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NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

PUBLIC MEETING

CONTINUATION OF DISCUSSION OF ISSUES IN RESTART
OF TMI-1

Place - Washington, D. C.

Date - Tuesday, 7 August 1979

Pages 1 - 62

Telephone:
(202) 347-3700

ACE - FEDERAL REPORTERS, INC.

Official Reporters

444 North Capital Street
Washington, D.C. 20001

841 292

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

CONTINUATION OF DISCUSSION OF ISSUES IN RESTART
OF TMI-1

- - -

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

Tuesday, 7 August 1979

The Commission met, pursuant to notice, at 3:50 p.m.

BEFORE:

- DR. JOSEPH M. HENDRIE, Chairman
- VICTOR GILINSKY, Commissioner
- RICHARD T. KENNEDY, Commissioner
- PETER A. BRADFORD, Commissioner
- JOHN F. AHEARNE, Commissioner

PRESENT:

- L. Bickwit, S. Ostrach.

P R O C E E D I N G S

1
2 CHAIRMAN HENDRIE: May we come to order.

3 I apologize for all this carrying-on. The Commission
4 tends to become a little punchy when we deal with the budget,
5 and that's what we have been up to now for a week and a half.

6 We meet this afternoon to continue our discussion,
7 the order and issues and restart of Three Mile Island Unit No. 1.

8 Len, you have accomplished your assigned mission
9 of producing a collection draft which collects the items
10 previously argued over, and at least marginally agreed to by
11 a majority.

12 However, they may have occasionally been misguided.

13 I must say, as I thumbed it, it seemed to me to
14 reflect where we had gone in previous discussion. I found
15 a few typos on page 6 -- Steve has those in hand --

16 COMMISSIONER AHEARNE: Len, is the version today
17 the same in substance as the version yesterday?

18 MR. BICKWIT: Exactly.

19 CHAIRMAN HENDRIE: I take it the so-called clean
20 copy is simply a clean copy of the annotated copy, identically,
21 I trust.

22 MR. OSTRACH: Just taking out the underlinings.

23 CHAIRMAN HENDRIE: Barring inadvertencies, I guess.

24 COMMISSIONER AHEARNE: I read the first one.

25 CHAIRMAN HENDRIE: I haven't even looked at the

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1 clean copy; I have been working off the other one, too.

2 Let's see. I kept scanning along someplace in here
3 I had a question mark -- I got clear back to page 11. What is
4 2.762 may appeal directly to the Commission, in accordance
5 with provisions of 2.762-- is that compatible -- and 2.770 --
6 is that language fully compatible with the thing at the end
7 where it says 10 days, 7 days, and 35 inclusive? We'll let
8 you know.

9 MR. BICKWIT: Yes, this is the appeal. Yes.

10 The rule says that you can prescribe other dates.
11 And what you would be doing back at the end would be prescribing
12 other days.

13 CHAIRMAN HENDRIE: I see. Okay. And the 762 and
14 the 770 set out certain other features of the review and so
15 on?

16 COMMISSIONER AHEARNE: Since you have jumped past
17 some of the early pages --

18 CHAIRMAN HENDRIE: Everybody is going to have a
19 chance to go right back to zero; I just wanted to ask about
20 that one.

21 COMMISSIONER KENNEDY: I am not sure I understood
22 the point; I missed something. I'm sorry. On the point about
23 2.762 -- what was the point you were making, Len?

24 MR. BICKWIT: The point is that on motion practice
25 you have a certain number of days that are required. What you

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1 are talking about here is the procedures leading to appellate
2 decisions. The motion practice rule sets out days which can
3 be altered by the secretary under the rule. And the Commission
4 is altering those days.

5 CHAIRMAN HENRIE: Right here in the order.

6 MR. BICKWIT: Here in the order, yes.

7 I think the motion is 10 and 10.

8 CHAIRMAN HENDRIE: The key answer for me is that
9 this is not incompatible with the later discussion of specific
10 days for Commission review of their partial initial decision.

11 MR. BICKWIT: One deals with filing briefs, the other
12 deals with some motions.

13 CHAIRMAN HENDRIE: Yes, I would like a new time to
14 come to the tentative or target schedule matter and some
15 related things, but I don't have anything else in the body of
16 the order.

17 Why don't I offer the floor from left to right.

18 Peter, why don't I start at your end?

19 (Commissioner Gilinsky arrives at 3:55 p.m.)

20 CHAIRMAN HENDRIE: You have aided us materially
21 on the budget.

22 COMMISSIONER BRADFORD: Okay. I would, on page 1,
23 take the if it is to be operated at all thought that appears
24 at the end, and put it at the end of the sentence that begins --

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25 COMMISSIONER KENNEDY: Peter, I missed it, I'm sorry.

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1 COMMISSIONER BRADFORD: The last sentence of sen-
2 tence 2. "On the basis of that hearing, the Commission will
3 determine whether further cooperation will be permitted" and
4 so on, and what conditions.

5 I would like to capture that thought a little earlier
6 and do it by -- up to the end of that third sentence, and just
7 inserting there the phrase if it is to operate at all.

8 CHAIRMAN HENDRIE: I have lost you completely.
9 You are on page --

10 COMMISSIONER BRADFORD: You are on page 1.

11 MR. BICKWIT: After the word operate?

12 COMMISSIONER AHEARNE: After the word public?

13 MR. BICKWIT: I see.

14 COMMISSIONER BRADFORD: Nine lines down, in II.

15 CHAIRMAN HENDRIE: It's the sentence for reasons
16 later set forth?

17 COMMISSIONER BRADFORD: That's right.

18 CHAIRMAN HENDRIE: What were the proposed changes?

19 COMMISSIONER BRADFORD: I would just add after the
20 word public at the end of the sentence, I would just add if it
21 is to operate at all.

22 CHAIRMAN HENDRIE: That thought is in here someplace.
23 Len, where is it?

24 MR. BICKWIT: It's on page 2, as Peter says, at the
25 end of --

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1 COMMISSIONER KENNEDY: But at page 2.

2 MR. BICKWIT: But at the end of the same paragraph.
3 Peter is just proposing moving it up.

4 COMMISSIONER KENNEDY: No, no, that's not quite
5 right. I think it's a good deal more than moving it up.

6 First, the language is different. And secondly,
7 where it is on page 2, it seems to me it is fully appropriate.
8 That is whether further operation will be permitted, and if so,
9 under what conditions, will be the subject of that hearing.

10 COMMISSIONER BRADFORD: I don't think that what I
11 have suggested changes that.

12 COMMISSIONER KENNEDY: What you have suggested I
13 think says that regardless of the completion of short-term
14 actions and a resolution of concerns, et cetera, required to
15 provide reasonable assurance that the facility can be operated
16 without endangering the health and safety of the public --

17 Even if that is determined, it is not clear that the
18 plant should operate in any event. That is what I think the
19 new language would say.

20 COMMISSIONER GILINSKY: Just move the entire last
21 sentence?

22 CHAIRMAN HENDRIE: No, because it talks about the
23 hearing and developing the hearing.

24 COMMISSIONER AHEARNE: You could take the whole last
25 sentence and make it the second sentence of No. 2.

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COMMISSIONER KENNEDY: Yes.

COMMISSIONER BRADFORD: That would be fine.

COMMISSIONER KENNEDY: That's okay.

CHAIRMAN HENDRIE: I would be willing to do that.

COMMISSIONER KENNEDY: Take the entire last sentence and move it as the second sentence. And then there would be no addition after the third sentence.

COMMISSIONER AHEARNE: Right.

COMMISSIONER KENNEDY: That's fine.

COMMISSIONER BRADFORD: That's fine.

CHAIRMAN HENDRIE: Okay, sold.

Next.

COMMISSIONER BRADFORD: On page 2, the paragraph beginning: Accordingly, the Atomic Safety and Licensing Board designated to conduct this proceeding should give priority to consideration of those issues which are related directly to suspension of operation.

Is that intended to say, which are, in the view of the Board, related?

MR. BICKWIT: It is intended to incorporate the concept that the Commission now has an idea of what those issues are, and obviously if the Board were to modify that idea, then the Board's concept would prevail.

COMMISSIONER BRADFORD: And the same in the next sentence? You said the Board should defer full review of the

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1 issues related to longer term actions. Again, if the Board
2 still wanted the longer term actions, is related in some way
3 directly to the suspension is the Board's view, that will
4 prevail?

5 MR. BICKWIT: Yes. Given that one of the issues
6 in the hearing is the necessary and sufficient concept.

7 COMMISSIONER BRADFORD: Would it do any harm to
8 ~~yes~~ in the phrase which it considered to be related -- in
9 both of those sentences, to make that clearer?

10 MR. BICKWIT: No. I mean, the change you would be
11 making is you would get rid of the idea that the Commission now
12 has an idea which it knows can be modified by the Board.

13 If you change it to that, then are saying that
14 whatever the Commission thinks is not relevant.

15 COMMISSIONER BRADFORD: All that concerns me is the
16 Board reading this may feel it is completely constrained by
17 the Commission.

18 CHAIRMAN HENDRIE: Doesn't the necessary and suf-
19 ficient aspect on the eight items --

20 COMMISSIONER BRADFORD: Where are you now?

21 MR. BICKWIT: The issues in the hearing?

22 CHAIRMAN HENDRIE: The issues in the hearing are
23 laid out, eight items, in addition, there are some short-
24 term items for short-term items.

25 COMMISSIONER AHEARNE: Yes. Page 12.

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1 CHAIRMAN HENDRIE: Yes, page 12, where the short-term
2 actions, et cetera, are necessary and sufficient to provide
3 reasonable assurance. The same sort of finding in II under
4 long-term actions.

5 COMMISSIONER BRADFORD: As long as we are all clear
6 that it means the same thing, I guess it doesn't matter to me
7 a lot whether we change the language or not.

8 I thought by making it a little clearer it might
9 avoid any confusion at the hearing. As long as there is no
10 doubt to us as to what it means, it's okay with me.

11 COMMISSIONER KENNEDY: What is the ambiguity, as you
12 see it? Could you restate it for me, please?

13 COMMISSIONER BRADFORD: Just that the paragraph
14 as written arguably says to the Board there are short-term
15 issues and there are long-term issues. Those are already
16 decided for you, and you should give priority consideration
17 to what you have been told are short-term and defer consideration
18 of those that you have been told are long-term. And you do
19 not have the ability to move the long-term issues to the
20 short-term list.

21 COMMISSIONER KENNEDY: Or identify even another
22 issue.

23 COMMISSIONER BRADFORD: Yes.

24 COMMISSIONER KENNEDY: I see.

25 COMMISSIONER BRADFORD: Well, let's see -- well,

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1 possibly even there.

2 COMMISSIONER KENNEDY: I see. And your proposal was
3 to say give priority consideration of those issues which if
4 the Board considers --

5 COMMISSIONER BRADFORD: Yes.

6 COMMISSIONER KENNEDY: And your problem with that,
7 Len, was?

8 MR. BICKWIT: I don't have any serious problem with
9 it. I am just saying that without it you are directing the
10 Board to at least address the Commission's best guess issues
11 first. And then if it decides that other issues are better
12 than the Commission's best guess --

13 COMMISSIONER KENNEDY: Or equal to.

14 MR. BICKWIT: Yes.

15 COMMISSIONER AHEARNE: Which is the way I would
16 have preferred the order to be, as it is our best guess at
17 the moment.

18 COMMISSIONER KENNEDY: Yes.

19 CHAIRMAN HENDRIE: I think the understanding here
20 is clear, Peter. My impression is that it might be difficult
21 to get the right words in on page 2 to carry all the flavor.
22 You might end up having to construct a footnote.

23 And I am not sure --

24 MR. BICKWIT: It is a slight change in nuance.

25 CHAIRMAN HENDRIE: Yes. I didn't read your intent

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1 as being a change in the nuance, but rather to understand --

2 COMMISSIONER KENNEDY: It's clarification.

3 MR. BICKWIT: If clarification is what you are
4 seeking, my own view is that it is clear already.

5 COMMISSIONER KENNEDY: Since we all understand it
6 the same way, if Peter says it is fine, then I can say fine.

7 COMMISSIONER BRADFORD: I think that's probably
8 right.

9 COMMISSIONER AHEARNE: That's your best estimate
10 of the time it is going to take to get here?

11 COMMISSIONER BRADFORD: I was thinking your random
12 number almost of when the issue was likely to be viewed and
13 likely to become clear to us.

14 CHAIRMAN HENDRIE: Where next? Why don't we pick
15 up --

16 COMMISSIONER BRADFORD: I don't have anything more
17 for a while.

18 CHAIRMAN HENDRIE: All right. Why don't we pick up
19 everybody's page 1s and 2s and sweep forward through the thing.

20 COMMISSIONER KENNEDY: Top of page 2, after it says
21 such hearing decision and review.

22 Wouldn't it be useful there to just parenthetically
23 note as provided in Section IV of this order?

24 It is the decision and review, is as described in
25 Section IV, you see.

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1 MR. BICKWIT: Fine.

2 COMMISSIONER KENNEDY: Just tie them together?

3 COMMISSIONER AHEARNE: Fine.

4 CHAIRMAN HENDRIE: What would be the insert?

5 COMMISSIONER KENNEDY: Right after the word review
6 in the second line, just a parenthesis as provided in Section
7 IV of this order.

end #20

8 CHAIRMAN HENDRIE: Okay. That sounds to me like a
9 way of dealing with Peter's sentence. Would it be?

10 COMMISSIONER KENNEDY: I would think so.

11 MR. BICKWIT: I would prefer to put it in the first
12 line rather than the second line, syntactically.

13 CHAIRMAN HENDRIE: All right. Whereabouts?

14 MR. BICKWIT: After the paren. As provided in
15 Chapter IV of this.

16 COMMISSIONER KENNEDY: It is a decision with review
17 thereof as provided --

18 CHAIRMAN HENDRIE: On the issue.

19 If you get two parentheses, Peter, of different
20 curvature back to back, they cancel each other. They disappear
21 then.

22 COMMISSIONER KENNEDY: Is that right? You are
23 talking about mathematics.

24 (Laughter.)

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25 CHAIRMAN HENDRIE: Would a reference to a section

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1 help for you, Peter?

2 COMMISSIONER BRADFORD: Let's see. This is Section
3 IV?

4 COMMISSIONER KENNEDY: Yes.

5 MR. BICKWIT: Steve points out we have now switched
6 IV to V.

7 COMMISSIONER KENNEDY: Oh, you have?

8 COMMISSIONER BRADFORD: Are we talking about the
9 section beginning: The Commission has determined that --

10 COMMISSIONER KENNEDY: No, no, it's the Commission
11 has determined that, which is section Roman IV. It is on
12 page 9, which describes the decisionmaking process.

13 MR. BICKWIT: Well, Section IV deals with the
14 immediate effectiveness question. Section V is the guts of
15 how this hearing will be conducted.

16 CHAIRMAN HENDRIE: V sets out, here is set up a
17 Board, and it is to do the following things.

18 MR. BICKWIT: Section V was Section IV in the
19 other document.

20 COMMISSIONER BRADFORD: I don't think I have
21 any problem referencing this section. Joe, how did you think
22 that that addressed it or not?

23 CHAIRMAN HENDRIE: No, no, it just occurred to
24 me when Dick was saying, look, for the sentence that he is
25 interested in, the Commission has determined -- it helps him

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1 to have people flip back to a later section by saying -- aha,
2 maybe that's a way of signalling back on page 12 there is a
3 thing you would like read in connection with the accordingly
4 sentence.

5 COMMISSIONER BRADFORD: Okay.

6 COMMISSIONER KENNEDY: I'm sorry, it's Section VI,
7 which is where the decision comes, and the review.

8 MR. BICKWIT: Section VI refers to a lifting of
9 immediate effectiveness.

10 COMMISSIONER KENNEDY: The Commission will issue
11 an order within 35 days.

12 MR. BICKWIT: Yes.

13 COMMISSIONER KENNEDY: It is that review that we
14 are talking about, that I am talking about.

15 MR. BICKWIT: How about Section V and Section VI?
16 Section VI simply deals with the lifting of
17 immediate effectiveness. When we refer to hearing decision
18 review thereof, we were referring to the whole ball game.

19 COMMISSIONER KENNEDY: All right.

20 MR. OSTRACH: Sections V and VI.

21 CHAIRMAN HENDRIE: Okay.

22 Peter, I will leave it to you to take up that other
23 thing. If you think it is worthwhile --

24 COMMISSIONER BRADFORD: What is defeating me is that
25 I can't find a relevant Roman numeral. The nearest one seems to

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1 be several pages before it.

2 COMMISSIONER KENNEDY: Several pages before?

3 COMMISSIONER AHEARNE: Is it disallowed to say see
4 page --

5 COMMISSIONER BRADFORD: It involves the risk of
6 the final draft having the page come out different.

7 CHAIRMAN HENDRIE: Maybe, since it seems to be
8 semi-resolved, at least before, it's not worth struggling
9 over an obscure reference.

10 COMMISSIONER BRADFORD: If I can find one, I will
11 do that for you.

12 CHAIRMAN HENDRIE: Okay.

13 COMMISSIONER GILINSKY: I have a page 1 item.

14 CHAIRMAN HENDRIE: A page 1 item.

15 COMMISSIONER GILINSKY: I thought we had gotten
16 away from this promptly as practicable about six lines up
17 from the bottom, on the right?

18 MR. BICKWIT: We have and we haven't.

19 We have contrued your sentiment that we would
20 require that certain actions be done, certain long-term
21 actions be done as promptly as practicable. But that that
22 section of the order would not be made immediately effective.

23 All of the items listed would be long-term actions
24 which would be required if the hearing so determined.

25 The reasonable progress language is related to the

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1 situation where as a condition to continued shutdown, as a
2 condition to the lifting of continued shutdown, they would have
3 to show that reasonable progress had been made with respect
4 to both the long-term action for which an immediately effective
5 order was -- had been issued to other licensees.

6 So we still have a concept, promptly as practicable
7 in the part of the order which will not be immediately
8 effective.

9 COMMISSIONER GILINSKY: Can you show me where that
10 is?

11 MR. BICKWIT: III, Clause 2, page 9.

12 CHAIRMAN HENDRIE: I think page 9 is in good shape.
13 What can we do about promptly as practicable?

14 MR. BICKWIT: Now, you can -- this is an incomplete
15 concept -- oh, no, then we say and that reasonable progress
16 on the completion of such act prior to restart is required.

17 COMMISSIONER AHEARNE: And that sounds fine.

18 MR. BICKWIT: The only problem is such actions
19 refers back to additional long-term actions, and you have in
20 mind a slightly different category of long-term actions when
21 you are talking about the long-term actions that you are
22 going to deal with without making them immediately effective
23 and the actions which you are going to insist upon reasonable
24 progress for in order to lift the suspensions.

25 But I think it is a modest problem.

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COMMISSIONER GILINSKY: What you're saying is there are two categories of long-term actions?

MR. BICKWIT: That's right.

COMMISSIONER GILINSKY: Why don't we say that?

MR. BICKWIT: We have said that in the order. We say it clearly in the order, back on page 9. I see no problem with being more specific here, but I don't really think it's necessary since we are very specific back on page 9.

COMMISSIONER GILINSKY: I think back end of the thing relieves whatever little roughness in the road there is here.

Back to page 2.

Page 2, going once.

Page 3?

Page 4?

Page 5?

COMMISSIONER GILINSKY: Wait. Wait.

Page 4.

COMMISSIONER AHEARNE: Good try, Joe.

MR. BICKWIT: Good try, Mr. Chairman.

COMMISSIONER GILINSKY: We've got these concerns -- result from when one potential interacts between Unit 1 and Unit 2, and then, parentheses, to Unit 2 accident on the management technical resources of Metropolitan Edison.

I guess I would put it the other way around -- the impact of the management and technical resources of

1 Metropolitan Edison on the Unit 2 accident.

2 COMMISSIONER AHEARNE: What?

3 CHAIRMAN HENDRIE: You're not starting the Unit 2
4 accident here.

5 COMMISSIONER GILINSKY: But your concerns about
6 their management and technical resources, not how they've been
7 affected by the accident, but whether they are up to running
8 a safe plant in the first place.

9 CHAIRMAN HENDRIE: That goes down in 4, et cetera.

10 COMMISSIONER AHEARNE: The point I think that's
11 trying to be captured in number 2 is slightly different than
12 there was, given that there was the accident and 2 is an out
13 and out significant change.

14 COMMISSIONER GILINSKY: But they're thin, because
15 they're occupied with Unit 2.

16 COMMISSIONER AHEARNE: Yes.

17 COMMISSIONER GILINSKY: It seems to me there ought
18 to be another point, which is simply whether, given our
19 experiences with Unit 2, the management and technical staff
20 have the expertise and discipline to operate a plant safely.

21 CHAIRMAN HENDRIE: Item 6, page 6.

22 COMMISSIONER GILINSKY: Is that on there?

23 MR. BICKWIT: Yes. One refers to actions.

24 COMMISSIONER GILINSKY: Yes, one is actions, the
25 other is concerns. And it's true that it is covered in item 6,

1 in page 6, but I think there ought to be a concern that relates
2 -- underlies this action.

3 MR. BICKWIT: How would you have that read?

4 COMMISSIONER GILINSKY: Let me just check the form
5 of these.

6 Well, simply the concern about the adequacy of the
7 management and technical resources of Metropolitan Edison.

8 MR. BICKWIT: How about that including the impact
9 of the nuclear accident?

10 COMMISSIONER GILINSKY: Fine.

11 COMMISSIONER KENNEDY: What is it now?

12 CHAIRMAN HENDRIE: Why don't we put it in 4 by saying
13 -- by listing the adequacy of emergency plans, station operat-
14 ing procedures, and management and technical resources.

15 COMMISSIONER KENNEDY: Wait a minute. It says
16 "recognized efficiencies."

17 CHAIRMAN HENDRIE: I was going to say "recognized
18 efficiencies" -- it's an odd form anyway.

19 COMMISSIONER GILINSKY: I guess I think that down-
20 plays it too much, along with emergency plans and operating
21 procedures. I would put it right up there, as number 1 and
22 number 2.

23 CHAIRMAN HENDRIE: What was the language to put it
24 into?

25 COMMISSIONER GILINSKY: I would simply say concern

1 about the adequacy of management and technical capabilities of
2 Metropolitan Edison, which then is followed up on page 6 with
3 Action 6.

4 COMMISSIONER KENNEDY: How does it read?

5 COMMISSIONER GILINSKY: I said it a little different-
6 ly each time.

7 COMMISSIONER KENNEDY: Steve had it. He had written
8 something.

9 MR. OSTRACH: I believe it would now read: "2 --
10 Questions about management, technical resources of Metropolitan
11 Edison."

12 COMMISSIONER GILINSKY: I would put "capabilities."

13 MR. OSTRACH: "Management capabilities and technical
14 resources"?

15 COMMISSIONER GILINSKY: No, "management capabilities
16 and technical resources."

17 MR. OSTRACH: And then delete the language at the
18 beginning of 2, the impact of the Unit 2 accident?

19 COMMISSIONER GILINSKY: You might add "including
20 whatever the impact" -- "whatever impact there has been on
21 these of the Unit 2 accident."

22 COMMISSIONER AHEARNE: Okay.

23 CHAIRMAN HENDRIE: All right.

24 Page 5?

25 Page 6?

1 COMMISSIONER KENNEDY: On page 5, to what does --
2 way down, just above 2, "NRC will administer complete examina-
3 tions to all licensed personnel." What does "complete
4 examinations" mean?

5 MR. BICKWIT: Let me call on Staff.

6 COMMISSIONER KENNEDY: Are they complete examina-
7 tions as to these areas referred to in the previous sentence,
8 which is just TMI- elated material?

9 MR. VOLLMER: I think they are intended to be,
10 rather than a requalification exam, a complete exam in the
11 sense of it being an issue to operation to the operator, oral
12 and written examination.

13 COMMISSIONER KENNEDY: I think we ought to say
14 something like that, because right now it might well be taken
15 to imply that he's talking about -- where it says in the
16 previous sentence, "reexamination of all operators in these
17 areas, these complete examinations" --

18 COMMISSIONER GILINSKY: You are where?

19 COMMISSIONER KENNEDY: On page 5, just above 2.

20 COMMISSIONER GILINSKY: You're asking, what is a
21 complete examination?

22 COMMISSIONER KENNEDY: In the context that it's
23 written here. You see, it says, "Licensee will conduct a
24 100 percent reexamination of all operators in these areas.
25 NRC will administer will complete examinations to all licensed

1 personnel."

2 Are these the same exams, on the same subject matter,
3 or -- no, they're not, they really are basic additional quali-
4 fication examinations.

5 MR. VOLLMER: Yes.

6 COMMISSIONER KENNEDY: Why don't we just say that
7 NRC will administer complete qualification examinations?

8 MR. OSTRACH: All right, qualification examinations.

9 CHAIRMAN HENDRIE. Is that compatible with the cus-
10 tomary jargon in the operating license?

11 COMMISSIONER KENNEDY: We'll need to get it in the
12 right jargon, of course.

13 COMMISSIONER KENNEDY: While why don't we leave
14 Dick to discover what the appropriate jargon is? And he can
15 call out to the licenses, operator lisensers, if necessary.
16 And I will propel the project forward.

17 You had you chance at page 6.

18 COMMISSIONER GILINSKY: Page 6, item 4, "The Licensee
19 shall take actions required to demonstrate that planned
20 decontamination and so on or restoration operations at TMI-2
21 will not impact safe operations at TMI-1."

22 Now, you use the word "planned." Presumably, we
23 mean operations which the NRC has decided will themselves be
24 adequately safe. In other words, you have in mind simply
25 taking the Licensee's plans?

1 MR. OSTRACH. Oh, no. The intention was that to the
2 extent those plans are known --

3 COMMISSIONER KENNEDY: To demonstrate.

4 MR. OSTRACH: If they know they're going to be such-
5 and-such and such-and-such, but they haven't done it yet, those
6 will have to be taken into account when considering the
7 safety of operation of TMI-1.

8 COMMISSIONER GILINSKY: Well, it looks as if you're
9 going to have to have a good deal of information about how
10 TMI-2 will be handled, before you can answer these questions?

11 MR. OSTRACH: Yes, sir. That's expected, I believe.

12 Mr. Vollmer can speak to that.

13 COMMISSIONER GILINSKY: But there is going to have
14 to be some, at least initial, approval of those TMI-2 steps
15 before you can regard --

16 COMMISSIONER AHEARNE: At least some initial review.

17 COMMISSIONER GILINSKY: Or some initial review of
18 those steps before one can come to the conclusion that --

19 COMMISSIONER AHEARNE: It may not have been able to
20 go through a complete approval.

21 MR. OSTRACH: It should be possible to make some sort
22 of scoping analysis as to what the potential risks from TMI
23 decontamination are, even before they have decided which
24 specific approaches will be used, for the exact details of it.

25 COMMISSIONER AHEARNE: It's a boundary envelope

1 that you're really asking here to secure; can they convince
2 you that within the envelope of measures on 2, that it's not
3 going to cause impact on the safe operations in 1? If they
4 can't, then they can't operate.

5 COMMISSIONER GILINSKY: Okay, the Licensee is
6 required to demonstrate this?

7 MR. OSTRACH: Yes.

8 CHAIRMAN HENDRIE: I don't understand, now that you
9 bring it up, why shall take actions required to demonstrate --
10 what actions is he going to take?

11 COMMISSIONER GILINSKY: Shall demonstrate, presum-
12 ably.

13 CHAIRMAN HENDRIE: You mean he takes pen in hand
14 and performs calculations; is that what you mean by "takes
15 actions required to demonstrate"?

16 COMMISSIONER KENNEDY: Can't you just say, "Licensee
17 shall demonstrate"?

18 MR. OSTRACH: I don't see why we can't say that.

19 COMMISSIONER BRADFORD: In that case, we certainly
20 ought to --

21 COMMISSIONER KENNEDY: Which just indicates why we
22 didn't need the extra people for plain English. All -- we
23 can handle it ourselves.

24 COMMISSIONER BRADFORD: I think the only point is
25 salary range.

1 (Laughter.)

2 COMMISSIONER KENNEDY: I think it depends on how
3 plain you want the English.

4 COMMISSIONER AHEARNE: I think it's plain we have
5 highly capable, technical editors.

6 CHAIRMAN HENDRIE: Affect, instead of impact, please
7 Peter -- requests?

8 COMMISSIONER GILINSKY: Will not affect safe
9 operations?

10 MR. BICKWIT: Yes. I think that's preferable.

11 COMMISSIONER KENNEDY: Well now, what? "Effect"?
12 "Affect"?

13 COMMISSIONER GILINSKY: I'm still troubled about
14 the word "planned." The Licensee can have a set of plans that
15 don't affect safe operations at TMI-1, but yet these may not
16 be approved in any way by NRC --

17 COMMISSIONER KENNEDY: Why can't it just leave the
18 word "planned" out? I'd agree with Vic.

19 COMMISSIONER GILINSKY: Yes, I guess I'd take the
20 word "planned" out.

21 MR. OSTRACH: That would get at Commissioner Ahearne's
22 concept of the envelope.

23 COMMISSIONER GILINSKY: Leaving it out, or putting
24 it in?

25 MR. OSTRACH: Because -- taking it out, because

1 planning ties into the Licensee's plan, whereas operations, I
2 think, is a comparable concept.

3 COMMISSIONER GILINSKY: I would take it out. There
4 are a couple of typos on the page.

5 MR. OSTRACH: We have those.

6 COMMISSIONER AHEARNE: You have -- I guess the Staff
7 -- Licensee shall improve, dot, dot, dot, and it's conduct
8 test exercise. Is there any further description of the test
9 exercise the Licensee is supposed to conduct?

10 MR. VOLLMER: That was of the -- I think something
11 was left out. "Test exercise" was of the emergency plan.

12 CHAIRMAN HENDRIE: Do you want to add "of the
13 emergency plan" to it? That might make for more clarity.

14 MR. VOLLMER: I guess "of that emergency plan" should
15 be involved with that.

16 COMMISSIONER AHEARNE: Yes, I like that.

17 CHAIRMAN HENDRIE: Page 7?

18 9?

19 COMMISSIONER AHEARNE: What happened to 8?

20 CHAIRMAN HENDRIE: When you're a chairman, you take
21 anything you can get -- beg, borrow, or steal.

22 COMMISSIONER KENNEDY: On page 7, what was the pur-
23 pose of the addition in item 7 of the added language, the
24 extent relevant to his ability? What does that add?

25 COMMISSIONER GILINSKY: Well, it was supposed to be

1 COMMISSIONER GILINSKY: Well, it was supposed to be
2 a lesser test, rather than a more stringent one.

3 COMMISSIONER AHEARNE: That was the discussion we
4 had.

5 COMMISSIONER KENNEDY: Does it turn out to be a
6 lesser test, or what is it?

7 COMMISSIONER GILINSKY: I don't know what happens in
8 practice.

9 MR. BICKWIT: As I understood the Commission's
10 position, this was the language that it wanted, whether or not
11 it a lesser test.

12 COMMISSIONER KENNEDY: Oh.

13 MR. BICKWIT: It was somewhat unclear to me, and I
14 think -- and to the Commission as to whether it was a lesser
15 test.

16 COMMISSIONER AHEARNE: But it was --

17 COMMISSIONER GILINSKY: I guess I thought it probably
18 would be, but it seemed to me that is the thing to be concerned
19 about, the safe operation of TMI-1, and to the extent that it
20 met the qualifications of that, then it's irrelevant if they
21 can't be demonstrated to affect that.

s kup 22 COMMISSIONER KENNEDY: If one simply goes through
23 the regular OL-type review, that's precisely what happens.

24 COMMISSIONER GILINSKY: I don't think so. I don't
25 think that review is in any way related to safety. That's my

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COMMISSIONER KENNEDY: Then we have created a new kind of review, and we don't know what it means; am I right?

MR. BICKWIT: I think you know what it means. You just don't know whether it means exactly what is in your regulations with respect to OLs.

COMMISSIONER GILINSKY: I guess the way I would look at it is that contentions related to financial capabilities are admissible to the extent that they can be related to safety matters -- otherwise, not.

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COMMISSIONER KENNEDY: All right.

CHAIRMAN HENDRIE: It's my impression that this does that.

COMMISSIONER KENNEDY: I understand it better.

If that's -- is that the way you would understand it?

MR. BICKWIT: I'm sorry, but it is the lesser test.

COMMISSIONER KENNEDY: The contentions -- what is the test?

Commissioner Gilinsky suggests that his view -- in his view, contentions as to financial ability, precisely as they affect safety, would be admissible -- otherwise, not.

MR. BICKWIT: That would be my understanding.

COMMISSIONER KENNEDY: That would be your understanding of this?

Sounds reasonable to me.

CHAIRMAN HENDRIE: Page 8?

9?

COMMISSIONER GILINSKY: I guess I didn't understand item 4. It says, "Improve emergency preparedness in accordance with the following: Modify emergency plans to address changing capabilities of plant instrumentation."

What does that mean?

Mr. Vollmer?

COMMISSIONER KENNEDY: Which page is this?

COMMISSIONER GILINSKY: Page 8.

1 I wonder if you could explain item 4?

2 MR. VOLLMER: Okay. The emergency plan revolves
3 around the type and capability of a plant instrumentation. The
4 two are tied very -- fairly close together, so that if, as
5 specific changes are made to plant instrumentation, he should
6 make appropriate modifications to the emergency plan and
7 instructions to the emergency team on how they operate. That
8 was the intent there -- to bring those together.

9 That's part of the recommendations in the Lessons
10 Learned, which found that the emergency plans were not necess-
11 arily tied in as they should be to actual measurements made at
12 the facility itself.

13 COMMISSIONER GILINSKY: Now, you're extending the
14 capability to take appropriate emergency action for the popula-
15 tion around the site at or a distance of 10 miles. What is the
16 immediately -- what is the short-term actions?

17 Oh, I see them here: "Upgrade emergency plans to
18 satisfy Reg Guide 1.101."

19 MR. VOLLMER: Right.

20 COMMISSIONER GILINSKY: I guess Reg Guide -- I don't
21 think Reg Guide 1.101 is that formidable myself, but it goes
22 on -- okay.

23 COMMISSIONER KENNEDY: Is this the place to deal with
24 that problem?

25 COMMISSIONER GILINSKY: Okay. Good enough.

1 There are a number of other items in that list --
2 9 --

3 COMMISSIONER KENNEDY: Wait a minute.

4 Page 8, again, down at the bottom -- in order to
5 make clear that we are referring to the July 2 order, would
6 it be useful in Roman III, item 1, to start the sentence by
7 saying, "The Commission, July 2nd, 1979, order requiring the
8 Licensee, effective immediately, to maintain -- shall remain
9 in effect until further order"?

10 MR. BICKWIT: We envision this as standing on its
11 own. I don't see -- we did not envision this as incorporating
12 the July 2nd order. I don't regard it as an important differ-
13 ence. If you are more comfortable saying that what we are
14 doing here is incorporating that order, so be it. But I
15 thought it was simply --

16 COMMISSIONER KENNEDY: Well, to me it might be use-
17 ful only in the sense that -- and it's not a big point -- in
18 the July 2nd order, we said that were going to be issuing a
19 subsequent order. This would at least tie them together.

20 MR. BICKWIT: Well, you've tied them together in the
21 body, page 1.

22 COMMISSIONER KENNEDY: Yes, I'd forgotten -- so we
23 did. I don't care.

24 How about "however" instead of following "on there
25 until further order of the Commission concerning that which

1 will be issued following satisfactory completion"?

2 COMMISSIONER KENNEDY: I think that's a minor
3 clarification in language.

4 CHAIRMAN HENDRIE: Any problem?

5 If the draftsmen don't have a problem with that --

6 MR. BICKWIT: No.

7 CHAIRMAN HENDRIE: Let me see if I can gather you up
8 past page 9.

9 Going once.

10 COMMISSIONER KENNEDY: This is a minor nit-pick, and
11 then I have a broader question -- the third line of Roman IV,
12 instead of "be," it says "shall be immediately effective."

13 Well, that's the same point I was making. Is it
14 "shall remain" or "shall be"?

15 MR. BICKWIT: "Shall be."

16 COMMISSIONER KENNEDY: "Shall be"?

17 MR. BICKWIT: This order stands on its own.

18 COMMISSIONER KENNEDY: All right.

19 MR. BICKWIT: Because, in the July 2 order, you
20 didn't refer to a lot of what's in the clause.

21 COMMISSIONER KENNEDY: That's right.

22 What about the relationship between item 2, at the
23 top of the page, and what then follows in Section 4? Are they
24 wholly consistent?

25 MR. BICKWIT: They have nothing to do with each other.

1 Item 2 is a separate track. You are requiring that all of the
2 long-term actions listed in this order must be done, but you
3 are not making item 2 immediately effective, so that there is
4 no requirement outstanding against the Licensee under item 2.

5 What you are dealing with in Roman IV relates only
6 to those items where requirements are outstanding.

7 CHAIRMAN HENDRIE: Okay.

8 COMMISSIONER AHEARNE: Do you have the typo on that
9 page?

10 MR. BICKWIT: Where is that?

11 COMMISSIONER AHEARNE: About seven lines up.

12 CHAIRMAN HENDRIE: Good catch.

13 Page 9 -- going, going, gone.

14 Page 10?

15 COMMISSIONER AHEARNE: Why do you have a qualifier to
16 the extent practicable, the Board should hold sessions?

17 COMMISSIONER BRADFORD: I was going to drop that
18 qualifier down to the second half of the sentence.

19 "The Board will hold its sessions to the extent of the
20 facility and to the extent practicable."

21 MR. BICKWIT: Do you want all of the hearings in the
22 vicinity?

23 COMMISSIONER KENNEDY: I would think so.

24 MR. BICKWIT: Then, in that case, to the extent
25 practicable --

1 CHAIRMAN HENDRIE: I don't think so.

2 COMMISSIONER KENNEDY: You don't think so?

3 COMMISSIONER BRADFORD: Isn't that standard for a
4 Licensing Board?

5 MR. The Licensing Board are attempting to
6 maximize to the extent of participation, but they may hold
7 hearings in the Washington metropolitan area -- in fact, do.
8 Certainly you are free to require that all the hearings be
9 held in the area of the facility.

10 COMMISSIONER AHEARNE: I guess I would rather leave
11 to should and take that qualifier out -- no problem.

12 I guess I don't understand why you want to put the
13 qualifier in the second part, because it says it should attempt
14 --

15 COMMISSIONER BRADFORD: I guess because it was there.
16 I shifted to what I was more comfortable with. I have no
17 problem taking it out.

18 COMMISSIONER KENNEDY: I don't mind taking it out.

19 CHAIRMAN HENDRIE: Okay?

20 COMMISSIONER BRADFORD: Let's see, I had indicated
21 -- perhaps I'm lost, I don't remember -- a feeling that I would
22 prefer to have the Board set a schedule and then, obviously,
23 endeavor to comply with whatever we felt was -- but I
24 thought I would go at the scheduling question that way
25 rather than attaching a detailed schedule here.

1 Did we -- did we have a vote on that?

2 MR. BICKWIT: I thought you won.

3 COMMISSIONER BRADFORD: You thought I won?

4 MR. BICKWIT: Then at the last --

5 (Laughter.)

6 MR. BICKWIT: -- I don't remember whether your
7 attendance at the last one -- the drift seemed to be this one.
8 Do you remember our discussing that?

9 COMMISSIONER KENNEDY: That's the price of missing.

10 COMMISSIONER BRADFORD: That's -- I thought I was
11 here -- that's where I thought I won.

12 MR. BICKWIT: No, I thought you won earlier in the
13 game. I didn't think you won at the last session.

14 COMMISSIONER AHEARNE: I have to admit I was surprised
15 to see the schedule there.

16 COMMISSIONER GILINSKY: I think it looks a little
17 tacky.

18 COMMISSIONER AHEARNE: I thought Peter won, also, and
19 I looked at it --

20 MR. BICKWIT: The Commission is free to decide who
21 wins.

22 CHAIRMAN HENDRIE: Well, why don't we see how it
23 fits and how -- let's see, your language, Peter, would be what?

24 COMMISSIONER BRADFORD: Well, at one point -- did we
25 actually have it in writing? -- the thrust was that the Board

1 would establish a schedule. I think that's about all we said
2 -- we expected that the Board would --

3 COMMISSIONER AHEARNE: I don't think we ever actually
4 drafted any language.

5 COMMISSIONER BRADFORD: I thought I remembered at
6 one point, to the effect that we expected the Board to publish
7 a schedule.

8 COMMISSIONER AHEARNE: Yes, it was --

9 MR. BICKWIT: We had drafted something which said
10 it is the Commission expectation that the Board, at an
11 appropriate time in the proceeding, will set a target date
12 for its issuance of the initial decision.

13 COMMISSIONER AHEARNE: No, it was more than that. It
14 was a concept that the Board should attempt to construct a
15 schedule and then attempt to stick to it.

16 COMMISSIONER BRADFORD: That was all that I remember-
17 ed actually being written.

18 COMMISSIONER KENNEDY: The Board to construct a
19 schedule?

20 COMMISSIONER BRADFORD: I have no problem with going
21 further and saying the Board should construct a schedule.

22 MR. BICKWIT: It was also the concept that it might
23 be within a fixed number of months of the Staff's safety
24 evaluations report.

25 So at this point, where are we? How would you now

1 COMMISSIONER BRADFORD: I guess I would drop that
2 thought into the next paragraph is what I would say -- "It's
3 the Commission expectation the Board will conduct a proceeding
4 expeditiously and that it will, at the earliest practicable
5 time, set forth a schedule including a target date for comple-
6 tion.

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7 MR. BICKWIT: Okay.

8 COMMISSIONER BRADFORD: Don't feel bound by those
9 exact words, but that's the concept.

10 COMMISSIONER KENNEDY: Didn't we at one point suggest
11 that, independently of the order, we might write a memo to the
12 Board saying the Commission looked at this question at consid-
13 erable length and the attached schedule represented at least
14 one view of how things might be accomplished to give them some
15 idea of at least what we had looked at, what we had thought
16 about?

17 MR. BICKWIT: The question is: Did you? Is it
18 legal?

19 It's legal. I must say I prefer to communicate in
20 the order.

21 CHAIRMAN HENDRIE: I would, too, if we're going to
22 suggest a schedule or whatever. I think this is the way to
23 do it, rather than send notes down the line.

24 COMMISSIONER KENNEDY: I was trying to make it just
25 a little bit less directive in character.

1 COMMISSIONER AHEARNE: The problem I had with it was
2 that at least I don't feel that comfortable, as I understand
3 all of the proceedings and problems that fall on the Board;
4 similar to a concern Peter had earlier, I don't mind saying
5 that we have looked at it to some extent and here is what it
6 appeared to us. What appeared to us might be a feasible
7 schedule, but it's really the Board that has to set its own
8 schedule.

9 What I'm interested in doing is having them think
10 early on -- actually trying to set a schedule, publish it, and
11 then try to stick to it.

12 CHAIRMAN HENDRIE: Well, I will say on behalf of the
13 draft schedule, which is not an ordered thing, but a thing to
14 which the Board is admonished to hew if it can, that it does
15 move things along, it does get there. I would whack a few days
16 off some of those time periods over at the end and get there
17 in 315 days or thereabouts.

18 I will be the Board's schedule isn't within six
19 months of this.

20 COMMISSIONER KENNEDY: If the Board publishes a
21 schedule that we consider to be slow, I assume that's something
22 we can take a look at.

23 CHAIRMAN HENDRIE: I guess that doesn't give me much
24 comfort. On the other hand, on other occasions, and on other
25 subjects, I have offered you the same limited comfort and

1 recognized that you weren't taking much from it.

2 Why don't we just see what the voting positions are
3 on it and get on with it?

4 Peter, obviously, you proposed the --

5 COMMISSIONER GILINSKY: Does the Board have access
6 to the transcript of these meetings? Certainly this schedule
7 has been read into the transcript.

8 CHAIRMAN HENDRIE: I don't know that the Board pays
9 any attention or not. The transcript to this meeting says
10 don't bother with this for serious or official purposes or so --

11 MR. BICKWIT: Maybe the rules, or the Board is not
12 to consult --

13 COMMISSIONER BRADFORD: Unless we waive the rule.

14 MR. BICKWIT: Unless you waive the rule.

15 COMMISSIONER BRADFORD: I don't know whether that's
16 useful in this case or not, but there are a number of instances
17 i which the Board could get a certain amount of guidance and
18 others in which they could get a certain amount of misguidance.

19 COMMISSIONER AHEARNE: Could I suggest some language
20 that at least would satisfy me? I'm not sure whether it would
21 satisfy anybody else.

22 CHAIRMAN HENDRIE: You are amending Peter's proposal?

23 COMMISSIONER AHEARNE: Yes.

24 CHAIRMAN HENDRIE: Go ahead and see if you can get it
25 accepted by its original sponsor.

1 COMMISSIONER AHEARNE: Picking up from it is the
2 Commission's expectation the Board will conduct a proceeding
3 expeditiously:

4 "The Board should, as early as possible, publish an
5 appropriate schedule and attempt to meet it.

6 "A tentative schedule, proposed by the Commission, is
7 attached for the Board's possible use."

8 COMMISSIONER KENNEDY: That's good with me.

9 COMMISSIONER GRADFORD: I would not attach-the
10 tentative schedule just because we've prepared it without
11 reference -- without any knowledge of what the Board is going
12 to be up against.

13 CHAIRMAN HENDRIE: I think it's specifically the
14 attachment of the tentative schedule that is the route point.
15 I could vote for that.

16 COMMISSIONER KENNEDY: Well, you've got three votes.

17 COMMISSIONER GILINSKY: I guess I don't object
18 to communicating the schedule in some way to the Board, but I
19 find it odd to attach it to this letter.

20 COMMISSIONER AHEARNE: The only reason I'm proposing
21 to attach it really is Len's point that it really is best, if
22 you're going to communicate it to the Board, to communicate in
23 the order, is the way I interpret it.

24 And so, you know, I would have gone with Dick's
25 suggestion to send a letter, but I defer to Len's judgment on

1 what is the most appropriate fashion of doing that communica-
2 tion.

3 MR. BICKWIT: I'm not saying it would be illegal
4 to do otherwise.

5 COMMISSIONER KENNEDY: My purpose in suggesting that
6 it be detached from the order was to give it, as I said, a
7 little less directive quality. In a letter, one could use all
8 the qualifiers he wished -- say, you know, the Board should not
9 feel constrained by this, which represented an attempt by the
10 Commission to describe how it might be possible to move
11 forward.

12 MR. BICKWIT: There would be no legal problem with
13 that. I would be more comfortable if you said those very
14 words in the order.

15 COMMISSIONER KENNEDY: Well, maybe somebody could
16 draft them.

17 If that was done, would that --

18 COMMISSIONER BRADFORD: Let me have the words again.

19 COMMISSIONER KENNEDY: I'm just saying the Board
20 should not be constrained by these. It was simply enclosed
21 here to indicate how the Commission itself had visualized, if
22 possible, to proceed.

23 COMMISSIONER BRADFORD: It's getting better.

24 CHAIRMAN HENDRIE: I think I've got -- if we could
25 add "The Board is to pay no attention to the pages, over the

1 pages, over the signature of the secretary" -- I think I've
2 got you over.

3 (Laughter.)

4 COMMISSIONER BRADFORD: I would leave it out, just
5 because I think we will be presumably appointing a Board --
6 we would have some confidence as to their ability to run a
7 hearing. My strongest objection toward the language was that
8 we expected them to comply with -- this gets around that.

9 COMMISSIONER KENNEDY: There is another advantage
10 to publishing some sort of a schedule -- that is that all the
11 parties know pretty generally, from the very beginning, what's
12 going to be expected of them and how much time they would
13 have to do that.

14 COMMISSIONER BRADFORD: I certainly agree with that.
15 I would just have the Board do it. And I would drop that
16 sentence down into the paragraph following the Commission's
17 primary, and I would say, given this overriding imperative,
18 it is the Commission's expectation.

19 COMMISSIONER AHEARNE: Where would you put it, Peter,
20 in the next paragraph?

21 COMMISSIONER BRADFORD: Where would I put what?

22 COMMISSIONER AHEARNE: Move that down?

23 COMMISSIONER KENNEDY: At the bottom of the page?

24 COMMISSIONER AHEARNE: The bottom of the page?

25 COMMISSIONER BRADFORD: Yes.

1 COMMISSIONER KENNEDY: Then you would delete the
2 rest?

3 COMMISSIONER BRADFORD: No, there is sort of -- odd
4 thing that begins -- I guess it's not so odd. It looked like
5 it began with a small "t" -- but the hearing will be conducted
6 in accordance with -- I can see right where it is.

7 CHAIRMAN HENDRIE: I have a crummy page 10. I am
8 having trouble reading it.

9 COMMISSIONER AHEARNE: Peter, we have some confusion
10 at this end.

11 COMMISSIONER KENNEDY: I thought you were moving
12 that down all the way to the bottom of the page.

13 COMMISSIONER BRADFORD: I was.

14 John kept the language "It is the Commission's
15 expectation" -- I was just taking that and putting it after
16 the clause "given this overriding imperative, it is the
17 Commission's expectation" -- and then I was putting whatever
18 else you put in there there, and then period -- "The Board
19 is instructed to explore" --

20 COMMISSIONER GILINSKY: Is this a schedule worked up
21 by the Commission or OGC, or just a schedule worked up by the
22 Staff?

23 MR. BICKWIT: This is a schedule worked up by the
24 Staff.

25 COMMISSIONER AHEAFNE: And worked over.

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1 COMMISSIONER AHEARNE: It is also is fairly -- I
2 think the concept is fairly consistent with many of the con-
3 cepts in regulatory reform, which is saying we ought to be
4 providing schedules as we are going to proceed.

5 COMMISSIONER BRADFORD: At least somebody ought to
6 be providing schedules. I'm not sure that they would have
7 the Commission doing it.

8 COMMISSIONER AHEARNE: That's correct.

9 CHAIRMAN HENDRIE: Okay, as amended.

10 If anybody knows how the amendment went --

11 MR. OSTRACH: My understanding is that we have this
12 material, as amended by Commissioner Ahearne, it is the
13 Commission's expectation language and two other sentences --
14 all of that would be moved after the phrase "given this over-
15 riding imperative" -- we'll end with a period. We'll start
16 a new sentence, "The Board is instructed to explore" and then
17 continue from there.

18 COMMISSIONER BRADFORD: Right. And you are leaving
19 --

20 MR. OSTRACH: The intervening paragraph stays in
21 there.

22 COMMISSIONER BRADFORD: Stays in there, right.

23 CHAIRMAN HENDRIE: And your phrasing, John, was --

24 COMMISSIONER AHEARNE: Then it would read, "Given
25 this overriding imperative, it is the Commission's expectation

1 that the Board will conduct the proceeding expeditiously. The
2 Board should, as early possible, publish an appropriate
3 schedule and attempt to meet it. A tentative schedule, composed
4 by the Commission, is attached for the Board's possible use."

5 And I go on and pick up something Dick had said,
6 "although the Board should not be constrained by it."

7 COMMISSIONER BRADFORD: That's fine.

8 COMMISSIONER KENNEDY: Okay?

9 COMMISSIONER BRADFORD: Well, not fine, but --

10 COMMISSIONER AHEARNE: Acceptable?

11 COMMISSIONER BRADFORD: Given the votes around the
12 table, it's acceptable.

13 CHAIRMAN HENDRIE: That would relieve the strain
14 enough to make it unnecessary to vote the issue?

15 COMMISSIONER BRADFORD: Yes.

16 CHAIRMAN HENDRIE: All right. I think that was a
17 notable achievement, John.

18 Page 11?

19 Page 12?

20 COMMISSIONER KENNEDY: On 12, after 1, talking about
21 the short-term actions and so on, I think maybe it might be
22 useful to insert something here to speed up the question of
23 dealing with the financial qualifications issue and some
24 language might read like: "As to the issue of financial
25 qualifications, a party wishing to raise the subject as a

1 contention must clearly indicate why the Licensee's financial
2 condition will undermine the Licensee's ability to operate the
3 plant safely."

4 That is consistent now with the way we agreed things
5 were back a few pages.

6 "Parties raising the issue should do so before the
7 special prehearing conference, which is trying to get that
8 issue up front."

9 And then the question --

10 CHAIRMAN HENDRIE: Do they have to raise all the
11 contentions?

12 COMMISSIONER KENNEDY: I want to be sure this one is,
13 too.

14 And then indicate -- now, the question would be who's
15 going to resolve it? Is this a matter which should be
16 certified to the Commission, or is this going to be resolved
17 by the Board?

18 If it's going to be resolved by the Board, fine. If
19 the Commission is going to have to resolve these contentions,
20 then, again, they ought to be certified to us immediately.

21 MR. BICKWIT: It is my understanding that it would
22 be treated like any other commitment.

23 COMMISSIONER KENNEDY: The Board would rule on it.

24 CHAIRMAN HENDRIE: The Board would rule on it in any
25 appeals --

1 COMMISSIONER KENNEDY: Splendid.

2 COMMISSIONER AHEARNE: Dick, why do you feel that
3 unique short-term issue should be called out?

4 COMMISSIONER KENNEDY: Only because it is unique.
5 All the others are going to be dealt with that way -- are
6 going to be dealt with quickly, and this one ought to be dealt
7 with in the same time frame, quickly, instead of just laid out.

8 COMMISSIONER AHEARNE: What I meant was, you are
9 saying, among the set of short-term actions, you're going to
10 be calling out financial qualifications as unique?

11 COMMISSIONER KENNEDY: Because it is that. It's not
12 like the others, all the other short-term actions that have
13 appeared in all kinds of orders.

14 COMMISSIONER _____: Not the separation of --

15 COMMISSIONER KENNEDY: It just seems to me that that
16 is the kind of issue that's going to be around for a long time,
17 subject to all kinds of things.

18 COMMISSIONER AHEARNE: I have no problems.

19 CHAIRMAN HENDRIE: You don't have a problem on that?

20 COMMISSIONER AHEARNE: No.

21 Vic was the one who was most interested in that.

22 COMMISSIONER GILINSKY: I would limit it to conten-
23 tions -- (inaudible)

24 COMMISSIONER KENNEDY: That's what that says.

25 (5:10 p.m.; Commission Gilinsky leaves.)

1 CHAIRMAN HENDRIE: Have you got that language some-
2 place?

3 MR. BICKWIT: I'm glad you cleared that up.

4 (Laughter.)

5 COMMISSIONER KENNEDY: That's what this says. All
6 it does -- it says, "Get them in early."

7 CHAIRMAN HENDRIE: Okay.

8 Do we need a vote on getting them in early?

9 COMMISSIONER AHEARNE: Len, do you see any problem
10 with that?

11 MR. BICKWIT: I don't. My sense of symmetry, as
12 yours was, is some degree offended by it. But I don't see
13 any problems with it.

14 MR. OSTRACH: It is the two sentences you read,
15 Commissioner, but not the last sentence?

16 And where, precisely, did you wish that to go, sir?

17 COMMISSIONER KENNEDY: After page -- let's see, it's
18 on page 12? After 1. -- after parenthesis, 1.

19 COMMISSIONER AHEARNE: Would this be a new parenthe-
20 sis? A new --

21 COMMISSIONER KENNEDY: I don't think it needs to be.

22 COMMISSIONER AHEARNE: But this is embedded in some-
23 thing to be considered?

24 COMMISSIONER KENNEDY: I guess it can be.

25 CHAIRMAN HENDRIE: Let's see, it's not a subject to

1 be considered at the hearing. There are a number in this
2 section. There are a number of instructions about the pro-
3 ceeding. And why don't we --

4 COMMISSIONER KENNEDY: Maybe above the subjects to
5 be considered at the hearing.

6 CHAIRMAN HENDRIE: Why don't we leave it to counsel
7 to find the suitable place in this Section 5, which says, "Now,
8 look, here's how we're going to run this hearing," to find a
9 suitable place to sandwich that instruction in; all right?

10 I don't think it comes at the end of 1, which is a
11 bit of different animal. And, furthermore, that will help
12 your symmetry problem a little bit -- not entirely.

13 MR. BICKWIT: Yes.

14 COMMISSIONER AHEARNE: Steve, could you then read it
15 again, because I was trying to follow it in context of 1, and
16 it didn't track too well.

17 MR. OSTRACH: "As to the issue of financial qualifi-
18 cations, a party wishing to raise this subject as a contention
19 must clearly indicate why the Licensee's financial condition
20 will undermine the Licensee's ability to operate the plant
21 safely.

22 "Parties raising this issue should do so before the
23 special prehearing conference."

24 COMMISSIONER BRADFORD: I would -- guess I would
25 say "might" rather than "will." If he can indicate why it

1 will, he's proven his case.

2 COMMISSIONER KENNEDY: All right.

3 Or are presumed to -- "might" is fine.

4 CHAIRMAN HENDRIE: Page 13?

5 COMMISSIONER AHEARNE: Now, Peter have a set of
6 language to go in the top there that was fine with me.

7 COMMISSIONER KENNEDY: I guess that is a little bit
8 more of a statement of conclusion than I would like to see
9 here at this point.

10 COMMISSIONER BRADFORD: The conclusion is that the
11 Commission has not determined whether such issues were mainly
12 developed.

13 COMMISSIONER KENNEDY: Yes.

14 CHAIRMAN HENDRIE: I don't think it states it any
15 more strongly than the draft.

16 COMMISSIONER KENNEDY: I had trouble with it, too.

17 CHAIRMAN HENDRIE: It does ingeniously avoid the
18 psychological distress and presumable consequences likely.

19 COMMISSIONER KENNEDY: Yes, which is certainly in its
20 favor.

21 Yes, I guess that's all right.

22 CHAIRMAN HENDRIE: It seemed to me the

23 -- did the draftsmen see any --

24 MR. BICKWIT: The only problem that we have is it's
25 a little cryptic.

1 COMMISSIONER KENNEDY: I thought that was an
2 advantage.

3 CHAIRMAN HENDRIE: So, Bradford, trapped again.
4 (Laughter.)

5 MR. BICKWIT: Just this modification, but from what
6 you say, it's probably very under-modified, while real and
7 substantial concern attaches to issues such as psychological
8 distress and others arising from the continuing impact of
9 aspects of Three Mile Island.

10 I'm just afraid that, as it is written, someone who
11 hadn't been party to these discussions would not really have a
12 clue as to what we're talking about.

13 COMMISSIONER BRADFORD: I had my difficulties with
14 that.

15 COMMISSIONER AHEARNE: Fine with me.

16 CHAIRMAN HENDRIE: Okay.

17 COMMISSIONER BRADFORD: I think if you do that, then
18 you have to say any party wishing to raise -- instead of "this
19 subject," it should be "subjects of this nature," or "such
20 subjects as contentions."

21 COMMISSIONER AHEARNE: Fine.

22 COMMISSIONER KENNEDY: Is it presumed by the change
23 in language that it might be an appropriate matter for raising
24 in the proceeding, but not relevant legally?

25 COMMISSIONER BRADFORD: I do not see how you could --

1 CHAIRMAN HENDRIE: If it ain't relevant legally, well
2 you can't raise it legally. And that's the determination --
3 clearly.

4 All right, 14?

5 15?

6 COMMISSIONER BRADFORD: On 14 -- or 14 is the same
7 concern I had -- (inaudible)

8 That is, the Board should accord priority to consid-
9 eration of matters relating to the need for continued suspen-
10 sion -- it's the same reading again -- as long as it's clear
11 that the Board may determine the priorities.

12 CHAIRMAN HENDRIE: I think that is quite amply clear
13 from the section as it was before.

14 COMMISSIONER KENNEDY: Would it be useful, down in
15 the bottom paragraph, instead of saying, "The Commission will
16 decide," to say, "The Commission will issue an order"?

17 I guess they're the same, or are they?

18 MR. BICKWIT: Well, normally you wouldn't issue an
19 order, if you decided that it should remain, immediately
20 effective. You would issue an order only if you wanted to
21 lift immediate effectiveness. It would be a very unusual
22 action of the Commission to say, "We want this order to be
23 immediately effective," and then have a procedure for issuing
24 an order saying we still wanted it to be.

25 COMMISSIONER KENNEDY: Having gotten from the Board,

1 certified to it, the question, with or without a recommendation,
2 it would seem to me desirable that an affirmative action on
3 the part of the Commission be taken to either indicate that
4 its initial decision is that the present order shall remain in
5 effect or that it shall be lifted.

6 MR. BICKWIT: I see no problem with it.

7 COMMISSIONER KENNEDY: It would seem to me desirable
8 to do that.

9 (5:20 p.m., Commissioner Bradford left.)

10 COMMISSIONER KENNEDY: In other words, the Commission
11 is obligated to take an action to do something at that point,
12 to say either yes or no, not just to -- by doing nothing, say
13 no.

new bkup 14 COMMISSIONER AHEARNE: Well, will it then also get
15 us -- maybe that's desirable, but will get us into a situation
16 that we have just recently found ourselves in if we commit to
17 issuing an order in 35 days and we don't issue an order, we
18 will then have to issue a deferral of the requirement to issue
19 an order.

20 COMMISSIONER BICKWIT: I think you have to do that
21 anyway.

22 COMMISSIONER AHEARNE: Even the decision?

23 MR. BICKWIT: Even under this.

24 CHAIRMAN HENDRIE: Yes, I re -- decide here, to be
25 reflected in appropriate form or pronouncements of the

1 Commission.

2 COMMISSIONER AHEARNE: Except the time between the
3 decision and an order sometimes is a week or two. So if you
4 want to put -- issue an order, then I would go for 40 days.

5 CHAIRMAN HENDRIE: We snap them out here, around here,
6 pretty good.

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7 This is getting it typed and -- signing it, isn't it?
8 What else do you have to do in terms of just -- that is, the
9 Commission makes a decision and says, "We do this and so-and-
10 so," so that there are not substantive matters. It's just
11 a question how fast can a paper that reflects the decision
12 appear?

13 COMMISSIONER AHEARNE: I agree, but it might not be
14 just yes or no.

15 MR. OSTRACH: The GESMO case, for example, took five
16 months between the Commission decision and the Commission
17 order, so there have been periods of time --

18 COMMISSIONER KENNEDY: Let me point out that as long
19 as -- just in that connection, I'm glad you raised that
20 particularly interesting example. It underlay one of my
21 concerns. The Commission may have decided, but recall that
22 an order now has a plant in a certain status -- A, down; right?

23 Now, if it's going to take a long period of time from
24 that decision until that order can be effected by the decision,
25 then it seems to me that that ought to be recognized from the

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1 outset. And it was precisely with that thought in mind that I
2 suggest maybe issue an order now. If, in fact, there are a
3 great many other things that need to be said, one could issue
4 that in seriatim. One could issue an order saying that, in
5 fact, a decision in this way is made and will be followed by
6 a further explanation of conditions, et cetera.

7 But to just let it sit there -- if, for example, the
8 decision were to raise the subject, lift the earlier order,
9 allow the plant to operate, and then it just sat there for some
10 considerable period of time while an order was being drafted
11 and approved, one would have to ask if that was a good regula-
12 tion, I think. It was that that I had in mind, to say nothing
13 of the fact that I do sympathize, in a very strong way, with
14 Mr. Gilinsky's concern for discipline on the process. And
15 discipline begins at home.

16 CHAIRMAN HENDRIE: I have no objection to making it
17 "The Commission will issue an order." I, frankly, don't think
18 you need the extra five days. It seems to me that the nature
19 of the order issued at that time will be either the Commission
20 agrees with the initial decision of the Board --

21 COMMISSIONER AHEARNE: Or disagrees.

22 CHAIRMAN HENDRIE: Or it disagrees in part, or in
23 full. And if it disagrees, I think then one has a longer time
24 running.

25 COMMISSIONER AHEARNE: But I expect the order then

1 we'll issue, is that we will issue an order in a few days,
2 issue an order in 35 days.

3 CHAIRMAN HENDRIE: Will that get me to page 15?

4 COMMISSIONER KENNEDY: Do you have full proxy?

5 CHAIRMAN HENDRIE: I intend to go ahead and try to
6 complete. And if I think there are subjects that come up that
7 I think if Vic would be here. we'd have a problem with, why
8 go around and see him.

9 COMMISSIONER AHEARNE: I have no comments on the
10 rest of the paper.

11 COMMISSIONER KENNEDY: Nor do I?

12 CHAIRMAN HENDRIE: Good.

13 Then could I ask you to flip to the schedule, please,
14 because I want to ask the counsel something?

15 At one point there was comment about the -- down
16 here under the discovery completed, it says, "During the
17 discovery period, objection, et cetera, publication of SER" --

18 MR. BICKWIT: Yes.

19 CHAIRMAN HENDRIE: At one point I was being told
20 that it's a poor idea to give what seemed to be instructions
21 to one of the parties. You give instructions uniformly to all
22 parties.

23 MR. BICKWIT: I would prefer that you take that line
24 out.

25 CHAIRMAN HENDRIE: Okay. I kind of wondered. I was

1 going to recommend that we spell out SER if we left it in.

2 COMMISSIONER KENNEDY: Could you put a footnote to
3 indicate though it is not -- this is not a matter of scheduling
4 -- it has been assumed that SER will be published at about
5 this time, or something?

6 MR. BICKWIT: You can do that. You could leave it
7 in.

8 COMMISSIONER KENNEDY: I understand the reason for
9 taking it out.

10 CHAIRMAN HENDRIE: I think we ought to take it out.

11 MR. BICKWIT: Legal sensibilities.

12 COMMISSIONER KENNEDY: Except, again, it's a bit like
13 the schedule itself. Knowing that that's about the time it's
14 going to come along would be, I should think, helpful to the
15 parties.

16 CHAIRMAN HENDRIE: Well, I think the Board will ask
17 the Staff fairly soon off what they think their schedule is;
18 and I think, in fact, the Board will -- you know, will sort of
19 base its schedule around the Staff's projected production of
20 the base safety report.

21 (5:25 p.m., Commissioner Bradford returned.)

22 CHAIRMAN HENDRIE: That is, in fact, what they do
23 normally in hearings. They want to find out when the parties
24 will have their filings ready, and particularly when the Staff
25 is going to complete its analysis.

1 A second question: Filing of proposed findings and
2 reply to proposed findings and decision -- well, let's see, the
3 first two are labeled as being prescribed by 27548-2 and -3.
4 Do they really need 40 days to file proposed findings, consid-
5 ering that most of the parties will know when they go into the
6 blasted hearing how they want it to come out? And I wouldn't
7 expect -- I've got a notion most of them -- well, I don't know.
8 I take back the notion, because I may be quite wrong about it.

9 Is it sufficiently well defined and mandated in the
10 regs, so that it's not worth trying to take 10 days out of it?
11 Or does that unreasonably shorten the period? Are there good
12 or bad reasons for doing or not doing?

13 MR. BICKWIT: I don't think it unreasonably shortens
14 the period.

15 COMMISSIONER AHEAPNE: So you would have no problem
16 with going to 30?

17 MR. BICKWIT: No. I guess my only reservation is
18 that you would probably say similar things with respect to all
19 of these matters, and whether it really gets you anything, by
20 attempting to trim a day or a day here.

21 CHAIRMAN HENDRIE: Well I have been scanning all of
22 other deltas and trying to figure out if we could get stuff
23 out of it. It did seem a bit of a long time, but do people
24 need that kind of time to compile their findings or propose
25 findings?

1 COMMISSIONER BRADFORD: It depends a lot on -- well,
2 others who have litigated it could probably give you a better
3 answer than I. My own experience, presiding, it depends on
4 all -- as you say, you go through the proceeding, you develop
5 by the end of it a pretty fair idea of what you want to --

6 CHAIRMAN HENDRIE: A pretty fair sense of where you
7 think it ought to come out?

8 COMMISSIONER BRADFORD: If you're faced with a
9 10,000-page record that you're going to have to go back through
10 to find supporting points, it's more difficult than if you have
11 a record of 3- or 400 pages.

12 MR. BICKWIT: I just say, having never litigated or
13 presided, this is the kind of question I don't value my judg-
14 ment very much.

15 COMMISSIONER AHEARNE: Why don't we leave it at 40?

16 MR. OSTRACH: In any event -- perhaps this is
17 surplusage, but this is something that is uniquely a matter for
18 the Board to decide. It's an aid to the Board-proposed find-
19 ings, and I am sure -- and since they have been given the
20 latitude to select whatever time they believe is appropriate,
21 this is something that is selected by the Board anyway.

22 And if 40 is the period in the regulations, I suggest
23 the Commission just use that period; and let the Board change
24 if it sees good cause to.

25 CHAIRMAN HENDRIE: All right.

1 COMMISSIONER KENNEDY: Back there, in the very
2 beginning, it looked to me as though you might get as much as
3 25 days out. I realize it's, again, just pushing people.

4 Is it feasible, for example, filling of intervention
5 petitions, 15 days instead of 20?

6 MR. BICKWIT: In view of my lack of experience, I
7 have consulted people who have had experience; and the reaction
8 I get is that these are reasonable time periods, and it is
9 difficult to collapse them.

10 COMMISSIONER BRADFORD: Remember, as to one set of
11 contentions that we have requested briefs; or at least our
12 discussions have gone well beyond the contentions.

13 COMMISSIONER KENNEDY: Yes.

14 CHAIRMAN HENDRIE: The only other thing I would like
15 to note -- and I don't know how to do anything about it, since
16 we prefer not to talk about what the Staff and the committee
17 are doing, and so on -- this schedule would contemplate, as a
18 matter of fact, publication of the Staff's safety report about
19 -- in fact, about half way through the discovery period, which
20 would be about December 1st.

21 And that would lead to an ACRS letter in about mid-
22 January, which would then be somewhat -- would be about a month
23 before the beginning of the hearings. It seems to me that that
24 is a practical arrangement, and I don't know, for the reasons
25 that Len has mentioned --

1 COMMISSIONER KENNEDY: Is the ACRS letter to be
2 expected that soon?

3 CHAIRMAN HENDRIE: If the Staff can get the SER, or
4 a draft version of the SER, to them by the 1st of December --
5 and, hopefully a few days before -- it would be a help. Their
6 schedule can schedule subcommittee meetings in December, then
7 get it to the January meeting. And then there could be a let-
8 ter soon afterwards.

9 Peter, all I was going to say was -- I wasn't
10 proposing to put any of that kind of language in this thing.
11 I think we have got an object here -- I think the counsel had
12 to clean it up, and I would hope that we could deal with it by
13 affirmation -- tomorrow or the next day.

14 COMMISSIONER BRADFORD: It seems likely.

15 Now, we've got three names -- personnel session
16 tomorrow?

17 CHAIRMAN HENDRIE: That's one of the reasons I've
18 got to have that session tomorrow.

19 MR. BICKWIT: One final small point -- I would strike
20 this footnote.

21 CHAIRMAN HENDRIE: Indicates estimate?

22 MR. BICKWIT: In fact, some of these days do not
23 include the mailing days.

24 CHAIRMAN HENDRIE: You would also de-asterisk and
25 take the footnote out?

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MR. BICKWIT: Yes.

CHAIRMAN HENDRIE: Okay, sold.

(Whereupon, at 5:35 p.m., the hearing was adjourned.)

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NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

PUBLIC MEETING

CONTINUATION OF DISCUSSION OF ISSUES IN RESTART
OF TMI-1

- - -

Place - Washington, D. C.

Date - Tuesday, 7 August 1979

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