

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
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4
5 PUBLIC MEETING
6 DISCUSSION & POSSIBLE VOTE ON INTERIM OPERATION
7 AT INDIAN POINT
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12 Nuclear Regulatory Commission
13 Room 1130
14 1717 H Street, N.W.
15 Washington, D.C.

16 Friday, July 11, 1980

17 The Commission met, pursuant to notice, at 2:45 p.m.

18 BEFORE:

- 19 JOHN F. AHEARNE, Chairman of the Commission
- 20 VICTOR GILINSKY, Commissioner
- 21 PETER A. BRADFORD, Commissioner
- 22 JOSEPH HENDRIE, Commissioner

23 STAFF PRESENT:

- 24 LEONARD BICKWIT, General Counsel
- 25 MARTIN MALSCH, Deputy General Counsel
- PETER CRANE, Office of General Counsel
- E. HANRAHAN

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P R O C E E D I N G S

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2 CHAIRMAN AHEARNE: The Commission meets this afternoon
3 on one of several meetings on the Indian Point reactors. As many
4 of you know, we earlier this year established a set of procedures
5 for reviewing the Indian Point reactors. These procedures included
6 setting up an Atomic Safety & Licensing Board which will meet in
7 the New York area, going out on what we call an informal procedure
8 to ask a set of questions to help the Commission identify what
9 tasking we should give to that hearing board, setting up a special
10 task force in the Commission at the Commission level to summarize
11 a number of items of information to enable the Commission to
12 reach the question of what ought to be done with the plants in
13 the interim; the interim being the period between now and when
14 the hearing board reaches its decision.

15 We have heard extensively earlier in the year from a
16 number of individuals who have concerns about the Indian Point
17 area and Indian Point reactors. We, within the last two weeks,
18 heard from the Task Force on their review, and this afternoon we
19 meet to address the question of the interim operation. Whether
20 today or at another meeting, when we reach that question, we then
21 will have to turn to provide instruction to the General Counsel
22 in order for preparation of the instructions to be given to the
23 licensing board.

24 Len, perhaps you could outline this afternoon.

25 MR. BICKWIT: Yes. I guess I also ought to say that

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there's been a request from the UCS to address the Commission and the majority of the Commission does not support that request.

On the -- what I'd like to add is simply that the order of events is one that the Commission can choose. The Commission can choose to follow the order of events as laid out by the Chairman or not. We recommend that order of events, and we believe it implicit in the order originally put out by the Commission.

We also believe it implicit in that order that the decision on the interim operation be made without consideration of the comments under the informal aspect of this proceeding. Initially, it was suggested in an earlier draft of this order that the interim operation be a subject of that proceeding, and ultimately, the Commission decided to remove the question of interim operation from the informal proceeding.

We have advised the Commission that from a legal standpoint, there are many options, but we believe that a decision to leave the plant operating or to shut it down or to take any action in between will be sustained if the Commission can support it on a rational policy basis, and if the Commission acts consistently in applying that policy to other reactors.

The question, then, for the Commission is what it chooses to do in the interim. The only expression on that subject by memorandum has been from Commissioner Hendrie. You can proceed in any order you like, but I would suggest that given that

1 he has expressed himself by memorandum, it might be useful to
2 start with him.

3 CHAIRMAN AHEARNE: Any objection?

4 COMMISSIONER GILINSKY: No.

5 COMMISSIONER HENDRIE: My conclusion is that the Task
6 Force report shows us that within the accuracy available for such
7 evaluations, the operations of the Indian Point units do not
8 represent a risk that is outside the run of risks from operating
9 units all across the country. That was the essential question,
10 it seems to me that we set the Task Force to determine. I
11 conclude, therefore, that there should be no objection to the
12 IP units remaining in operation while we go forward with the
13 other proceedings established in our May 30th order.

14 CHAIRMAN AHEARNE: So your conclusion is to allow the
15 operation to continue under the -- that would be under the
16 conditions as relating to Denton's original order?

17 COMMISSIONER HENDRIE: Under the conditions prescribed
18 in the Director's order of earlier in the year.

19 CHAIRMAN AHEARNE: With no other modification?

20 COMMISSIONER HENDRIE: I see no need for any.

21 CHAIRMAN AHEARNE: Vic?

22 COMMISSIONER GILINSKY: On the basis of what we heard
23 from our group that looked into the problem, the safety problems
24 at the Indian Point site didn't seem to stand out sufficiently
25 to cause me to want to terminate the operations while we're

1 conducting a proceeding. So that is how I come out.

2 CHAIRMAN AHEARNE: Is that, then, in agreement with
3 Joe's recommendation?

4 COMMISSIONER GILINSKY: Certainly in the large. I'm
5 not sure I understood the fine print.

6 COMMISSIONER HENDRIE: I don't think there was much fine
7 print. My suggestion, after having a conclusion for myself, was
8 that the next step following a long ledge would be to have the
9 General Counsel and the Policy Evaluate draft an appropriate order
10 that would lay out the background for the decision, and that we
11 look at the language of that and in due time if enough of us
12 thought well of it, vote it as a Commission order saying that
13 they will continue in operation.

14 But I think it's useful to have the rationale for that
15 spelled out. The Task Force reported things as they saw them,
16 and they didn't come to a recommendation, so a Commission state-
17 ment is useful.

18 CHAIRMAN AHEARNE: And the other part of it, Vic, was
19 I think Joe's recommendation was that this operation -- the only
20 other conditions on it be those as imposed by Denton's early
21 order in February.

22 COMMISSIONER GILINSKY: Well, those are the only
23 outstanding requirements. I don't have anything additional to
24 add at this point. I suppose that somewhere along the way if we
25 decided that something additional was needed, we'd impose it.

1 COMMISSIONER HENDRIE: And there certainly was no
2 implication in the way I came out that I wouldn't go ahead with
3 those things which Harold had said do. Some of them are done,
4 some are in process, some remain to be done. But I propose that
5 they get on and get them done expeditiously.

6 CHAIRMAN AHEARNE: Peter?

7 COMMISSIONER BRADFORD: I wouldn't rest this conclusion
8 very heavily on the risk assessment portion of the staff work
9 to date. I think Bob Bernero was very candid in describing the
10 uncertainties attached to that. But my inclination at this point
11 is to permit the plants to stay in operation during the hearing.
12 I do want to review the OGC order and anything else that may come
13 up between now and Wednesday. But my inclination at this point
14 as based on what we've heard over the last few months is that the
15 plant should stay in operation.

16 CHAIRMAN AHEARNE: I share the same view. So with that,
17 Len, if you will, then, prepare the order. And at the same time
18 you should also begin turning to -- we now have the comments that
19 came in on the informal proceeding. So I think it's also time
20 for the Commissioners to -- you sent us a summary of that, and
21 we ought to provide you with any additional comments we have to
22 help you focus a draft for us on the instructions to the board.

23 COMMISSIONER HENDRIE: Yes, I think we need to get on
24 to that next step, which is to begin to outline the terms and
25 conditions on which the adjudication for Indian Point will go

1 forward. And not much beyond that, we also need to begin to think
2 at least how we will phase the generic proceeding on high popula-
3 tion density sites, with the particular proceeding at Indian
4 Point. You know, let us figure out whether one has to pretty
5 well complete before the other starts, or how they can coordinate
6 and so on.

7 CHAIRMAN AHEARNE: I think we ought to get the Indian
8 Point started.

9 COMMISSIONER HENDRIE: I think that's right, to get
10 that moving certainly as a first step.

11 CHAIRMAN AHEARNE: Yes. Any other Indian Point issues?

12 MR. BICKWIT: I don't think so. It may not be
13 possible in the time before we hope to have the next meeting to
14 draft up an order with respect to charging the board. I think
15 it will be possible to draft the interim operation.

16 CHAIRMAN AHEARNE: Fine.

17 MR. BICKWIT: And at that meeting you might simply want
18 to have an informal discussion to give us some guidance along
19 those lines.

20 CHAIRMAN AHEARNE: Fine. Any other Indian Point issues?
21 Very well. Adjourned.

22 (Thereupon, at 2:55 p.m., the meeting in the above-
23 entitled matter was adjourned.)
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