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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

Briefing on

COMMISSION TESTIMONY ON S. 897

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Room 1162  
1717 H. Street N.W.  
Washington, D.C.

Tuesday, May 3, 1977

The Commission met for the above briefing at 2:40 pm.

PRESENT: Commissioenrs ROWden, Kennedy and Gilinsky.

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1 CHAIRMAN ROWDEN: Why don't we begin this  
2 process?

3 MR. STOIBER: Norm, do you want to go ahead?

4 MR. TERRELL: I really have nothing to go ahead on.  
5 You have the testimony, it was sent down on May 2. WE  
6 received some of your comments on it and we will be preparing  
7 another draft and circulating it this afternoon.

8 CHAIRMAN ROWDEN: Commissioner Kennedy, I understand  
9 has given you some comments.

10 MR. TERRELL: I have received some from Commissioner  
11 Kennedy, Pete adn Carl and our own office, and we are typing  
12 up another draft and will have it this afternoon.

13 CHAIRMAN ROWDEN: I understand we have a letter  
14 from Senator Glenn asking for our testimony 48 hours in advance.

15 COMMISSIONER KENNEDY: The letter I received today  
16 did.

17 CHAIRMAN ROWDEN: Having looked at my incoming mail,  
18 I wouldn't be surprised if we all didn't get the same  
19 communication.

20 MR. TERRELL: Carl, do you happen to know when it  
21 takes place?

22 MR. STOIBER: Ten a.m. Friday.

23 COMMISSIONER KENNEDY: 75 copies.

24 MR. STRAUSS: That is 10 a.m. tomorrow.

25 MR. TERRELL: There was nothing difficult about

1 your comments, they were all worked in. Perhaps you would  
2 like to take another look at it overnight.

3 CHAIRMAN ROWDEN: The answer is I would. You will  
4 have another version ready this evening?

5 MR. TERRELL: This evening, before you leave.

6 CHAIRMAN ROWDEN: One of the principal purposes  
7 of this meeting is not so much to go over my testimony, I  
8 want to be sure I am speaking on behalf of the Commission in  
9 terms of what I say. And also to gain an understanding if  
10 we are all in agreement that we support the Administration  
11 bill, which I think is a crucial point.

12 I take it that you do, Commissioner Kennedy?

13 COMMISSIONER KENNEDY: I would like to associate  
14 myself at the outset with the remarks of Chairman Rowden.  
15 I have a few other things to say, that will not be in conflict  
16 with what you say.

17 CHAIRMAN ROWDEN: Picking up the theme --

18 COMMISSIONER KENNEDY: Expanding on a couple of points  
19 I think need further expansion and restating and re-emphasizing.

20 MR. TERRELL: I can't speak to whether Commissioner  
21 Gilinsky associates himself.

22 MR. STOIBER: Another issue is a question of section  
23 by section analysis. We prepared one some weeks back on  
24 897 from the NRC's view. Last week there was an interagency  
25 meeting of lawyers to go over the section-by-section analysis  
that was to be submitted to Glenn.

1                   Mr. Warnake promised him such a document in  
2 his testimony. Large chunks of our section-by-section analysis  
3 were incorporated into that paper, which I am sure it has gone  
4 to Senator Glenn, but it will shortly if it has not.

5                   COMMISSIONER KENNEDY: Do we have-that paper?

6                   MR. STOIBER: Yes.

7                   COMMISSIONER KENNEDY: That is the one you passed out  
8 a few days ago.

9                   MR. STOIBER: Right.

10                  COMMISSIONER KENNEDY: I want to take that home  
11 tonight.

12                  MR. STOIBER: The question is whether or not there is  
13 any need for the Commission to develop an independent section-  
14 by-section analysis, or whether we could in our testimony say  
15 that we generally concur in that analysis.

16                  CHAIRMAN ROWDEN: This is a section-by-section  
17 analysis of the Administration's bill?

18                  MR. STOIBER: No, of 897.

19                  MR. STRAUSS: Done by the Administration, to which  
20 we contributed.

21                  CHAIRMAN ROWDEN: Right. I frankly would like that  
22 to be the basis for not having to comment on what I consider  
23 to be the lesser differences. We can rely on that.

24                  MR. STOIBER: If there are any additional points  
25 you would want us to make in a separate sort of document, we  
could do that also.

1 But I would think most of the points made in that  
2 document are acceptable to you.

3 COMMISSIONER KENNEDY: I will be making one which  
4 says that in effect I don't think I concur in the provision  
5 of the bill which would allow the President to review and  
6 alter an NRC negative decision.

7 But I do not believe that it is wise for them to  
8 legislate in the statute the consultive mechanisms which  
9 they propose, but rather to outline these as a matter of  
10 Congressional intent, leaving the specific implementation  
11 to the Executive Branch first to take account of the need  
12 for flexibility based upon a likely, at least historically  
13 likely provisions of organizational patterns in the Government,  
14 and, secondly, to avoid the necessity of coming to the  
15 Congress probably annually for statutory revisions which would  
16 engage the Congressional Committees, the Congress, in useless  
17 work, I mean even more useless than already.

18 MR. TERRELL: That comment will be included in the  
19 next draft.

20 COMMISSIONER KENNEDY: I don't know whether the  
21 Chairman agrees.

22 CHAIRMAN ROWDEN: I don't feel that strongly about  
23 it. I think it is a point worth making.

24 COMMISSIONER KENNEDY: I have no quarrel with their  
25 outline, indeed we ought to say we already have such consultive

1 mechanisms. But I think we ought not to have them legislated.

2 CHAIRMAN ROWDEN: Here is my problem: The Adminis-  
3 tration bill is really our bill, speaking on behalf of the  
4 Commission now, and I support it. It is a little difficult  
5 for me to say I don't support the Congress assuring that we  
6 have a statutory consultive role.

7 COMMISSIONER KENNEDY: Well, it can do that by  
8 stating it is the intent of the Congress that.

9 CHAIRMAN ROWDEN: I guess the next question is  
10 why did we submit the bill in that form?

11 COMMISSIONER KENNEDY: That is a good question. I  
12 don't have any idea why we did it. Nobody asked me.

13 MR. STRAUSS: What we can sell.

14 CHAIRMAN ROWDEN: I assume what this was was an  
15 attempt to back away from some of the more Draconian  
16 provisions in the bill.

17 MR. STOIBER: We were faced with another bill and  
18 this was a compromise. I don't think anybody saw this as  
19 desirable per se.

20 COMMISSIONER KENNEDY: There is an old story in  
21 dealing with the Congress, compromise gets you almost nothing  
22 until the final day when you can compromise and get what you  
23 want.

24 Offering up something in the beginning will get  
25 you almost nothing, because tomorrow they will say what do you

1 have to offer today.

2 MR. TERRELL: Your overall posture is going to be  
3 to support the bill in its entirety, and then perhaps the  
4 comment Commissioner Kennedy made -- the Administration bill  
5 I mean -- perhaps your comment would go better as your  
6 own.

7 CHAIRMAN ROWDEN: I think it would. I am in a  
8 position dealing with a provision that relates  
9 specifically to NRC, whether we should have taken exception  
10 prior to this or not.

11 COMMISSIONER KENNEDY: It does deal with us.

12 CHAIRMAN ROWDEN: And since it is our bill as well  
13 as theirs, why didn't I make the point before? It is a  
14 little awkward to make it once it goes up there. But I think  
15 it is a point you can make.

16 COMMISSIONER KENNEDY: Sure. Unless somebody  
17 sees my doing great damage to the Republic or the agency.  
18 I think it is a point that ought to be made.

19 MR. STOIBER: I might mention also that Frye  
20 will be up at the same time.

21 CHAIRMAN ROWDEN: Ney, Frye, thou and I.

22 Now the most important thing that we have to  
23 discuss here is what our basic position is going to be.  
24 Three of us will be submitting testimony. I will be  
25 submitting testimony on behalf of the Commission, and you

1 gentlemen will be submitting independent statements. But  
2 what I want to know is are we all supporting the Administration  
3 bill?

4 It is going to be very specific in my testimony,  
5 that we participated in the drafting of this legislation,  
6 that we believe its provisions are sound, and we support its  
7 enactment.

8 Dick says he agrees with that position.

9 COMMISSIONER KENNEDY: Except for that one minor  
10 thing.

11 CHAIRMAN ROWDEN: Yes, except for that one minor  
12 thing. Now do you?

13 COMMISSIONER GILINSKY: Well --

14 CHAIRMAN ROWDEN: I have to know on whose behalf  
15 I am testifying. That is my basic question.

16 COMMISSIONER GILINSKY: I don't plan to be up  
17 there, I am not going to be here.

18 CHAIRMAN ROWDEN: You have been invited.

19 COMMISSIONER GILINSKY: I think I will just submit  
20 a statement.

21 CHAIRMAN ROWDEN: Well, will I know what your  
22 statement is before I testify?

23 COMMISSIONER GILINSKY: I don't think I will prepare  
24 it before, in time.

25 CHAIRMAN NROWDEN: You mean it is going to be



1 submitted after the hearing?

2 COMMISSIONER GILINSKY: Yes.

3 CHAIRMAN ROWDEN: I guess I don't understand.

4 COMMISSIONER KENNEDY: I don't understand what is  
5 happening. You are going to submit testimony after the  
6 hearing?

7 COMMISSIONER GILINSKY: Well, I mean I don't think  
8 I will be up there. So I am not going to be here.

9 CHAIRMAN ROWDEN: Have you worked it out with the  
10 Committee?

11 COMMISSIONER GILINSKY: I have told them I won't be  
12 here, and if they would like, I will submit a statement. But  
13 in substance I mean I don't have any violent objections to  
14 what you say here.

15 MR. STRAUSS: Do you support the Administration bill?

16 COMMISSIONER GILINSKY: Well, you know --

17 CHAIRMAN ROWDEN: I want to know what I can say  
18 on behalf of the Commission. If Commissioner Gilinsky in a  
19 statement later submitted indicates that there is this  
20 or that or the other, what some may consider to be fair  
21 proportions of the Administration bill he does not support,  
22 I am in an awkward position of having stated in unqualified  
23 fashion that the Commission does support the bill. If  
24 there are reservations, I would be pleased to state them for  
25 you, or at least alert me to what they are, so we don't

1 sandbag the Committee, let alone your esteemed colleagues.  
2 I am coming on strong for the Administration bill. It would  
3 be misleading if I didn't indicate if someone had a  
4 different point of view.

5 COMMISSIONER GILINSKY: I don't, really. I mean,  
6 if it came down to it, I would support the Administration  
7 bill.

8 CHAIRMAN ROWDEN: I am not trying to paint you into  
9 a corner, but you have to understand my position. I think it  
10 is a good bill, I happen to think it is a sound bill, quite  
11 apart from the fact we helped draft it. I want to be able  
12 to support it. But if there is a member of this Commission  
13 who does not support it --

14 COMMISSIONER GILINSKY: I am not holding anything  
15 back here, I am not going to spring anything, if that is  
16 what you are concerned about.

17 COMMISSIONER KENNEDY: Just a statement later.

18 COMMISSIONER GILINSKY: If they ask me for one, I will  
19 give them one.

20 CHAIRMAN ROWDEN: What if they ask me "Does this  
21 represent the view of the Commission?", what do I say?

22 COMMISSIONER GILINSKY: Let me think about it.

23 CHAIRMAN ROWDEN: I can't help but believe a question  
24 of that sort will be asked. Particularly if Dick is going  
25 to be submitting a statement in response to a request, one-third

1 of our Commission is not there. I think your absence might  
2 be taken as an indication that perhaps you had some reser-  
3 vations.

4 COMMISSIONER GILINSKY: I don't think so. After all,  
5 the testimony is on 896.

6 CHAIRMAN ROWDEN: The testimony is really not only  
7 -on 896. It is on nonproliferation legislation.

8 COMMISSIONER KENNEDY: The bill has been introduced  
9 and will have been referred to the Committee by the time we  
10 appear. Is that correct?

11 MR. STOIBER: I think so.

12 CHAIRMAN ROWDEN: I assume, if Ney and Frye are  
13 going to accenuate the positive, we want to do something.

14 MR. STRAUSS: Congressman Fish will be there.

15 CHAIRMAN ROWDEN: Well, you can make your own judg-  
16 ment about whether you want to be there or not. I think  
17 some people are going to say your absence is a lack of support  
18 for the position that I will be taking on behalf of the  
19 Commission and that Ney and Frye will undoubtedly take on  
20 behalf of the administration.

21 But that is your judgment. What I want to know  
22 is what do I say when they say -- there is bound to be  
23 someone up there who will ask the question.

24 COMMISSIONER KENNEDY: Does this represent the  
25 views of the Commission.

1 CHAIRMAN ROWDEN: The entire Commission, all three  
2 Commissioners.

3 COMMISSIONER GILINSKY: I haven't gone through  
4 this in detail. If it comes down to it, I guess I would  
5 support the Administration bill.

6 CHAIRMAN ROWDEN: All I can suggest is that whatever  
7 testimony I deliver ought to be reviewed by Commissioner  
8 Gilinsky before it is dispatched to the Hill, and if  
9 you have any problem, would you let me know, so I can  
10 either revise it or indicate you don't agree with some part  
11 of it?

12 I can't think of anything more ingenious than that.

13 COMMISSIONER GILINSKY: Okay.

14 COMMISSIONER KENNEDY: Shall we get on with something  
15 else?

16 CHAIRMAN ROWDEN: I think we are through with this.  
17 Is there anything more we have to do on this?

18 COMMISSIONER KENNEDY: No, nothing as far as I am  
19 concerned.

20 MR. STRAUSS: Do you want to break and come back  
21 at 3:30 for the other one?

22 CHAIRMAN ROWDEN: 3:30?

23 MR. STRAUSS: That is when you said you were going to  
24 meet. You can agree among yourselves when you will have the  
25 discussion of the sufficiency of safeguards.

1 COMMISSIONER KENNEDY: Can't we do it right  
2 now?

3 CHAIRMAN ROWDEN: I am prepared. Are you?

4 COMMISSIONER GILINSKY: Yes, Let's go.

5 (Thereupon, at 2:55 p.m. the briefing on  
6 this subject was concluded.)

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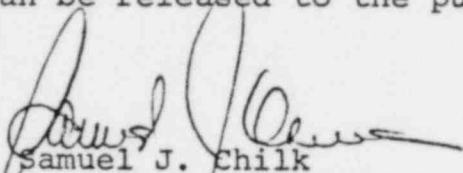
UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

August 14, 1980

COMMISSION DETERMINATION REGARDING PUBLIC DISCLOSURE  
UNDER THE GOVERNMENT IN THE SUNSHINE ACT OF:

Transcript of Briefing on Commission  
Testimony on S. 897, May 3, 1977

Pursuant to the Commission's regulations implementing the Government in the Sunshine Act (10 CFR 9.108(d)), it has been determined after a further review of this transcript that the entire text can be released to the public.

  
Samuel J. Chilk  
Secretary of the Commission