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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

AFFIRMATION SESSION 79-37

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

Wednesday, 14 November 1979

The Commission met, pursuant to notice, at 4:00 p.m.

BEFORE:

DR. JOSEPH M. HENDRIE, Chairman of the Commission

VICTOR GILINSKY, Commissioner

RICHARD T. KENNEDY, Commissioner

PETER A. BRADFORD, Commissioner

JOHN F. AHEARNE, Commissioner

PRESENT:

Messrs. Bickwit and Hanrahan.

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10CFR PT9.7

(4:00 p.m.)

1  
2 MR. CHILK: The first affirmation deals with  
3 SECY-79-432, which is the appeal of an FOIA request by  
4 Mr. Kranish on the denial of one document. All of you have  
5 agreed to release certain portions of the document he wants.  
6 Commissioner Bradford, however, would go further and release  
7 some additional documents. His views will be provided to  
8 Mr. Kranish, as he requested.

9 I would ask you all to affirm the vote.

10 (A chorus of ayes.)

11 CHAIRMAN HENDRIE: So ordered.

12 MR. CHILK: The second item is one that I'd like  
13 to present to you. It's a review of uncontested matters by  
14 adjudicatory boards during operating license proceedings.  
15 We circulated to you on the 7th of November a proposed final  
16 rule, to which all of you have agreed. But there appears to  
17 be a difference in the interpretations of the language.  
18 Although all of you have agreed to the language,  
19 Commissioner Kennedy, if I interpret his views, approval is  
20 based upon the understanding that he had in the memorandum  
21 that he dispatched on the 19th, which approved the OGC  
22 memorandum of the 19th.

23 Commissioner Bradford, on the other hand --

24 COMMISSIONER KENNEDY: I asked a question. The  
25 General Counsel answered the question, and, based upon the

1 answer which the General Counsel gave me, I approved the  
2 paper, it being my understanding, as he indicated it was his  
3 understanding, that's what the language meant. That's the  
4 basis on which I approved the paper.

5 MR. CHILK: Mr. Bradford, on the other hand, does  
6 not fully share the conclusions stated in the October 19th  
7 memorandum to Commissioner Kennedy.

8 However, it's my understanding that both offices  
9 are willing to affirm the order as it is written and according  
10 to the language as proposed by the General Counsel.

11 COMMISSIONER BRADFORD: Yes, I agree with that.  
12 My only problem with the General Counsel is the extent to  
13 which the memo purported to state Commission intent. He  
14 couldn't very well state mine, since I disagreed.

15 MR. CHILK: Will you affirm?

16 (A chorus of ayes.)

17 CHAIRMAN HENDRIE: So ordered. And I would agree  
18 with Peter's comment.

19 MR. CHILK: The third affirmation concerns  
20 SECY-79-24-A, which is a draft order on Bailly short pilings  
21 petition, which the Chairman, Commissioner Gilinsky, and  
22 Commissioner Ahearne have approved initially,  
23 Commissioner Kennedy approved yesterday. Commissioner Bradford  
24 has indicated he would have separate views by December the 3rd.

25 COMMISSIONER BRADFORD: Not only that, Sam, but I

1 think I will be prepared to vote against it.

2 MR. CHILK: And would be prepared to be outvoted  
3 at that time.

4 I'm just bringing this up before the Commission to  
5 determine whether the Commission desires to take any action  
6 on it.

7 COMMISSIONER BRADFORD: I don't think it's been  
8 Commission practice to issue orders before separate views  
9 have been prepared.

10 COMMISSIONER KENNEDY: That is not a general matter.  
11 That's selective, as I recall the situation. It is to be  
12 recalled, indeed, that I think I raised that question at one  
13 time, and it was taken as a matter of voting at that time.  
14 Now, I don't give a damn one way or the other. But I think  
15 that we ought to be very clear what it is we're doing and  
16 ought to be fair, however unusual that might be.

17 COMMISSIONER GILINSKY: Well, in any case, we've  
18 got an affirmation session and it doesn't seem to be an  
19 affirmation item.

20 MR. CHILK: Not if you wish to defer affirmation.

21 COMMISSIONER AHEARNE: I guess that would be more  
22 of a discussion item.

23 MR. CHILK: The options are, under the procedures,  
24 we would schedule this for discussion and a vote. But you  
25 do have a request from one of the Commissioners to delay

1 the matter until he submits his proposal on the 3rd of  
2 December.

3 I guess I am really asking the Commission, in  
4 essence, does the Commission desire to schedule a discussion  
5 and vote?

6 COMMISSIONER KENNEDY: Could you remind us, just  
7 for the record, when the Bailly matter first came before the  
8 Commission, how many times it's been here?

9 MR. CHILK: I don't have the complete file with me.

10 COMMISSIONER KENNEDY: Would you be able to bring  
11 it in, short of a small truck?

12 MR. CHILK: Your last approval is dated the 8th of  
13 November, the 6th of November and the 6th of November. And I  
14 believe the last paper that came up from the General Counsel  
15 was on the 1st of November.

16 CHAIRMAN HENDRIE: Well, let's see.

17 COMMISSIONER GILINSKY: I would like to see what  
18 Mr. Bradford has to say.

19 CHAIRMAN HENDRIE: As an affirmation item, our  
20 agreement has been that any Commissioner can bump it as  
21 an affirmation item. So I guess that it will be bumped and  
22 is bumped. And I guess I seek your guidance as to whether  
23 you would prefer to wait until 12/3 or whether you would  
24 prefer to have a meeting and discuss and attend the meeting.

25 COMMISSIONER BRADFORD: Well, I don't have a lot

1 to add to what I've said in earlier meetings and in memoranda.  
2 I just haven't yet prepared my own statement of views, and  
3 would like to put them out at the same time we put the order  
4 out.

5 COMMISSIONER AHEARNE: Well, could we schedule a  
6 meeting, then, on 12/3?

7 COMMISSIONER BRADFORD: Sure. That's what I had  
8 expected.

9 COMMISSIONER AHEARNE: Recognize that means, Peter,  
10 that if you're not yet ready with your views by 12/3, we would  
11 then have a meeting and vote.

12 COMMISSIONER BRADFORD: Well, if, for example, I  
13 were incapacitated in an automobile accident, I would request  
14 an extension. But I'm not planning to do that.

15 COMMISSIONER AHEARNE: I'd go with a meeting on  
16 12/3, then.

17 CHAIRMAN HENDRIE: Sam, very good.

18 Thank you very much.

19 COMMISSIONER KENNEDY: I would note that that stands  
20 as, I would assume, a norm in such matters, that the prepara-  
21 tion of separate views should be accorded at least a three-week  
22 period. The next time we have a tariff form matter, that's  
23 what I'll expect.

24 (Whereupon, at 4:07 p.m., the meeting was adjourned.)

25

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