



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

September 6, 1979

MEMO

SUBJECT: SCHEDULE OF TMI WITNESSES-SEPTEMBER 12 and SEPTEMBER 13, 1979

TO: MEMBERS, Select Committee-TMI

FROM: James L. Wright, Jr., Chairman

The following will appear before the Select Committee TMI on September 12 and September 13, 1979. The Hearings will begin at 10:00 A.M., each day, in the House Majority Caucus Room.

SEPTEMBER 12, 1979

Dr. Harold R. Denton, Director, Office of Nuclear Reactor Regulations, U.S. Nuclear Regulatory Commission, Washington, D.C.

Mr. Harold E. Collins, Assistant Director, Emergency Preparedness, Office of State Programs, Nuclear Regulatory Commission

SEPTEMBER 13, 1979

Honorable Harvey Bartle, III, Insurance Commissioner, Commonwealth of Pennsylvania

Mr. Joseph Marrone, General Counsel, American Nuclear Insurers, Farmington, Connecticut

Mr. Ambrose Kelley, Manager, Mutual Atomic Energy Liability Underwriters
1 East Wacker Drive, Chicago, Ill.

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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE SELECT COMMITTEE - THREE MILE ISLAND

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In re: Three Mile Island Hearing

Verbatim record of hearing
held in the Majority Caucus
Room, Main Capitol Building,
Harrisburg, Pennsylvania, on
Thursday,

September 13, 1979
10:00 A.M.

HON. JAMES L. WRIGHT, JR., Chairman
Hon. Bernard F. O'Brien, Vice Chairman
Hon. Nicholas B. Moehlmann, Vice Chairman
Hon. Eugene Geesey, Secretary

MEMBERS HOUSE SELECT COMMITTEE - THREE MILE ISLAND

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Hummelstown, Pennsylvania 17036

ALSO PRESENT:

Fred Taylor, Esquire
Counsel

Marshall Rock
Assistant Director of Research

Peg Foran
Administrative Assistant

Robert Hollis

George Ellis

Mike Bernie
Insurance Committee Staff

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CHAIRMAN WRIGHT: Today the Select Committee on Three Mile Island continues its hearings with review of the insurance aspects and ramifications of the Three Mile Island incident. Our first witness is the Honorable Harvey Bartle, Insurance Commissioner of Pennsylvania. Mr. Bartle, would you stand and raise your right hand.

HONORABLE HARVEY BARTLE, III, called as a witness, being duly sworn, testified as follows:

CHAIRMAN WRIGHT: You have a statement you would like to make?

COMMISSIONER BARTLE: Yes, I do, Mr. Chairman. Chairman Wright and members of the House Select Committee, thank you for the opportunity to testify before the House Select Committee on the Three Mile Island nuclear incident. I hope my remarks and responses to your questions will assist you in your deliberations on a most complicated question.

I am prepared to tell you what the Insurance Department did and what we know today about the insurance implications of TMI.

I intend to address several areas which I understand are of interest to you.

(1) What did the Insurance Department do during the TMI incident?

(2) How did we inter-relate with the Pennsylvania

Emergency Management Agency or other state agencies?

(3) What insurance claims information do we have?

(4) What alternatives might be considered to the present nuclear insurance marketplace?

The nuclear incident at TMI occurred on Wednesday, March 28, 1979. Based on information he received from the Federal Nuclear Regulatory Commission, Governor Thornburgh shortly thereafter advised pregnant women and families with pre-school aged children to relocate outside the five mile radius of TMI. During the weekend following March 28, we contacted the Nuclear Insurers, to voluntary pools which provide liability insurance on the nuclear facilities of TMI as required by the NRC, and learned that they were on their way to Harrisburg to handle possible insurance claims as a result of Governor Thornburgh's relocation directive. The Nuclear Insurers set up emergency headquarters on Saturday, March 31, 1979 at the offices of United States Fidelity and Guaranty in Harrisburg.

The Insurers, after discussion with General Public Utilities and Metropolitan Edison, had made a decision to provide advanced payments to those persons asked to relocate. The basis for the advanced funds ranged from \$10 a day for food and lodging for a child staying with relatives to \$90 a day for a family with one child staying at a motel. Additional funds were allowed for each additional person. Later when the

relocation directive was lifted, Nuclear Insurers notified the persons who had relocated to file for additional travel expenses as justified and for wage losses suffered during the relocation.

I and several of my staff were present at the USF&G office in Harrisburg on Sunday, April 1, 1979 and arranged for the advance group of staff and adjusters to secure larger, more convenient headquarters at Pennsylvania National Mutual Casualty Insurance Company in Harrisburg. We were also instrumental in securing expedited installation of sufficient funds by the evening of Sunday, April 1, 1979 in order to accommodate the large number of expected calls. My staff also handled telephone inquiries that day from persons who were relocated and needed claims information. In addition, we secured maps of the affected area from the Pennsylvania Emergency Management Agency so that adjusters could identify those claimants who lived within the five mile radius of TMI and were therefore eligible for the emergency relocation payments which the Nuclear Insurers were making.

On Monday, April 2nd, my staff, contacted Secretary of Banking, Ben McEnteer, who agreed to alert local Pennsylvania banks to honor checks from the Nuclear Insurers.

By this time, the Insurers were also advancing funds at the Hershey relocation center as well as at Penn National in Harrisburg.

Two of my staff worked around the clock at Pennsylvania Emergency Management Agency in the Transportation Building to facilitate any insurance questions that arose. For example, we squelched one rumor implying that vandalism or burglary coverage would not apply to persons' homes or businesses if they left the five mile radius.

In the days following the TMI incident, I also kept in close touch by phone with top officials of the Nuclear Insurers on the progress of their efforts. I also had several meetings with them to make sure that their payments were being made promptly and without a lot of red tape. I might also add that on several occasions, I visited the office of Penn National where the Nuclear Insurers had set up their office to see how things were going. I am happy to report that the Insurers did a superb job in getting money quickly to those who relocated as a result of the Governor's directive.

Subsequently, the Governor initiated a socio-economic task force to determine the impact of the TMI incident upon Pennsylvania and its people. This task force is under the leadership of Lieutenant Governor Scranton and is comprised of representatives of several state departments and agencies.

The task assigned to the Insurance Department is to "collect and tabulate in reports all claims against the insurance carriers of Met Ed. These reports will include summaries of claim disposition, showing claims filed, paid,

rejected, and unresolved. Included will be a special itemization of the status and disposition of the claims filed by government agencies and other bodies."

Our reports are to be made July 15, August 24, November 15, 1979 and a final report on May 15, 1980. We have submitted the first two reports which I will summarize briefly.

As of August 10, 1979, 3,751 relocation expense and wage loss claims have been paid by the Nuclear Insurers for a total of \$1,298,324.

In addition, there have been approximately 15 class and individual actions filed against the General Public Utilities and Metropolitan Edison. There have been 27 claims filed by governmental agencies as well as some 113 claims by businesses. At this time, many of these claims have not specified the amount of damages suffered. None of the claims have as yet been paid or rejected by the Insurers.

It may well be a number of years before we know the outcome of these lawsuits and claims.

There has been and surely will continue to be much discussion on the appropriate mechanism to provide nuclear contamination protection.

With the Congressional enactment of the Atomic Energy Act of 1954 and the Price-Anderson Act of 1957, which permitted the private sector to develop nuclear power for peaceful purposes, the need for insurance to protect utilities and other

users from liability suits was and is being met by pools of insurers who voluntarily agreed to provide the financial responsibility limits set by the then Atomic Energy Commission (now Nuclear Regulatory Commission) in accordance with the provisions of those acts. Price-Anderson set the liability limit due to a nuclear accident at \$560 million per site with the Congressional authority to provide additional funds if necessary. While initially the pools provided 60 million of the 560 million Price-Anderson liability limit, their capacity has risen steadily to insofar as TMI is concerned, \$140 million.

The second layer is provided by assessing each nuclear reactor in the United States up to \$5 million. With 68 reactors this would provide \$340 million. The third and final layer of \$80 million is available through the federal government. As the pools capacity increases, the federal government's layer is similarly diminished.

The Nuclear Regulatory Commission establishes the financial requirements for each nuclear site. As I mentioned, TMI is required to provide \$140 million of financial responsibility limits, the maximum currently available from the pools. I understand the maximum from the pool is now 160 million for some sites. In addition, the Nuclear Insurers provide property damage insurance for the site itself. TMI has 300 million in coverage for repairing the damaged reactor and other property at the Island.

I have been named as chairman of a special task force of the National Association of Insurance Commissioners to consider the feasibility of a National Disaster Insurance Plan. That task force will have its first meeting on October 19th. The NAIC has also asked the insurance industry to provide data which will be relevant on the question of whether any modifications should be made in the Price-Anderson Act or whether other alternatives should be implemented. Where the nuclear contamination insurance should be considered as part of a national disaster insurance plan depends, in part, upon the outcome of the industry's study.

In conclusion, the Insurance Department is working closely with the Governor's socio-economic task force and the NAIC to learn about the TMI incident from an insurance standpoint. We hope that some concrete recommendations will result, but it is too early at this stage even to guess as to what those recommendations will be. Thank you.

BY CHAIRMAN WRIGHT:

Q Thank you. Would you explain for us what is the national disaster insurance plan?

A There is a move afoot in the NAIC to develop a plan whereby endorsement would be offered for national disasters under one's homeowner's policy. There are a lot of ramifications to it. One, what disasters should be included. Traditionally, we thought in terms of floods, earthquakes and hurricanes.

The question now becomes whether or not nuclear disasters should be included and whether it would be feasible to do so.

Q Is this similar to flood insurance or an extension of?

A Well, we do have, as you know, Representative Wright, federal program which offers flood insurance. This would either complement or replace it, depending on what the results of the findings would be.

Q We have heard that there has been an increase in sales solicitation of cancer insurance following the incident. Some allegations is that the solicitation of which does not conform with some of the laws of the Commonwealth. Do you have any comment on that subject and what was your department's reaction to that?

A We have had some complaints about more extensive solicitation of cancer insurance in the area, either the five mile radius or central Pennsylvania. We have investigated some of those. We have issued press releases and have been on the radio and television to urge people not to be taken in by unauthorized solicitation. We have had some reports that people were impersonating government officials and urging them to buy this type of insurance. So, we have taken steps to counteract this problem.

Also, I might add, Representative, that at the end of July the minimum standards law in Pennsylvania went into effect, which now requires certain minimum standards under

cancer policies which didn't exist before. So, that should help in ameliorating some of the problems.

Q Were you able to apprehend anybody who was violating the laws?

A I don't know that anyone has been apprehended in the sense that they have been arrested by a district attorney. It's very difficult to pinpoint these incidents. What has happened is that someone will go to the door and it's been particularly serious with respect to elderly people. We have tried to solve the problem, at least in part, by extensive publicity, which I understand has some effect in those areas. The number of complaints have diminished greatly.

Q Does the department have a policy that concerns the sales of dread disease type insurance?

A Our policy is to follow the law of the Commonwealth and commit cancer insurance to be sold, assuming that it meets the standards, meets the requirements of the minimum standards law which were enacted by the Legislature a year or so ago.

Q Can I assume then that some insurance carriers have approached the department for approval of types of insurance that they are selling?

A Yes, absolutely. They have to have approval from the department. Their policies must be approved and beginning on the 24th of July, the standards were greatly restricted. The policies now have to contain certain benefits which they didn't

have to contain before July 24th. Some companies have asked us to extend those deadlines and to modify them. We have remained steadfast, believing that the intent of the Legislature should be carried out. We believe that insurance such as cancer insurance is really no substitute for comprehensive basic health insurance. We urge people that that ought to be their first consideration.

Q From time to time, you know, we notice via the Sunday newspaper or inserts in a magazine selling various types of insurance. Have these people selling dread disease gone that route? I guess to follow that up, these out-of-state companies which are advertising Sunday supplements, do they go through your department?

A No insurance companies as far as I know obtains prior approval from the Insurance Department with respect to their advertising. We can only take action after the fact. This is because of the First Amendment problem, prior restraint. With those limitations, it's very difficult to enforce standards because someone will publish a big ad in the paper or even if it's deficient in some way where we could take action, they will change it slightly. They will put a new ad in the paper and then we have to move against that. By the time we start taking action there, they will modify it again. So, it's very easy for people to keep one or two steps ahead of any regulatory body when it comes to advertising. We may also want to take

another look at the laws we have on the books with respect to advertising of insurance. Maybe those could be tightened up.

Q I would assume your problems -- you tell me if I am right or wrong. Your problems are probably more compounded by the company that is housed out of state than the ones that are in state?

A I think that is a fair assumption.

Q Is there any requirement that the company with selling insurance in Pennsylvania, but who may be housed in another state as to get some sort of approval from your department?

A Absolutely, yes, they must be approved.

Q Do they all do it?

A I can't think of an instance now where a company doesn't have the approval to operate in the Commonwealth of Pennsylvania. Of course, after the company is approved to write business in Pennsylvania, those specific policy forms must also be approved with respect to cancer insurance. For example, we have to approve the forms that are used. We have now with the tools that were given by the Legislature last year, we have required the companies that particularly sell cancer insurance on the most of them had to modify their policies because they were not in conformity with the new law.

Q Let's assume that a company is housed outside of Pennsylvania and advertises in a magazine that is not printed

or mailed from a Pennsylvania address, but does come to constituents in Pennsylvania. Do you have problems there? Are there companies using that kind of a situation who may be violating a Pennsylvania law?

A It's always more difficult to take action against a company the further they are from Pennsylvania. It depends on whether they are licensed with us or not. There are a lot of factors involved. How much business are they doing in Pennsylvania? How much business aren't they doing? These are problems that do exist and it may very well be that additional Legislation will be needed. This is just not in the cancer area. This is in the insurance area generally, how to have effective control over those few unscrupulous companies who operate from afar in Pennsylvania.

CHAIRMAN WRIGHT: Representative Bennett.

BY REPRESENTATIVE BENNETT:

Q Mr. Chairman, it's refreshing for us to have the commissioner come before us and indicate that he is doing his utmost to comply with the wishes of the Legislature.

A Thank you.

Q Your testimony is excellent. I had some questions that arose in my mind, as you went through it and I would like to drill you on a couple of those.

A Fine.

Q On page three of your testimony, if you can follow,

you indicated that you kept close touch with top officials of the nuclear insurance. Just, if you would tell the Committee who those insurers are. I am not sure it's important, but I would like to know who they are.

A Well, there are two pools, insurance pools, made up of some 253 companies. One pool, the larger of the two is comprised of stock companies and the other smaller pool is comprised of mutual insurance companies. I don't have a list before me, but I can certainly get it for you. There are some of the largest companies in the country.

Q That will be fine. How many stock and how many mutual?

A I don't know. I just know that the larger pool is the stock company pool. There are 250 some companies altogether and I don't have the breakdown on the numbers, but it is quite a large group of companies, obviously, that are involved in this program.

Q On the bottom of that page, I made a note. You said that reports would include summaries of claim disposition, showing claims filed, paid, rejected and unresolved. Then on the next page, as you go through your notes. How many of those to date are unpaid? What I am really searching for is on the constituent level, on the personal level of people who were told to -- suggested that they should evacuate. Are there any substantial number of those claims that are unpaid?

A In my view, my understanding is, maybe subsequent

witnesses can clarify that, the payments were made promptly. The insurers on the days following the TMI incident had to make a judgment as to whether a person that within a five mile radius and had to decide whether a woman was pregnant or whether she wasn't.

Q That's sometimes difficult.

A Well, it's sometimes difficult, but you are either pregnant or you are not, I understand, but that's correct. In the early days of the incident, the companies bent over backwards from my personal observation to make payments and in most instances would take the word of an individual. Sometimes you knew if they were pregnant or not if they were pretty well advanced in their term. In other cases, rather than have a lot of disputes about it, they felt it was in the public interest to make these payments, relying on the integrity of the people who applied for the benefits. On the occasions when I was there, the reports from my staff was that the whole process went very smoothly. There were very few altercations, very few problems. As the days went on, I think the insurers set up more elaborate procedures to determine whether someone lived within the five mile radius or whether a woman was pregnant. I think they did require them to bring their children in with them. The important thing was speed and not a lot of technicalities.

Q Conversely, have there been instances to date where

a person who filed a claim was paid for it and found to be fraudulent?

A I have not heard of any. I doubt very much that the Nuclear Insurers have gone back to check to see whether or not the money was actually due. I am sure there were probably some that shouldn't have been paid under their standards, but you had to make a choice of whether you were going to have to have detailed investigations or you were going to make quick payment. You couldn't have both, because it would take time to make detailed investigations. I think the Nuclear Insurers operated on the concept of good faith and I think for the most part, the people of central Pennsylvania are to be commended for not taking advantage of the system. In fact, there were a number of instances reported to me where people actually returned money to the insurance carriers because they didn't need it all. They would come back a few days later and that really makes one feel good, that the people in this area had such integrity.

Q The point that I am -- well, in conclusions that I see could be possible in a future incident that the radius was extended and we could enter into a huge timely evacuation kind of thing. The insurance companies would pay off a great many claims and then generally what happens, at least it's been my experience and those of my constituents that tell me about it, that when they file a claim, they get their rates increased.

I am not making this as an accusation. It's an allegation. So, I am curious as to how you, as a Commissioner, have looked upon that now and in a future instance. That's what this Committee is charged to do, to try to come up with recommendations for some future incident, which we hope won't happen. Now, I am just wondering what your position, as a Commissioner, would be on those insurance companies that came back later and said, now, we have to raise all the rates because we had to pay all of you off.

A I think it would have to depend on the situation, Representative Reed. In this case --

Q Excuse me, it's Reid Bennett.

A I'm sorry.

Q The Chairman forgot my last name.

A I think it has to depend on the situation. I think it has to depend on the specific situation. Here we were dealing with a set of circumstances which had never been faced before. I think the public good was paramount here. I have no doubt in my mind but that the American Nuclear Insurance and Mutual Insurance Group made the right decision in making payments at this time and not worrying about the great consequences later. We had a situation where the Governor had directed people with small children, pregnant women to leave the area. I think that directive came out on a Friday. People don't necessarily keep a lot of cash on hand. Where are they

going to go? It costs money to live in these areas and it was an emergency situation. I have nothing but the highest confidence for the insurance industry. Any time monies are paid out, it's going to be reflected somewhere along the line, very possibly in the rates, one way or another. Here we were dealing with a relatively small amount of money. A little over a million dollars isn't much when you are talking about a potential nuclear disaster. It was received very well by the people of central Pennsylvania. Those who deserved it and needed it came in and got it. I think it helped to reduce their anxiety and concern, knowing they had some money to live on away from the area. Many of them were going to areas where they knew no one. I think it was extremely important for the American Nuclear Insurers and Mutual Insurers to make those payments. In my opinion, they did absolutely the right thing. We encouraged them during the immediate few days after the TMI incident to make these payments as promptly as possible and not to be overly concerned about technicalities.

Q Also, on page four, you indicated that the NRC, in accordance with provisions of the Act, set a \$560 million site maximum. How do they come to arrive at that figure?

A That's a statutory limitation. Congress decided that.

Q I understand that. Do you know how or why they arrived at that?

A I assume, Representative, that it was a compromise. We have never had a major nuclear accident and it's really the best guesstimate that they would come up with, I assume.

Q On page five, you indicated that the task force that you have been appointed to as Chairman will conduct a meeting on October 19th. Will you tell us where that meeting will be?

A That will be in Philadelphia.

Q Philadelphia?

A Yes.

Q Do you suppose that members of the House Insurance Committee might be allowed to sit in on that meeting?

A Absolutely, and I will be happy to send the members of this Committee an invitation, if you would like.

Q Representative Yahner is Insurance Chairman of the Committee.

A House Insurance Committee?

Q Yes. I am not on that, but I think they would be interested.

A What I can do, if you would like, is to send a letter to both Chairman Wright and Chairman Yahner, advising them of this meeting and inviting them to attend.

Q Finally, Mr. Commissioner, it was I who raised the question at a previous meeting of this task force about the nuclear insurance similar to flood insurance. You have commented on it in your testimony. I don't know what else can

be said about it, other than the fact that I am curious about it. I am wondering what kind of rate schedule might be set on something like that and perhaps it's too early to ask you that question.

A I don't know the answer to that question and I am not sure anybody knows. One of the reasons is that fortunately, we have not had any major nuclear disasters. The insurance company based rates on experience, at least in part of what's happened in the past and what they project for the future. This is such an untraveled road, thank goodness, that it's very difficult for any insurance company to come with any finite premium schedule for this sort of thing.

Then, in addition to that, you have to take into consideration what benefits should be provided, who should provide them. Should it be the federal government? Should we view it through the private insurance mechanism? If so, what would it cost? Again, you are into areas as to reasonable judgments. Reasonable men can differ as to whether the Price-Anderson Act ought to be 560 million or billions and billions or what. If we had a major nuclear disaster in this country that covered a number of states, I can't imagine any private industry being able to pick up the tab. The government may be even hard pressed, if it were a big enough disaster.

Q Would I then be safe in my feeling that you would ensure this Committee and other House Committees that you, as

the Commissioner of Insurance, would not act hastily and give all due consideration in setting some kind of rate schedule on nuclear insurance?

A Yes, with this caveat. At the moment, we do not set the rates. They are paid by GPU and Met Edison. That is done through the federal government. Also, in our law we have an exception for very unusual types of risks where there is no experience and where we don't set the rates because of their unique nature. At this time, now --

Q Excuse me, who does then set those rates for those exceptional circumstances or is there any rate?

A You mean other than nuclear, you are speaking about?

Q No, you said that you have an exception in your law where you do not set rates for certain insurance.

A It's a highly unusual and unique situation. That is usually a negotiated rate between the parties.

REPRESENTATIVE BENNETT: Thank you. Thank you, Mr. Chairman.

CHAIRMAN WRIGHT: Representative Geesey.

BY REPRESENTATIVE GEESEY:

Q Commissioner, have you taken any surveys as to real estate values within a five mile radius or ten mile radius or 20 mile radius?

A We have not.

Q Do you have any opinion as to the existing limits on

the Price-Anderson Act?

A I do not have any opinions at this time, Representative Geesey. It's just too early. I want to study it with the NAIC and get some further input from the Governor's task force on it.

Q Then, you wouldn't have an opinion as to the present time whether or not it's been satisfactory or --

A I do not have an opinion.

Q Okay, on the subject of adding nuclear coverage to the homeowner's policy, although it's interesting and possibly should be considered, the immediate thought comes to my mind inasmuch as the people who live in near proximity of a nuclear plant and had to stay in its location, who should pay for the cost of that additional coverage? Should it be the homeowner, one more time?

A That's a question that would have to be answered. You are absolutely right, whether it ought to be the people in the immediate area or whether it ought to be the other citizens who should share in that cost who do not live near a nuclear site. Of course, when you are talking about nuclear plants, it's difficult to know what the area is of potential contamination, if we have a major nuclear accident. Where do we draw the line? You are absolutely right that all of these factors are going to have to be considered. It may very well be that offering endorsements will not be feasible as an economical matter.

Q Well, I would have problems with it if they then say to the homeowner, we created a hazard for you that you didn't necessarily want, but you are going to have to pay the bill. I really have problems with that.

A I am not advocating that system, but --

Q I understand.

A Your concern is well taken.

Q That's food for thought. The other question that would come to mind is would it be the intention of those who are advocating this to replace the Price-Anderson Act with this type of coverage?

A I can't speak for those who are advocating it. I don't know that there is anyone who is specifically in an organized way advocating that we have endorsements to homeowner's policies for nuclear insurance, either in lieu of or in addition to the Price-Anderson Act. It's just one idea that has surfaced and I don't know that it has any strong partisans at this point, until studies are made.

Q It's just one question, I believe, for you to take under consideration. I would have problems if we would expect that the homeowners would be required to have that coverage endorsed to his homeowner's policy and then forget about the Price-Anderson Act and let the guy out to swim on his own. If he doesn't feel that he wants the coverage and can't afford the coverage or whatever, he doesn't have it and a disaster

occurs, he is going to have problems and it really isn't fair to him. On the subject of unethical out-of-state practices by the insurance companies, they are licensed in the state and if they are unethical, you can't --

A Oh, absolutely.

Q The problem that we have and it was a very severe problem for those involved. You had a five mile map. The insurance companies had a five mile map. PEMA had a five mile map. The municipalities, many of them did not have a five mile map and when they finally did get a five mile map, it was not precise. It was just a circle on a map without any kind of road indications. The people who live in the area didn't have that five mile map and there are instances of people who just live, as it turned out, over the edge of that five mile line that evacuated, thinking they were within the five mile line that didn't get paid. If we are going to use a five mile map, I don't have a problem with that, but if we are going to, it better be a detailed five mile radius map with streets and complete information so that everybody involved knows exactly who is within a five mile radius and who isn't. Although in many instances the insurers did a rather decent job of the whole thing, there are also instances where people who were not paid that really, I think, should have been paid because through no fault of their own they didn't know that the five mile line stopped at their neighbor's house.

A There is no question that there were some difficult questions in many specific instances. I also do know that the insurers did, at least in the early days when I was directly involved with it, if there was any doubt about where a person was, they would make the payment.

Q In many instances they did. In other instances, they didn't. Are you working on a detailed five mile map? Is anybody working on a detailed five mile map?

A I don't know if anyone is. The Insurance Department is not because that applied to that specific situation. If it should ever occur again, it might be seven miles or three miles or whatever and I don't know that we can assume that the next time around, if we ever have one, I hope we never do, that we are going to be talking about five miles.

Q That's absolutely correct, but if you are going to establish a basis for claims, there has to be some sort of precise maps and precise boundary lines. If we don't have that, then we really are shooting into the dark and some people who ought to be considered, really aren't going to be considered in terms of claims. If you have an automobile accident, you can see the damage.

A Right.

Q You are ordered to evacuate because of potential or impending nuclear disaster, then there ought to be precise maps saying who is and who isn't.

A That's absolutely right.

Q Because there are people who are out of a lot of bucks of their own pocket, who could not afford it, just because they just live over the line. I really don't think that from that standpoint, it's fair. Although in many other instances, they did a good job. I agree with you, but there are some people who need. Thank you.

A You're welcome.

CHAIRMAN WRIGHT: Fred Taylor.

BY MR. TAYLOR:

Q Mr. Secretary, during the course of the many, many hearings that the Committee has had, I think it's become very apparent that this Committee in the Commonwealth of Pennsylvania may have a duty to assure people who live near a nuclear plant that they are really insured and it's become rather apparent that one of the concerns of the people that live in the surrounding area of the nuclear plants aren't assured that they are insured. I am sure you have thought about it, but let me start out by asking the first question. As a result of the Three Mile Island incident, which we have heard variously described as a bad accident, as an accident that never should have happened; but as a result thereof, we all have the experience of having that accident and hopefully it will never happen again. As a result of that accident, do you feel that the industry could or would be in a position to now make that

a calculable risk as far as establishing an insurance program and policies for these types of accidents?

A I don't know the answer to that. We have asked -- that is we, the National Association of Insurance Commission for which I am a part, have asked the insurance industry to provide us with data, more data than we have at this time. So, I am just not in a position to say at this time whether they do have sufficient data.

Q Someone is working on that?

A They have been asked to collect some data. I believe Ambrose Kelly is here today, who is going to testify. I think he might be able to provide you with some more information on that.

Q All right, then I reserve that question for him.

A Yes.

Q Let me take it one step further. It's apparent that there was concern of the Committee and concern of the citizens around Three Mile Island about what kind of coverage that they do have under Price-Anderson and Representative Geesey said homeowner's policies and so forth. My question is, has the department considered any alternative insurance, insurance program, that might be available or could be thought about or could be recommended to be undertaken by the Commonwealth or by the federal government? Let me -- number one, take a look at Price-Anderson and complaints thereof; the possibility of a

federal program similar to the flood insurance program which went into effect as a result of Agnes; thirdly, the possibility of a pool of insurance that is funded by the utilities, themselves? In other words, funded in excess over and above the Price-Anderson Act?

A Specifically, the Pennsylvania Insurance Department has not done that. We are working through the National Association of Insurance Commissioners. There are many states that have nuclear plants and it seems to me that it's much more efficient if we work on it on a national level to deal with this problem. I think that's the way it really has to be addressed. The amounts are going to be so big, if we had a serious nuclear accident, that I think it would be better to work on a national level rather than try to deal with it on a specific local level here.

Q I am not trying to pin you down to an exact answer, just an opinion; but I have had a line of questions going on for several weeks, now. That is, the fact that I think right now in the entire country, about 14 percent of electric energy is generated by nuclear power. I think I am probably safe in saying that the great majority of people in this country, either directly or indirectly benefit from that. My question is, do you feel that whatever insurance risk has to be taken, it should be paid for by the nation as a whole or any particular company or the federal government or taxpayers or consumers or

utilities?

A I don't mean to avoid your question. It's difficult to answer, because when you say who should pay for it, we have to decide first of all how big is the bill going to be. In order to determine how big the bill is going to be, you have to know exactly what kind of risks you are going to insure against. There are a lot of different limitations that one could put on what is being covered for a nuclear accident. So, you have to define what you are going to insure, number one. After that, you are going to have to make some determination as to what the likelihood of the accident occurring, and we have very little experience, thank goodness, in this country as to what might happen. In the nuclear area, as I say, we have very little experience and the extent of it could be infinite.

Floods, ever since the flood of Noah, have been contained in various smaller areas. That may not be true of a nuclear accident. It's a different kind of a situation that we have had experience with before. So, once you decide what kind of benefits you are going to have and you have some reasonable estimates of what the potential damage is, then you have to determine what the cost is going to be and sit down and make some determinations based on those figures. Quite frankly, I don't have that basic information to come to a conclusion at this time.

Q Well, would it be realistic for me to say that as a

result of Three Mile Island, that the resources are there to come up with some reasonable answers to the questions you just posed?

A I am sure we can come up with a reasonable answer.

Q I will reserve the question later for some of our later witnesses.

A I think also realistically, from what I know now, the federal government is going to have to be involved in some way or another.

Q Thank you.

MR. TAYLOR: Thank you, Mr. Chairman.

CHAIRMAN WRIGHT: Mike Bernie.

BY MR. BERNIE:

Q Commissioner, I wonder, do you believe that the event that occurred March 28th and following was extraordinary in the history of this area and the country?

A It was certainly extraordinary in the sense that I don't think it ever happened before.

Q I imagine you are familiar with the definition in the Price-Anderson of what's an extraordinary nuclear occurrence?

A I don't, I'm sorry.

Q Well, what I am wondering is whether the task force that you are envisioning under NAIC will include in its study, a study of what should be defined as an extraordinary nuclear occurrence by which people are entitled to recover damages or

losses without proving a certain guilt on the part of utilities?

A Well, the NAIC is gathering data now, from the insurance industry as I am sure that as soon as possible, it's going to consider all of the ramifications of it.

Q Can you give the Committee an indication of what data has been requested from the industry?

A There is a resolution that was passed by the NAIC. It runs on for several pages and I would be happy to furnish you with a copy. It might be easier to do it that way than to read through the three or four pages.

MR. BERNIE: Thank you, Mr. Chairman.

CHAIRMAN WRIGHT. Representative Piccola.

REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

BY REPRESENTATIVE PICCOLA:

Q On page four, you indicated that there are 27 claims that have been filed by governmental agencies. Are those all state agencies or are they local government agencies and could you tell us -- could you enumerate those for us?

A I can't tell you what the 27 are at this point, but I know one of them is the Borough of Middletown. I think they are local government as opposed to state agencies.

Q Has the state government made any claim?

A Not that I am aware of.

Q Do you know if the -- for example, the evacuation center that was established at the Hershey arena, was the cost

of that paid by the insurers?

A I don't know. They paid, of course, for the -- the facilities in Harrisburg at Penn National, I believe, were donated by Penn National for the use of the Nuclear Insurers. They had some extra space at that time and the two days before USF&G permitted the American Nuclear Insurers to use their facilities.

Q But the evacuation center that was established at the Hershey arena was for pregnant women and pre-school children. I am sure the owners of that arena, I am sure, at the very least, paid the utility costs to keep that place operating and so forth. You don't know if that has been covered or if there have been claims made for that?

A I have no idea.

Q Well, then how do you arrive at these -- how do you know that there are 27 claims, if you don't know individually which ones are who made them.

A I just don't know who they are from the top of my head. That's what I'm saying.

Q You do have that information in your --

A Yes, we do, oh yes.

Q Well, could you provide a listing, I won't ask you to detail, but could you provide us with some kind of an indication as to what governmental agencies made claims and the nature of the claims? Maybe you could tell us a little bit

about what kind of things they are claiming reimbursement for.

A Yes, we can do that. That's no problem. We will supply that to you.

Q Do you know that now, for example, what the Borough of Middletown, what they would be claiming for?

A I can't tell you right off hand, Representative Piccola. Let me see if I have that. I don't have the information right before me.

Q You could provide that to us?

A We will provide what we have.

Q As to the business claims, could you provide like information?

A Yes.

Q On the 13 business claims?

A Yes, a lot of those deal with business interruption and loss of business during the time of the incident.

Q I assumed as much, but I would like to know specifically who is claiming and the kind of reasons; not necessarily the amount if they claimed a specific amount. You indicate that they have not.

A A lot of them have not specified the amount.

REPRESENTATIVE PICCOLA: I don't have any other questions.

CHAIRMAN WRIGHT: Any other questions from members of the Committee?

(No response.)

CHAIRMAN WRIGHT: We thank you, Commissioner Bartle, for appearing before us today. Your testimony will be most helpful.

COMMISSIONER BARTLE: Thank you, Chairman Wright.

CHAIRMAN WRIGHT: At this point I think it would be appropriate to take a five minute break and at the end of that break, will you gentlemen from the industry take a seat at the front table.

(The hearing recessed at 11:00 A.M. and reconvened at 11:05 A.M.)

CHAIRMAN WRIGHT: Our second group of witnesses today are representatives of the industry involved with insurance of nuclear power plants. With us today are Mr. Joseph Marrone, General Counsel, American Nuclear Insurers; Mr. Ambrose Kelly, Manager of the Mutual Atomic Energy Liability Underwriters; Richard Schmaltz, General Counsel of Hartford Accident and Life Insurance Company; and Charles Bardes, Vice President, Mutual Atomic Energy Liability Underwriters. Would you four please stand while I swear you in.

JOSEPH MARRONE, AMBROSE KELLY, RICHARD SCHMALTZ AND CHARLES BARDES, called as witnesses, having been duly sworn, testified as follows:

CHAIRMAN WRIGHT: Who is going to speak first?
Mr. Schmaltz, it might be helpful if you identify yourself
for the stenographer.

MR. SCHMALTZ: I am Richard Schmaltz, General Counsel
for the Hartford Accident and Indemnity Company. On my left
is Ambrose Kelly of the Mutual Atomic Energy insurance pool;
on my near right is Joseph Marrone of American Nuclear Insurers;
and on my far right is Charles Bardes of American Nuclear
Insurers. I propose that we give you just a brief description
of how the Price-Anderson insurers and indemnity system operates
under the role of private insurers and then we would be very
pleased to answer any questions that you might have in this
area. Commissioner Bartle has covered much of the ground in
detail, so we will just touch some of the highlights.

One of the major considerations in connection with
insurance for either natural or man-caused catastrophes is how
to handle claims if there are multiple number of claims from
a serious event. Years ago, shortly after the beginning of the
Price-Anderson program in 1957, the insurance industry
established a comprehensive plan for responding to a nuclear
emergency. The plan had never been tested in action until the
Three Mile Island accident, but with some outstanding
cooperation and help from Commissioner Bartle and his staff,
for which we are very grateful, we think the emergency program
that we set up many years ago functioned smoothly and well.

Mr. Marrone and Mr. Bardes, who are with us today, personally took part in bringing in a team of claims personnel from our member companies. Within hours after the Governor's evacuation recommendation, we were able to begin advancing funds to those affected. Payments totalling over a million dollars were made to more than 3,000 families for evacuation expenses and wage loss. At the peak of our Harrisburg operations, 51 claims representatives were on the scene. If more were needed, we would have furnished them promptly.

The emergency program is all but completed. The remaining claims are being handled in a master class action which is now pending in the United States District Court. If you wish, Mr. Marrone or Mr. Bardes can give you further details of our emergency program, but Commissioner Bartle has already given a very comprehensive report.

An emergency assistance program is only one part of the Price-Anderson insurance and indemnity program. The program was originally put into place in 1957 for the dual purpose of protecting the public against the financial consequences of a possible catastrophic accident and to encourage the development of nuclear power by private industry. At that time this was an important element of our national energy policy. Although that policy is currently under review, it is likely that in the near future, at least, it will be nearly impossible to do without nuclear power in some areas of

our country, without substantial reduction in our present living standards. Thus, it is important to focus attention on the aspects of the Price-Anderson program which are designed to protect the public against the financial consequences of a serious incident in the future.

The program has been amended from time to time to improve this protection. A major change in 1966 was to require a waiver of all of the usual negligence law defenses, if there is an extraordinary nuclear occurrence as determined by the Nuclear Regulatory Commission. In effect, this change imposes absolute liability on the operator of nuclear power plants for a serious nuclear accident.

The program also sets up three tiers of solid financial resources. First, there is a primary layer of private financial protection which must equal under Price-Anderson, for large scale power reactors, the amount of private insurance available. Presently, the two nuclear pools make \$160 million of nuclear energy liability insurance available for this purpose. Commissioner Bartle's statement mentioned 140 million, but this was recently increased to 160.

Secondly, there is a second layer of financial protection required from the operators of nuclear power plants. This layer consists of retroactive assessments of not more than \$5 million in any one year for each nuclear incident. There are now 67 nuclear power plants operating under this

system, producing a total of \$335 million of secondary financial protection.

Third, the Nuclear Regulatory Commission provides government indemnity of \$65 million, in addition to the total of \$495 million available in the form of insurance or retrospective premiums. The total funds immediately available to the public from all sources are \$560 million for each nuclear incident.

The financial protection and government indemnity cover the liability of plant operators and their suppliers. In fact, they cover any person who may be legally liable for nuclear injury or damage. This means that the persons injured will have a broad legal remedy which is backed up by solid financial resources. It also enables the insurance industry to focus coverage on the operators of the nuclear power plants, which, in turn, enables it to maximize coverage for the protection of the public.

The Price-Anderson program also establishes a limitation on the liability of all persons who may be responsible for a nuclear incident at \$560 million or the total amount of primary and secondary financial protection, whichever is greater. As more power plants come on line, the total of the primary and secondary financial protection will operate to reduce the indemnity available from the government to zero. Each increase in the funds available from private sources

carries with it a corresponding reduction in government indemnity.

The limitation on liability is often criticized on a number of grounds. Perhaps the most serious is that it will leave some victims of a major catastrophe without compensation for their injuries. The constitutionality of the limitation on liability was challenged on this ground. Last summer, however, the Supreme Court of the United States held that the limitation was constitutional. The Supreme Court looked at the Price-Anderson program as a whole. After taking into consideration the amount of compensation provided by private financial protection and government indemnity, the ease of remedy, the provision for consolidation of suits and emergency assistance payments, the court reached the conclusion that prospects of recovery and the amount of recovery were at least as great as they would be under ordinary legal principles. The court pointed out that the removal of the limitation on liability would not guarantee that financially responsible defendants would be found to pay the full amount of the damages. There would be, indeed, a real likelihood that a major utility, even of great size, would become bankrupt in the process, without being able to satisfy all claims.

Perhaps even more important, however, was the court's view that the Congress has made a statutory commitment in the Price-Anderson Legislation to review any serious accident in which the damages exceed the limitation on liability and to

take appropriate action to provide financial relief for those who would not be compensated in full. The limitation on liability has thus never been regarded by the Congress as an absolute cut-off of financial assistance for those injured in a major nuclear accident. Although the chances of an accident producing damages in excess of the \$560 million present limitation still remains extremely remote, despite inflation.

It is difficult to estimate the full consequences of the Three Mile Island claims. The pools currently have approximately \$75 million in a reserve fund which has been accumulated over the last ten years. It is their best estimate that this will be far more than the amount required to compensate claims which have now been consolidated in a single class action. Some have indicated that prolonged litigation may be necessary before claims are disposed of for any major nuclear incident. We think the experience at Three Mile Island shows, however, that the process can be handled without undue delay. The pools, with the assistance of various state and national officials, were able to process the emergency assistance claims on the spot. Class actions were promptly filed to reserve the rights of all injured persons within a 25 mile radius. The attorneys for both sides are engaged in simplifying the procedures in an effort to reach a disposition of meritorious claims that will protect the interests of all.

We are presently under a restraining order from the Magistrate in the action from making any further payments, except emergency assistance payments, until an approved procedure is developed.

We are also restricted by court rules from discussing the details of the pending Legislation. We will be pleased to respond to any general questions that you may have about Price-Anderson, the role of the insurance companies or, indeed, the Three Mile Island accident, itself.

CHAIRMAN WRIGHT: Do any of you other gentlemen wish to make a comment on this point?

(No response.)

BY CHAIRMAN WRIGHT:

Q I believe in your testimony you indicated some 65 plants were participants in this insurance pool?

A Sixty-seven, I believe, is the figure at this point.

Q There are more than 67 plants in operation in this country.

A Yes.

Q Then why the difference?

A The difference is that it is only the large scale power reactors, Three Mile Island would be among those, which are required to have the retrospective secondary layer of financial protection. There are now 67 of that kind of power plant in operation.

Q Can you explain in some detail or give us a description of those who do not participate?

A These would be facilities which produce a very small amount of power. They would be in university reactors, experimental reactors. They would be some facilities other than power reactors for which financial protection is required by the Nuclear Regulatory Commission, but the amount has been set much lower than the 160 million maximum limit because in the Commission's opinion, they don't really represent any serious threat of a major disaster.

Q I assume, then, that the Price-Anderson Act does not cover military installations?

A The Price-Anderson Act covers certain government contract operated facilities, but there is no private insurance involved. How many of these are under the -- and they are also subject to \$500 million of government indemnity. How many of those are in operation, I just don't know.

Q I assume, if I understand your testimony correctly, the maximum liability is \$500 million and it cannot be higher than that?

A Yes, it cannot be higher than that at this time; but on the other hand, as I indicated in my statement, that limitation floats upward as the total amount of primary layer of financial protection provided by the nuclear pools and the secondary layer provided by the utilities under the

retrospective program exceeds 560. For example, if there were 100 of these large scale power reactors in operation at the present time, they would be able to produce 500 million on their secondary layer of financial protection. The pools, assuming that their coverage remains the same, would produce an additional 160 million of primary financial protection and the total limitation on liability would then go up to 660 million. It's not fixed for all times, in other words, at 560 million.

Q Are all utility companies and all reactors in Pennsylvania covered?

A All of the power reactors are covered, privately owned power reactors are covered in the United States.

Q How about the ones in adjacent states, for example, Salem, which would have an effect on Pennsylvania?

A Yes, all privately owned utilities.

Q If there was an accident that exceeded or was thought to exceed the \$560 million, I would assume some priority would have to be set up as to who would get paid first? Has the industry or government set that -- and I thought I heard you say something about some conference or something coming up to make some decisions. I think I heard you say that the monies that you paid individuals for relocation have some priority. Is there a priority system set up on how to pay?

A Yes, whenever there is an extraordinary nuclear

occurrence and it looks as though the total amount of the damages may exceed the limitation of liability, the Price-Anderson program provides that all claims may be consolidated in a single federal district court. The judge in that court has the power to require parties to submit a comprehensive plan for dealing with the claims, including their priorities. He can modify that plan, make additions to it or changes in it, as he sees fit. He is also authorized to set aside a portion of the funds for delayed injury claims and he is also empowered to establish priorities of payment. A great deal of discretion is given to the judge, because it's virtually impossible to tell what pattern of claims will emerge. It looks from the Three Mile Island incident, for example, that perhaps numerically the property damage claims may be more numerous than the ones for acute personal injury, for example. Another incident might have a different pattern. So, the statute allows the judge a discretion to tailor the plan to what it needs.

Q The judge would probably not exercise his discretion until some time, and maybe some long period of time, after the accident has occurred. Would that prohibit you from taking care of individual claims regarding the relocation of people who, for example, need money within that first week?

A No, there is an exception for emergency assistance payments.

Q In your experience or your agent's experiences out

in the field or during those first couple of weeks and short periods subsequent to that, what were the problems that your agents experience and what were the complaints, if any, that you received from the people on the other side of the table?

A Well, I think I will ask Mr. Marrone to respond to that. I assume what you are talking about is the claim representatives, not insurance agents, but the claim representatives. I will ask him to fill you in on that, if I may.

MR. MARRONE: I might start by just referring back to what was mentioned with the early witnesses. We had some difficulty because of the early maps we received not being as accurate as we would have liked them to be. There was some error in the maps and I think it was two or three days before that was corrected. So, we were not able to determine precisely the five mile radius. We were not aware of that until, perhaps, the second or third day. I am not aware of anything that was troublesome other than that; but Charlie Bardes, who worked directly on the line with the claims, might be aware of something that I am not. Perhaps Charlie can add to that.

MR. BARDES: Well, I think that the Insurance Commissioner Bartle and Mr. Marrone have outlined some of the things that we were faced with. What remains, really, are a series of very small things that at the time, because you are working under pressure, seemed rather large. One of the

classic examples was voiced before and it did deal with the maps. While we had a very crude map and we came in with basic supplies with pre-packaged and pre-printed forms, checks, the whole thing, so that we could start the operations. Of course, we can't have a map of every area showing one mile, five miles, 25. We secured a map and one of the things when we went to Hershey arena, we didn't even use the map. We went in on Saturday. That was Saturday morning at 9:30, which was less than 24 hours after the Governor recommended the evacuation.

We went in and we tried to establish the evacuation. The Red Cross was very helpful there. We provided them for emergency evacuation funds. When we went back to the office, we were starting to have the people that did evacuate and the map was a problem. Commissioner Bartle said that we were very lenient in our consideration of who qualified. That was a necessity. People were evacuated quickly. They were evacuated without going into where they were going or why, exactly. So, we responded accordingly.

As time went by, quite frankly, we tightened our requirements simply because after a given time period, people would have had time to establish identity, to establish documents, to establish actual location. It slowly got down to a fine point and what might have happened is that someone who may have come in on day eight, nine or ten was required to provide more information than perhaps someone who came in on

day one or two. Aside from that, we were constantly surprised, pleasantly by the attitude of the people that we were serving.

CHAIRMAN WRIGHT: Assuming that someone on day one and two lived five and one-quarter miles and you paid them. What now?

MR. BARDES: What now?

CHAIRMAN WRIGHT: Have you gone back and asked them for your money back?

MR. BARDES: Well, what we have done to date is gone back and made justification of expenses for those people to which we have made advances. We have not generally gone back to recheck their qualifications, but they were required to be justified for expenses and they were told that before they came in for advances.

MR. MARRONE: Some of our applicants who received funds, did, in fact, return money that they did not need for living expenses. About \$6,000 has been returned to the pools from people to whom we advanced funds. The relationship between ourselves and the applicants really, from our point of view, has been entirely satisfactory.

CHAIRMAN WRIGHT: Fred Taylor.

MR. TAYLOR: Thank you, Mr. Chairman.

BY MR. TAYLOR:

Q Mr. Schmaltz, in your testimony you talked about the pool. The pool, I assume, am I correct, is a pool of private

insurance companies similar to A&I?

A Yes, there are actually two pools. The stock pool, I think Commissioner Bartle mentioned, and the Hartford Accident and Indemnity Company is a member of that pool, along with approximately 140 other companies. There are similarly a group of mutual companies, very numerous, perhaps not quite that many, who go on to the pool that is managed by Mr. Kelly. It's all private and the way that they generate their capacity is through subscriptions to member companies throughout the United States and then to corresponding pools and re-insurers and private insurance market around the world. So that the total capacity that they get is the maximum that's available for nuclear insurance at this time throughout all known solid financial resources.

Q That's my question. You mentioned the figure \$160 million as the available insurance throughout this private pool now. You also said that this total figure of 560 fluctuates depending on level one and level two. My question is 160 million the most that the private insurance industry or pools can come up with or is that tied in with Price-Anderson or is there any explanation why \$160 million figure is there?

A Why it's 160? We have always had a target before us that was given us by the committee on Atomic Energy of the Congress to raise as much insurance as we could and in both directions. On one side, the liability insurance that is used

as financial protection under the Price-Anderson program that we have been describing. The other side is property damage on the nuclear power plants, themselves, to protect the assets of the utilities. These two figures jointly now come to 460 million. There is \$300 million of private insurance that's available for covering direct physical damage to the power plant. The figure has grown over the years. It was originally 60 million per each. It went up in steps as experience continued to be good for the nuclear industry and as insurance capacity around the world grew. It's sort of an evolutionary thing. There is no formula that imbues to set it. It represents the sum total of the underwriting judgments of all of the insurers and re-insurers around the world as to what they can commit. We put some pressure on American insurers and world sources to do as much as they can. My own company, for example, puts more money and risk in this nuclear area than for any other risk we insure. We have strained to make as much as we could available and the 160 represents the best that we can do at this time.

Q In other words, that's the best that's available after you put out the call, please come in, if you are willing to carry the risk, then the best we can do right now is 160 million?

A Right.

Q Regarding Price-Anderson, one quick question. Not

having it in front of me, but having read it once or twice, I understand there is a clause in there that says something like, as Congress may decide, which I think affects what might be the ultimate top limit. At least, I have been told that may have been something to do with that. Do you have any comment on that?

A I am not aware of any provision exactly like that. There is a provision, perhaps the one that you are referring to in the financial requirements, that the amount of insurance that the maximum is available from private sources at reasonable costs and terms. The Nuclear Regulatory Commission is empowered to decide what reasonable costs and terms means. In other words, we couldn't quadruple or ten times our premiums and say this is what you should require people to have. There has got to be some rationality to it.

MR. TAYLOR: Mr. Marrone, do you want to comment?

MR. MARRONE: No.

BY MR. TAYLOR:

Q One other thing I'm going to ask you is the same question I asked Commissioner Bartle. As a result of the Three Mile Island accident, which was a very unusual, unexpected thing. Do you, and I would like an opinion, do you feel that an incident like this is now, from a rate making standpoint of view, is this now a calculable risk?

A Is it now a calculable risk?

Q Yes.

A Let me give you my personal opinion, because I am not an actuary, but let me give you just my personal opinion. It is a calculable risk in one sense, that from an underwriting standpoint, companies such as the pools can make a decision to risk \$160 million or so many dollars of the total premium from the nuclear industry. It's entirely insurable from that point of view and I don't think that Three Mile Island has changed that assessment. As serious an accident as it was, it was within the scope of that type of insurance. It's not calculable in the sense that you could assume a figure, I think Commissioner Bartle outlined how difficult it is, assume a figure of damages that would apply for, say a typical reactor anywhere in the United States and establish a premium that you are going to collect from people living in the area that would be sufficient to take care of any conceivable damages. It's not like automobile insurances where you know you are going to get so many thousands of accidents every year and it doesn't vary too much. The amount of each one is small and you have an awful lot of policyholders that want to buy the insurance to spread the cost over. It's an indefinite thing which can't be predicted in the actuary sense that applies to automobile insurance, life insurance, homeowner's insurance.

MR. KELLY: I don't know that I can reach -- I am Ambrose Kelly from the Mutual pool. I am aware of your

question, because I have just come yesterday from a meeting of our pool governing committee at which some of the questions you have in mind were discussed. The point I would make to you is that as far as the consequences of Three Mile Island are concerned and our ability to calculate its effect on the rates, this is something that's well within our capacity. It's being done. The only reason we have not been able to announce what rates, what the effect on the rates would be is that at the moment we do not know what the losses are going to be. In other words, there is a substantial question between ourselves and the owners of Three Mile Island as to the amount of property damages. We are uncovering new information every day with respect to the questions of how badly it was damaged and how much it will cost to decontaminate it. We have calculated the effect on rates, all the way from our paying the first estimate, which was \$140 million in property damage to higher amounts of possible loss, up to the full limit of policy. It is possible for us to calculate the results of this accident in terms of its effect on future rates.

For the owners of the utility plants, with reference to third party liability, we are in much the same situation. We recognize that we have so far paid out less than \$2 million, roughly \$1,300,000 for evacuation expenses and our claims expenses to date. How much we will ultimately have to pay when these class actions which are pending in the federal

court are decided, I don't know any more than you do. I know the ranges within which we guess and the ranges are so wide, there are those in our industry who feel that there was practically no third party liability, aside from the evacuation expense.

See, there is and now I am telling you -- perhaps I shouldn't even be discussing this in view of the fact that the litigation is before the court. We see very little evidence of either personal injury or property damage. Now, it's going to be up to the court and up to those who claim that they have had a loss to demonstrate that loss. If they do and the court is convinced that they have the loss, there is no question. We pay it. Right now, we don't know what that is going to be. The answer to your question, it is possible for us to calculate the results of this accident.

Now, what Dick is talking about and very properly, is that as a result of this, there are those in the industry who have said that under other circumstances, with a different type of accident in a different area, the claim could have been much higher. If you are trying to determine rates to be charged for people, for example, if you are going to throw this at the homeowners, a question that was discussed earlier today, then you have a tremendously difficult question because you don't know -- wide as the ranges are at Three Mile Island, we know what they are. We know what the maximum is we can pay

on property damage and we have a good idea what the maximum is we could pay on liability. If you put together a hypothetical accident in a different area with a different type of accident in a much more substantial release of radiation and then you ask me what the consequences are, I am in trouble.

MR. TAYLOR: Thank you, very much.

CHAIRMAN WRIGHT: Mike Bernie.

BY MR. BERNIE:

Q I'm sorry, the microphone was low and I didn't get the ^{name} of your company. Was it Hartford?

A Yes, my company is the Hartford Accident and Indemnity Company.

Q You have raised a question here in my mind and in your answer and that is that you have made the statement that the Hartford devotes more reserve, that of re-insurance in this area than any other individual area that you cover. Is that what you said?

A Essentially, yes.

Q Now, does that mean that in effect, there has been a business judgment that this particular coverage is either more important or more potentially a risk than, say, property insurance generally or casualty insurance, generally?

A No, it doesn't. It's a combination of a lot of factors. I was making the point that we have been under pressure to make as much capacity available as possible. The

question that we usually get asked is why can't you make more available. I would explain that in proportion, we are allocating at least as much to the nuclear energy hazard than we do to other hazards.

Q All right, comparing the amount of your capacity that goes toward nuclear insurance with the amount that goes to an automobile, you do automobile -- you do provide automobile coverage. Is that right?

A True.

Q Is it more difficult for an individual to buy automobile insurance in Pennsylvania today because you have devoted a lot of your capacity to nuclear insurance?

A No.

Q Are you saying that regardless of how much you devote of your capacity toward nuclear insurance, that would have no impact on how much of your capacity you would put toward auto insurance?

A No, because auto insurance is not a catastrophe line. Its rates are self-sustaining and actuarially predictable. So, our decision with respect to nuclear does not affect the decision with respect to auto. It will reflect the decision with respect to other catastrophe lines or other lines that don't have the same degree of predictability as automobile insurance has.

Q Would you just quickly outline what those would be?

A Well, earthquake, flood insurance, aviation insurance, off-shore oil rigs, pollution losses, things of that sort are all difficult catastrophe lines; some product liability lines, for example.

Q The second question I have is, as I read the current Price-Anderson Act, it does not obligate you to provide any recovery for the cost of refueling a nuclear plant or the cost of reconstruction. Is that correct?

A No, Price-Anderson applies to third party liability. That's damage to the public.

Q Now, would you just quickly outline what the property damage comes under? Is there a separate property damage coverage?

A There is a separate property damage cover. This, however, is not compulsory. The amount of this coverage is allocated to the owners of nuclear power plants and other nuclear facilities for damage essentially to their plant, thereby as much as they need or want. There is no governmental mandate as to what they should carry. It's a voluntary commercial coverage, similar to any property coverage or industry, generally. It's an all risk coverage. It includes other hazards in addition to the nuclear hazards.

Q But that particular coverage does not include reconstruction and refueling, does it?

A I will ask Mr. Kelly to answer that. He is more of

an expert on property than I am.

MR. KELLY: I think we will cover the cost of replacing the destroyed core, for example. That is, the fuel that was in Three Mile Island at the time of the accident represents a substantial element of value, over \$70 million. When we can establish the degree to which it has been damaged, we will pay for the damage which essentially calls for our paying for replacing refueling reactor so that it can again operate. This is a separate coverage, as Mr. Schmaltz has explained. The reactor operator does not have to buy property insurance. He is not required by law to cover his own financial interests.

However, his stockholders and the bondholders who have provided their money for building the reactor will promptly change the management, if it doesn't buy all the private insurance available. Now, at the moment, the maximum amount of private insurance available, which is the two pools can give, is \$300 million. There are reactors in the United States. The TVA reactors, for example, are not insured. In this case, the taxpayers who in the last analysis on TVA are self-insuring the risk of loss. We had a very large loss at one of those TVA reactors in Browns Ferry. That was not insured and did not fall on the pools and cannot come under our rate structure.

Where private industry is building power reactors,

it feels an obligation to the stockholders and bondholders to buy as much insurance as is available, which is currently 300 million. As a result of the TMI incident, our loss is going to be whatever loss we finally pay on the reactor, itself, including the fuel; plus the amount we finally pay to those people in Pennsylvania who establish a claim against TMI because this incident caused them either bodily injury or economic loss.

MR. BERNIE: What's been the cost of cleanup, just if you know that.

MR. KELLY: I don't know what the cost -- of course, the cleanup is really just done. I know that we have made a special advance payment to GPU for cleanup of \$20 million.

MR. BERNIE: Okay, thank you. The last question is, was there any contact that you know of from any government official either in the executive branch or elsewhere, prior to the evacuation order?

MR. KELLY: There was no contact with us. What the Governor of Pennsylvania said to the people of the NRC was not something that we were a party to or had any voice in. We did not know that the Governor was going to recommend an evacuation of this area, until he did it. We knew that there had been an incident here. We called our claims committee together so that we would be in a position -- before the Governor's order, so that we would be in a position to act promptly. Until the

moment the order was issued, we had no advance notice at all. Is that correct, Joe?

MR. MARRONE: That is correct. We did not have advance notice. However, we did anticipate so that our first notice of the accident was Wednesday morning. The next day, Thursday, was our annual meeting and reports indicated that the accident might be more serious than we first thought. Thursday, we sent representatives to discuss the matter with Met Ed. We decided to open a disaster office on Thursday, before the Governor's order, and, in fact, prepared an office starting Thursday afternoon. Friday morning, we were ready to go before the Governor's order, except for our pre-packaged claims forms and checks. They were being flown by Charlie to Harrisburg and the plane was detoured. He would have landed about noon, but he wasn't able to land. The Governor's order was at noon and our office was ready to go except for the checks. Charlie arrived that evening and the next morning, we started our operation bright and early Saturday morning.

We did that by Charlie going to Hershey arena, since we couldn't get our press release -- we couldn't have people come to us first thing. Charlie drove to Hershey arena with checks and offered to advance funds for people to move to motels. By 11:00 that morning, Saturday, the press release was read by Met Ed on our behalf, announcing that our claims office was open. We did not have contact, except with the

Commissioner. The Commissioner was there Saturday, but prior to that, we did not have contact with the state authorities but we did anticipate it.

MR. BERNIE: Thank you.

CHAIRMAN WRIGHT: Representative Itkin.

BY REPRESENTATIVE ITKIN:

Q Mr. Schmaltz or any other members of your group, could you advise the Committee whether you have returned any premium money back to the utility in the course of the Price-Anderson Act?

A Yes, we have what we call an industry credit rating plan that applies to all of the utilities as a group. Under the terms of this plan, we hold premiums for ten years. If the experience for that ten year period is favorable, we return a portion of the first year's premium to the utility. This ten year lack of premiums keeps advancing. Each year we go through a similar exercise. We have returned premiums in every single year that the premium has been due. That started in 1967. So, for the last 11 years, we have returned premiums. That is because of the good experience accumulating during that period.

Q To the best of your knowledge or projection, do you think that particular situation would be in effect for this year?

A It's hard to tell what the effect of the Three Mile

Island incident will have for next year. We will have to get a better feel on what the cost will be. It's going to have some effect, but whether it would wipe out totally any return is something that I couldn't answer.

Q What was the total return for this year?

MR. BARDES: It was slightly more than \$2 million.

REPRESENTATIVE ITKIN: \$2 million?

MR. BARDES: That was for 1968. That represented approximately 85 percent of the money that was eligible for refund, if we had a perfect no loss record.

BY REPRESENTATIVE ITKIN:

Q The second question has to do with what is the legal basis for payment of the emergency assistance claims?

A Well, the Price-Anderson Act, itself, recognizes the desirability of emergency assistance claims which may be made without taking releases and without affecting any admission of liability. When that provision was enacted, it was understood, just as Commissioner Bartle explained today, you are not going to be able to make an absolutely perfect assessment as to whether a claim is covered or not covered. You do the best you can and the important thing, though, is to get the emergency assistance payments out as promptly as you can. The basis, actually, is the fact that under our policy, we are permitted to advance funds where there is eminent danger of contamination of property or eminent danger of injury to people. That's kind

of an elastic period, an elastic clause, but that's the legal basis.

Q You mentioned that the claims were to be paid or advances were to be paid for those persons that live within a five mile radius of the accident. Why is this so?

A We have responded to the Governor's recommendation. He obviously felt that within that area, people should be moved out and we used that as the basis for our response.

Q Suppose I live six miles away and feel that the Governor had made an incorrect assessment and I feel that I am entitled to leave and entitled to recovery. Why should I be rejected on the basis that one individual, who happens to be the Governor, made the decision as to where the cutoff would be?

A Well, you may still bring a claim. In fact, the claims for all persons living within a 25 mile radius of Three Mile Island are reserved in this class action. No doubt, some will take that position and if the claim is felt to be meritorious by the court, it will be paid.

Q Let me go to another question. Why the 25 miles? Is that the petitioners that have used the 25 miles --

A Yes, they have recognized as does everyone, I think, that the range of exposure has to be limited in some finite way in order to make an orderly processing of claims possible. That was the radius that they picked, not the radius that we picked or suggested.

Q Let me go to the other side of the spectrum. The Governor, deciding after he assessed the situation under those critical days to order an evacuation of all persons living within 20 miles of Three Mile Island. Would you have immediately honored the payment of emergency relocation for, I would imagine, probably in the range of a couple hundred thousand people to relocate? What would your reaction be to that? Is there any legal basis on your behalf of honoring the Governor's evacuation order?

A No, we are not legally bound to honor anybody's evacuation orders. It would depend, we think, on the reasonableness of the order. In this particular case, the Governor's order was entirely reasonable. It is possible that someone, sometime, might make an unreasonable recommendation. We might have to reserve judgment on it. It would be very speculative, but there was no question here.

Q And is the size of the finding interpret the degree of reasonability or reasonableness of it?

A No, I think it's not the size of the claim, it's the nature of the incident. Was there, in fact, a substantial release of radioactive material on site.

Q Well, for example, the Governor in his testimony before this Committee had been given advice by competent people to evacuate everyone within ten miles of Three Mile Island. Now, had the Governor taken that advice, what would the position

of the insurance companies be in that regard?

A I really can't answer a speculative question. We certainly would have examined it in the light of whether that was reasonable and we might very well of come up with exactly the same answer that we did in this case. I just can't, you know, I just can't say that we would automatically in every case be governed by a Governor or other state officials' recommendations.

Q That's the line of questioning I was trying to get at. It's discretionary on your part as to whether you will provide advances or not. Although in this particular instance you took the Governor's suggestion of the recommendation as far as the various selective groups to be evacuated within a prescribed area of a distance from the plant, you agreed to that. That does not necessarily state that in the future that if there would be another accident requiring the same or even greater amount of evacuation required that you would feel the same way. There is no guarantee, no assurance that the residents that live in an area surrounding Three Mile Island will have immediate reimbursement, unless the only recourse of them would be if you refused to be hardnosed about it, would be to seek legal redress in the court.

A That's true and we take that into consideration. We know that the courts are also going to exercise a great deal of discretion on what is reasonable. So, that is, of course, that

it requires us to be reasonable, also.

Q And you said there was no advance conversation with any agency of the state in terms of what would be available for the people in terms of evacuation? In other words, the Governor, to the best of your knowledge, did not know when he issued that evacuation order that those persons would receive advance payments for travel?

A I know of no communications, personally. I have none and our other witnesses have said they are aware of none.

Q I see someone else might wish to respond.

MR. BARDES: I will tell you what it was, Representative Itkin. When I went to the Hershey arena at 9:30 Saturday morning, first of all, the Red Cross asked me "you will what" then various things, because the Governor was going to go to the arena, I contacted the Lieutenant Governor's office. I had exactly the same thing, which was 24 hours after the evacuation. The only contact we had with the governmental body was that, that I know of. Again, he asked, "what? You are going to pay money?" So, this was not a chosen thing by any means.

MR. MARRONE: The Nuclear Regulatory Commission was aware, however, that we had representatives to this area on Thursday and they asked that we keep in touch with them to let them know what we are doing, which I was too busy to do. My first contact was with Commissioner Bartle. He walked into our

office with Mr. Simpson (phonetic) on Saturday.

REPRESENTATIVE ITKIN: So, the Governor was not -- did not realize that this particular benefit existed or could exist?

MR. MARRONE: I don't know if he knew.

REPRESENTATIVE ITKIN: Well, I am just assuming from the reaction raised by another member of this panel here --

MR. MARRONE: Well, it's possible that there may have been discussions between some state authorities with the utility. It may be possible that some state authorities had awareness of the Price-Anderson program and the insurance program through their contact with the utilities.

REPRESENTATIVE ITKIN: But the Governor made the ultimate decision and although it's hearsay right now or apparent conjecture on what was in the mind of the Governor, on the basis of how they reacted to a statement. You know, it still leaves some suspicion in my mind and other members of the Committee that the Governor was not aware that there would be any advances provided or through an insurance program to those people that had to evacuate. Thank you, gentlemen.

CHAIRMAN WRIGHT: Representative Schmitt.

BY REPRESENTATIVE SCHMITT:

Q Gentlemen, I may be somewhat repetitious on some of the questions I am about to ask, because I was not here for the full session through no fault of my own. However, if I get too

repetitious, Mr. Chairman, don't hesitate to cut me off. I am somewhat specially interested in the insurance problem, because I spent 33 years of my life in my own insurance business and I am familiar with the basic insurances at least to the point that I can make some recommendations after we get the questions answered which may take some time. The first question I would like to raise and it may have been raised is the cutoff point. A five mile radius, for example, is one thing and a five mile and one foot is still another thing. So, where do you reach a cutoff point? How can you say to a person that's within the five mile limit that they may be covered and then the person who takes one yard or one step or one foot further beyond that five mile limit does not get covered for his loss. What did you do to correct this condition?

A Well, I think that any time that you set a standard, whether it's five miles or six miles or five miles and a half, you are always going to be faced with that problem. You either have a standard or you don't have any and then you fall back on nothing to guide you. It's simply reasonableness, which is a very elastic thing. I think we have to look at it two ways. We were certainly guided by the Governor's recommendation who had far more information at his hand than we did. If the Governor thought that that was a reasonable recommendation, we were prepared to follow it. This takes care of those who have the most cause for emergency assistance. They are the ones who

are directly affected by the recommendation and presumably who you would expect to respond to it. As far as people living outside of that radius, they may feel that they have a justifiable claim and that claim is being preserved, except that is not being treated on an emergency basis. It is part of those claims that are being handled through the class action that has been filed.

Q But that claim that goes beyond the five mile limit is deluded, somewhat, from the person within the first quarter or half mile or one mile. At least, it is likely to be that way. It's not necessarily so, but that person within the five miles, from the extreme point of a five mile radius has more or has less opportunity to get a large claim from the person who, say, has lived within the first half mile radius. Would that be right?

A Well, that's true in one way, except that all of these claims are relatively small. They consist of actual out-of-pocket expenses incurred for motels, transportation, lost wages during the recommended period. So, there will be ample funds to cover claims of this nature outside of the five mile limit, if they are established as being proper claims to pay. They won't have a reduction, I don't believe. It will be either whether they are entitled to the claim or whether they are not.

Q It would be probably less likely to be able to make

a claim, isn't that correct?

A They may be less likely, because they are outside of the scope of the recommendation.

Q This may be a redundant question, because I got the tailend of it when I came in. Who officially pays the premiums for the insurance thing?

A The premium is paid by the operators of the nuclear power plants.

Q Actually paid? In other words, they write the checks and so on. Who actually pays the premium? Does it not ultimately come back upon the consumer?

A Well, the only way that it would come back upon the consumer, of course, would be indirectly as a part of the operating cost of the utility, the same as fuel oil or any other expense.

Q Well, you are saying to me then that the premium that is being paid is actually being paid by the consumer, because it goes into the rate making process and whatever your costs and expenses are, someone has to pay for it. Therefore, that's who pays the premium, in other words, it's the consumer?

A Well, I think that that's true in a general sense. The consumers of any goods and products indirectly pay the costs of --

Q You now have the consumer that will be paying for insurance protection indirectly and you are getting the other

person who is paying for insurance and get no benefits because he lives on the outside of the boundary. Therefore, he is paying a premium for which he is receiving nothing, except that he may be helping his neighbors, so to speak. Do I make my point? There are a lot of people that are going to be paying a premium for which they cannot hope to get any return.

A Well, that focuses on the problem of how you make insurance protection available. This program puts the initial cost on the operator of the nuclear power plant. It's an operating cost which is borne ultimately by all of the rate payers, wherever they may be. The other way of making it the coverage available would be as some have suggested, to issue direct policies to the people who feel that they are within the area of risk and have them pay for a premium. Then, maybe they would have some kind of legal action over it. This puts an immediate cost on homeowners and property owners. It really doubles the cost, in a way; perhaps not doubles it, but greatly increases it because you are paying two premiums, one to the utility and one for each homeowner or property owner that wants to buy it. I don't think that you can escape the conclusion that ultimately those who purchase electricity from a nuclear power plant must pay for the cost of the insurance and the claims that are produced.

Q Is it general public information as to what that premium might be and what the loss might be and is that

available to this Committee?

A We have the premiums for nuclear power plants that we can make available to you. Generally for the liability coverage, it runs between 200 and \$500,000 per year, which, of course, is subject to the credit rating plan that we will return up to two-third of that premium if there are no losses.

Q That sort of leads into what are the component parts of a premium established for whatever amount of insurance is finally decided upon. Is it not so that losses, well, overhead costs and expenses and so on, losses specifically simply or basically are what makes up the premium. Would that not be true?

A Well, the premium is set in the same fashion that liability premiums and property premiums are generally set. The major portion is allocated for losses and then a portion is allocated to administrative expenses, commissions and so forth.

Q I will repeat the question that I asked earlier. Is this information available to us as a Committee or is it general public information or is it kept secret?

A No, it's not kept secret. We would be happy to make it available to you in any fashion you like.

Q At present, what is the per capita limit -- per capita isn't exactly the right word. What is the individual premium limit to the best of your knowledge?

A The maximum that's charged, you mean?

Q Either the maximum or the average. The maximum is what I am reaching for.

A Maybe Mr. Bardes has the maximum of what we charge for the largest power reactor.

Q What I am saying is the amount of premium that was made for the protective losses that you might suffer, divided by the number of consumers that are involved in that particular premium paying incident. What is the individual cost to him? It was within your own cost and it becomes a part of the premium.

A No, no calculations or computations of this nature are made in establishing the premium, because the premium is charged to the operator of the nuclear power plant. It's not broken down in any way as to how much that would add, say, to a kilowatt hour of electricity. If those computations could be made, it would be very, very small. We don't do that or take that into account in establishing our premiums.

Q However, if you would supply us with what I had requested, the things that go into making up a loss and the premium, we can do our own computing here. So, I would like to have that information.

A We will be glad to supply you with the full details on the premiums.

Q Now, would you answer me this just roughly and basically, what are the elements of loss that you cover with the

insurance policies you have?

A The plans that we have received from the Three Mile Island accident break down into three categories, I think. The first of the emergency assistance payments, which we have discussed.

Q Emergency assistance what, sir?

A Those are the claims for the evacuation expenses and wage loss. That's the first category. The second category are claims for personal injury. That is either in the form of latent injury or latent cancer, for example, that might arise from the exposure or emotional distress.

The third category of claims is for property damage and loss of use of property and loss of business profits, expenses and so forth, that are neither emergency assistance nor personal injury.

Q All right, sir, future loss, then, will be held somewhat or would be based somewhat upon the future premiums. I mean to say, will be based somewhat on your present loss, whether it be large or small; would that be a fair statement?

A Yes, the losses, as you know, have a large effect on the premiums.

Q Now, if they were salvaging there -- you made mention about salvaging the core. It reminds me of the story of the fellow that lives in New York and went on strike with the garbage collection and things began piling up in his

neighborhood. His front yard was clear of garbage so somebody asked him how he did it. He said, it's easy. Wrap it up with fancy paper, tie a bow on it and somebody will steal it. I hate to have that apply to the core.

Seriously, now, that little joke was in order.

Seriously, what salvage is possible from what you insure and what is done about the salvage?

A I'm going to ask Mr. Kelly if he can answer that question for you.

MR. KELLY: Representative, I can assure you that the salvage problem in this case is going to be somewhat difficult. The first thing we have to do is get the core out of the reactor containment building. We now have the question of whether or not there are plants in the United States that can and will reprocess the core, salvaging the amount of unused fuel in it. There are discrepancies between the technical experts, but there are those who feel that the core is, perhaps, over 50 percent still usable on reprocessing. When you are dealing with a \$70 million piece of equipment, 50 percent is enough to be willing to work on. One of the problems we have which I think hasn't been made clear, half of the capacity, I think Mr. Schmaltz did bring this out, is from foreign re-insured. The German pool which has a very substantial interest in this loss has already advised us that there is a reprocessing facility in Germany that would be happy to work on the core, if

we could get it over to them. Now, we have a problem of convincing the State Department that we should be permitted to send the core to Germany for reprocessing. In other words, you are getting into international problems here, which are very difficult. The whole point is that our technical experts, and they are supposed to be very good, contend that there is \$20 million salvage value in that core and over a period of time they would get it.

REPRESENTATIVE SCHMITT: Twenty million?

MR. KELLY: Twenty million.

REPRESENTATIVE SCHMITT: Is that after the efforts to recover or --

MR. KELLY: It would probably be reduced by the cost of reprocessing and we haven't estimated that, because we still don't know what it would be. Their estimate is that the value of the unused fuel in that core, if it can be gotten out is at least \$20 million.

REPRESENTATIVE SCHMITT: Thank you, gentlemen. I appreciate that. No further questions, Mr. Chairman.

CHAIRMAN WRIGHT: Fred Taylor.

BY MR. TAYLOR:

Q Just one thing I forgot to ask when I was questioning you before. Commissioner Bartle this morning said something about business claims. What's the status of business claims? I have seen a list of various claims that were filed. I under-

stand you are thinking of emergency situations and then you have the business claims loss of business, business interruptions and so forth. Are they being paid or are they all in limbo?

A They are all included in the class action. What they are trying to do in the class action is to define the classes and give notice and so forth and while that's being done, we are restrained from making any payment on that type.

Q In other words, the only payments you have made so far have been for personal --

A The emergency assistance program.

CHAIRMAN WRIGHT: Representative Itkin.

BY REPRESENTATIVE ITKIN:

Q There is a couple of points that I failed to make or questions to ask. The first one involves vendor liability. Now, there were several pieces of equipment that were not functioning properly which helped the accident to occur. You are responsible to protect the damage to the operator. What now happens with respect -- can you make any claim against a vendor, if you believe that the cause of that faulty equipment, it contributed to it in some great measure or some significant measure to the accident and the subsequent damage that it created?

A On the third party liability side, that's the Price-Anderson program, damage to the public. All of the vendors are included as insured under the operator's policy. So, we would

not be able to make any claim against vendors. The whole idea of the program is that the operators provide insurance for everyone who may be liable in addition to himself, as well as himself. This provision really is designed to protect the public by making certain that all of the bases are covered, so to speak. If the operator is not liable, but some supplier is, the operator's policy, the secondary layer of financial protection and government indemnity will all come into place.

Q So, in other words, the vendor has a very, very limited liability and the only liability he may have is if the equipment was faulty that helped to cause the accident, that all he is responsible for is the -- I have a damaged valve. I will give you a new valve for free.

A Well, he may very well have considerable responsibility with respect to components that he has warranted for the damage to the utility. It might go considerably beyond that.

Q So, it may go beyond the valve?

A It may go beyond that, but these are private contractual arrangements between the suppliers and the nuclear operators of the nuclear power plants. Their scope varies from contract to contract.

Q And you are free of any type of attempt to recover, for example, if you are assessed the full limit of the liability which is \$300 million? You will take no efforts to try to recover some of that loss by trying to show blame or at least

infer blame on the part of a vendor who helped contribute to this type of an accident?

A Well, I think that's outside the scope of our property coverage. Would you like to respond to that?

MR. MARRONE: I could help a little. Vendors to utilities, suppliers of parts or designs normally secure from them contractual agreements to the effect that the buyer for the utility will waive any rights they may have against the supply with respect to potential damage to on-site property.

BY REPRESENTATIVE ITKIN:

Q Could you tell me why that is true? Why is that an accepted facet in the industry?

A I think I can respond to that. The answer, I think, is very similar to what I gave with respect to the third party liability. There was a desire to focus responsibility and focus coverage on the operator to minimize the complexities of cross-action and the expenses of multi-insurance and so forth, so that the operators of a nuclear power plant did request us very early in the beginning of our property insurance program to waive any claims of subrogation against their suppliers. We agreed to do that. I think that's the heart of it. Mr. Kelly may want to add a little bit.

MR. KELLY: Mr. Schmaltz covered it basically, but considering the actual situation, you are manufacturing cotter pins. You don't know where they are going. One of the things

that is alleged to have participated, at least, in the incident at Three Mile Island is the failure of a motor activated valve which stuck open. Suppose on the investigation of the valve it is discovered that that failure was due to the failure of a cotter pin. Now, is the guy who made the cotter pin liable for a loss which on our estimate is well over \$140 million and maybe a good -- he can't possibly buy insurance for amounts like that. When you are dealing with his responsibility for the damage to the other equipment in the reactor, which can be -- that valve, for example, can be held responsible for all of the damage to the core and the fuel. He just cannot buy insurance for it and if he feels that he is going to be possibly held liable, he would refuse to permit his cotter pin, as far as he can, from ever being used in nuclear reactors. So, we have accepted the fact that the, and as Mr. Marrone has pointed out under the contracts between the suppliers and the utility, most of the time the best we get is a contract under which they warrant their own equipment for the value of that equipment. In this case, we have hired a Philadelphia lawyer to go over all of the contracts that were made by the major suppliers to see the degree to which their equipment, which was under warranty because of the short period of time that it had been used, can be taken out from under this claim. We are not trying to be nasty, but if the supplier can be held rather than us, we are delighted if his equipment was faulty let him bear

at least that much of it, which may not be very much but at least it's something.

REPRESENTATIVE ITKIN: Is there certain levels of responsibility? I have pressure industries make the pressurized valve. Let hypothetically the valve fails to open. Pressure builds up in the pressurizer and breaches the pressurization causing a shutdown. Not only is the valve inoperative and new to be replaced, but so does the pressurizer. Does the liability under the present contractual arrangements require that the manufacturer of that pressurizer be ultimately responsible for the damage caused to the pressurizer?

MR. KELLY: Most of the time, no. But this will depend on the wording of the particular contract between Brett Bresser (phonetic) and the guy who is making the particular contract. See, these dresser valves went into a whole raft of reactors.

REPRESENTATIVE ITKIN: Then they were all bad.

MR. KELLY: I am not prepared to say this. You may. In any case, we will be able, I think, to get out of paying for the valve, but whether we can go beyond that will depend on the contract between Bresser and the people --

REPRESENTATIVE ITKIN: I am not suggesting that the manufacturer, when he delivered the valve, that it was not a properly manufactured valve. I am saying what you have evidenced in this system, the valve in place, caused it to malfunction.

That is a situation that's been observed. The concern I have and my concern about utilities are in a very special situation. They have this opportunity in most instances to pass on their costs to the customers, which is basically the people. So, they are not really -- don't really have to assume a loss to the same extent that a manufacturer would have to assume loss for defective equipment. It just seems to me that there should be some means of making the manufacturer more responsible for this product than a simple replacement. Then, you assess -- the shareholders in that particular manufacturing company and therefore you put pressure on the management company to improve their product and make their product work better. It seems that this type of arrangement frees the vendor from assuming any large responsibility and therefore also frees them from the pressure of ensuring that the components are designed to the best that they can do it. In the nuclear industry, as you are well aware, the components are so expensive and because they require such great degree of tolerance, that that is something that the manufacturing and companies of the vendors should have in my judgment, some responsibility for their product. I don't see that now in the present assumption of liability in the industry. The other question I would like to ask and that was a point raised by Mr. Bartle. You said you had met with Met Ed.

MR. MARRONE: I did.

REPRESENTATIVE ITKIN: You met with Met Ed. Did you also meet with the insurance commissioner prior to Saturday?

MR. MARRONE: I met with Met Ed Thursday afternoon between two and six. That was Thursday. Friday we prepared our office. Saturday morning late, I think Commissioner Bartle and Mr. Simpson walked into our office.

REPRESENTATIVE ITKIN: Walked into your office that you set up?

MR. MARRONE: The emergency office.

REPRESENTATIVE ITKIN: In the Penn --

MR. KELLY: Penn National.

MR. MARRONE: With USF&G. On Friday, Saturday and Sunday we were with USF&G. Sunday afternoon the Commissioner helped us move to larger quarters at Penn National, which we opened up on Monday morning.

REPRESENTATIVE ITKIN: But not race track, for the record. What was discussed at the meeting with Met Ed?

MR. MARRONE: I had with me an engineer, one of our nuclear engineers. We asked them to describe what was taking place because we wanted to make an assessment with respect to whether or not we should put an emergency office in place. We spent several hours reviewing events with them. Things were still uncertain. I had several conversations with the claims advisors, our claims advisors, telephone conversations and it was decided that it looked as if things were serious enough so

that we should be prepared in the event that an evacuation would take place.

REPRESENTATIVE ITKIN: That was on Thursday afternoon?

MR. MARRONE: Thursday afternoon. Thursday afternoon I called USF&G and asked if we could move in on them. They said all right. Friday morning we went to USF&G and they helped us to rent desks, install telephones. Charlie was on his way from Farmington, Connecticut, with the checks. We were all ready to go, really, Friday afternoon except for the checks.

REPRESENTATIVE ITKIN: Friday morning was the time that people really got concerned as of the incident on Wednesday. Thursday was a very, very quiet day.

MR. MARRONE: Yes, it was.

REPRESENTATIVE ITKIN: And yet you were meeting with Met Ed and they were advising you that things were quite uncomfortable and you should stay?

MR. MARRONE: Well, no, we asked them to describe what was taking place. We made an evaluation, after consulting with our staff engineer and with our claims advisors, that we thought the matter could develop badly. We made the election to open the office.

REPRESENTATIVE ITKIN: How did you make that assessment? Did a nuclear engineer advise you that this could be a really bad thing and you ought to stay?

MR. MARRONE: We thought that it had that potential.

REPRESENTATIVE ITKIN: Well, what rationale did you use? After all, you only got the information from the Metropolitan Edison.

MR. MARRONE: Yes, I would also have to say this, we knew -- we always knew that with respect to being prepared, we would be ready. If we were going to err, it was going to be on the side of caution. So, even if it seems remote that our office was going to be needed, we felt we were going to open it.

REPRESENTATIVE ITKIN: Did Met Ed tell you that the chances were remote that this was going to be necessary?

MR. MARRONE: I don't recall their saying that to us. I do know that we thought it was possible that the office might be used. We felt that if it was possible, we should expend the energy to be prepared on time.

REPRESENTATIVE ITKIN: Well, there must have been something that Met Ed communicated to you that led you to believe that things were not as secure.

MR. MARRONE: Well, we knew that an accident was taking place and that it had not been resolved. That was enough.

REPRESENTATIVE ITKIN: Did Met Ed offer any information to you that might have led that an evacuation might be necessary?

MR. MARRONE: Our engineer, staff engineer spent some

time with their engineers describing what they were aware of with respect to what had taken place. Again, factoring the feeling that we wanted to be prepared, no matter that the event might be remote, we simply went on the information that we had. There was an accident taking place. It might be serious. We wanted to be ready.

REPRESENTATIVE ITKIN: Did Met Ed urge you to do this? Why should you do it on your own volition? You are responsible to protect your client's interests, your policyholder's interests. Here you are. I mean, my insurance agent doesn't come to my door and wait for some accident to happen.

MR. MARRONE: We are a little rare, I suppose.

REPRESENTATIVE ITKIN: I am just wondering, did Metropolitan Edison encourage you to stay?

MR. MARRONE: I don't remember that they encouraged us. They offered to cooperate and assist us to the extent that they could. We used their telephones and their offices for a time that afternoon. They gave us some advice with respect to who the major insurance policies were in town. They helped us to the extent that they could.

REPRESENTATIVE ITKIN: In your own words, describe to me what your feelings were after talking to Metropolitan Edison with respect to the ability of the plant on Wednesday afternoon --

MR. MARRONE: Thursday.

REPRESENTATIVE ITKIN: Thursday, in view of what they

had told you.

MR. MARRONE: Well, it goes back quite a way, but we felt that after our discussion with them that the accident was potentially serious. It was conceivable that an evacuation might be desirable or ordered and that we should take the steps to prepare for that, if that should be realized. We knew there was a chance that we might be spending time and energy for something that might not come to pass. We felt that we should be prepared. We had long prepared for just such an emergency. We have this manual prepared for many years with respect to responding to an emergency. We felt that we should go through the steps necessary to be ready, should an evacuation be ordered. It was judgment we made.

REPRESENTATIVE ITKIN: I can appreciate your interpretation. What I am trying to describe for you is the grounds for that interpretation and that's why I am pressing the issue. I would like to know what Met Ed told you, not how you interpreted what Met Ed told you.

CHAIRMAN WRIGHT: Ivan, why is it important for you to get a detailed answer? You are verging on badgering the witness. What are you leading to?

REPRESENTATIVE ITKIN: Well, I think it comes to the question of how serious the question was as far as Met Ed and why we waited until Friday to consider any type of an evacuation. The public here in this community -- well, all we knew about it

on Wednesday is that it was an incident. There was no conversation and then it went away. Then, on Friday, poof, radiation exposure. Everyone started to panic. What I am trying to learn, Mr. Chairman, is whether the people and the public representatives ought to have been aware of any uncertainties that were going on at the plant.

MR. MARRONE: I think I can respond by saying that it was something that we elected to do, based on our own judgment. We were aware, as we were doing it, that it might be absolutely unnecessary; but, again, we felt that if we were going to err here, it had to be on the side of caution. We were determined to be ready.

REPRESENTATIVE ITKIN: Okay, see, you were ready on the side of caution, preparing that there may be an evacuation. Yet, the general public didn't have the same opportunity. They were not told, to the best of my knowledge, that an evacuation might be necessary, even in remote circumstances. They were not told anything. Yet, you were aware of it. That's all.

MR. MARRONE: We were not told that, either. We were not told that an evacuation might be necessary or would be necessary. We thought to be prepared, should it come about.

REPRESENTATIVE ITKIN: Thank you.

BY CHAIRMAN WRIGHT:

Q I assume when you use the term property damage, you are essentially referring to damage to TMI, Metropolitan Edison

property in this particular instance. Is that correct?

A Yes, that is right.

Q And is it correct for me to assume that this unique type of situation is regulated primarily by federal law and not by state law?

A I think in a sense that's true, that it primarily is regulated by federal law. As far as the third party liability coverage is concerned, that's the protection for the public, not the property damage to the power plant, itself. The Nuclear Regulatory Commission establishes within the context of the law, the scope of the coverage that is required to meet financial protection. It reviews our policies, publishes them in the federal register and approves them. It also establishes in a general way that the cost of our insurances are reasonable in the terms of reasonable. Although, it did not relinquish completely this authority. It does not take this authority completely away from the state. The rates for our insurance are made through licensed rating bureaus, licensed by the state. They are filed or filings are required and so forth. So, there is a sort of dual regulatory responsibility here, I think.

CHAIRMAN WRIGHT: We thank you -- Mr. Bardes.

MR. BARDES: Mr. Chairman, if I could just make one clarification. The question was asked before whether we were knowledgeable of when the contact with the Governor's office or the government bodies were first initiated. I stand corrected.

We had our annual meeting, as Mr. Marrone indicated, on Thursday, which would be the 29th. At that time, there was contact made with the Insurance Department asking what was our relationship here. We had advised the Insurance Department that we had sent representatives down to discuss with Metropolitan Edison what the situation was. I don't remember the details of that, but that was the gist of it. I don't want to make any incorrect statement that we didn't have any contact.

MR. MARRONE: Also, I think I had a message to call the State Insurance Department, which I did not do. I was just too busy to do. That had been relayed to me from our home office. That might have been Friday or Saturday. I don't remember.

CHAIRMAN WRIGHT: Any other comments any of you gentlemen would like to make?

(No response.)

CHAIRMAN WRIGHT: We thank you for being with us and your testimony is valuable. For the next several months, if you have thought of any suggestions to make to us regarding the loss in the State of Pennsylvania, we appreciate it.

MR. SCHMALEZ: We thank you very much, Mr. Chairman. We will supply the information that was requested and if we do have suggestions or if we do prepare any material bearing on

this, we will be very happy to submit it. Thank you.

CHAIRMAN WRIGHT: The meeting is adjourned until next Thursday when we will talk with the Health Commissioner.

(The hearing terminated at 1:00 P.M.)

I hereby certify that the proceedings and evidence taken by me before the House Select Committee - Three Mile Island are fully and accurately indicated in my notes and that this is a true and correct transcript of same.

Joyce Rae Schwarz

Joyce Rae Schwarz, Reporter/nc