
19 answering of the Interrogatories. We will answer them. We
20 will still answer them. We are going to have to put that in
21 there, as a disclaimer more or less that we didn't get the record.

22 Now, he said--

23 CHAIRMAN BECHHOEFER. Well, let me ask you one thing.
24 You have been talking about the actual location of the line.
25 It was my impression that your problem with UHF lines didn't
depend on the location so much as on the character of the lines

1 generally. You talk about the danger of the lines. Well, I
2 think you have been asked that and what they want to know and
3 what we want to know eventually is whether that kind of line
4 has any danger.

5 MR. HALLIGAN. Yes, and that is what I would-- We
6 have to know precisely--

7 CHAIRMAN BECHHOEFER. I don't know that it matters
8 where it goes, does it?

9 MR. HALLIGAN. Oh, yes it does.

10 I think that is very relevant because if it goes through
11 urban areas, rural areas, mountain; we want to know precisely
12 where the trouble spots would be, so we can inform the Board
13 of this. It is very technical information. I don't think this
14 has ever been done before.

15 But the constitutional rights is that every Citizen
16 has a right to clean air and clean water in this Commonwealth.
17 And if that waterway or the forest--

18 CHAIRMAN BECHHOEFER. We have nothing to do with the
19 constitutional rights of the neighbors and the various people
20 of Pennsylvania except insofar as those rights may become involved
21 in this particular proceeding.

22 Now you are the only party to this proceeding. They
23 are not. And you have been asked some questions and, really,
24 what the dangers are. And you could say, "Dangers such as this:..."
25 I know that I personally have-- I know that there have been
some scientists who have, at least, raised some questions about



1 UHF transmission lines. They have been in issue in other cases
2 before the Commission.

3 MR. HALLIGAN. A very volatile issue, as a matter
4 of fact.

5 CHAIRMAN BECHHOEFER. As far as this record is concerned,
6 we don't know what issues you are even referring to. We don't
7 know what you are raising and they--and answering discovery
8 is the way to find that out.

9 MR. HALLIGAN. Yes, well, in other words could you
10 direct them now to file with us the actual--

11 CHAIRMAN BECHHOEFER. They don't have to file with
12 you unless-- If you are willing to pay for the copies, they
13 will make you copies, but the Commission rules do not require
14 any party to pay for copying for any other party.

15 MR. SILBERG. We have sent the documents. They have
16 the documents.

17 CHAIRMAN BECHHOEFER. Well, if they have them--

18 MR. SILBERG. --but they haven't looked at the documents.

19 MR. HALLIGAN. We don't. We don't have the maps in
20 question. The maps you sent were large overview maps. They
21 were not the maps requested. You sent the wrong information.

22 Now on July 25th you said we had never objected to
23 that, and the Citizens Against Nuclear Danger's submission of
24 supplemental discovery request to the NRC and the applicants;
25 Item 3 on page 2, "The applicants failed to furnish the Citizens
with a considerable amount of data previously requested. Some

1 data that was forwarded was incomplete. Virtually all of this
2 information is in the possession of the applicants and it is
3 public record but is not readily obtainable from other sources
4 by the Intervenor.

5 CHAIRMAN BECHHOEFER. I might add, you have to specify.
6 When you say that--if it is a blanket claim of noncompliance,
7 we can't act on something like that. In fact, we can't even
8 recognize a claim like that as being legitimate. If you said
9 they didn't send a certain piece of--answer to our request and
10 you named the request or you named the document they sent, and
11 then --

12 MR. HALLIGAN. I thought it would be adequate for
13 your staff to go to our discoveries and compare it with the
14 answers they filed and say, "Ah hah. . ."

15 CHAIRMAN BECHHOEFER. We ordinarily don't get involved
16 in discovery. It is only the--

17 MR. HALLIGAN. We are handicapped by this. Now if
18 you want us to file by May 1st, a response to that-- You say
19 we initiated exclusively that contention, we can answer--

20 CHAIRMAN BECHHOEFER. We would want you to file by
21 May 1st, the information that you have--and we are not even
22 telling you to go out and get information-- If you say, "We
23 need, to complete our case, we need reference to a particular
24 map which we don't have," okay that is an adequate answer to
25 the Interrogatory but--

MR. HALLIGAN. I didn't know that. I thought we had

1 to have it in hand.

2 CHAIRMAN BECHHOEFER. Well, we said that in two different
3 orders. We said you could-- In two, our August order and October
4 order, we tried to explain you only had to tell what information
5 you had. And if you had gone off to get us more information,
6 you could say you are doing that.

7 You must have had some information. You must have
8 had some indication that there is anything at all wrong with
9 UHF transmission lines or why the are better than-- Why--

10 MR. HALLIGAN. Well, it was based-- Yes, we do,
11 however--

12 CHAIRMAN BECHHOEFER. Why 745 volt transmission lines
13 are worse than 500 or 300 or 175.

14 MR. HALLIGAN. We have that information. The problem
15 is that the person is now here that can give you that information.

16 CHAIRMAN BECHHOEFER. I don't want it now but what
17 I am saying is--

18 MR. HALLIGAN. I am a social scientist so it is somebody
19 else' job, electrical engineer.

20 CHAIRMAN BECHHOEFER. The only reason we would not
21 throw you out now--your party out now--is if you committed to
22 answer the questions to the best of your ability; and that would
23 be by May 1st, and the same date that everybody else is being
24 given--

25 MR. HALLIGAN. All right, Mr. Chairman--

CHAIRMAN BECHHOEFER. And we would want some indication



1 that we will get more than just statements that, "You are asking
2 too many questions," or-- We want actual answers to the questions
3 that have the substantive answers, some detail, so the parties
4 can know what your case is starting. You don't have to have
5 a complete case. Your testimony isn't due at that time.

6 Now I know you made a statement to the Appeal Board
7 which is completely unacceptable; that your people would get
8 up and speak extemporaneously. Well, we don't permit that in
9 these proceedings.

10 MR. HALLIGAN. I wasn't aware of that. I am now. Again--

11 CHAIRMAN BECHHOEFER. What we require is pre-filed
12 testimony. The Board is going to spend a lot of time going
13 over it and doing research on that before we ever get to hearings
14 because--of all the parties-- All the parties have to file,
15 I think we said 21 days in advance. We were going to require
16 an advance statement. Sixty days in advance you have to give
17 a general outline of what your case is going to be.

18 MR. HALLIGAN. May I interrupt here.

19 CHAIRMAN BECHHOEFER. Yes.

20 MR. HALLIGAN. Why I said that about extemporaneous;
21 if you recall, and go back, there was a tentative date. We
22 thought the hearing was going to be held in the fall--like there
23 wasn't any more time. If you recall, the hearing, we were instructed
24 the hearing was going to start soon and since we hadn't done
25 all this discovery information, replies and so forth, the best
we could do was to try to get our experts lined up, submit their



1 testimony in time and if time permitted, to the best of their
2 ability, answer the Interrogatories as well. Now that schedule
3 has changed because the Safety Report is not going to be filed,
4 and so forth. So, that is sort of moot in the sense that where
5 we withdraw that now. That is only a last minute explanation
6 of what we would have done if the hearings were going to be
7 the next month.

8 You see, September, October--

9 CHAIRMAN BECHHOEFER. Hearings can never be before
10 the staff produces its-- Well, it could conceivably, but it
11 is not likely because we can't act until we get the staff's
12 testimony on the record.

13 MR. HALLIGAN. There was something in writing from
14 the NRC that there was going to be a hearing and that is why
15 we put that statement in. That would be the best we could do
16 at that time. But the Citizens Against Nuclear Danger can and
17 will answer to the best of our ability the interrogatory questions
18 prior to May 1st, if we are allowed to do so, in accordance
19 with what has transpired yesterday and today and we will take
20 your advice to clarify. You want a precise indication of what
21 our information is on their questions.

22 CHAIRMAN BECHHOEFER. Yes.

23 MR. HALLIGAN. Now we will put in there as a footnote,
24 we still don't have complete--we never did get the complete
25 information and--

CHAIRMAN BECHHOEFER. Well, where you don't information



1 that you think you need to answer a particular question, you
2 just say so.

3 MR. HALLIGAN. I can start this this afternoon if
4 that is-- I mean, things are cleared up now.

5 CHAIRMAN BECHHOEFER. We aren't going to be here this
6 afternoon.

7 MR. HALLIGAN. No, but I mean I could start the work
8 over the weekend.

9 CHAIRMAN BECHHOEFER. Yes, all we want to know is
10 what you have and--

11 MR. HALLIGAN. It is not going to be rather broad.
12 It is going to deal mostly with the impact on the people's lives
13 along a transmission lines; especially if it may pass over public
14 lands or state institutions and so forth.

15 MR. SILBERG. It doesn't pass over any state institutions.

16 MR. HALLIGAN. Well, see, I have to-- We, we, really
17 should have, you know, something more than just hearsay on that.

18 CHAIRMAN BECHHOEFER. Well, for instance, you should
19 indicate what UHF lines do.

20 MR. HALLIGAN. Yes.

21 CHAIRMAN BECHHOEFER. Why they are any worse than
22 500 or 300 or whatever any other lines, any other line. Because
23 I have seen a lot of studies saying they are better.

24 MR. HALLIGAN. There is conflicting testimony, to
25 be sure.

CHAIRMAN BECHHOEFER. They take less space for one



1 thing and there are less of them so--

2 All this is a balancing.

3 MR. HALLIGAN. I will answer that and can I also answer
4 to some extent Number 18, because I think 18 is interrelated,
5 although we didn't initiate that one.

6 CHAIRMAN BECHHOEFER. Well, the only ones you are
7 required to answer are the ones you sponsor. You can answer
8 anything else you want to but you don't have to.

9 MR. HALLIGAN. I see; that is optional.

10 CHAIRMAN BECHHOEFER. You are allowed to cross-- You
11 are allowed to present-- Well, if you wish to adopt a contention
12 as your own and wish to present direct evidence on it then you
13 do have to answer interrogatories and tell people you are adopting
14 that contention, but --

15 MR. CUTCHIN. Mr. Chairman, I would suggest at this
16 point in the proceedings, if an intervenor who did not sponsor
17 a contention initially wishes to adopt that contention, the
18 staff believes he has a very large hurdle on time limits to
19 overcome in accordance with the rule. That contention has been
20 known to this intervenor since last March 6 when the Board came
21 down with its Order. If it wished to adopt that contention,
22 it should have done so much sooner than that.

23 MR. HALLIGAN. What does that mean? I don't understand.

24 CHAIRMAN BECHHOEFER. Well, basically the contentions--
25 that the contentions are normally; your own contentions are
the ones that you are sponsoring and you have every right to



1 present a direct case and everything else. Normally, in Commission
2 proceedings you have a right to cross-examine on every contention.
3 You have a right to file proposed findings on every contention.

4 You do not have a right to present a direct case on
5 other people's contentions. They present the direct case on
6 their own contentions. Normally, to get a contention accepted
7 late you have to establish there is five criteria, I think roughly
8 that you have to meet why you didn't speak out earlier.

9 You will be allowed to cross examine on the applicant's
10 witnesses, the other intervenors' witnesses to the extent there
11 may be some.

12 MR. HALLIGAN. But 17 and 18 are interrelated. That
13 is what I was saying. They sort of overlap.

14 CHAIRMAN BECHHOEFER. Well, they are a little bit
15 different. One is UHF and one is herbicides. Now you can cross-
16 examine on herbicides but that is ECNP's contention and they
17 are the people who claim that the particular herbicides are
18 dangerous and they, presumeably will have a case on that.

19 MR. HALLIGAN. What are the other ones now?

20 MR. SCHULTZ. Mr. Chairman, if this is a Commission
21 rule then why did PP&L's counsel who is obviously intimately
22 familiar with Commission rules, serve interrogatories on all
23 the parties, all the contentions?

24 CHAIRMAN BECHHOEFER. I might say, the Commission
25 rules are not that clear. The Commission rule says that discovery
may be served on any party. We decided to limit that. This



1 is our own ruling. Instead of requiring all parties to answers
2 questions as to all interrogatories on all contentions, we inter-
3 preted the "all parties" to mean all opposing parties on a given
4 contention.

5 MR. SILBERG. I believe your rule really said a techni-
6 cal reading of the regulations would permit exactly the kind
7 of discovery which we filed.

8 CHAIRMAN BECHHOEFER. It would, but I think it would
9 also require that answer questions other intervenors asked you
10 about other peoples' contentions; although you could read Prairie
11 Island as saying something different.

12 But we thought it was unfair not to have the applicants
13 answering questions on other intervenor's interrogatories--
14 interrogatories sponsored by intervenors other than the requesting
15 one, and which we do think is consistent with the Prairie Island
16 Case not to require them to answer, but we thought that was
17 unfair to not require them to answer questions, but to require
18 intervenors to answer questions on everybody else' interrogatories,
19 everybody else' contentions, I am sorry.

20 That being so we decided that it would be more equal
21 to not have cross-discovery, so-called and limit discovery between
22 the parties to contentions which were at issue between those
23 parties. That was the reason for our October ruling. I hope
24 we had explained it well enough but apparently it was misread
25 a little bit but the Commission rules, technically would allow
much broader discovery. We limited it because of the claims

1 of burden, for one thing, by the intervenors.

2 MR. HALLIGAN. The Citizens take note of that and
3 appreciate that ruling. We feel that that was a fair and reasonable
4 ruling and not simply because it was in our favor, but we think
5 that it was to resolve a dispute and it is a fact that the staff
6 and the applicants--their initial filing of discovery was, in
7 our judgment overbearing and intimidating. I mean, it was over-
8 whelming. Dr. Johnsrud says it more eloquently.

9 And I might indicate at this point, too, in some of
10 our filings some of the rhetoric may appear to be impertinent
11 at times. Indeed, it may be. But of the several hundreds of
12 petitioners that we represent, that is their attitude and frame
13 of mind. Many of these people are very outspoken and very indignant
14 about the NRC so we try to reflect that impression of the attitude
15 and opinion of the people. Nothing to in any way cast aspersions
16 on any individual, any of the distinguished or experts who serve
17 the government. We think they serve well. It is just that
18 some of the rhetoric we think that, perhaps, maybe it is to
19 get attention; however, the Citizens will not be in any way
20 considering any injunctive relief, you know, or in the form
21 of an appeal. That would not be the course of action, you know,
22 if we don't have opportunity for--

23 CHAIRMAN BECHHOEFER. I might add the only way you
24 could ever get an appeal is if we throw you out, because interloc-
25 utory appeals, which would be the appeals before the end of
the proceeding will not be entertained except under very unusual



1 circumstances. If we throw you out, you would have a right
2 to appeal that. But just to make sure as long--we do have a
3 commitment by May 1, which is the date the others agreed to,
4 you will answer the various interrogatories. You don't have
5 to look through the staff or the applicant. If the same answer
6 applies to both interrogatories you can answer one of them and
7 refer the other one to the answer. You don't have to do excess
8 paperwork. If the same answer applies to both. Now be sure--
9 you have to read the questions to make sure those same answers
10 will apply; you don't have to type it twice.

11 You can say, "See answer--"

12 You can tell the staff to, "See applicant's answer,"
13 or whatever.

14 MR. HALLIGAN. I will study the other responses.

15 CHAIRMAN BECHHOEFER. But as long as the information
16 is responsive to both--

17 MR. HALLIGAN. One other footnote on this. We did
18 file something before the December 14 deadline. That wasn't
19 necessarily--wasn't acceptable in your view, apparently--but
20 it was our response to that deadline and we didn't know of the
21 extension until, you know, the January one in time because I
22 didn't have the paper. And, true, mailing back and forth about
23 that time was around Christmastime or right before Christmas,
24 one set of the questions were inadvertently misplaced, I believe,
25 of the applicants. They turned up--but the thing is, another
deadline went by when we didn't have them; at the last minute



1 good faith effort--

2 CHAIRMAN BECHHOEFER. But that kind of thing you can
3 tell us about--

4 MR. HALLIGAN. Well, I am now. It just came to mind.
5 It did happen because, see, there are three people, three different
6 cities that get this information. We have to copy it and move
7 it around. That is why we are consistently asking for a set
8 of the documents.

9 But I think it was the applicant's enormous questions
10 that we didn't have--somebody had them but didn't get them back
11 to us.

12 CHAIRMAN BECHHOEFER. Your request did not relieve
13 you from completely not answering any questions, but we need
14 more time. The Board will look pretty leniently on a request
15 like that. At least, when it is way ahead of the hearing dates.
16 When you get close to the hearing time gets a little--we won't
17 be as --

18 MR. HALLIGAN. It would look kind of stupid, though,
19 you know, to say that, that we had lost the questions but--

20 CHAIRMAN BECHHOEFER. If it is the truth, we are not
21 going to-- For that kind of thing you are not going to get
22 thrown out of a proceeding but we-- You are going to get thrown
23 out if you don't answer if you don't-- Really, if you don't
24 let other parties know what your case is, because the whole
25 purpose of holding a hearing is to find out what each party
has to say about each other party's case.



1 MR. HALLIGAN. What other questions are they--

2 CHAIRMAN BECHHOEFER. Before we proceed, I think we
3 ought to hear any questions or comments the applicants or staff
4 have on your response and then the Board, I think, will take
5 a short break and we will decide what we are going to do.

6 Mr. Silberg, do you have any-- Would you agree that
7 if they file answers, and I mean substantive answers, because
8 I hope we have made this clear--by May 1st-- I realize this
9 will substantially delay your preparation, but could you accept
10 that as a satisfactory resolution for the timebeing?

11 MR. SILBERG. First, let me make one point. I guess
12 Mr. Halligan was saying he wasn't aware of the December 6 Order
13 extending the deadline to January 18. I can't believe that
14 since on January 11 he filed a response to your Order of January
15 4 which January 4 Order specifically talked about the extension
16 of time to January 18. I have some problems understanding that.

17 Putting that aside, my only concern is that we have
18 gone through a long series of pleadings by CAND in which they
19 promised various things.

20 In June, June 16 they said they are beginning to round
21 up nationally reknowned expert witnesses.

22 On September 1 they said they will submit a statement
23 that may satisfactorily comply with the Order seeking discovery
24 information.

25 On September 10 they said they will in due course
prepare brief position papers and obtain services of a number



1 of qualified consultants who will answer any discovery questions.

2 It has been that kind of promise over a period of
3 nine months in which we haven't seen any indication that they
4 actually are going to do anything. It seems to me we are going
5 to put ourselves in the same position on May 1, where based
6 on past performance there is going to be a very high likelihood
7 that we aren't going to see answers to interrogatories which
8 are going to be at all meaningful. This party has not shown
9 an appreciation of the responsibilities that ought to reside
10 with intervenors just as they do with applicants and the staff.

11 And I guess I am troubled. I don't know where the
12 proper cut-off is. These are merely matters of discretion as
13 to what kind of sanctions are applied. But there ought to be
14 some level of conduct which, regardless of promises of future
15 good behaviour, ought to disqualify someone from further partici-
16 pation in the hearing. And you started off the discussion by
17 saying, "Well, you haven't heard anything that would indicate
18 a reason not to throw them out."

19 And I guess looking back at the past history of this,
20 I still haven't heard anything. Now, obviously, if you extend
21 the deadline to May 1 that is going to interfere with our prepara-
22 tion, and we are well under way in preparing summary disposition
23 motions on contention 17, in particular. We don't know what
24 we are supposed to be meeting. We wait until May 1 to prepare
25 those motions, we have thrown out any opportunity we have for
summary disposition on that contention. Because by the time



1 the responses come in we are going to have to file our testimony.
2 I really think we are being put at a significant disadvantage
3 and I think the history of this particular dispute over this
4 particular party's discovery is as clear as any I have ever
5 seen--and I have seen a lot of parties thrown out of proceedings
6 because of failure to comply with discovery--and I would just
7 request that you look back at the history of what has happened
8 with this discovery request with this intervenor.

9 CHAIRMAN BECHHOEFER. Let me ask you, if we hold a
10 mid-December hearing, your summary disposition request won't
11 be required until, say, mid-July or--

12 MR. SILBERG. Mid-December?

13 CHAIRMAN BECHHOEFER. Mid-September, I am sorry.
14 Make sure that says "September"--which is what we were talking
15 about yesterday. Which would mean--

16 MR. SILBERG. That doesn't give us any time whatsoever.
17 If we file in July--

18 CHAIRMAN BECHHOEFER. Mid-July or even August.

19 MR. SILBERG. We file in mid-July the other parties
20 are entitled to file responses three weeks later, the beginning
21 of August, we won't get an answer from the Board until the hearing
22 starts. We will have had to prepare our witnesses. The other
23 parties will have to prepare testimony. We have thrown out
24 any value whatsoever in summary disposition.

25 The purpose in summary disposition--

CHAIRMAN BECHHOEFER. Yes, but isn't this the way



1 that most proceedings run? Usually, every proceeding I have
2 been in we never get a motion for summary disposition until
3 approximately--sometimes 45 days. The regulations say 45 days.

4 MR. SILBERG. That is the last--that is the last date

5 CHAIRMAN BECHHOEFER. In every proceeding I have ever
6 been in that is when we get the motion.

7 MR. SILBERG. Well, that is the most useless time
8 to file the motion.

9 CHAIRMAN BECHHOEFER. Yes.

10 MR. SILBERG. The best time to file it is as early
11 as possible, so you get that issue out of the way. If you wait
12 until the last minute; you are not saving any effort on the
13 part of the witnesses, on the part of the attorneys, on the
14 part of the other parties. If you want to make summary disposition
15 work you want to get those issues disposed of at an early stage.
16 That is what the Appeal Board has said all along.

17 CHAIRMAN BECHHOEFER. Well, I realize that, but as
18 a practical matter that your testimony is going to be pretty
19 much the same as the affidavit you prepare.

20 MR. SILBERG. It may or may not be.

21 CHAIRMAN BECHHOEFER. This is the way it often works
22 out, in which case you prepared affidavits and you put a new
23 heading on it and then you prepare testimony.

24 MR. SILBERG. If we have responses to summary disposition,
25 we obviously have to change our testimony--

CHAIRMAN BECHHOEFER. Oh, I realize that. But if



1 you have responses that raise factual questions, you are not
2 going to get summary disposition in any event.

3 MR. SILBERG. Well, that is wrong because we should
4 get summary disposition as to those questions on which there
5 is no material fact. You should only go to evidentiary hearings
6 where--

7 CHAIRMAN BECHHOEFER. Yes, of course.

8 MR. SILBERG. --on a particular fact there is a material
9 dispute. And that is a very different question than putting
10 in all the testimony that is prepared. I am afraid what you
11 are saying that the way the Board is going to operate; summary
12 disposition becomes a fruitless exercise. We might as well
13 not rush because it is an extra burden to get this stuff early.
14 But you go through that burden for a point, and that point is
15 to get those issues off the Board so that when we get to hearing
16 we are focused down on a few, hopefully a few issues which really
17 deserve and evidentiary hearing.

18 If you wait until the last minute to do that you don't
19 gain any of those benefits. What you are saying is; not only
20 is the 45 days the last day you can file interrogatories. You
21 are effectively saying it is the only date on which you can
22 file. I am sorry--file summary dispositiion.

23 CHAIRMAN BECHHOEFER. Well, I am not saying that but
24 that is--

25 MR. SILBERG. That is the way your logic would point.
I respectfully request that you not tailor your decision on



1 this motion to that view of summary disposition.

2 CHAIRMAN BECHHOEFER. No, what I am trying to balance
3 is the possible convenience of the parties against the possibility
4 we might get a better record on a given question with the party
5 in the case.

6 MR. SILBERG. We have seen nothing and there is nothing
7 in the record that is, indeed, likely to happen.

8 CHAIRMAN BECHHOEFER. Yes, well, we have to hear from
9 Mr. Cutchin first.

10 MR. CUTCHIN. Mr. Chairman, I guess I, too, am troubled
11 that as we have laid out in our pleadings--not only in this
12 latest one, but well back into last year--this party, CAND,
13 has done absolutely nothing in response to numerous Board orders.

14 I also am troubled as is the applicant, by the fact
15 the Board seems to have the attitude that discovery may take
16 place right up until the deadline for filing motions for summary
17 disposition. I, too, think that is looking to be a fruitless
18 exercise because this Board has no basis whatsoever to speculate
19 that this party in particular can make any meaningful contribution
20 to any of the issues either it has raised or that anyone else
21 has raised. If there ever was a case for dismissal of an inter-
22 venor from a proceeding, it is here. And the staff also is
23 troubled and the staff believes that the Board should make very
24 clear what it does intend to do so that the other two parties,
25 the staff and the applicant may also gain some due process
in this proceeding.

1 MR. HALLIGAN. Mr. Chairman, may I respond to that?

2 CHAIRMAN BECHHOEFER. Yes, you may--but I want to
3 wait. Are you through?

4 MR. CUTCHIN. I am finished.

5 CHAIRMAN BECHHOEFER. Okay.

6 MR. HALLIGAN. I would like to alleviate the fears
7 of the attorney for the applicants. We can assure him that
8 on the question 16, our replies we just indicated we will comply
9 with on or before about the first of May, will be very concise
10 and limited. In other words, we are just going to pick one
11 or two main points we feel are major questions and we will answer.
12 We are going to answer your interrogatories but, in part, I
13 don't have them in front of me here. They are in the binder
14 here.

15 We may say in part that we don't have certain information
16 on certain others--specific things you may ask. But what we
17 do have specific information on we will accumulate in the next
18 week or ten days or so. We will specify that. It will not
19 be broad or overbearing or of any magnitude. We will just answer
20 your questions in many cases. It will be a case--a statement
21 that we do not intend to deal with, you know, this particular--
22 In other words, specifically we will put down precisely what
23 it is that we are going to raise. It will be a very simple
24 item or items.

25 MR. SILBERG. Are you saying you would withdraw portions
of the contention?



1 MR. HALLIGAN. In effect, that is about what i might
2 be. I don't know. I would have to go over the question. In
3 other words, I am sure-- In other words, I would have to read
4 the contention over and so forth and go over the whole thing,
5 but it will not in any way hinder, I believe, any preparation
6 for further testimony.

7 And I agree entirely--what was that quote? What was
8 that order or correspondence you said we were going to have
9 experts? Would you tell me what the date of that was? That
10 is very relevant.

11 MR. SILBERG. On June 16, 1979 you said you were
12 "beginning to round up"--

13 MR. HALLIGAN. June 16--

14 MR. SILBERG. 1979.

15 MR. HALLIGAN. All right, we did, in fact, say something
16 to that effect. I don't know what page it is on.

17 MR. SILBERG. I was quoting.

18 MR. HALLIGAN. What page is that on?

19 MR. SILBERG. Page four.

20 MR. HALLIGAN: All right, where is that--the first
21 paragraph or second one?

22 All right, it says, "The Citizens will have no difficulty
23 presenting nationally reknown expert witnesses," et cetera,
24 at public hearings.

25 This is what happens to Citizen intervenors, Mr. Chairman.
When we cannot actually go to a man or woman who is an expert



1 in the field and hand them the documents right in their hands
2 and say, "This is the contention here. We want you to take
3 these reports and analyze them and give us a testimony or answers
4 to these questions factually," no reputable scientist or expert
5 is going to just do it, you know, without all the documents
6 in their hand.

7 And because we could not present nor have in our possession
8 these reports to give to these experts they backed out on us.
9 We have several instances where people with good reputations
10 in the scientific community will not nor cannot do objective
11 research unless they have at their convenience the reports.

12 These people are not going to go to Wilkes-Barre.
13 They are not going to go to King of Prussia. You got to cater
14 to them. So we lost people by not getting the whole docket
15 file or have it at our convenience. We have lost these people.
16 So we have sensed at this moment, relying on a few individuals
17 and a few that we don't have yet. We hope we have time-- The
18 hearing isn't until next year on safety and health so--

19 CHAIRMAN BECHHOEFER. Safety and health is a long
20 way away.

21 MR. HALLIGAN. Right, so there is no sweat there.
22 In fact, that is where most of the contentions are, I believe.

23 CHAIRMAN BECHHOEFER. I recognize that.

24 MR. HALLIGAN. Yes, so that this is--this statement
25 here, I believe, I think I made it clear there that we have
had problems since that time; because some people either backed



51
1 out on us or we couldn't actually get them to do the research
2 because we thought these reports were going to be forthcoming
3 and they weren't. So, we will have to rely on mostly second-
4 hand information or research which will have to be supplemented
5 but, before the hearings when testimony is required and the
6 list has to be filed of witnesses, you will know, in fact,
7 who these individuals are who will assist us in--

8 CHAIRMAN BECHHOEFER. It would help to the extent
9 you know them by May 1. You could-- To the extent you do know
10 people who are going to testify for you--

11 MR. HALLIGAN. I don't know if we can do that. We
12 will try.

13 Tentatively we can list a few. We will have to get
14 their permission. No guarantee.

15 CHAIRMAN BECHHOEFER. The most you can tell them by
16 May 1 what you have got and what information and to the extent
17 possible if you are relying on documentary evidence, tell the
18 parties what it is because they want to go read the documents
19 and we want to read some of the documents, although we may wait
20 until the testimony comes in but we want to go read this material
21 before the hearings, because we can ask the questions much more
22 intelligently-- We can't just ask the questions intelligently
23 if we are confronted with complicated testimony and haven't
24 got any background research. We are going to do a lot of
25 back--

MR. HALLIGAN. It won't be complicated, I assure you.

1 but it will--

2 CHAIRMAN BECHHOEFER. But some of these scientific
3 opinions; I know that some of the ones that I have had some,
4 I have watched on television, there are some fairly complicated
5 scientific theories about UHF transmission lines and I don't
6 know that much about them. But I know that it could very well
7 be complicated and I would want to have some references to articles
8 that you may be relying on if that is what you are relying on.
9 I am sure my technical members feel the same way and this is
10 how we prepare for a hearing. We just try to read as much as
11 we can about the various topics in contention so--

12 MR. HALLIGAN. We will comply with that. I would
13 just perhaps impose upon the Board also, however, to ask, in
14 turn, the applicants and the NRC legal staff to reconsider their
15 denial of our discovery. We will accept it even though it is
16 passed the date. If they want to still send us any information
17 that would help us, we will accept it.

18 CHAIRMAN BECHHOEFER. They claim they have complied
19 with your request--

20 MR. HALLIGAN. They haven't in our judgment. It is
21 quite obvious.

22 CHAIRMAN BECHHOEFER. We are not going to go through
23 request by request to think, if we think they have been. If
24 you had thought they didn't comply with something you should
25 have filed a motion, a motion to compel.

MR. HALLIGAN. Well, I didn't know that this was the

1 procedure, per se.

2 CHAIRMAN BECHHOEFER. In answering a question you
3 say, "We need a certain document to answer this in full." Then
4 you can put that down and maybe that will--

5 MR. HALLIGAN. Many of the things we wanted, the most
6 important documents, on another contention, we wanted from the
7 State of Pennsylvania; and they have failed to supply information
8 even though they said that they would.

9 They have refused to --

10 CHAIRMAN BECHHOEFER. Well, again, I have not tried
11 to track down-- Because, as I said, no rule in discovery is
12 between parties because, as I say, unless somebody files a complaint
13 to us we don't really look at the answers. If somebody requests
14 a protective order and we don't get a response, it is true that
15 no one is entitled to discovery in anything other than his own
16 contentions so that if a matter--

17 You mentioned at least one matter in one of the documents
18 that I don't think related to any contention that has been admitted
19 so far and NRC rules permit discovery only on contentions not
20 on-- you mentioned something about a pressure vessel. Now the
21 applicants gave you an answer on that but there is nothing about
22 pressure vessels in any of the contentions that have been let
23 in, as far as we can tell. If they didn't want to answer discovery
24 on that they have every right not to. You have to raise a contention
25 If you find out information, you have to justify why it was
late but there are five factors and if there is a serious safety

1 then--

2 MR. HALLIGAN. That was a contention filed, presented--
3 but maybe it wasn't admitted. I thought it was part--

4 CHAIRMAN BECHHOEFER. I can't recall. I thought we
5 admitted everything that was possible to be admitted legally
6 under our rules, but be that as it may they did answer one of
7 your questions about whether Babcock & Wilcox had fabricated
8 the pressure vessel I guess but anyhow you have to limit your
9 discovery request to your own contentions and then you have
10 to add a contention if you want to find out something about
11 them.

12 I think at this stage we want to take a brief recess
13 and then we will come back and then we will get into the other
14 SEA items, too.

15 (Whereupon, a short recess was
16 taken.)
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16-1

1 CHAIRMAN BECHHOEFER: The Board has discussed the
2 motions and the responses that we have heard today. We have
3 made a decision and this will be recorded. We are going to
4 issue a prehearing conference order at a later date, but we
5 have decided to permit CAND to stay in the proceeding, but
6 only to sponsor in the environmental field only the three
7 contentions which they are individual sponsors of.. And that
8 I believe is 17, 18, and the parts of 2 that deal with the
9 3 isotopes--

10 MR. SILBERG: 16 and 17.

11 CHAIRMAN BECHHOEFER: Wait a minute. 16 and 17,
12 you are right, plus the part of 2 that deals with 3 particular
13 isotopes which was in the CAND petition.

14 MR. HALLIGAN: And what is No. 5--that is not--16 is
15 the one that we were involved in.

16 CHAIRMAN BECHHOEFER: 16, 17 and the portion of 2
17 that you specific--what we are saying that you cannot remain
18 the sponsor because of default on the need for power and
19 decommissioning. Other parties have raised that and the
20 contentions are exactly the same.

21 MR. HALLIGAN: What were those two now?

22 CHAIRMAN BECHHOEFER: You will be permitted to
23 cross examine; you are remaining as parties. But, then to
24 stay on those three, you have to answer discovery by May 1,
25 but those are the three that you are the individual sponsor of,



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16-2

1 which nobody else is sponsoring.

2 MR. HALLIGAN: But, what were those other ones that
3 you mentioned--

4 DR. PARIS: Of the environmental contentions, you
5 are out on No. 4 and No. 9.

6 MR. HALLIGAN: Well, what is No. 4?

7 CHAIRMAN BECHHOEFER: As sponsors you may cross
8 examine, but you are out as being the sponsor. You also
9 do not have to answer discovery on--

10 MR. HALLIGAN: I do not have to answer questions on
11 4? That is the cost benefit balance and licensing--yes, we
12 did not sponsor--

13 CHAIRMAN BECHHOEFER: Well, you did, but you were not
14 a major sponsor. But, I think, it will help the applicants
15 and Staff in preparing for their cases if they know you are not
16 a sponsor anymore; you may cross examine on those.

17 MR. SILBERG: I presume that means that they would
18 not be permitted to introduce direct testimony on those issues?

19 CHAIRMAN BECHHOEFER: Of those two issues; that is
20 correct.

21 MR. HALLIGAN: Well, our testimony on that, we would
22 have to defer to an intervenor who does apparently.

23 CHAIRMAN BECHHOEFER: That is correct.

24 MR. HALLIGAN: If we had direct testimony, we would
25 have to have them introduce it.

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16-3

1 CHAIRMAN BECHHOEFER: They would have to sponsor it;
2 that is correct.

3 MR. HALLIGAN: All right. And the other one was
4 what?

5 MS. CRESY: Excuse me. Did you say Contention 9?

6 CHAIRMAN BECHHOEFER: Yes.

7 MS. CRESY: Well, I thought 9 was suspended to the
8 Health and Safety Hearing.

9 DR. PARIS: Well, I think, 9 is--

10 MS. CRESY: I am reading from October 30, '79 the
11 memorandum in order of discovery motions? Maybe--I must be
12 mistaken.

13 MR. SILBERG: I believe CAND is correct. It does
14 have both environmental and safety aspects.

15 CHAIRMAN BECHHOEFER: Okay, then we are wrong on
16 that. It is the one that you had to answer discovery on and
17 did not. And that does not include anything that we are going
18 to hear at the Safety. Let me check this again.

19 DR. PARIS: Well, our order list Contention 9 as
20 Mr. Silberg is pointing out--

21 CHAIRMAN BECHHOEFER: Oh, that is right.

22 DR. PARIS: --other environmental and safety and at
23 this point, I cannot for the life me remember when we were
24 going to hear it. But, in any case, when we do hear--

25 CHAIRMAN BECHHOEFER: That is right, we did limit



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16-4

1 this.

2 DR. PARIS: --when we do, CAND may not present this.

3 CHAIRMAN BECHHOEFER: Well, no, that is not right.

4 DR. PARIS: It is not?

5 CHAIRMAN BECHHOEFER: No, because they did not have
6 to answer discovery as to anything we are hearing at the later.

7 DR. PARIS: Or in the environmental hearing they
8 cannot.

9 CHAIRMAN BECHHOEFER: Right. For the contentions
10 other than the three you are sponsoring, solely, you cannot in
11 the environmental hearing.

12 MS. CRESY: Could you tell us what three those are?

13 CHAIRMAN BECHHOEFER: Well, I think you are allowed
14 to present testimony on No. 2 to the extent of the three
15 isotopes which you alledge. The rest of that contention was
16 ECNP's anyway, so it should affect you participation. The--

17 MS. CRESY: And 16 and 17?

18 MR. CUTCHIN: Could we get identification for the
19 record, Mr. Chairman, as to the lady who is speaking since
20 she has stepped in as a representative of CAND and has not
21 been identified?

22 CHAIRMAN BECHHOEFER: Yes.

23 MS. CRESY: Excuse me. Mary Cresy.

24 CHAIRMAN BECHHOEFER: Okay, are you a member of
25 CAND?

16-5

1 MS. CRESY: Yes. I am the Vice President.

2 CHAIRMAN BECHHOEFER: Okay.

3 MR. HALLIGAN: Ms. Cresy is an active member and
4 she is participating here--

5 CHAIRMAN BECHHOEFER: Now, the rules require that
6 you either be an attorney or a member, and I just wanted to
7 find out for the record.

8 MR. CUTCHIN: Thank you, Mr. Chairman.

9 DR. PARIS: The three affluence that CAND has
10 raised and nobody else has, under Contention 2, are CZ-137,
11 Cobalt 60, and Chlorine, okay? You may prepare--present
12 a direct case on those three affluences.

13 MS. CRESY: I understand now; thank you.

14 CHAIRMAN BECHHOEFER: And then you are permitted on
15 16 and 17, which I think you are the only--

16 MS. CRESY: I just confused me on 9.

17 CHAIRMAN BECHHOEFER: I guess the only one you are
18 out on at the moment is need for power, because it is the ones
19 that we are going to hear early. And there are three other
20 people who are sponsoring that, anyway. But in answering
21 interrogatories, then, focus on the three that--two plus the
22 parts of No. 2 that you are sponsoring and to stay in you will
23 still have to have a good faith showing that you tried to be
24 your best to answer those questions. If you cannot, you simply
25 say so, but show a good faith effort to comply by May 1.



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16-6

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MR. HALLIGAN: Mr. Chairman, we will submit

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substantial information that will, I am sure, be a benefit to

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the Board and the other parties in this matter.

4

CHAIRMAN BECHHOEFER: Fine. . .

5

MR. HALLIGAN: Now, originally, we did not have

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access to, you know, we are accumulating material and data

7

as we go along. When these questions were originally asked

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it was a problem. We are in a better position today, but still

9

have some handicap, obviously. But, we will spell it out

10

clearly and indicate, I believe, satisfactory information.

11

CHAIRMAN BECHHOEFER: Well, fine.

12

DR. PARIS: We hope so.

13

CHAIRMAN BECHHOEFER: Now, I think, the next thing

14

we will turn to are the matters that SEA raised.

15

MR. SILBERG: Before we do that, could we just have

16

an understanding on the record the procedures which, if

17

necessary, and I hope that they are not necessary, ought to

18

be implied on or shortly after May 1 in the event that

19

adequate responses are not supplied. Is the Board on its own

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going to evaluate them or is it our obligation to file

21

an appropriate motion; how do you want that approached?

22

Whatever we do, I would hope we would not get into another

23

procedural mud-pile.

24

CHAIRMAN BECHHOEFER: Now, we do not intend to hold

25

another prehearing conference on this type of matter, anyway.



1 If you do not think they have made it, we are going
2 to be looking as to whether they made a good faith attempt and
3 if you do not think they did, file a motion and we will decide
4 it on the paper as filed.

5 MR. SILBERG: Thank you.

6 CHAIRMAN BECHHOEFER: Same with the Staff. The
7 Staff has some outstanding, also.

8 MR. CUTCHIN: Yes.

9 CHAIRMAN BECHHOEFER: So, it applies.

10 MR. HALLIGAN: We must answer both parties'
11 interrogatories on these three questions.

12 CHAIRMAN BECHHOEFER: Right. But, I said where the
13 same answer applies, you could cross-reference. You could
14 say--you could answer the applicants and tell the Staff, look
15 at a certain answer, if it complies with what they are asking
16 for. You do not have to put the same thing down twice.

17 DR. PARIS: Send the Staff a copy of what you send
18 to the applicant.

19 MR. HALLIGAN: We will send each an answer and a
20 separate set of everything.

21 CHAIRMAN BECHHOEFER: Well, basically, it is only
22 on those three contentions and portions of two, because the
23 other--I do not think that you were interested in the other
24 isotopes, I think, you just listed three anyway. And we
25 combined the contentions, so for those three ECNP does not



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16-8

1 wish to be involved, they have said so and we would like to
2 know what information you have about those isotopes.

3 MR. HALLIGAN: Well, it is chlorine, which is not a
4 radiated--

5 CHAIRMAN BECHHOEFER: Well, chlorine is one of the--
6 no, I am sorry.

7 MR. HALLIGAN: --and there are related matters to
8 that, but they will be explained shortly.

9 CHAIRMAN BECHHOEFER: Well, then is your issue and
10 no one else seems to be following up on that one, so--

11 MR. HALLIGAN: We hope it is the issue of
12 the Department of Environmental Resources, which they are
13 very much involved in the permits of this river.

14 DR. PARIS: I would like to put on the record that
15 our leniency, in this matter, stems in significant part because
16 we are in Pennsylvania.

17 MR. SCHULTZ: Mr. Chairman, I would like to put on
18 the record, that CAND is the only group representing the
19 people that live closest to the plant and I think even though
20 that the distinguished counsel for the Staff has stated that
21 not having an attorney is an overused excuse. I think, you
22 know, in this case CAND is a small group and they are trying
23 to represent people who are concerned about the plant nearest
24 to it without the benefit of experienced counsel and I just
25 wanted to point that out.

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16-9

1 MR. SILBERG: I would hope that CAND is not the
2 only group representing people near the plant. I always
3 thought the assumption that groups participating in these
4 proceedings was that they had some geographical--

5 MR. SCHULTZ: Well, that is certainly true, but
6 CAND is the group representing the people nearest to the
7 plant.

8 MR. HALLIGAN: The Citizens were intervening or
9 active in the safety issue of that plant since 1972, the past
10 8 years.

11 The Chairman might note that yesterday a woman
12 came here from the Middletown area to give a limited appearance
13 address and she was notably nervous and seemed distressed,
14 and this is--there are many people even in the Burwick area
15 who tend to be uptight and concerned, really distraught about
16 atomic power and they are really worried. And it is important
17 in that a public hearing is held and we evaluate all these
18 safety issues. We are in Pennsylvania, we are near TMI, and
19 although this is separate proceedings, I think, the presence
20 of that lady yesterday is representative of a problem.

21 In fact, in this very courtroom, Mr. Chairman, where
22 you are sitting a trial may be held on that case. The
23 Honorable Sylvia Ramble (?) will be hearing a class action
24 lawsuit about damages connected with TMI. It is quite possible
25 they may move the trial to this room and a jury that will sit



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16-10

1 in that jury box, may make a decision that will affect atomic
2 power for the remainder of this century. I feel that the trial
3 will be moved away from Harrisburg, you see, and this is likely
4 the place:

5 DR. PARIS: We understand your concern,
6 Mr. Halligan.

7 MR. HALLIGAN: Thank you.

8 CHAIRMAN BECHHOEFER: Now, turning to the matters
9 that SEA wishes to have raised. There are six listed, but
10 as far as I can see, we have already--the steps we have taken,
11 we have answered five of them. I may be wrong, but, so for the
12 first one, I think, through the course of these last two days
13 we have explained. The second one, I think; we ruled that
14 SEA did not need the request for the protective order that
15 they requested and they are going to commit to expand on
16 Contention 1, I believe it is, by May 1. With that in mind,
17 I do not think--I think that motion becomes moot. They are
18 going to try state what--that is my impression.

19 MR. SCHULTZ: Well, it is our impression that our
20 motion is denied.

21 CHAIRMAN BECHHOEFER: Well, I just do not think that
22 you need a protective order. We accepted your answer for the
23 purpose of the time being.

24 MR. SCHULTZ: But, we did not answer, we did not
25 pretend to answer the question, we move for a protected order.



1 Now, you construed our motion for a protective
2 order as an answer, but as far as we are concerned, you did
3 not answer, we move for a protective order and the protective
4 order was denied and you ordered us to answer by May 1; so
5 that is all right?

6 CHAIRMAN BECHHOEFER: Right. Okay, well, anyway.
7 The third one, I think, --No.3 we will--we are going to follow
8 NRC rules, which say that each intervenor can participate in
9 cross examination on every issue. Each intervenor can
10 present a direct case only on its own issues, and now in the
11 case of CAND and the environmental hearing, only on the two
12 and a half issues we have allowed to remain their contentions.
13 So, I think, that is the basic answer. Every intervenor
14 has the right under NRC rules to cross examine, not to
15 duplicate, but to raise matters which other parties forgot
16 or did not raise, that is certainly permissible. And to
17 participate on any issues which the Board may raise later, and
18 we may have some, so that is No. 4.

19 Now, No. 4, I think, we will not preclude people
20 from making, at least, to some extent duplicate limited
21 appearance statements. The rules only--I would have been
22 construed by some Boards to say, only one shot. We have
23 divided this proceeding, certainly, into environmental and
24 safety and if someone wants to--if someone has made a statement
25 on environmental matters, and six months or a year from now

scg 1 we come to safety hearings, I think, we would entertain
16-12 2 statements from that same person. The only limitation is that
3 we do not, as I mentioned before, we do not want members of
4 groups who are parties to make statements on matters which are
5 in contention, because that one we would have to ignore,
6 essentially. Unless that person wants to disagree with its
7 group and take a different position. But, as long as the
8 group is representing--the only evidence on a contention we
9 could look at is what is actually in the record and under oath
10 or affirmation.

11 And, I might to continue on 4, we normally prefer
12 people to write in and give their--to write in and request,
13 but in every case we are going to allow people who are just
14 present in the hearing room to also make a statement.

15 I might say that anyone who wants to make a statement
16 at anytime, may write--send that statement into the secretary
17 and it will be put into the record.

18 Now, No. 5, attorney's fees we have ruled on and
19 until the Commission changes its view, we cannot really do
20 anything about that. But, I think, we assured CAND or ECNP,
21 whatever, that if the Commission in its policy, the parties will
22 be properly notified.

23 No. 6 is the one that we think presents a serious
24 question. We think that someplace in the Wilkes-Barre area
25 there ought to be a complete copy of the NRC reports and

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1 perhaps some of the later AEC reports, some place in the
2 Wilkes-Barre area. And I do not know whether that is so or
3 not. Mr. Cutchin, would you know whether there is any
4 depository library or any place in the Wilkes-Barre area,
5 which has a copy of those?

6 MR. CUTCHIN: I do not, Mr. Chairman. And the
7 question of complete set of official reports, I would presume
8 to be either the yellow back or the hard-bound copies, going
9 back in time how far, I am presuming--I am wondering.

10 CHAIRMAN BECHHOEFER: Because where the Board
11 believes very strongly that there should be--we often cite
12 those cases as precedent, and we think that it is unfair to
13 the people living around here to--not to have a copy, maybe
14 not of their own possession, but a copy that they can go and
15 look and see. And we have had some complaints that nobody
16 knew what the Prairie Island was, which we were referred to,
17 and I do not think that that is a course that should stand.
18 And what I would like to ask the Staff to do--

19 DR. PARIS: We want to know how far back in time
20 we should go.

21 CHAIRMAN BECHHOEFER: Yes. My own preference would
22 be to go back through No. 4 AEC. And I happen to know that
23 1 through 3 are out of print, and it is very difficult--

24 MR. CUTCHIN: That is my problem.

25 CHAIRMAN BECHHOEFER: Well, 1 through 3, I only cite



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16-14

1 when I want to-- The point of precedence is that
2 1 through 3--normally we do not cite those early ones.

3 MR. CUTCHIN: I will make an inquiry as to the
4 availability of those documents. I will make known to the
5 person in charge of the public document room, the Board's
6 wishes, and then we will advise the Board as to what they
7 think they can do.

8 CHAIRMAN BECHHOEFER: Now what the Board--the Board
9 is going to have one specific suggestion, and that is that the
10 public document room in Wilkes-Barre, I think, is a library,
11 and we would suggest that you investigate in an inter-library
12 loan, if nothing else. Were the Wood Library in Washington,
13 the NRC Library, can loan it, at least, for the course of
14 this proceeding can loan the Wilkes-Barre Library copies
15 of--

16 MR. CUTCHIN: For reference use only and not to be
17 taken out.

18 CHAIRMAN BECHHOEFER: For reference use only and not
19 to be taken out, correct. Because, I know, the earlier
20 volumes are in quite short supply, but I also think that it is
21 unfortunate that they are not available--that they are not
22 available in the area, and we would hope that through some--
23 it may be that there is a library in the Wilkes-Barre area
24 that has it. Now, I must say that there is at least a
25 four-month delay in publishing those darn things and nobody

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16-15

1 can do much about that. When there are directly pertinent
2 decisions rendered by the Appeal Board or the Commission,
3 I would hope that the parties would be at least informed of
4 that fact by the Staff, but if they are not directly pertinent
5 I do not--it is difficult because I cannot ask the Staff to
6 send every copy of every decision which might have a sentence
7 or two that could be relevant. I do know that there is a,
8 for instance, there is certification right now to the
9 Commission by the Appeal Board which would have an outcome
10 on the decision we made to litigate Contention 2. And if the
11 Commission rules against litigation of that type of contention,
12 the certification questioned whether health effects of releases
13 under those permitted by the Appendix I guidelines could be
14 litigated. And we thought under the old maybe Yankee (?)
15 pre dence, that it could be, and we let it in on that basis.
16 But, there is a certification to the Commission by a divided
17 Appeal Board. It was an Appeal Board sitting--there was only
18 two on that Board and one went one way and one went the other,
19 so they certified at the Commission.

20 If the Commission comes out with an answer on that,
21 I think, that one should be sent to the parties who were
22 interested in Contention 2.

23 MR. SILBERG: Well, if the Commission should
24 decide that that issue is inappropriate to litigate, I can
25 assure they will promptly file--

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1 CHAIRMAN BECHHOEFER: But, I would think that if the
2 Commission should decide that that is an appropriate subject
3 of litigation--

4 MR. SILBERG: Then it is not terribly relevant.

5 CHAIRMAN BECHHOEFER: It is not terribly relevant,
6 but it might be useful

7 MR. SILBERG: That just maintains the status quo of
8 that.

9 CHAIRMAN BECHHOEFER: That is correct. Be that as
10 it may, that one certainly would be a directly pertinent
11 decision, which I would think the parties who are sponsoring
12 Contention 2 would wish to litigate. Now, I do not think
13 Appendix I has anything to do with chlorine so, as I recall,
14 so there might be parts of Contention 2 that say in no matter
15 what the Commission rules. Anyhow, if they are directly
16 pertinent decisions, I would hope that they would be sent
17 to the intervenors who are, at least, involved with that
18 issue. But there is a four or five month delay in
19 Commission publication of its decisions. I might add that
20 there are yearly volumes and there are also monthly volumes
21 for the later issuances. In recent years, in the last three
22 or four years, the paging has been the same, but the other
23 volumes--the monthly volumes have just been incorporated with
24 the same paging and everything else. In early days, there
25 was differences in numbers, but I presume what would be on



16-17
1 loan to the Wilkes-Barre area for the earlier decisions, would
2 be the NRC or the AEC reports, would not have to worry about
3 the monthly books on those.

4 MR. HALLIGAN: Mr. Chairman, could you ask the
5 representative from the alliance, or the advocates rather,
6 perhaps the free library may not be the most appropriate
7 place. Does Wilkes College have the better facility; are they
8 open later at night or on the weekend? Usually college
9 libraries are open almost, you know, seven days a week and
10 they have better facilities in a lot of public libraries.
11 Would they be a better depository, perhaps?

12 MR. CUTCHIN: Mr. Chairman, the problem there is
13 that we have local public document room agreements only with
14 certain libraries. Many libraries do not wish to be bothered
15 with effort and I am afraid as we have pointed out to the
16 Board in our response to one of its earlier request, if the
17 burdens on these libraries get to be too great, they are
18 going to say, as some have done in the past, no thanks, NRC,
19 it is too much trouble. We do not want to be a local public
20 document room. So this thing cuts two ways.

21 We will make the effort to look into it. I make
22 no promise that we can carry it out. I will make an effort
23 to see that it gets done, but I am not in a position to
24 promise that it will.

25 CHAIRMAN BECHHOEFER: I would think on an



16-18

1 inter-library loan basis, as long as it is to a library--and
2 also there could also be some so-called depository libraries
3 which already have all or a lot of those documents.

4 MR. CUTCHIN: Many of these depository libraries,
5 though they have the capability to request every Government
6 document for their own reasons, and of course because of
7 limited space, choose not to take them on, and so the fact
8 that they are depository, may or may not mean that something
9 is there.

10 CHAIRMAN BECHHOEFER: Right. Yes. But, it may
11 well may mean for the length of the proceeding. Well, I
12 would think, that the one that serves as the local public
13 document room would be the better one.

14 MR. HALLIGAN: Not necessarily. Wilkes College and
15 Kings College might be better, might be much better.

16 CHAIRMAN BECHHOEFER: Well, just to have things
17 in one place, I would think, would be--

18 MR. SCHULTZ: Either Wilkes College or the
19 Osterhout Library would be fine with us. I would point out
20 a couple of things. The Osterhout Library has a fine inter-
21 library loan service that I have used. The person in charge
22 is, her name is Cathy Shappard.

23 I would request that the Board not just ask the
24 Staff to do that, but order the Staff to do this. I am
25 concerned--well, I do not understand why you cannot do that.



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16-29

1 You order us to do things, I do not understand why you cannot
2 order the Staff--

3 CHAIRMAN BECHHOEFER: Well, the Commission decides
4 that certain functions are outside the litigation area. We
5 can order the Staff to produce documents, but for us, and we
6 can require them to engage in discovery, but, basically, the
7 rules say they can leave something in the public document
8 room and that is about all they have to do. We can urge
9 that the Staff--this is really urging in a different section
10 of the Staff. The attorneys are not going to do this in
11 any event. The way the Government bureaucracy is set up there
12 is public proceedings branch or a library branch, and I am
13 not even sure which one would handle it. But I would hope that
14 an inter-library loan, at least, could be made so that they
15 could loan copies for the course of this proceeding, which
16 is probably the next three or four years, who knows. So,
17 anyway, I think, that is about the best we can do. We can
18 direct the Staff to take steps to see if they can do anything
19 about it, but we cannot direct the Staff to have it done and
20 I am sure that Mr. Cutchin--he has told me he will do it and
21 I do not think that I have to direct him to.

22 MR. CUTCHIN: I will be happy to--

23 CHAIRMAN BECHHOEFER: To attempt--

24 MR. CUTCHIN: --to attempt--

25 CHAIRMAN BECHHOEFER: Right.

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16-20 2 MR. CUTCHIN: And I will relay the Board's request
3 to the appropriate sections of the NRC and will advise the
4 Board, and by copy to the parties of what will be done.

5 CHAIRMAN BECHHOEFER: Right. We cannot direct those
6 other people in NRC who really have authority to send the
7 documents up, pack them up and send them up. We cannot require
8 that they do so. The Commission itself could but we cannot.
9 So, I think we are doing as much as we can and we do think
10 that it is a legitimate request, and I want the record to
11 show that.

12 Now, does any of the parties have anything else to
13 raise concerning either the motions or anything else, before
14 we go into limited appearances?

15 MS. CRESY: Excuse me, just one thing. The
16 Osterhout Library--that is where we get our information.
17 And as difficult as it is to use the library, I understand
18 that this is a difficult problem to resolve. The librarian
19 that does take care of these documents has told me that they
20 just do not have the finances for the librarians to keep them
21 up very well and that is why they are really in such a
22 shambles. And that is why we do keep bringing this up. I
23 am sorry to keep repeating, you know, how the parties do
24 continue to bring up this point, but it is very difficult to
25 go in and find stuff that the librarian does not even know how
to file the stuff. There is only one librarian that has even



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16-21

1 an idea of how to do it, let alone when you go in and look
2 for documents when they refer back to other articles that
3 are not even there.

4 We would really like if there could be an audit
5 done of it, but I do not think that is possible to be done.

6 CHAIRMAN BECHHOEFER: Well, I do understand that,
7 I think another member of the Staff, a Mr. Reese once
8 told me that they could send somebody around to make sure
9 that the document room was in decent shape to be used and
10 that the documents that are supposed to be there were there.

11 MR. CUTCHIN: Mr. Chairman, that is being done.
12 I understand now, on a rotating basis and I know they have
13 recently sent people up in connection with the Three Mile
14 Island special facility that they have set up. I will again
15 make the request of that part of the organization to see
16 how quickly, if and how quickly, they could send someone
17 up here to audit this Osterhout free library, local public
18 document room, but, again, part of the problem there is,
19 and has been in many of these public document rooms, we can
20 put that library in perfect shape today and for some strange
21 reason, it gets rendered asunder within a matter of weeks
22 and we cannot keep coming back up and put a permanent person
23 there, that is just not possible. But, I will, again, make
24 the effort and advise the Board and the parties as to what
25 we can do.



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16-22

1 MS. CRESY: I can understand that, but at least
2 if we have a basis somewhere that we can start.

3 MR. CUTCHIN: We will make the attempt.

4 DR. PARIS: You see, Ms. Cresy, if they do
5 succeed in getting it in reasonable order, those of you
6 who are using it, can cooperate and try to keep it that
7 way.

8 MS. CRESY: There is not much more that we--
9 there is not anything else that we can ask for.

10 MR. CUTCHIN: We will make the effort.

11 CHAIRMAN BECHHOEFER: For instance, I do not
12 know if I should ask users to do this, but I know the
13 applicants frequently sent amendments to their FSAR and if
14 those things just get piled at the end they sort of get
15 hard to use, somebody maybe should volunteer to spend
16 a half an hour and put those pages in and tear the old
17 pages out. And it takes probably a half an hour--

18 MS. CRESY: Well, that is what the librarian
19 tries to do. She tried to explain to me that that is what
20 she tries to do, but--

21 CHAIRMAN BECHHOEFER: Well, if she does not have
22 time, I do not ask you to volunteer, but maybe you should
23 volunteer to say that these things are getting out of date
24 and--because you do need them and they have to be up to
25 date.



cg Ccg 1 MS. CRESY: We tried to bring that up at our end.

16-23

2 CHAIRMAN BECHHOEFER: I know that there is some
3 difficulty in keeping those things up, but, physically,
4 you have got to have those documents and you also have got
5 to have the reports, because we have to cite cases sometimes
6 when they are controlling and it is important that the
7 parties be able to read those cases and see what the
8 President says.

9 MR. SCHULTZ: Mr. Chairman, perhaps we could do
10 it this way. Since you have subpoena power, if you could
11 subpoena a set of reports and then you, yourself, could
12 send it up to Wilkes-Barre.

13 CHAIRMAN BECHHOEFER: I do not know whether that
14 would be appropriate or not.

15 MR. CUTCHIN: I think in light of 2744,
16 Mr. Chairman, the Board would have great difficulty. I
17 think, the Board has made a request, the Staff has
18 volunteered to do all that it can, and if the intervenor
19 wishes to press further, he may do so, but I think we have
20 done all that we can do.

21 CHAIRMAN BECHHOEFER: Let us see if this will
22 work out and if the copies can be put into the library and
23 as I say on a loan basis, the documents are always loaned--
24 frequently loaned.

25 MR. CUTCHIN: If the record should reflect that



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16-24

1 the local public document rooms are not even something that
2 is required by regulation. They are something that the
3 Staff has voluntarily done as a matter of policy and not
4 as a matter of requirement and, of course, they have
5 limited funds and resources and so on, and we will do what
6 we can to accommodate these requests; I can promise nothing
7 further.

8 CHAIRMAN BECHHOEFER: Right. Well, I think this
9 is the most that we can do now on this, but we do think
10 it is important and I think--we hope it can be done.

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17-1

1 CHAIRMAN BECHHOEFER: Do any parties want to raise
2 anything, otherwise we'll close this portion of the proceeding
3 and take limited appearances. Okay.

4 We will issue an order as soon as we can confirming
5 what we've done at the confrence and since we've not really
6 granted any of the motions and since we're not kicking anybody
7 out, we may just try to issue a fairly short order just
8 outlining the further discovery that two of the parties are
9 supposed to come up with and just stating what our conclusion
10 was on the CAND motion so we will try to get out very shortly.

11 MR. HALLIGAN: Mr. Chairman, you would make note
12 that on or about January 16 there was a brief order affecting
13 us that will be rescinded apparently. Will that be done in
14 writing? It said that we could not give direct testimony.

15 CHAIRMAN BECHHOEFER: Yes, we have ruled that if
16 you by May 1, those 2-1/2 contentions, you may give
17 direct testimony. I don't...I'll record that in the order.
18 we issue.

19 MR. CUTCHIN: Is not the board at some time going
20 to give not only its rulings but its reasons therefore,
21 Mr. Chairman?

22 CHAIRMAN BECHHOEFER: Yes, we'll try to do it
23 in the same document. We are, but I hope we can do it
24 in one document. I want to get it out in the next day or two.
25 I won't be back today, obviously. I hope by Monday or



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17-2

1 Tuesday, early next week anyway, we can write up something
2 quickly and issue it.

3 DR. PARIS: If we can't give our reasons within
4 a couple of days, we will do as the Appeal Board has done
5 and issue an order and say we'll explain it some time in
6 the future.

7 CHAIRMAN BECHHOEFER: Okay, with that we will
8 go into...let me get the list. We'll go into the limited
9 appearances. The conference as such has ended.

10 DR. PARIS: Who would like to go first?
11 Come up and speak into the microphone please so that the
12 reporter will have a record of what you are saying. Give
13 your name and address and if you have a typewritten statement,
14 it is helpful to the reporter if you can give her a copy of
15 it.

16 MS. CHALSA: I'm reading mine for Dr. William Thom,
17 who is unable to take another day from work. He took
18 yesterday off. I'm going to give my own statement at the
19 next hearing and will now give Dr. Thom's.

20 He is a child psychologist, the senior psychologist
21 at the Childrens' Service Center here in Wilkes-Barre.

22 When a new industry moves into town, workers
23 are often glad because of the increase in jobs, but when that
24 new industry threatens homeowners with dangers against which
25 they cannot buy insurance, there is reason to worry.



17-3

1 Had P P & L's Susquehanna Steam Plant at Berwick
2 been planned to generate electricity by burning coal or oil,
3 the comprehensive insurance on our homes would still be
4 comprehensive. Why are insurance companies unwilling to insure
5 our homes against atomic accidents, if there is no danger?

6 Even more important than the danger to property is
7 the danger to the health of our children and to their genetic
8 inheritance posed by low level radiation let loose into the
9 atmosphere by the plant, and into our soil and water by toxic
10 atomic wastes.

11 Besides these dangers, once the Berwick nuclear
12 plant comes "on line" to generate power for the area served
13 by the Pennsylvania-New Jersey-Maryland Interconnection,
14 we as neighbors of the plant live under the constant threat
15 of accidental radiation which is not low-level. Your
16 Commission needs to look carefully at the results of current
17 studies on the effects of this threat on the lives of people
18 living near Three Mile Island.

19 Public policy on the dangers of radioactive
20 materials needs to pay more attention to 1) the half-life of
21 the spent materials, 2) the connections between the civilian
22 and military uses of atomic energy, and 3) the resulting
23 impact of our obsolete military ideas of defense on
24 preserving not only freedom, but human life itself.

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17-4

1 The half-life of plutonium is several times longer
2 than recorded history; to believe that it can be kept from
3 killing off our descendents makes no sense to me. Travel
4 back in time with me to the Old Stone Age. We enter a cave
5 in France or Spain where artists have decorated the walls with
6 paintings of bison, mammoth and the woolly rhinoceros. In
7 one cavern, we find a keep pool filled with what we would
8 now know to be plutonium rods. Would we heed the warning
9 signs posted on the cave wall? Would we 'lave then untouched
10 till the strange picture language had been translated and
11 we understood the danger? I doubt it.

12 Now, suppose we returned 20,000 years later, we
13 could still be living at the same time as the founders of
14 Egyptian civilization, 3,000 years before Christ. The half-
15 life of plutonium would then last throughout recorded history
16 until the present. In view of the natural and man-made
17 catastrophes of these past 5,000 years, how can anyone assume
18 that radioactive poisons would not have been released into
19 the biosphere? Or that humanity would still be competing
20 successfully with the insects, who are far more resistant to
21 radiation than we are?

22 Actually, our own children will live in an
23 increasingly contaminated biosphere because irreverent and
24 careless men have disposed of radioactive wastes by dumping
25 them out of sight in flimsy containers. Like country folks



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17-5

1 who dump tin cans just over the edge of a ravine, we have been
2 littering the landscape and seafloor, too, with atomic wastes
3 in the ignorant belief that what we can't see won't hurt us.

4 Of the connections between civilian and military
5 uses of nuclear energy, the most obvious are "breeder
6 reactors" that produce added quantities of poisonous plutonium.
7 Military and civilian uses of atomic energy share common
8 unsolved problems of decontamination, waste disposal, and
9 security against terrorists. Until these problems are solved,
10 all atomic production should be halted at once, right away.
11 With every passing day of production, the problems are
12 compounded.

13 Obsolete military thinking determines civilian
14 atomic policy. A military mentality led Congress to pass the
15 law making atomic discoveries "born secret." Our government
16 has worked hard to keep its law abiding citizens ignorant
17 of the dangers of atomic energy, as the 1979 trial of "The
18 Progressive" magazine has shown. It has suppressed news
19 of accidental deaths at atomic plants. It has refused to
20 honor compensation claims of next-of-kin for American men
21 who died in the atomic bombing of Nagasaki in World War II.

22 To control atomic energy, we need answers to
23 some basic questions:

24 1. How do we convert radioactive elements back
25 into non-radioactive elements that we can live with?



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17-6

1 2. What can be done to change these deadly chemicals
2 to others with shorter half-lives?

3 3. What arrangements can end the wholesale
4 production of radioactive materials?

5 4. How can we protect society now and in the distant
6 future from the dangers of radioactive wastes?

7 5. What fair basis can be found for deciding where
8 and how to store these wastes?

9 6. Who should make these decisions that affect
10 the whole world -- private business, the U.S. Government, or
11 a United Nations agency like UNESCO or the U.N. Atomic Agency?

12 Your Nuclear Regulatory Commission itself needs to
13 offset a reputation of being biased in favor of atomic power
14 inherited from the old Atomic Energy Commission.

15 7. Because of the radical nature of nuclear energy,
16 in all cases of controversy, the burden of proof should rest
17 on the advocates of nuclear energy.

18 8. In composition, the Commission should include
19 not only the nuclear chemists and physicists who understand
20 atomic energy, but biological and social scientists competent
21 to deal with the effects of radiation on individuals and
22 on society as a whole (geneticists, vertebrate paleontologists,
23 nutritionists, psychologists, sociologists, etc.)

24 9. To deal with emergencies like Three Mile
25 Island, the civil defense authorities in the local, state,



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17-7 C

1 and federal governments need a clear division of responsibi-
2 lity, and a commonly understood chain of command with
3 corresponding officers in the Commission.

4 10. Each company operating a nuclear power plant
5 should be required to maintain an official residence on the
6 power plant grounds in which one or another of its senior
7 officers would live at all times. In case of accident, he
8 would have authority to act for the company and direct
9 emergency measures.

10 11. Any company investing in nuclear energy for
11 profit should have built-in motivation to protect the general
12 public. Each member of the Board of Directors of an
13 operating or holding company involved in a nuclear power
14 plant should spend a three-day period every three months in
15 the official company residence so that they would know from
16 their own experience about any problems in its operation.

17 12. No new operating license for a nuclear power
18 plant should be issued until 2/3 of the insurance companies
19 operating within a 20-mile radius would be willing to
20 include in their home-owner's policies a reasonable form of
21 insurance against damage by a nuclear accident, meltdown
22 or explosion.

23 In closing, I respectfully request that the United
24 States Nuclear Regulatory Commission make my statement part
25 of the official record of this hearing. Signed, William



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17-8

1 T. Thom, 3rd, Ph.D.

2 DR. PARIS: Why don't you come on up so that
3 we'll save the time required for walking and you can come
4 right up when you finish it.

5 MR. MULCEY: Mr. Chairman, Dr. Paris, my name is
6 Paul Mulcey, I am a consulting engineer, residing in Dallas,
7 Pennsylvania.

8 My training is in chemistry and chemical engineering.
9 My experience has been in the fields of fuels, energy conver-
10 sion, pollution control and steam generating plant design.
11 On the basis of your statement yesterday Mr. Chairman, it
12 is my understanding that I will be permitted to speak at
13 the hearings on another subject.

14 Being neither a lawyer nor a semanticist, I
15 listened to these proceedings yesterday with somewhat limited
16 comprehension at least until the last hour. After review-
17 ing my notes last evening, however, I think it may be
18 useful to say a few words about safety and so called safe
19 levels of gamma radiation.

20 Not long after the nuclear bomb blast in Nagasaki
21 in August, 1945, I was sent to that unfortunate city in a
22 U.S. Naval task group to rescue and evacuate some 10,000
23 Allied POW's held on the island of Kyushu. The levels of
24 radiation in our area of operation were declared safe, so
25 that the fact that I survived surgical removal of a

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17-a

1 malignant carcinoma (and subsequent radiation treatment) some
2 years later was probably coincidental. Nonetheless, the
3 official "safe" level of radiation has been reduced from
4 time to time during the last 35 years and will probably
5 continue to decrease in the future. To gamble that this
6 will not happen is to ignore experience. Agent Orange and
7 Blue were once (and by some still) considered "safe" and
8 now we have a legacy of thousands of American veterans and
9 Vietnamese paying the price with suffering and death. A
10 brilliant study^{1/}, published last week has shown that
11 because of faulty analytical procedures used in the U.S.
12 Bureau of Standards and other government laboratories, tests
13 for lead in food have been reported at greatly lower levels
14 than was the case. As a result Americans today have levels
15 of lead in their systems below the lead poisoning level,
16 but far higher than is considered "safe".

17 I would like to bring to your attention an
18 editorial^{2/} in the issue of SCIENCE dated yesterday, which -
19 without naming agencies - points out the great inconsistency
20 of trying to regulate nuclear waste disposal over a range
21 extending from picocuries to hundreds of megacuries. I
22 add: especially when the material at the picocurie end
23 of the scale is well below the supposed "safe" radiation limit.

24 ^{1/} SCIENCE, Vol. 207, 14 March 1980, p. 1167.

25 ^{2/} SCIENCE, Vol. 207, 21 March 1980, p. 1299.



scg sm

17-10

1 My closing question is: Is it really so very
2 strange that a large segment of the American people is
3 frightened by the prospect which seems to lie ahead? And
4 perhaps we should also ask if this perception may not be
5 better founded than that of the experts in the nuclear
6 industry, very few if any of whom have yet witnessed the
7 effects on man of radiation.

8 I didn't have time to write up the rest of what
9 I would like to say but with your permission I will
10 continue for a couple more minutes.

11 Yesterday the question of harassment was brought
12 up and you discussed it further this morning or at least
13 the subject covered by that verb. Some months ago I was
14 shown a small sampling of the questions in the very
15 voluminous interrogatories which were sent out to the
16 citizens groups and I would like to ask a question, rather
17 make a statement here. I still am not sure who is repre-
18 senting the interest of the public in these proceedings.

19 I realize that by legislation, the board is I
20 believe supposed to exercise that function but in these
21 proceedings, I get the general impression that the Board
22 acts more as a referee, a rather adversarial process between
23 groups who voluntarily are acting to represent the public
24 interest and the applicant.

25 On the question of the interrogatories, as an



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17-11

1 engineer, I read a number of these questions and it is
2 quite obvious the questions were not prepared by legal
3 counsel, the questions were prepared by experts in a limited
4 field of physics and nuclear engineering for the purpose
5 not of harassing perhaps but of eliminating the nuisance
6 of the groups attempting to represent the public good.

7 Those questions, many of them no engineer or
8 scientist without specialized training could possibly answer
9 and what they seem to require is that you know how to build
10 a General Electric plant of the type now being built at
11 Berwick in order to represent the interests of the public
12 and I feel therefore that rather than...I think the term
13 should not be interrogatory, I think the term inquisition
14 better represents what the questions really are intended
15 to and therefore, I realize that you've made a decision on
16 the question but I would, as a member of the public, ask
17 that you reconsider and I realize also that some of the
18 environmental groups have accepted your decision but I still
19 feel that the entire question should be opened to further
20 investigation.

21 Thank you.

22 CHAIRMAN BECHHOEFER: Thank you, Dr. Mulcey.

23 MR. BASALYGA: Citizens Lobby is present to discuss
24 dollars and cents...dollars and cents which are removed from
25 the pockets of the one million unsuspecting customers of

scg psm
17-12

1 an electric utility known as Pennsylvania Power and Light
2 which is located partially in northeastern Pennsylvania.

3 The one and only reason why we are here today, all
4 of us, is because P P & L a monopoly, has decided to go into
5 the highly competitive heating business; and the issue at
6 bar is that electricity can in no way compete with coal, oil,
7 gas or firewood0 for heating.

8 It is impossible to efficiently produce and distri-
9 bute heat to an all electric home, for instance, because
10 most of the heat is lost at a point wherein the electricity
11 is produced, that is to say the cooling towers of the
12 utility, the wrong end.

13 Because of this one exercise, the electric utilities
14 have become the number one wasters of energy in the nation.
15 When produced from oil, electricity for heating is at least
16 500% inefficient. In effect, P P & L has no business being
17 in the heating business.

18 P P & L furnishes electricity for heating purposes
19 to approximately 140,000 homes. The rates charged for the
20 service are below the cost of production.

21 The deficiency for this particular exercise is
22 fraudulently charged to P P & L's one million regular cus-
23 tomers. The action is not only criminal but the officers of
24 P P & L are subject to criminal prosecution.

25 Citizens Lobby has for years requested in writing



17-13

1 from both P P & L and the Pennsylvania Public Utility Commission
2 an answer to a relatively simple question:

3 "What is the cost of producing and delivering
4 electricity to an all electric home for which there is a
5 charge of \$1"?

6 For reasons known only to themselves both P P & L
7 and the Pennsylvania Public Utility Commission have refused
8 to answer and for that reason their actions appear to reek
9 with conspiracy.

10 Ordinarily, an electric utility has facilities
11 which are equipped to furnish energy at 15% above normal.

12 P P & L's capacity at present is 47% above normal.
13 With Berwick the capacity is expected to be 65% above normal.

14 P P & L does not now or never did need additional
15 capacity.

16 The public has already been informed that when the
17 Berwick plant is completed and in service, P P & L's cus-
18 tomers can expect an increase of 25% added to their regular
19 bills.

20 That is the price which the users are expected to
21 pay because of the inefficiency of P P & L, and because it
22 arbitrarily took upon itself increasing unnecessary capacity.

23 P P & L furnishes energy to both New Jersey
24 and Maryland, far distant from its source.

25 Since the Susquehanna river flows through Maryland



scg psm

17-1

1 it was appropriate that the plant should have been built
2 downstream in that state.

3 Interstate rates are not regulated. Not only are
4 the regular users of P P & L electricity compelled to sub-
5 sidize home heating in the Commonwealth, they are also
6 required to subsidize home heating in Maryland and New Jersey
7 as well. Thank you.

8 MR. SPOCK: My name is Jim Spock. I am a resident
9 of Ashley, which is 15 miles northeast of the site of
10 Berwick power plant.

11 I wish to express a few of my reasons for opposing
12 the opening of this power plant in Salem township. First
13 of all, there is absolutely no safe way to properly and
14 safely dispose of the deadly radioactive waste from this
15 plant, waste which will remain poisonous for thousands of
16 years.

17 Secondly, in case of a class 9 accident or meltdown
18 at this plant, the radiation released could kill tens of
19 thousands of people in northeast and central Pennsylvania
20 and also, nuclear energy only provides 12% of our nation's
21 electricity which is about 4% of our nation's total
22 energy use and conservation alone could easily make up this
23 difference.

24 There is really no need for this power plant.
25 This power plant, specifically for this region, is not going



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17C3

1 to be providing electricity for this area. It is going to
2 be shipped out of the area also. Therefore, I strongly
3 urge that the Nuclear Regulatory Commission not allow the
4 operation of this power plant because the hazards to the
5 residents of this region far outweigh the potential benefits.

6 MR. BUTCHKO: Mr. Chairman, my name is Paul
7 Butchko. I live in Dorange Township, approximately 5 miles
8 away from the Susquehanna plant. Those cooling towers are
9 approximately the same height as my home.

10 I am a layman and I don't claim to be an expert
11 on nuclear power. I get most of my information from maga-
12 zines, newspapers and so forth but it clearly shows that
13 the utility companies do not have the ability nor the
14 inclination nor the capacity to handle nuclear power plants.

15 It seems to me that they are more willing to pay
16 their local nuclear expert and have him come out and tell
17 everyone everything is safe after every minor accident and the
18 credibility of these utilities and these nuclear experts
19 as far as I'm concerned, are completely nil.

20 I further protest the opening of the Susquehanna
21 plant because of the nuclear waste. Now, we live here in
22 this area, we've seen what corporations do with their waste.
23 You can just look around this valley and you will see
24 tailings and calm banks that have been here for years. I
25 do not want to be stuck with 30 to 40 years of nuclear



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17-16

1 waste laying underwater and no one taking care of it. I
2 mean it is very possible that our economy in this country
3 can slowly retreat from its position that it is at right
4 now and we will be stuck with this nuclear waste laying
5 underwater just waiting for someone to come along to either
6 drain it or a group to sabotage that plant and we are stuck
7 with nuclear waste forever.

8 I myself, my family has lived in this area for
9 60 years. The property I own and live on has been in my
10 wife's family since the late 1800s. Now, I am not going to
11 move away from this area even though I am absolutely
12 terrified of this plant. I am going to stand my ground
13 and if I have to gentlemen, I will fight them legally and
14 if not, I will fight them illegally but I believe I have
15 the right to live in this area of my choice that I have
16 worked for for the last 20 years to pay for without care,
17 without apprehension of being eradiated. I don't actually
18 know where to go or who to appeal to to get an understanding
19 of what my feelings are but I will tell you one thing,
20 P P & L, if you people so desire and give them their nuclear
21 operating license, they'll have peace until their first
22 accident and gentlemen, then it will be our turn. Thank you.

23 CHAIRMAN BECHHOEFER: Thank you, Mr. Butchko.
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18-1

1 MS. WILLIAMS: I live in Mountaintop, Pennsylvania.
2 Mr. Chairman, before I give my brief remarks I would like to
3 thank you for your openness in hearing the public, in spite
4 of time delays.

5 I come solely as an individual, I don't belong to
6 any organizations that have been represented here. I didn't
7 even see the movie that made Middletown, Pennsylvania famous.
8 But a favorite hike of ours takes us above Mountaintop,
9 where we can see the cooling towers.

10 Like the man who just spoke, I can't really say
11 that I have a great attachment to the land on which I live.
12 I have only lived there less than 2 years. The likelihood
13 that I will live there in the many distant years ahead
14 is quite small, the likelihood that my children will live
15 there is even less.

16 In coming as a very private person it is difficult
17 to come and speak but more than fearing speaking, I fear
18 my own silence and my own cowardess. I am no longer
19 ashamed that I am not an expert in these fields. My tax
20 money is paying the NRC staff to take care of these items.

21 I am also paying for this legal advice for the
22 P P & L because I am a P P & L customer. I no longer see
23 the people who are calling for a halt to nuclear power as
24 the ones who are against progress or the ones who are
25 questioning safety. The people who are really less than



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1 progressive are those who say we have always done it this
2 way, nuclear power is coming so let's do it this way.

3 The real progressive people, the real creative
4 people I see are those who are calling for fresh solutions
5 like solar energy and if we say it can't be done then I
6 believe it is because from the President of the United States
7 on down, there are people who have a stake either by reputa-
8 tion and money or both in the presence of nuclear power.

9 The late British economist E. F. Schumacker said
10 about the people in the grips of technology and I quote:
11 "Technology, although it was created by man, has become
12 a force all its own. It has shaped a vast number of men
13 into little parrots that twitter and push and scrape
14 make things more and more complicated and when they have
15 found something that can actually be done, no matter how
16 futile or dangerous it may be, such as the Concorde or
17 nuclear power, they create a kind of mafia to see that it
18 gets done."

19 I am tired of life threatening decisions on
20 nuclear power plants being made without adequate regard
21 for safety measures, for disposal of waste or for alternate
22 solutions to our energy needs. These decisions are being
23 made not in the name of progress but in a narrow, it's
24 the way it's always been done and there are profits and
25 investments already in the works as I am sure as in the case



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18-3

1 of the Berwick plant.

2 Well, there are already children in the works
3 and seeds of our children's children who will, if we do not,
4 bear the consequences of our own blindness. As I see it,
5 Einstein may have been speaking more to us than he was to
6 the 50s and 60s when he noted:

7 "We travel together, passengers on a little spaceship,
8 dependent on its vulnerable resources of air and of soil
9 and I might add of water, all committed for our safety to
10 its security and peace, preserved from annihilation only
11 by the care, the work, and I will say the love, we give
12 our very fragile planet."

13 Mr. Chairman, I direct my objections to the
14 Berwick power plant. Thank you very much.

15 MS. BUSH: My name is Maxine C. Bush. I would
16 like to make this short remark now because no one has
17 represented our part of the state. I live approximately
18 40 miles from Wilkes-Barre in a township names Mahoopany
19 and I would like to represent Mahoopany and the people of
20 the endless mountains anti-nuclear chain. Endless Mountains
21 became famous from its promotion for people to come up
22 there and see the beauties of Pennsylvania by hunting,
23 fishing and canoeing down the Susquehanna River. That is
24 one of the beauties of our state.

25 I also represent in these few words that I have



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18-4

1 to say the area above me. There is an organization up there called
2 Claverax members against nuclear power. Now Claverax is a
3 co-op that sells and services power to rural Pennsylvania,
4 to many of the counties here. The woman who is head of
5 that organization is named Mazette Duggan. She lives in
6 a place called Sayre, Pennsylvania, which is on the border
7 of New York state and that is 50 miles beyond me so she
8 is 90 miles from here.

9 The reason that I have decided to come up today
10 is because we heard remarks here about how close we should
11 live to Berwick before we have any idea of what in the
12 devil our future health and life and property might be
13 and that enrages me. Now there was Ms. Duggan up there a
14 year ago, 90 miles from here, more than 100 from Berwick
15 and she was packed and ready to go.

16 She went to the bank and got her money out. She's
17 a business person in Sayre. I was up there at least 50
18 miles from Berwick, I got my car out and I put it in my
19 road and I loaded it. I loaded it with food for myself
20 in case I couldn't buy it along the way, things that would
21 keep. I loaded it with cat food and cat litter because I
22 happen to do humane work up there. I loaded it with all
23 the necessities that I would have to have to keep these
24 little people alive and myself. Now, just because we
25 don't happen to live in the township where Berwick is we



scg psm

18-

1 would like to have it known that we have some feelings about
2 our bodies and our health and our future and our welfare
3 and I might also add that we have a small interest in our
4 financial investments. That money was put in there years
5 ago, we've paid taxes year after year after year with the
6 feeling that we had the one beautiful secure place to live
7 and since I have now retired there, having been a national
8 worker for so many years and I would say why am I here,
9 why am I here alone on all these acres and I say well, I'm
10 here because I have a well of my own, I have pure water to
11 drink and I have the best air that I know of.

12 My friends in California and Arizona and all across
13 the United States, they think I should be there and I say,
14 well, I have the air and I have the water. Well, I have
15 found out now that I no longer have the air. I still have
16 the water because I happen to be a little above the pollution.
17 I do live on the Susquehanna River and it used to be a joy
18 to swim there every single day of my life, it used to be
19 a joy to canoe.

20 The beauties are diminishing and I beg of you
21 to let us at least have some of our air. Now I don't speak
22 for the pollution yet but we may have to come back and
23 talk about the pollution of our land because when we start
24 to scatter this across the state, and no other state is
25 volunteering to take the remnants of what's going to be left,

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1 when they start they may come up my way to, which is North
2 and then I may want to come back to some kind of a hearing
3 and be heard again. In the meantime, will you please
4 consider that we don't have much left on the face of the
5 earth . God pity the children, God pity the babies, God
6 pity the mothers. I'm so glad that I'm as old as I am
7 but I'm going to fight as long as I can with whatever time
8 I have left for the benefit of anyone who may benefit by
9 our voices, our feelings, and our emotions and I say I do
10 have it and I make no apology for it.

11 I am just a plain human being who has come here
12 to speak my little piece. Thank you.

13 MR. MITCHELL: Good afternoon gentlemen, my name
14 is Edward Mitchell, I'm from Kingston, Pennsylvania. I would
15 like to make just a short statement if I may for the record
16 regarding this matter.

17 The attempts by the Pennsylvania Power and Light
18 Company to strictly limit and in one case, to exclude
19 entirely, the participation of several groups concerned
20 about the Berwick nuclear plant from licensing hearings
21 exposes fundamental flaws I think in the regulatory process
22 in America and these attempts should be resisted. I have had
23 opportunity as a former chief of staff to Congressman
24 Peter Cosmire, who served on the task force investigating
25 Three Mile Island to have some dealings with the Nuclear
Regulatory Commission over the past year since Three Mile



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1 Island and I must admit that I am less than satisfied with
2 the way this regulatory agency supposedly safeguards the
3 public's interest. It keeps the public informed of the
4 process of safeguarding their interest and regulating the
5 industry and finally, somewhat concerned about the manner
6 in which they deal with groups such as the ones that are
7 being attempted to be excluded here.

8 Coming as it does, one week before the first
9 anniversary of the accident of Three Mile Island nuclear
10 plant, the worse in the nation's history, this action is
11 especially disturbing, the attempts to limit participation.

12 If anything else, the accident in every major
13 investigation into its causes which followed, showed that
14 the Nuclear Regulatory Commission was not capable of
15 adequately protecting the public health and safety. In
16 effect, the public interest was not being fully represented
17 by the very agency and the procedures designed to do just
18 that.

19 Full public participation, including the partici-
20 pation of organized spokespeople for community and environ-
21 mental concerns or so-called intervenors, is essential to
22 correct the biases inherent in the regulatory system. The
23 system is biased for a number of reasons but two stand in
24 particular.

25 First, intervenors become involved in the process



1 only after the utility and the NRC staff have already reached
2 basic agreement on the issues affecting the license. Thus,
3 when a license application reaches the actual licensing
4 board, the NRC is acting not as an impartial arbiter of
5 public and private concerns but as a defender of both the
6 utility and its own bureaucratic interests and you may
7 remember in the hearings that we had on the Three Mile
8 Island accident when then Chairman of the Commission Hendrie
9 testified before Mr. Proxmire's subcommittee, he had that
10 point very clear, that we knew clearly where Mr. Hendrie
11 and some of the members of the Nuclear Regulatory Commission
12 stood as defenders of nuclear power in America.

13 We felt they were not there to be defenders of
14 nuclear power in America and at that time, called for
15 Mr. Hendrie to step down as the Chairman, an act which I am
16 glad occurred about a month after those hearings between
17 Mr. Carter and Mr. Hendrie, that was accomplished.

18 In any case, the point I am trying to make is
19 I think there is impartial arbiters of the public health
20 and safety. You shouldn't be there as defenders or
21 advocates of the nuclear industry or the utility companies
22 but should be there in the public's interest.

23 The other point I would like to make is that the
24 issues surrounding a license and application are exceedingly
25 complex and highly technical. The formal hearing process



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1 required by law imposes an onerous burden on the groups and
2 individuals who lack the legal, financial and staff
3 resources to participate on the same basis as well paid
4 and high priced utility lawyers. For these reasons, I
5 strongly urge the NRC to reevaluate its requirements in
6 light of practical limitations on the ability of the groups
7 in question to join the proceedings and that no further
8 action on the P P & L request be taken until this re-evalua-
9 tion is complete.

10 To that effect, I might add I am asking Congressman
11 Proxmire to follow through through the committees that he
12 serves on in the Interior and in the Government Operations
13 Committee, the two subcommittees who have been looking at
14 the Nuclear Regulatory Commission and at Three Mile Island.
15 I'd like him to pursue this to see if in fact the charges
16 that have been made in the public accounts here of harass-
17 ment and coercion of the people involved are true.

18 If they are true, I think that is very unfortunate
19 and I can assure you that maybe perhaps you know I am a
20 candidate for Congress in this special election April 9.
21 If I am successful, no regulatory agency or no agency of
22 government will come into my congressional district and
23 harass or coerce my constituents whether I happen to agree
24 with their point of view or not. That's not what government
25 is designed for and that is not what regulatory commissions



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1 are designed for.

2 Finally, I just want to say that I further support
3 the concept of government funding of intervenors and
4 certainly would support the legislation currently pending.
5 in a House committee to provide intervenor funding.

6 To those who say that the public should not pay
7 individuals to push a particular point of view I would say
8 that in the absence of this type of funding, rate payers
9 are being forced to pay for this particular point of view
10 of the utilities, a view which is all too inimical to the
11 safety and the economic interest of the consumers. Thank you.

12 CHAIRMAN BECHHOEFER: Is there anyone else who...

13 MS. BUSH: May I just add that I failed to mention
14 that the Claverax Electric Company which I mentioned as
15 having many members who have formed an organization called
16 Claverax members against nuclear power...Claverax has bought
17 into this P P & L. They have bought 10% of it and without
18 permitting the vote of their members and it should be on
19 the record that I was representing those members because
20 they have a financial interest also in P P & L although they
21 object to the fact that the financial interest is there and
22 done without their vote.

23 CHAIRMAN BECHHOEFER: Thank you. Does anyone else
24 have a statement to make. I see no indication that anyone
25 wants to make a further statement...yes.



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MR. MULCEY: Mr. Chairman, there were a number of people here yesterday who wanted to speak and didn't get the chance. Is it still possible for them to send in written statements.

CHAIRMAN BECHHOEFER: Yes, I think I mentioned several times. We will hear limited appearances probably several more times and clearly, those who haven't been heard and even those who have already been heard, will be permitted to be heard again.

At some point, we will call it off but there will be several more sessions and I think I announced that there will be at least one session that goes on either evenings or weekends, depending what could be arranged.

MR. MULCEY: I may have misunderstood you because I thought you said this would terminate this particular pre-hearing conference.

CHAIRMAN BECHHOEFER: This particular pre-hearing conference is going to be over and we are going to leave but...

MR. MULCEY: There will be other pre-hearing conferences?

CHAIRMAN BECHHOEFER: Yes, and evidentiary hearings and at those sessions, members of the public will be permitted to make statements.

DR. PARIS: And, you can send in written statements at any time.



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CHAIRMAN BECHHOEFER: Yes, written statements can

be received at any time and they get incorporated into the
record. With that the pre-hearing conference is adjourned.

(Whereupon, the prehearing

conference was adjourned at

12:05 p.m.)