

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the matter of: :  
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METROPOLITAN EDISON COMPANY :  
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(Three Mile Island Unit 1) :  
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Docket No. 50-289  
(Restart)

25 North Court Street,  
Harrisburg, Pennsylvania  
Friday, October 31, 1980

Evidentiary hearing in the above-entitled  
matter was resumed, pursuant to adjournment, at 8:34 a.m.

BEFORE:

- IVAN W. SMITH, Esq., Chairman,  
Atomic Safety and Licensing Board
- DR. WALTER H. JORDAN, Member
- DR. LINDA W. LITTLE, Member

Also present on behalf of the Board:

- LAWRENCE BRENNER, Esq.,  
Special Counsel to the Board

APPEARANCES:

On behalf of the Licensee, Metropolitan Edison  
Company:

- ROBERT ZAHLER, Esq.
- DELISSA RIDGWAY, Esq.
- Shaw, Pittman, Potts and Trowbridge,  
1800 M Street, N.W.,  
Washington, D. C.

8011130036

1 On behalf of the Commonwealth of Pennsylvania:

2 ROBERT ADLER, Esq.  
3 Assistant Attorney General,  
4 505 Executive House,  
5 Harrisburg, Pennsylvania  
6 WILLIAM DORNSIFE,  
7 Nuclear Engineer  
8 STUART LEVIN,  
9 Bureau of Radiation Protection

10 On behalf of Newberry Township TMI Steering  
11 Committee:

12 JORDAN D. CUNNINGHAM  
13 Box 52, R. D. 1  
14 Etters, Pennsylvania

15 On behalf of the Regulatory Staff:

16 JOSEPH GRAY, Esq.  
17 Office of Executive Legal Director,  
18 United States Nuclear Regulatory Commission,  
19 Washington, D. C.  
20 DANIEL COSGROVE, Esq.  
21 Office of General Counsel,  
22 Federal Emergency Management Agency

23 Petitioners for leave to intervene pro se:

24 STEVEN C. SHOLLY,  
25 304 South Market Street,  
Mechanicsville, Pennsylvania

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C O N T E N T S

W I T N E S S E S

-None-

E X H I B I T S

<u>NUMBER</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
Board Exhibit #3	4463	4463

P R O C E E D I N G S

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CHAIRMAN SMITH: On the record.

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Board Exhibit 3 will be the glossary from the forthcoming final view of 0654, Appendix 5, and it defines, among other things, local government agencies, and that will be Board Exhibit 5, which is received into evidence.

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(The document referred to was marked Board Exhibit No. 3 for identification and received in evidence.)

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11

MR. GRAY: I have extra copies of those if they are needed by anyone.

13

DR. LITTLE: It might be a good idea to leave a couple of those in the Intervenors' room.

15

I believe we are now ready to proceed.

16

We were considering emergency planning Contentions, and we had completed a number of those yesterday, and we have remaining those of Mr. Sholly and some modifications to those of Newberry Township.

20

Yesterday afternoon we completed discussion of Sholly Contentions 8(I)L, Sholly Contentions 8(I)Q and R, and we are ready to proceed at this time with Sholly Contention 8(II)B 1 and 4.

24

Mr. Sholly, I believe overnight you arrived at some conclusions as to how this might be handled.

25

1           MR. SHOLLY: Yes. On page 9 of my Contentions,  
2 which is 8(II-B, I think the problem will be solved by  
3 deleting No. 1, which begins "Fixed nuclear facility  
4 incident consequences," delete that, if we delete No. 1 and  
5 also No. 4 which begins, "The ten mile evacuation distance  
6 includes inadequate," if we delete that. There is also some  
7 language in the paragraph following which refers to 1 and 4,  
8 begins with the second sentence of that paragraph, "Nos. 1  
9 and 4 are based on the Commonwealth's application." If you  
10 delete that sentence and the following sentence.

11           DR. JORDAN: Delete what?

12           MR. SHOLLY: The second and third sentences in the  
13 paragraph under Nos. 1 through 5.

14           CHAIRMAN SMITH: Also the sentence beginning  
15 "These assumptions"?

16           MR. SHOLLY: Yes, sir.

17           The reason I would be deleting those, I am  
18 convinced that 8(I)B covers those adequately.

19           At this point I realize we have not gotten to the  
20 staff's objection on 8(I)B, No. 4, but I don't think --  
21 whichever way that goes is not going to be affected by this.

22           DR. LITTLE: All right.

23           So with those deletions you are still happy with  
24 that Contention.

25           MR. SHOLLY: Yes.

1 DR. LITTLE: Mr. Zahler, does that remove some of  
2 your objections to it?

3 MR. ZAHLER: Mr. Sholly's deletions remove all of  
4 Licensee's objections to Contentin II-B.

5 DR. LITTLE: Mr. Gray?

6 MR. GRAY: No objections.

7 DR. LITTLE: All right, we will accept 8(II)B 1  
8 and 4 as modified.

9 DR. LITTLE: That takes us, I believe, to 8(II)F.

10 MR. ZAHLER: Yes, Dr. Little. 8(II)F alleged that  
11 the Commonwealth's respose plan lacked approval of FEMA, RAC  
12 and the NRC, and until these plans are approved, restart  
13 should be denied.

14 Since filing Licensee's objection, we have gotten  
15 some more edification as to how the NRC and FEMA review  
16 process works, that is, Mr. Grimes' and Mr. McConnell's  
17 statements to the Board yesterday. In light of those  
18 statements, Licensee renews its objection and would specify  
19 it in a slightly differnt manner than is listed, but we  
20 object to it as a challenge to the rule. As Mr. McConnell  
21 explained, in fact, FEMA's administrative review process and  
22 approval of state plans is independent of NRC licensing. In  
23 fact, he read to us from the preamble of the proposed rule  
24 that indicated that that administrative review process was  
25 separate from NRC licensing, and as Mr. Grimes explained,

1 there could be conditions where the NRC would license and  
2 would authorize a plant based on FEMA findings and  
3 determinations, but absent the final FEMA administrative  
4 review process as it goes through that whole procedure  
5 described in the proposed FEMA rules.

6 In light of that, what Licensee is objecting to  
7 here in this Contention really is that it is a statement of  
8 law, it is not a Contention, and in fact, we disagree with  
9 the statement of law, but that in any event, Mr. Sholly is  
10 free to argue whatever his view of the law is on the basis  
11 of the evidentiary record, and that this is really not a  
12 Contention that is litigable.

13 DR. LITTLE: Mr. Gray?

14 MR. GRAY: The staff have no objection to this  
15 Contention, and I still would say that we have no objection  
16 to it. While it may be, as Mr. Zahler indicates, a legal,  
17 really a legally based Contention, as far as we see it, it  
18 still could be a Contention which, after development of the  
19 evidentiary record, can be argued upon as being met or not  
20 met.

21 So we have no objection to the Contention.

22 DR. LITTLE: Commonwealth?

23 Mr. Sholly?

24 MR. SHOLLY: I think it would also be true that  
25 NRC might withhold the license until the final review comes

1 out, if the preliminary review indicates problems. I think  
2 it is also equally possible for NRC to withhold a license  
3 until the final review does come out and then resolve any  
4 problems that might exist in a preliminary review. I think  
5 it is equally as possible as granting a license or granting  
6 permission to restart. I don't see that that is any  
7 drawback to the Contention. I am simply saying that in this  
8 particular case especially where the plans were not  
9 concurred upon, which was the procedure in operation at the  
10 time of the accident, that in fact it is my view that it is  
11 desirable to have that review finalized before restart.

12 CHAIRMAN SMITH: Mr. Sholly, how would you  
13 envision that this Contention would be litigated?

14 MR. SHOLLY: I would tend to agree that it is  
15 somewhat legally based and would probably be considered, you  
16 know, that I won or lost based on the evidence that is  
17 developed in general.

18 CHAIRMAN SMITH: There certainly is nothing wrong  
19 for you to take and announce a legal position early in the  
20 hearing, and it can in fact be a legal Contention. I think  
21 that those should be identified as such, however, and it  
22 really almost belongs into a legal brief rather than the  
23 list of Contentions to be litigated.

24 MR. GRAY: Mr. Chairman, it may be helpful to draw  
25 an analogy between this Contention and Contentions that

1 quite often are admitted regarding environmental matters,  
2 Contentions to the effect that the proposed action is a made  
3 rule federal action significantly affecting the environment,  
4 and then with specifics. Those kind of things are both  
5 legal and factual actually, since the evidentiary record  
6 would need to show whether there were significant  
7 environmental impacts, but they state a legal standard that  
8 would require, set forth in the statute requiring  
9 development of an environmental impact statement. That is  
10 kind of a mixed legal-factual type Contention, and those are  
11 traditionally admitted as viable Contentions in proceedings.

12 I guess I would look on this Contention probably  
13 in the same vein, the same way.

14 CHAIRMAN SMITH: It certainly does no harm for him  
15 to announce in the form of a Contention what he believes the  
16 state of the law is or should be as a result of this  
17 hearing. The thing that I don't care, I don't have any  
18 strong feelings, I just hate to see factual Contentions. I  
19 like to see a neat list of factual Contentions addressed by  
20 evidence and then a category of what the legal positions  
21 are, but I don't think it is an important consideration at  
22 all.

23 We would recognize, if it is accepted as a  
24 Contention, we would recognize it for what it is.

25 DR. JORDAN: May I ask, if it were accepted as a

1 Contention, would this require, then, some legal argument  
2 early in the hearing so we would have a chance to think  
3 about it rather than waiting until proposed findings, when  
4 they won't be hear to talk about it?

5 CHAIRMAN SMITH: That's my point. If this were  
6 accepted as a Contention, it would probably be totally  
7 ignored until the end of the hearing. I don't know what  
8 would ever happen to it during the course of the hearing.

9 MR. SHOLLY: I might ask a question. Would I be  
10 free to argue, in the absence of that Contention, that  
11 various conditions should exist based on the record?

12 CHAIRMAN SMITH: That is a good point. You  
13 certainly, by this Contention, are putting the parties on  
14 notice that you expect to litigate factually in the whole  
15 spectrum of issues on emergency planning; you intend to  
16 litigate toward that end.

17 I think you are perfectly correct in making the  
18 statement that you have made. I don't have any quarrel with  
19 that at all. It is just identifying for what it is is  
20 really what we should accomplish.

21 MR. ZAHLER: Mr. Smith, Licensee certainly agrees  
22 with that. Whether this Contention is here or not here, Mr.  
23 Sholly can make whatever legal analysis or conclusion he  
24 wants based on the record, and Licensee certainly  
25 appreciates knowing what it is in advance.

1 I must confess that I just at this point have a  
2 tidiness and a housekeeping desire, that the Contentions are  
3 certainly unwieldy, and if there is even one that is  
4 unnecessary for the purpose of litigation, I would just  
5 prefer to see it out.

6 CHAIRMAN SMITH: That is my feeling, too, which is  
7 a very subjective feeling, and I think it is almost Mr.  
8 Sholly's feeling, too.

9 MR. SHOLLY: I would not be opposed to withdrawing  
10 it. That is no problem.

11 CHAIRMAN SMITH: Well, you certainly have  
12 indicated early in the proceeding what you feel should be  
13 the state of the law, and you have a right to litigate  
14 certainly within the bounds of that contention.

15 So I think it should be removed.

16 MR. SHOLLY: I will withdraw Contention 8(II)F.

17 DR. LITTLE: I believe the next one --

18 MR. GRAY: While we are on this one, I believe  
19 there is another similar one, 8(III)I, if I am not incorrect.

20 DR. LITTLE: 8(III)I?

21 MR. ZAHLER: That is correct, Mr. Gray. Licensee  
22 also objected to 8(III)I on the same basis. 8(III)I is the  
23 same allegation except it goes to the five county plans  
24 instead of the state plans. Licensee's view is the same,  
25 that Mr. Sholly is free to make the legal argument on the

1 record, that RAC and FEMA approval is required for county  
2 plans also.

3 We would request that the Contention itself be  
4 either withdrawn or deleted for tidiness purposes.

5 DR. LITTLE: Mr. Sholly?

6 MR. SHOLLY: Similarly, I will withdraw 8(III)I.

7 CHAIRMAN SMITH: Ands I think what you should do,  
8 consistent with neatness, you should say I am withdrawing  
9 them as a list of my factual Contentions, and I am  
10 submitting them as a statement of my view of the law of the  
11 case. But as a list of factual Contentions, you are not  
12 withdrawing your viewpoint, of course.

13 MR. SHOLLY: That is correct.

14 DR. LITTLE: I believe the next one is 8(III)A.

15 Licensee, this has to do with absence of municipal  
16 plans.

17 MR. ZAHLER: That is correct. We have had a lot  
18 of discussion about this. Let me just briefly state  
19 Licensee's position with respect to this Contention. First  
20 of all, great parts of it are not really Contention. It is  
21 a statement as to what should be done; for example, a filing  
22 of local, which I understand in this context to be municipal  
23 plans since the county plans have been filed, and we talked  
24 about that at length. I don't think that is appropriate as  
25 a Contention.

1 I think we have discussed that under the rule  
2 Licensee has no requirement to file the municipal plans with  
3 NRC as part of its plan and does not intend to.  
4 Nonetheless, FEMA intends to audit those plans where  
5 reliance on municipal resources is identified in county  
6 plans.

7 Similarly, in the Contention as drafted, there is  
8 no specificity as to the inadequacy of the county plans due  
9 to the municipal plans. That is, Mr. Sholly has not  
10 identified where it is in the county plans that reliance on  
11 municipal resources takes place and therefore why they are  
12 inadequate. But, nonetheless, the Board has already ruled  
13 with respect to ANGRY that they would be free to litigate --  
14 it was in yesterday's transcripts, and the transcripts are  
15 not available, so I don't have a reference, but my  
16 recollection is that ANGRY would be free to litigate that.

17 I would again propose that this Contention be  
18 treated in that way, that is, that Mr. Sholly is free to  
19 litigate the adequacy of the county plans where they rely on  
20 municipal resources that don't exist, but the Contention  
21 itself does not help that litigation because it does not  
22 identify a single inadequacy in county plans.

23 CHAIRMAN SMITH: Mr. Sholly?

24 MR. SHOLLY: This Contention was drawn up  
25 certainly in the absence of the last day or two of the

1 discussion and events seem to have overtaken it to a large  
2 extent.

3 DR. LITTLE: Can we have a statement of the  
4 staff? I believe the staff agreed with the Licensee's  
5 viewpoint on this originally, 8(III)A.

6 MR. GRAY: The staff had originally objected to  
7 this really on the grounds that it was untimely, that it  
8 raised a matter which actually could have been raised long  
9 ago. My understanding is that the Board would not be  
10 inclined to accept an untimeliness argument, this deficiency  
11 because of a prior absence which we discussed yesterday.  
12 That being the case, the staff have no other objection to  
13 this.

14 DR. LITTLE: Commonwealth?

15 MR. ROBERT ADLER: I think Mr. Sholly correctly  
16 stated the understanding we reached yesterday, and I think  
17 Mr. Sholly understands he can reach these issues through a  
18 different route. So I don't see any point in maintaining  
19 the Contention.

20 CHAIRMAN SMITH: I would like to perhaps take a  
21 short hypothetical excursion into the evidentiary hearing,  
22 what practical effect this might have.

23 MR. SHOLLY: Mr. Chairman, I would be concerned  
24 from one standpoint. To the best of my recollection, there  
25 are not Contentions in the hearing or proposed dealing with

1 Lancaster County. I am not sure about Dauphin. I know  
2 there are in York, and I have proposed some in Cumberland,  
3 but none of them has as yet been admitted, and I am not sure  
4 how we can get to those county plans without anything on the  
5 record.

6 CHAIRMAN SMITH: This is exactly where I  
7 going. It does not seem to me to be falling neatly into  
8 logical categories, what is going to happen at the hearing.

9 I can envision a scenario in which your Contention  
10 survives and within two weeks, along come some  
11 interrogatories demanding to know the specifics of this  
12 Contention, and then of course we went through this before,  
13 and we rule, yes, they have got to have it; otherwise they  
14 can't come up with the testimony, and you will come up with  
15 it; or on the other hand, they are going to have to carry  
16 the burden of coming forward with evidence that the county  
17 plan is adequate; whereupon you will be able to, it seems to  
18 me -- and I am just making a hypothetical excursion into  
19 what might happen -- whereupon you might be able to cross  
20 examine those witnesses and demonstrate in your cross  
21 examination that they have not looked at Camp Hill, they  
22 haven't looked at this, they haven't looked at that. It may  
23 even be that from a tactical point of view, Intervenor is  
24 better off. I don't know. I'm not saying I am giving you  
25 that advice. But it is possible. I don't know, but it

1 certainly is going to be a relevant consideration. If you  
2 are aware, and you make your awareness known within the  
3 rules of this proceeding of deficiencies in a county plan,  
4 you are going to be able to address it.

5           Well, I amk trying to hypothesize how you could  
6 address it, and it seems to me when Licensee starts parading  
7 witnesses, talking about the Cumberland County plan, you are  
8 going to be served with direct testimony, and you are going  
9 to perhaps be able to demonstrate in your cross examination  
10 those witnesses that they have overlooked this, that and the  
11 other things, and it may very well be that you have  
12 demonstrated at that time when the case in chief comes a  
13 need for rebuttal evidence. I don't know. I mean, we are  
14 getting quite, quite involved.

15           MR. SHOLLY: I might possibly also run the risk of  
16 that direct evidence not addressing specific weaknesses, and  
17 then I would be in somewhat of a difficult position to try  
18 and address it.

19           CHAIRMAN SMITH: That's right. However, when the  
20 overall sense of the direct testimony is that a certain  
21 county plan is adequate, and then the scope of the cross  
22 examination would go to that statement.

23           We are not making any rulings, understand. I am  
24 just trying to hypothesize how the evidence or how the  
25 record can be made complete, with or without this

1 Contention, and that is why I am going so far into what  
2 might happen at the hearing.

3 DR. JORDAN: Would you help me understand a little  
4 further then?

5 Supposing, if the Contention is not admitted, I  
6 would see no reason for the Licensee coming in with a  
7 statement presenting any testimony that this certain county  
8 has met all the requirements. He is not going to do that.  
9 He has submitted his restart report, and that is it, and he  
10 is not going to be addressing this particular item. Is that  
11 not correct, Mr. Zahler?

12 MR. ZAHLER: Dr. Jordan, there may be an  
13 assumption on your part and the rest of the Board's as to  
14 the nature of Licensee's case with respect to off-site  
15 planning. Our primary reliance will be on the FEMA findings  
16 and determinations. We may, in fact, present expert  
17 witnesses as to the general requirements of good planning,  
18 what it is you look for in a plan.

19 It was not Licensee's intention to present  
20 specific witnesses on each of the county plans.

21 DR. JORDAN: I see. Does that -- you mean when  
22 FEMA comes in and says they have indeed met the requirements  
23 for emergency planning, then that would be Mr. Sholly's  
24 opportunity to cross examine the FEMA witness.

25 Would that be the way he could get it? I am

1 trying to understand, as Mr. Sholly is, too, at the same  
2 time, how he gets to litigate this Contention.

3 MR. ZAHLER: Yes, sir, I thought that was the  
4 Board's ruling with respect to ANGRY yesterday, that in fact  
5 at the time that FEMA presents a witness saying that the  
6 county plan is adequate and they have done the audit with  
7 respect to municipal plans, that is then subject to cross  
8 examination to test the validity of that conclusion.

9 DR. LITTLE: Mr. Gray?

10 MR. GRAY: I believe that the FEMA findings will  
11 certainly have to indicate those areas in which the plans of  
12 local governments are needed, those areas in which county  
13 plans and county planning relies on local governments. On  
14 the other hand, I am not sure how clean and how  
15 aesthetically well that will be done without a Contention  
16 like this sitting there which needs to be addressed by FEMA  
17 dsirectly.

18 DR. LITTLE: Mr. Adler,

19 MR. ROBERT ADLER: Yes. The only problem I would  
20 see with this theory is the problem raised by Ms. Bradford  
21 yesterday concerning how we put on county witnesses, and if  
22 that problem is not resolved, there may be a void in the  
23 factual record.

24 CHAIRMAN SMITH: Well, one way or the other, an  
25 Intervenor who is going to challenge the FEMA testimony tha

1 a given county plan is adequate is going to have to come  
2 forward with the specifics. If we accept the Contention  
3 now, it would certainly have to be subject to response to  
4 interrogatories or later specification. I mean, that would  
5 have to be done if this Contention is accepted. If you wait  
6 for cross examination, then your cross examination would  
7 have to demonstrate where the general testimony was  
8 inadequate, and then maybe rebuttal by the production of  
9 local people. One way or the other an Intervenor is not  
10 going to be able to avoid saying why a particular county  
11 plan is inadequate.

12           So that objective, I think, that result can be  
13 arrived at in two directions and by two methods.

14           What is your preference?

15           MR. SHOLLY: I am not so sure that this particular  
16 Contention really means a whole lot after the explanation we  
17 got yesterday, but I do believe that there is an issue there  
18 to be gotten to, however we get to it.

19           I could probably go back and spend some more time  
20 with the county plans and do some checking and come up with,  
21 you know, a laundry list of potential problems.

22           CHAIRMAN SMITH: Sometime before the litigation is  
23 over, if you want to pursue that kind of Contention, you are  
24 going to have to one way or the other. I might say, Mr.  
25 Gray, I think that your point was a very good point, that

1 without Contentions of this nature, FEMA just might come up  
2 with extremely broad testimony. But perhaps we can help by  
3 observing that the Intervenors representing their people in  
4 this area have in their Contentions, some of which have been  
5 accepted, some of which have been rejected, have, based upon  
6 their intimate knowledge of local government, indicated  
7 concern tht local governments are not, in fact prepared to  
8 make a contribution to the county government, and the Board  
9 wants a full explanation of those concerns.

10           You know Intervenors or not, even if it had been  
11 brought to our attention through limited appearance  
12 statements, it has now come soundly to our attention and  
13 resoundingly to our attention that there is a great deal of  
14 local concern that local units are not up to the job.

15           So we would certainly hope that FEMA would have  
16 detailed testimony addressing those concerns.

17           MR. GRAY: And I am aware of, I believe, a number  
18 of Contentions which do, in fact raise specific allegations  
19 of specific deficiencies on the local, municipal, what have  
20 you, level that are going to be addressed.

21           MR. SHOLLY: That would be ANGRY and Newberry's,  
22 mainly, on York County.

23           . GRAY: Yes.

24           DR. LITTLE: Newberry has some of Dauphin, too, I  
25 believe.

1 MR. GRAY: Pardon?

2 DR. LITTLE: Newberry also has some Contentions on  
3 Dauphin County.

4 MR. GRAY: Yes.

5 CHAIRMAN SMITH: Would this be a satisfactory  
6 resolution of the problem, accept the Contention,  
7 recognizing that it is not litigable because it is not  
8 specific, and then instead of going through this  
9 tremendously wasteful route of interrogatories and  
10 responses, accept the Contention with the understanding that  
11 you are going to have to specify, and if you don't specify,  
12 then it will have to be dismissed?

13 MR. ZAHLER: Mr. Smith, that is acceptable to  
14 Licensee.

15 Could I make a proposal? I have drafted here a  
16 one sentence replacement that I think gets at the heart of  
17 it and doesn't have a lot of the stuff about providing the  
18 plans which Licensee finds objectionable.

19 Let me just read it. If it is acceptable to Mr.  
20 Sholly, okay. If not, we will go with his Contention.

21 I propose to replace it by "The County plans are  
22 inadequate due to the inadequacy of municipal resources and  
23 services relied upon by the County plans." In my view, that  
24 is still unspecified but within the structure of that  
25 Contention, Mr. Sholly could then specify to us on an

1 informal basis.

2 DR. LITTLE: Do you want to hear it again?

3 MR. SHOLLY: Yes, could you run that past me again?

4 MR. ZAHLER: Yes.

5 "The County plans are inadequate due to the  
6 inadequacy of municipal resources and services relied upon  
7 by the County plans."

8 MR. SHOLLY: I think that would be fine, and  
9 certainly there is adequate room there to specify it.

10 CHAIRMAN SMITH: That certainly seems reasonable.

11 DR. LITTLE: Mr. Gray?

12 MR. GRAY: It seems reasonable to staff.

13 DR. LITTLE: Mr. Adler?

14 MR. ROBERT ADLER: I just want to point out to Mr.  
15 Sholly that there appear to be two issues. One is that  
16 there are resources and capabilities identified in the  
17 county plans which may not exist at the local level. The  
18 second is that there are particular capabilities that ought  
19 to be identified in some plan and that are not, and I am not  
20 sure that Mr. Zahler's phrasing gets to that second question.

21 MR. ZAHLER: I propose a change to my Contention.  
22 I don't think it makes a practical difference, but if you  
23 want to neaten up the language, "The County plans are  
24 inadequate due to the inadequacy of municipal resources and  
25 services needed for effectuation of the County plans." I

1 believe that would cover both of the areas identified by Mr.  
2 Adler.

3 DR. LITTLE: Mr. Adler, do you think that takes  
4 care of it?

5 MR. ROBERT ADLER: I think so.

6 CHAIRMAN SMITH: Would you state it again, please?

7 MR. ZAHLER: " The County plans are inadequate due  
8 to the inadequacy of municipal resources and services needed  
9 for the effectuation of the County plans."

10 MR. SHOLLY: Mr. Chairman, I don't see how it  
11 changes it that much.

12 MR. ZAHLER: What it brings in, it is not limited  
13 to those resources relied on by the County plans. You could  
14 also allege that there is a resource not identified in the  
15 County plan at the municipal level that is needed to  
16 effectuate the County plan.

17 MR. SHOLLY: There are some problems, though, that  
18 aren't at the municipal level that are at the county level  
19 itself, specific problems which are county-wide which have  
20 not been identified.

21 MR. ZAHLER: I didn't realize this Contention went  
22 to that at all.

23 CHAIRMAN SMITH: This Contention does not reach  
24 that, and of course, let's have an understanding, municipal  
25 is a term, a general term for a local governmental unit,

1 less than county.

2 MR. ZAHLER: That is correct, Mr. Chairman.

3 CHAIRMAN SMITH: Is that satisfactory?

4 MR. SHOLLY: Fine.

5 CHAIRMAN SMITH: I think with that Contention, if  
6 it is agreeable to you and with the Board's strong statement  
7 that we want a good explanation of the reliance upon  
8 municipal, and our ruling with respect to ANGRY, I think all  
9 of those together, we have created a framework in which, one  
10 way or the other, I think the issues should be amenable to  
11 full litigation.

12 MR. GRAY: Can we expect some specification on  
13 this within some relatively reasonable period of time?

14 MR. SHOLLY: You will get specificity. It is a  
15 matter of what timeframe we need to work in. Keep in mind  
16 we are dealing with five county plans. You are talking  
17 about a stack of paper that high.

18 CHAIRMAN SMITH: There doesn't seem to be the  
19 coordination between the Intervenors on emergency planning  
20 that I would have expected by now.

21 MR. SHOLLY: Well, it has been rather difficult  
22 because things have been in a rather continuing state of  
23 flux and we were kind of waiting for the dust to settle and  
24 pull things together. I think that by working with Newberry  
25 and ANGRY that we will be able to come up with the

1 specificity among us. I would say that it would take a  
2 period of weeks to do that.

3 CHAIRMAN SMITH: Three weeks?

4 MR. SHOLLY: I think we could do it in three weeks.

5 CHAIRMAN SMITH: Is that satisfactory?

6 MR. GRAY: Yes. I was not speaking of a few days  
7 or a week. I was speaking of something comparable to what  
8 it would take to get it under discovery.

9 CHAIRMAN SMITH: Yes.

10 Is that all right with you, Mr. Zahler?

11 MR. ZAHLER: That is acceptable to Licensee.

12 CHAIRMAN SMITH: Okay.

13 MR. SHOLLY: I will contact Newberry and ANGRY,  
14 and we will get to work on this.

15 CHAIRMAN SMITH: All right. Let's make it three  
16 weeks.

17 MR. SHOLLY: If you start it Monday, it will be  
18 fine with me.

19 CHAIRMAN SMITH: All right. Why don't we make it  
20 due the 24th. That will give you an extra weekend.

21 DR. LITTLE: The way it stands now, then, 8(III)A  
22 is accepted as reworded with expectation of specification by  
23 November 24th.

24 MR. SHOLLY: That is correct.

25 MR. ZAHLER: Mr. Chairman, just so it is clear,

1 the specification we are talking about is like that received  
2 from the Aamodts. This is not a revised Contention. It is  
3 further specificity and basis for the Contention that has  
4 been accepted.

5 CHAIRMAN SMITH: Yes. This has been Mr. Sholly's  
6 pattern.

7 DR. LITTLE: I believe the next Contentions to  
8 which there are objections are 8(III)B through D, having to  
9 do with Cumberland County plans.

10 ER. ZAHLER: That is correct, Dr. Little. Let me  
11 just make an opening statement with respect to the  
12 Cumberland County Plans.

13 Until now there have been no Contentions relating  
14 to Cumberland County at all. There has been a substantial  
15 amount of time, a substantial amount of work on emergency  
16 planning. Quite frank<sup>l</sup>, the ten mile EPZ takes in a very  
17 small segment of Cumberland County. For the most part, the  
18 Contentions now being advanced by Mr. Sholly are not unique  
19 to Cumberland County. They are issues that have been raised  
20 with respect to York, Dauphin County, the State Plan itself.

21 What I am concerned about here is a needless  
22 spreading thin of resources; that is, an application of  
23 principles that have been raised elsewhere just to  
24 Cumberland County that really will dilute the resources that  
25 FEMA and the Licensee might bring to bear, and in fact will

1 not assist the Board in developing a record with respect to  
2 the adequacy of emergency planning around Three Mile Island.

3           If I might just give you a few examples,  
4 Contention 8(III)B 2 raises an issue that is already  
5 addressed with respect to the County at (II)B 5, which goes  
6 to where are you going to relocate people and whether 50  
7 percent will go to the homes of friends or relatives or go  
8 elsewhere.

9           Well, if we litigate with respect to the  
10 Commonwealth plan, it doesn't seem any purpose served by  
11 litigating it with respect to Cumberland. Similarly 8 B 1  
12 talks about whether advanced warning is going to permit  
13 phased evacuation procedures. That is an issue with respect  
14 to all of the county plans. It is not unique to Cumberland,  
15 and the question of notification and its impact on  
16 evacuation is addressed numerous times in the Newberry  
17 Contentions relating to York County. Similarly with respect  
18 to 8(III)C, I would object to that on the basis, it is not  
19 clear to me that any of the subpoints 1 through 6 are within  
20 the ten mile MPZ in Cumberland County. I confess I don't  
21 know because I am not familiar enough with the local area,  
22 but I question whether there are prisons and jails and  
23 college students within Cumberland County. It was my  
24 understanding, I think, that there are three prisons, and  
25 they dealt with -- I didn't realize one was in Cumberland

1 County. I could be wrong. But all we have here is just a  
2 general reproduction of concerns, apply them to Cumberland  
3 County, and I am not sure that that is warranted in this  
4 situation.

5           Finally, as to (III)D, there is absolutely no  
6 basis. There is some conjecture that it is not reasonable  
7 to expect residents of Mechanicsburg to locate only five to  
8 seven miles more distant than from where they are already.  
9 This is not the situation where an Intervenor is alleging  
10 Contentions without discovery or without time to prepare and  
11 organize their thoughts at the outset of a hearing. There  
12 has been some substantial work here. Quite frankly, I am  
13 not even sure how you would litigate the reasonableness of  
14 an expectation ask to the residence of Mechanicsburg.

15           The question of relocation is again raised with  
16 respect to other county plans, whether facilities are  
17 provided for them. Just adding that to Cumberland and  
18 adding a specific nuance that is present in Cumberland  
19 County doesn't seem to me to advance the purposes of the  
20 litigation.

21           Licensee would therefore object to 8(III)B through  
22 D for the purposes as I have described above.

23           DR. LITTLE: Mr. Gray?

24           MR. GRAY: Staff has no objections to these and  
25 will continue to have none. I believe this is a different

1 objection than what Licensee had originally raised, but I  
2 guess we don't have anything to add on this one.

3 DR. LITTLE: Mr. Adler?

4 MR. ROBERT ADLER: The Commonwealth certainly  
5 feels that all five county plans, the adequacy of all five  
6 county plans are at issue in the proceeding. I am not sure  
7 that Mr. Zahler suggested otherwise. That is our only  
8 comment.

9 MR. ZAHLER: I didn't intend to suggest  
10 otherwise. I just intended to suggest that we could  
11 litigate these issues, and they already are being litigated  
12 with respect to other county plans, and that no purpose  
13 would be served for litigating these generic type objections  
14 in the context of the Cumberland County plan.

15 MR. ROBERT ADLER: I note a slight inconsistency  
16 in Licensee's position. I think if what Licensee says is  
17 true, then the Chairman's problems that were reflected a few  
18 minutes ago about an issue that is not covered by a specific  
19 Contention not being part of the factual record will be a  
20 risk they will take.

21 DR. LITTLE: Mr. Sholly, before you respond to the  
22 total, would you specifically address whether or not 8(III)C  
23 is in fact specific to Cumberland County, or if this is just  
24 a general listing of types of subpopulations that would have  
25 to be addressed?

1           MR. SHOLLY: I can explain to you how I  
2 concentrated on Cumberland County, because that is where I  
3 live, and I believe that is a similar reason why ANGRY and  
4 Newberry concentrated largely on York County and Dauphin,  
5 where they were.

6           But that aside, 8(III)C is certainly, I think, a  
7 generic problem to all of the county plans, if my  
8 recollection serves me.

9           DR. LITTLE: My question was whether or not, in  
10 fact, whether there are, in fact, hospitals, nursing homes,  
11 rehabilitation centers and colleges, for example, in the  
12 area of Cumberland County that is within the evacuation zone.

13           MR. SHOLLY: As far as, you know, if we are  
14 talking about the circular ten mile EPZ, there quite likely  
15 schools. If we talk about the 20 mile Cumberland County  
16 plan, there are all of those facilities within the 20 miles,  
17 and the 20 miles extends to a distance just outside of  
18 Mechanicsburg, between Mechanicsburg and Carlisle, and we  
19 have the State Correctional Institution in Camp Hill, which  
20 I believe is something near 15 miles or 14 miles; the  
21 Capital City Mall, the shopping center, I could go on and  
22 on. You can rest assured that all those facilities are  
23 present. The single exception might be colleges, and I am  
24 not quite sure of the distance. I believe Carlisle might be  
25 outside that distance, and if that is true, that might be

1 the single exception.

2 DR. LITTLE: Before we go on, I believe Mr.  
3 Cunningham is in some urgency.

4 MR. CUNNINGHAM: Yes. Madam Chairman, last night  
5 after the meeting I went back and culled through my former  
6 Contentions, and of the Contentions that were withdrawn  
7 pursuant to Board order last night, I would like to  
8 reinstate, there are six following Contentions or parts of  
9 Contentions which I do not feel were covered by the new  
10 Contentions filed by Intervenor. It would be the old plan  
11 within (III)B 12 on page 7 of the Contentions, beginning  
12 with the word "because."

13 CHAIRMAN SMITH: Wait a minute. We are not with  
14 you, Mr. Cunningham.

15 MR. CUNNINGHAM: Sorry about that.

16 DR. LITTLE: This is with the old Contentions.

17 MR. CUNNINGHAM: That is correct.

18 CHAIRMAN SMITH: Where it begins "Annex 5?"

19 MR. CUNNINGHAM: That is correct, Mr. Smith, at  
20 the bottom of the page, beginning with the sentence that  
21 begins "Because of the experiences," and to the end of that  
22 Contention, that part of the Contention was not picked up in  
23 the new Contentions, and I feel that since the York County  
24 plan that is presently before us still provides for the  
25 National Guard to be called upon, upon order of the

1 Governor, I believe that part of that Contention was not  
2 covered in the new Contentions.

3 DR. LITTLE: Would you just go through all of  
4 these?

5 MR. CUNNINGHAM: Yes. (III)B 13, right below that  
6 particular part beginning after the comma after the word  
7 "second," it is not clear that the issuance of  
8 radiation-proof equipment in sufficient quantity to protect  
9 National Guardsmen would be sufficient in the event of  
10 evacuation. We believe that was not covered in the new  
11 Contentions, and we still believe that is a valid part of  
12 the Contention.

13 (III)B 16, in totality, the same defect exists.  
14 The northern part of York County is not served by York  
15 County School District. However, there are numerous  
16 students that attend the West Shore School District, which  
17 is in a Cumberland County, and a net plus is used in York  
18 County which is within the 5 mile EPZ. The number of  
19 telephones or the numbers of buses isn't even considered.

20 (III)B 21 was an admitted Contention and we feel  
21 that it was not covered in the new Contentions, and we feel  
22 that it is still valid.

23 And there's only two others, (III)C 5 --

24 DR. LITTLE: What was the number again?

25 MR. CUNNINGHAM: (III)C 5. It would appear on

1 page 16, beginning with the word "Moreover," about in the  
2 middle of the page, "the plan does not envision the method  
3 of notifying school and bus drivers, and assumes that all  
4 bus drivers will respond in an emergency situation." To the  
5 end of that whole paragraph we feel is still -- was not  
6 covered in our new Contentions, is still covered in the new  
7 Dauphin County plan, and therefore still a valid portion of  
8 the Contention.

9           And the last would appear on page 17 within  
10 Contention (III)C 7, and I will have to read this. It  
11 begins what we believe is still valid. "As regards the  
12 evacuation on institutions, the Dauphin County Plan does not  
13 include any detailed evacuation procedures to be effected by  
14 the institutions within Dauphin County," end there and then  
15 pick up with "The plan does not state any receiving points  
16 for those persons who are moved out of the institutions."

17           We feel that those, with the end of that  
18 Contention, we feel that those are the only areas that were  
19 not covered by the new Contentions. There may have been  
20 nuances or some miscellaneous points that we don't feel are  
21 that critical, and we wish now at this point to reinstate  
22 those portions of the admitted former Contentions.

23           DR. LITTLE: And this assumes that you are  
24 withdrawing all of those not specifically mentioned.

25           MR. CUNNINGHAM: That is correct.

1 DR. LITTLE: In your first set of Contentions.

2 MR. CUNNINGHAM: That is correct, pursuant to  
3 Board action last night which withdrew all of those actions,  
4 correct.

5 CHAIRMAN SMITH: Do you want to take a five minute  
6 break?

7 DR. LITTLE: This will give Licensee and staff and  
8 Commonwealth a chance to look at what now is remaining after  
9 the first set of Contentions.

10 MR. CUNNINGHAM: Madam Chairman, that is fine. My  
11 only problem, of course, is I have got a trial beginning in  
12 five minutes, and the Board's order was to present to the  
13 Board those items which I intended to ask to be retained,  
14 and therefore that is what I have done. I expect -- I will  
15 attempt to get back before you adjourn, as indicated by Mr.  
16 Smith last night.

17 CHAIRMAN SMITH: Mr. Cunningham, I think perhaps  
18 there might be time to address this problem which might come  
19 up frequently. We do not necessarily recognize a trial date  
20 as having a priority to this hearing. It will have to  
21 depend upon the circumstances, the court involved and how  
22 long it has been scheduled, and all of the traditional  
23 factors.

24 But do not assume automatically that this Board  
25 takes a lower priority than any other court date that you

1 might have.

2 MR. CUNNINGHAM: I under --

3 CHAIRMAN SMITH: Indeed, I would expect in a  
4 typical practice that this Court would have an extremely  
5 high priority.

6 MR. CUNNINGHAM: Yes, Your Honor. This was  
7 scheduled the 27th of October, and today's hearing was  
8 scheduled the 5th of September, so it was a preceding date  
9 far in advance of this hearing.

10 CHAIRMAN SMITH: Okay.

11 CHAIRMAN SMITH: Will you be able to even address  
12 it?

13 MR. ZAHLER: I can make one comment at this time?

14 CHAIRMAN SMITH: Well, let's note that Mr.  
15 Cunningham has departed.

16 MR. ZAHLER: With respect to (III)B 13, which had  
17 to do with radiation proof equipment for National Guardsmen,  
18 that language is and does appear almost identically in York  
19 23. It is based on my quick review, as Mr. Cunningham read  
20 it, that the other language is not covered by his new  
21 Contentions. However, there is an additional point, which  
22 is whether those old Contentions still have any basis in  
23 fact given revisions to the various county plans.

24 Quite frankly, Mr. Smith, I am not in a position  
25 today to do that. I don't have the plan available to me,

1 and it would take longerk than --

2           CHAIRMAN SMITH: What I would recommend that you  
3 do is if you believe that these new Contentions, I mean,  
4 accepting, as you state, they are not restated in the new  
5 Contentions, and if you believe that they no longer have  
6 basis because of subsequent revisions, why don't you  
7 informally discuss it with Mr. Cunningham and point out to  
8 him, have you looked at this, that or the other thing, and I  
9 know that Mr. Cunningham nor anybody wants to litigate a  
10 Contention that they no longer have any belief in, that has  
11 been superseded by something else. But we are going to face  
12 an extremely difficult problem in trying to litigate  
13 emergency planning, and maybe for the first time in the  
14 Commission's adjudicative history we are going to have to  
15 face this problem. I don't know if our whole system is set  
16 up to litigate an extremely long list of what are  
17 essentially value judgments. I dont know how it is going to  
18 be done, really, but one thing I do know is that we can't  
19 just go plodding along in a regular, routine, something else  
20 has to be done. Otherwise you are not going to be able to  
21 prepare testimony for it, your testimony, if you did not  
22 raise the objection or contact Mr. Cunningham, your  
23 testimony would be hey, he overlooked this in Revision 2.  
24 That is a waste of time. That is a waste of everybody's  
25 time.

1           If in fact those things have been covered in  
2 subsequent revisions, then I think you ought to work that  
3 out informally.

4           MR. ZAHLER: Licensee will shortly get in touch  
5 with Mr. Cunningham and discuss that with him, and we will  
6 attempt to file a joint piece of paper with the Board  
7 showing what agreement we reached.

8           CHAIRMAN SMITH: Okay.

9           MR. SHOLLY: Mr. Chairman?

10          CHAIRMAN SMITH: Mr. Sholly?

11          MR. SHOLLY: Very generally you mentioned the  
12 problem before about an apparent lack of coordination  
13 between the Intervenors on this particular issue, and I  
14 indicated before we are kind of waiting for the dust to  
15 settle after this meeting.

16          It is our general intent to try and get together  
17 and see what we can do toward streamlining the whole  
18 situation, and we are going to be in contact with the NRC  
19 staff and with the Licensee and the Commonwealth and try and  
20 see if amongst us we can come up with something that makes  
21 this a little more reasonable.

22          CHAIRMAN SMITH: The way we are going we are not  
23 going to get what you want. I can just see it. I mean,  
24 you are going to have a Contention like your 8(III)C college  
25 students. It is so mixed up with value judgments, with

1 second judgments, with second guessing, with unresolvable  
2 conflicts, and whose opinion is right, and many things where  
3 there simply are no standards for a Board to decide one way  
4 or the other. It is not really amenable to the type of  
5 litigation under the Administrative Procedures Act and under  
6 the Commission's rules of practice very well.

7           MR. SHOLLY: I know that. I am beginning to come  
8 to that realization with some of these issues, and I am sure  
9 Mr. Cunningham is, and Ms. Bradford with ANGRY I am sure is  
10 starting to get to the same point herself, and I think we  
11 really need to get together and try and work this out as  
12 best we can and then come to the Board for whatever  
13 direction we need at that point. And it is going to have to  
14 happen soon. We have got to get cracking on this. But I  
15 think you have correctly observed that it is going to be a  
16 heck of a mess if nothing else is done between now and when  
17 we go to try and litigate this.

18           It is certainly our intent to try and streamline  
19 this. It is as much in our interest as it is in anybody  
20 else's.

21           CHAIRMAN SMITH: Well, certainly. The way things  
22 are going now, the Intervenors seem to be looking toward the  
23 members of this Board to make emergency plans, and we are  
24 not -- we cannot do it, of course, and that seems to be the  
25 tendency, and we cannot do it.

1           Let's take a -- I think our time is comfortable to  
2 take a break, isn't it?

3           Let's take or midmorning ten minute break.

4           (A brief recess was taken.)

5           DR. LITTLE: Just before the break, it is our  
6 understanding that it was decided that we took note of  
7 Newberry Township's indication of which of the first set of  
8 Contentions they wished to retain and consequently to  
9 withdraw all of the other first set of Contentions, and that  
10 Mr. Zahler will meet with Mr. Cunningham in regard to those  
11 portions of the first set of Contentions which are to be  
12 retained to see if they are in fact still timely.

13           Is that your understanding, Mr. Zahler?

14           MR. ZAHLER: That is correct, Dr. Little.

15           DR. LITTLE: Do we will take up again with Mr.  
16 Sholly. We were discussing 8(III)B through D, specifically  
17 No. C out of that group, dealing with the populations,  
18 subpopulations of Cumberland County.

19           MR. SHOLLY: I think I indicated before that I  
20 felt this was probably a general problem common to all of  
21 the county plans, and that I focused solely on Cumberland  
22 County because that was my most immediate concern.

23           CHAIRMAN SMITH: That's right, that's where you  
24 live, and that is entirely appropriate, as anticipated by  
25 the Commission intervention rules. This is where you have

1 an interest in the outcome of the proceeding, and there is  
2 nothing wrong with that.

3           Our problem today is we are talking particular  
4 Contentions, but when and if we get finished with that, then  
5 the Board wants to discuss the overall problem, and we had  
6 assured all of the emergency planning people that nothing  
7 would happen today except a discussion of Mr. Sholly's  
8 Contentions, so we are certainly not going to be making any  
9 rulings about the overall problem. So we will complete  
10 taking his Contentions, and then I guess as far as we can go  
11 will be to have a very brief discussion as to how to bring  
12 all of the Intervenors into a realistic approach to  
13 addressing their concerns about emergency planning,  
14 recognizing that the formal adjudicative process envisioned  
15 by the notice of hearing that we function under, and the  
16 Administrative Procedures Act, and the Rules of Practice of  
17 the NRC Commission are not likely to accomplish that, and  
18 this is what the Board is convinced is going to have to be  
19 addressed and resolved.

20           But for today, let's finish up with Mr. Sholly,  
21 and then we will see if we can't come up with something to  
22 get the process under way to address the problem that I  
23 described.

24           DR. LITTLE: Mr. Sholly?

25           MR. SHOLLY: I don't know a whole lot more than I

1 can say about 8(III)C.

2 DR. LITTLE: The Board has decided to accept  
3 8(III)B through D, and we note to Mr. Sholly that these will  
4 be subject to interrogatories, of course, from Licensee.

5 CHAIRMAN SMITH: Unless, of course, something  
6 happens as you suggest that might take a fresh approach to  
7 the entire problem.

8 MR. SHOLLY: We are certainly going to try.

9 MR. ZAHLER: Dr. Little, Licensee's remaining  
10 objections to Intervenor's Contention were 8(III)E through  
11 G. Licensee is at this time withdrawing those objections.

12 DR. LITTLE: These are which, E through G?

13 MR. ZAHLER: That's right.

14 DR. LITTLE: 8(III)E, F and G.

15 MR. ZAHLER: We have already previously ruled on  
16 Licensee's objections 8(III)I. The only ones remaining are  
17 8(III)E through G, and Licensee is withdrawing those  
18 objections at this time.

19 DR. LITTLE: Does Licensee have any objections?

20 MR. GRAY: No.

21 DR. LITTLE: In that case, that becomes a nonpoint.

22 MR. SHOLLY: There were some other ones as far as  
23 staff.

24 DR. LITTLE: That's right. We are getting to  
25 those next. We have two -- or we have a number of

1 Contention wherein the staff objects, the first one being  
2 8(I)B 4. I guess that is an 8(I)B 4.

3 MR. GRAY: Yes.

4 DR. LITTLE: That one has been alluded to, but I  
5 don't believe an action has been taken on it.

6 Am I correct or not?

7 MR. SHOLLY: No. My previous statement was that  
8 regardless of the disposition of that particular portion of  
9 8 B 2, that would not affect consideration of that  
10 Contention on a state plan.

11 DR. LITTLE: Mr. Gray?

12 MR. GRAY: The Contention 8(I)B 4 states  
13 essentially that to the extent the Licensee relies upon a  
14 decision of county officials to develop and maintain a 20  
15 mile Emergency Response Capability as a substitute for  
16 making any determination on the 10 mile circular EPZ, the  
17 adequacy of the 20 mile zone must be established. Staff had  
18 objected to this on the basis, or on the grounds that really  
19 it is rather vague. We don't quite understand what the  
20 concern is. The extent of reliance is not identified. The  
21 particular deficiencies or particular areas of Licensee's  
22 planning and emergency plan on which there is reliance have  
23 not been identified, and therefore we objected to this  
24 specific part of that Contention on the basis of lacking  
25 specificity.

1 DR. LITTLE: Mr. Sholly?

2 MR. SHOLLY: I hope I am not overstating things,  
3 but I believe in all cases I can recall, in any questions  
4 about problems with emergency planning which were outside  
5 the actual proposed 10 mile circular plume EPZ, were  
6 addressed from the Licensee's standpoint as to why the 20  
7 mile plans don't take that into account, and I think in all  
8 instances as far as the state and the Commonwealth and  
9 Licensee response to interrogatories about how they arrive  
10 at a 10 mile circular EPZ for this particular site, the  
11 Commonwealth indicated that it had no independent capability  
12 to reach a determination on that, and that it accepted that  
13 as their best judgment as to what NUREG-0396 and -0654 were  
14 trying to get at.

15 And in fact, from talking to Margaret Reilly in  
16 the Bureau of Radiation Protection, she indicated the state  
17 had adopted a uniform 10 and 50 mile EPZ for every nuclear  
18 site in the state. And it is my very strong feeling that  
19 that does not meet the requirements or the responsibilities  
20 imposed on them by NUREG-0396 and -0654, that in fact, that  
21 there are a number of criteria or considerations to be  
22 applied on a site specific basis.

23 So the whole thing seemed to be resolving in what  
24 both the state and the Licensee were saying was look, we  
25 have got 20 mile plans. That surely takes care of any minor

1 perturbations that might result from a consideration these  
2 specific factors. None of them would go outside of the 20  
3 mile plan in any event. So we are going to rely on the 20  
4 mile plan to take care of any possible problems.

5           And this Contention is simply a statement that if  
6 that is in fact the reliance of the Commonwealth and the  
7 Licensee, then those 20 mile plans should be evaluated and  
8 substantiated as being adequate.

9           Now, I realize that there is a problem there, that  
10 again we don't have a laundry list of whatever problems  
11 exist with those plans, but I think those problems are  
12 gotten to by a whole variety of other Contentions, and  
13 again, I guess this falls into a category of a statement of  
14 position or a legal argument.

15           CHAIRMAN SMITH: And it is one, if your premises  
16 are correct, it is hard to dispute, too. But, as far as it  
17 is litigable as a Contention is another matter, if your  
18 premises are correct.

19           MR. SHOLLY: I believe they are. I am certainly  
20 open to --

21           CHAIRMAN SMITH: That's why I think Mr. Gray's  
22 point is your premises have not been identified, essentially.

23           MR. SHOLLY: Premises in what respect? I am not  
24 sure I understand.

25           CHAIRMAN SMITH: That the particular

1 characteristics of the region in the vicinity of the 10 mile  
2 circle do not have to be addressed because a 20 mile plan is  
3 being placed over it. If that premise is correct, it would  
4 seem to me that your statement is correct. But Mr. Gray I  
5 think is pointing out that there is no basis in the  
6 Contention supporting your premise.

7 Is that --

8 MR. GRAY: Yes.

9 MR. SHOLLY: I tried to support that in my  
10 response to the extent that I could at that particular  
11 time. I had seen or read or heard nothing to contradict my  
12 premise in the slightest, and it seems to be a rather hard  
13 and fast position.

14 CHAIRMAN SMITH: Maybe I missed it, but where did  
15 you get the 20 mile?

16 MR. SHOLLY: I believe this was -- came about  
17 after the accident, where the five countries around Three  
18 Mile Island were requested by I guess the PEMA or the  
19 Governor or someone in the state to develop 20 mile  
20 emergency plans, and in fact I think that is what all of  
21 those plans deal with, out to a 20 mile

22 MR. ROBERT ADLER: Perhaps I can clarify this.  
23 First of all, just to correct one misimpression that the  
24 Commonwealth's plume exposure radius is not a uniform 10  
25 mile radius, and it depends on the various boundaries of the

1 local jurisdictions, Mr. Sholly has correctly stated that we  
2 have not independently evaluated the validity of the general  
3 concept of a 10 mile EPZ, and I read that to be the thrust  
4 of his Contention.

5           As far as No. 4, that is just a corollary of  
6 that. I don't see any harm as it being there.

7           As to the 20 mile radius, that is in the county  
8 plans, but that is not one of the requirements of 0654.  
9 That was an independent judgment by the counties.

10           MR. SHOLLY: Exactly.

11           CHAIRMAN SMITH: Okay.

12           I think that the statement can be conceded by  
13 everybody to be true as it stands.

14           Isn't that correct? Isn't that statement correct?

15           MR. ZAHLER: Just so that we don't indicate  
16 complete agreement, that may not be correct. Let me just  
17 give you an example. It is unclear what the adequacy of  
18 such 20 mile capability means. From Licensee's perspective,  
19 there are certain defined functions to be served by the  
20 delineation of any EPZ, that you do notification, that you  
21 prepare an evacuation, you prepare an alerting, whatever.  
22 There are other characteristics of emergency plans aside  
23 from those associated with just the functions that you want  
24 to have served by the delineation of emergency planning  
25 zone. It may be that the 20 mile plans are adequate for the

1 purpose of taking care of the irregularities in boundaries  
2 that Mr. Sholly would like to see, even though they may not  
3 be in and of themselves full and complete emergency plans  
4 for other purposes.

5           So from Licensee's perspective, the statement may  
6 be that 20 mile plans are adequate to take care of those  
7 functions that would be served if we, instead of going from  
8 a circular 10 mile EPZ, went to an irregular one and took in  
9 certain boundaries. While the 20 mile plans may not in and  
10 of themselves represent totally adequate, complete emergency  
11 plans for other functions.

12           CHAIRMAN SMITH: I would read the 10 mile to be  
13 parallel to the 10 mile, whatever is needed in the 10 mile  
14 circular EPZ, if you are going to substitute a 20 mile EPZ,  
15 it is going to have to do what the 10 mile EPZ needs,  
16 whatever required. Otherwise the substitution doesn't  
17 accomplish, and it is still my position that this statement  
18 necessarily is a true statement.

19           I mean, it is syllogistic, axiomatic.

20           MR. ZAHLER: Because of the broadness of some of  
21 the words, Licensee doesn't agree with that, Mr. Chairman,  
22 and in fact, I don't think Licensee agrees with your  
23 statement that the 20 mile plan has to be as adequate as the  
24 10 mile plan. I am not sure that that may be resolved  
25 here. That is a factual matter that we are going to present

1 evidence on.

2 CHAIRMAN SMITH: Well, that is true.

3 (Pause)

4 MR. GRAY: Mr. Chairman?

5 DR. LITTLE: Mr. Gray.

6 CHAIRMAN SMITH: Mr. Gray.

7 MR. GRAY: I think I would certainly agree with  
8 you that as far as the fact that the Contention itself is  
9 axiomatic, if there is reliance on a 20 mile zone, then the  
10 adequacy -- whatever that may mean. I am not saying that is  
11 a matter probably of an evidentiary showing as to what is  
12 adequate, but if they rely on the 20 mile zone, then the  
13 adequacy of that, the planning within that zone should be  
14 shown. I don't have any problem with that.

15 But my problem is, it is the if part, that do  
16 they, and where do they? And it is the same as the  
17 Contention we were talking to or speaking earlier, were the  
18 Contentions stated something to the effect, if municipal  
19 plans are relied upon, the adequacy of the municipal plans  
20 should be. It is a matter of specification. That is the  
21 problem the staff had with this to start with, and I think  
22 we still have.

23 CHAIRMAN SMITH: I think you have identified it  
24 correctly. You can hardly dispute the statement, but how  
25 can you litigate it?

1 MR. GRAY: Right.

2 CHAIRMAN SMITH: What Mr. Sholly is saying here,  
3 if I understand it, if you are going to do that, then you  
4 are going to have to do it, and if you are going to  
5 substitute, if you are going to avoid the responsibility of  
6 following the 10 mile circumference around, addressing the  
7 local circumstances, sociological, political and all of  
8 those, if you are going to avoid that by imposing on top of  
9 it a 20 mile EPZ, which will certainly take care of those,  
10 then you will have to demonstrate that in effect the 20 mile  
11 EPZ does do it, and that, I would insist, is axiomatic.

12 But you do what you wish on it. I think we can  
13 accept it as a statement. If you want to ask for a  
14 clarification, okay. It is just a simple difference in  
15 reading. I can't explain it any better than I have.

16 MR. ZAHLER: Licensee had no objection to this  
17 Contention. I have in mind how we intend to litigate it. I  
18 am not sure that there is a difference between us. It goes  
19 to what the factual showing is for adequacy, and the only  
20 point I wanted to make is that NUREG-0654 imposes a lot of  
21 criteria with respect top the 10 mile EPZ that do not go to  
22 the questions that might be relevant to making changes in  
23 the 10 mile EPZ for local topographic, demographic  
24 considerations. As to those matters, the 20 mile plan need  
25 be adequate. But as to the other matters that don't relate

1 to --

2 CHAIRMAN SMITH: Those issues aren't raised by 4.  
3 All 4 does is warn the people who are involved in this  
4 litigation that if you want to come up with a 20 mile line,  
5 and avoid the 10, then you had better do it, that he is  
6 going to be watching you. That is all. I don't think it is  
7 litigable, but I think it is a correct statement for you to  
8 make.

9 DR. LITTLE: Mr. Adler, I thought you were getting  
10 ready to make a statement.

11 MR. ROBERT ADLER: No, we have no objections to  
12 that characterization.

13 DR. LITTLE: Mr. Gray?

14 MR. GRAY: I think we will go with it as is, and  
15 as need be, attempt to address it.

16 MR. SHOLLY: Maybe short of that, in cross  
17 examination I will get to this very point.

18 CHAIRMAN SMITH: I would expect so.

19 So in the meantime, what should our ruling be? I  
20 think it should be consistent with our other rulings that it  
21 be regarded as a statement of your position in the case and  
22 not ask a factual Contention.

23 Is that satisfactory?

24 MR. SHOLLY: That would be fine.

25 DR. LITTLE: Now, the final objections by the

1 staff deal with 8(I)G 14 through 23, which are the letters  
2 of agreement between Licensee and various and sundry  
3 organizations like the Coast Guard and the Medical Service  
4 and so on.

5           MR. GRAY: Yes. The staff had originally objected  
6 to this because the Contention ask it stood was a mere  
7 allegation that there should be letters of agreement with  
8 these various organizations. Obviously we could pick an  
9 infinite number of organizations as to which Licensee has no  
10 letters of agreement, without some basis for saying that  
11 there should be with these. Then that is what gave us a  
12 problem.

13           However, in Mr. Sholly's response of October 7, he  
14 did indicate a basis. He indicated that Table 11 of the  
15 Licensee's emergency plan lists those organizations as ones  
16 on which the Licensee is dependent for some personnel and  
17 services, and with that basis, that takes care of the  
18 staff's objections to that, and we withdraw that objection.

19           DR. LITTLE: Staff has withdrawn its objection.

20           Licensee?

21           MR. ZAHLER: Licensee has but one comment. In a  
22 telephone conversation with Mr. Sholly, there are two  
23 typographical errors in the Contention. With respect to No.  
24 15 and 16, there is no key next to those two, the EPA and  
25 Babcock and Wilcox. Mr. Sholly indicated the key number

1 should be 4 with respect to both of those, and if that is  
2 correct, I would request that the Contention be so modified.

3 MR. SHOLLY: I was going to bring that to the  
4 Board's attention when we were done with this.

5 DR. LITTLE: We just put comma 4 after EPA in 15  
6 and after Babcock and Wilcox in No. 16?

7 MR. SHOLLY: That is correct.

8 DR. LITTLE: Does the Commonwealth have any  
9 comments on that?

10 MR. ROBERT ADLER: No.

11 DR. LITTLE: Then 8(I)G 14 through 23 are accepted  
12 as modified.

13 The only remaining item that I know of is Mr.  
14 Smith's desire to bring some order out of chaos in terms of  
15 organization of emergency planning Contentions.

16 CHAIRMAN SMITH: It has occurred to me that what  
17 is needed in this process -- I guess my remarks are  
18 addressed more to Mr. Gray than anybody else -- what is  
19 needed in this process -- and I will concede from the very  
20 beginning that this is somewhat beyond the jurisdiction  
21 bestowed upon the Board in the notice and order of hearing,  
22 but there is a process in place in which the community is  
23 able to address, for example, environmental impact  
24 statements as they are being prepared, and then those that  
25 are not resolved in a more unstructured process survive for

1 litigation. There doesn't seem to be any parallel in place  
2 for emergency planning. It is needed.

3           Licensing boards, under the rules of practice,  
4 simply cannot address every alleged imperfection in five  
5 county emergency plans. It is just adjudication is not set  
6 up for that.

7           Mr. Sholly?

8           MR. SHOLLY: If I may, Mr. Chairman, this is  
9 something the Intervenors have been concerned about from the  
10 start, and given the complexities of the case as it was  
11 developing, and the rapidity with which things started out  
12 to go, we concluded that if we tried at that point to try  
13 and get all the county planning people together and work  
14 with them, that we might accomplish something there, but we  
15 would wind up losing a tremendous amount of ground in the  
16 proceeding, and the proceedings seemed to take priority with  
17 everyone.

18           It may very well be that if we could somehow get  
19 into the process with the county planning people, a lot of  
20 this could be resolved.

21           CHAIRMAN SMITH: Or even with the FEMA people.

22           I don't know. Maybe there is something the FEMA  
23 people do locally that I am not aware of. But whatever so  
24 far they have done has not filtered or strained any of the  
25 -- I cannot call any of these minor concerns. I don't call

1 them minor concerns. But there are simply too many, too  
2 many details in five county emergency plans to be  
3 adjudicated in the context of this case or any adjudication  
4 that I am aware of. It cannot be done.

5 I guess what I am asking, two things, I think.  
6 One is for the purpose of this case, if there cannot be  
7 under the very indirect supervision of the Board something  
8 comparable to the community meetings, I mean something  
9 informal, a meeting of the staff, of FEMA people with these  
10 Intervenor, giving them an opportunity to express their  
11 concerns and identify clearly which of their concerns have  
12 to survive litigation and cannot be resolved in another way,  
13 but whatever has to survive litigation, of course has to be  
14 litigated.

15 So it is too late in this proceeding for us to go  
16 to the Commission and recommend that, or to the Executive  
17 Director for Operations or anybody, and recommend that there  
18 be a whole new process put in place. It is too late. We  
19 are going to have to take it as it comes.

20 But what I think we should try to accomplish is  
21 within the scope of this proceeding a comparable parallel  
22 approach within which the officials involved in designing  
23 emergency planning allow the direct expression of concerns  
24 by the Intervenor in this case rather than the Intervenor  
25 trying to work them through a board. We can't do it. We

1 don't even understand it. That is -- the basic problem is  
2 we are the wrong people as far as competence is concerned,  
3 and we are the wrong people as far as the strictures of  
4 adjudicating is concerned, and we are the wrong people as  
5 far as time is concerned. We just happen to be the wrong  
6 people from every dimension for Intervenors to be initially  
7 raising their concerns about emergency planning.

8           It took us too late, I think, to recognize this.  
9 I have been getting the idea when we saw Newberry's amended  
10 petition, that there has to be a better way to do this.

11           So would you have any objection to that approach?  
12 Or could I have your comments?

13           MR. ZAHLER: Licensee doesn't have any  
14 objections. Licensee would be willing to participate in  
15 that. Given the other demands upon our emergency planning  
16 people, I would ask that we not have the responsibility of  
17 undertaking to initiate it, but we would attempt to  
18 participate if that was desired. If we were requested to be  
19 there, we would be there.

20           CHAIRMAN SMITH: Mr. Gray, I know that we have  
21 dumped this on your suddenly.

22           MR. GRAY: Let me indicate, though, as the Board I  
23 think recognized yesterday, the meeting that we had  
24 involving the State of Pennsylvania, the Licensee, staff and  
25 FEMA on Wednesday I believe was very profitable. A good

1 part of what was accomplished there was simply informal  
2 exchanges of information which, in good part, answered some  
3 of Pennsylvania's questions, simply because there was a lack  
4 of understanding and that lack of understanding I think was  
5 cleared up. That did accomplish a good bit.

6 I would contemplate something in the same vein  
7 here involving all the Intervenors with emergency planning  
8 Contention, FEMA and NRC personnel, and of course the  
9 Licensee, in which --

10 CHAIRMAN SMITH: And the Commonwealth.

11 MR. GRAY: Yes, of course, the Commonwealth, for  
12 the same sort of discussions and exchanges of information in  
13 such a way as to simply answer, possibly answer questions  
14 the Intervenors may have that may well resolve their  
15 concerns. It may well give rise to additional ones, but at  
16 this point I would suggest something of that nature, and I  
17 can proceed to try to set something like that up.

18 CHAIRMAN SMITH: Furthermore, when you do, the  
19 Board will, noting that -- well, the Board will make it a  
20 requirement of the Intervenors to participate. This is a  
21 traditional part of adjudication, that parties are required  
22 to work out their issues in an informal way before they  
23 bring them to formal adjudication, and we will stress very,  
24 very strongly the need for Intervenors to first give a shot  
25 at this approach.

1           And Mr. Sholly, you have been burdened in this  
2 proceeding by being the leading Intervenor on other issues,  
3 and you have performed very responsibly when you have, and  
4 we are extremely pleased that this has come up when you are  
5 here and that you have already had a preliminary  
6 conversation with Mr. Cunningham, and we are very grateful.  
7 That doesn't pay your expenses, I know, but I am going to  
8 ask you if you will follow through in your recommendation  
9 and do what you can do along that line.

10           But I believe that the concerns of the Intervenor  
11 can be better addressed and better resolved in emergency  
12 planning by that approach, and bring to us only those that  
13 are significant, important and cannot be reconciled by the  
14 informal method, and we will have more time for it, we will  
15 be able to give it more serious consideration. But here now  
16 we cannot decide whether firemen are going to come to work  
17 or not. That is impossible.

18           MR. SHOLLY: I think perhaps one additional  
19 advantage, if things work out the way they might, is that it  
20 will get us out of perhaps an adversarial situation for a  
21 while and extend beyond the end of the hearing in terms of  
22 working with local emergency planning people, and this has  
23 been somethin that has been bothering me for quite a while,  
24 and I wound up getting thrust into the situation after the  
25 accident, and I had to come to grips with it, and this

1 seemed to be the forum to do it, and everyone jumped for it.

2 But it is proving to be a difficult form at best  
3 for dealing with this particular issue. So this might have  
4 some additional benefits beyond streamlining this process.

5 CHAIRMAN SMITH: Very good.

6 In the meantime, however, I believe we have ruled  
7 on every outstanding Contention and the objected to  
8 Contentions, and the only thing remaining in the emergency  
9 planning area, other than a discussion about the informal  
10 approach is a report from you, and perhaps a joint report  
11 from you and Mr. Cunningham, as to those Contentions that he  
12 came in, that he revived this morning.

13 MR. ZAHLER: That is correct, Mr. Chairman. There  
14 is one other thing, and that is that the Board has got to  
15 report back as to whether any of the ECNP emergency planning  
16 Contentions dismissed were not covered and otherwise are  
17 still in the proceeding.

18 CHAIRMAN SMITH: That's right.

19 (Pause)

20 CHAIRMAN SMITH: We just assumed the staff will  
21 participate in the arrangement between Mr. Zahler and Mr.  
22 Cunningham.

23 MR. GRAY: Yes, we will be talking to Mr. Zahler  
24 certainly. I was going to afterward to try to make sure we  
25 got in on that.

1 CHAIRMAN SMITH: Okay.

2 Then the last thing, we have not had a chance to  
3 hear from Mr. Adler on our comments on the informal approach  
4 to emergency planning.

5 MR. ROBERT ADLER: The Commonwealth wholeheartedly  
6 agrees with the concerns expressed by the Board. As a  
7 matter of fact, in our public comments on the proposed FEMA  
8 regulations, we indicated our dissatisfaction with the  
9 holding of the public hearing only after the state plan has  
10 been submitted to FEMA, and we proposed that public hearings  
11 be required at the county level, at the risk county level.  
12 That does not help in this proceeding, but it indicates that  
13 we agree that the public needs to have some input much  
14 earlier in the process.

15 The only comment I would have, further comment, is  
16 I think we have already covered this but we see a tremendous  
17 need to organize the emergency planning Contentions  
18 according to some logical subject matter, and if not, the  
19 preparation of direct testimony is going to be a nightmare.

20 CHAIRMAN SMITH: Well, that should be accomplished  
21 after the important emergency planning Contentions survive.  
22 There certainly is going to have to be some type of  
23 organization.

24 Mr. Sholly?

25 MR. SHOLLY: Does the Board anticipate in its

1 rulings on the Contentions to in any way recap in toto what  
2 is in and what is out. I must confess that I am terribly  
3 confused, not so much with my Contentions but with the other  
4 ones.

5           CHAIRMAN SMITH: Well, we eventually, yes, intend  
6 to issue an order, but I hope that before that time comes  
7 that there will be some prestructuring of the whole  
8 litigation. I mean, that is what I would like to see, the  
9 whole litigation restructured in a more reasonable form.  
10 But if that doesn't happen exactly, we will just plod along  
11 and we will litigate every one of them. We have no other  
12 choice. We do not have the discretion to say there are too  
13 many Contentions. We have to litigate everyone that  
14 qualifies under Commission standards, unless we go back to  
15 the Commission.

16           DR. JORDAN: Was that the question you had?

17           MR. SHOLLY: Perhaps each individual group knows  
18 precisely what it has in them and what it doesn't, but from  
19 the standpoint of trying to organize our efforts, I have  
20 been kind of taking a lead role in trying to pull it  
21 together.

22           CHAIRMAN SMITH: I understand. What you need is a  
23 summary of what is in, what is out, and what the  
24 modifications are.

25           MR. SHOLLY: That is correct.

1           CHAIRMAN SMITH: Even to go forward without urging  
2 that there be an informal process. Okay.

3           DR. LITTLE: I believe Mr. Sholly is just  
4 referring to what we usually do, is a memorandum and order  
5 following.

6           MR. SHOLLY: Much like the first special  
7 prehearing conference order.

8           CHAIRMAN SMITH: Yes, we will do that. It will be  
9 much more summary, in and out and in and out, with the  
10 transcript references.

11          MR. GRAY: Mr. Chairman, I had understood that the  
12 Board intended to issue an order, just as you indicated, in  
13 and out, and to renumber Contentions.

14          CHAIRMAN SMITH: We hedged that. We hoped to.

15          MR. GRAY: If there is a renumbering, may I ask  
16 that, I don't know what format the Board would do that.

17          CHAIRMAN SMITH: We certainly want recommendations.

18          DR. LITTLE: We have several ideas. We have not  
19 arrived at a final form. So if you have some ideas, we  
20 would like to hear them.

21          MR. GRAY: I think it would be extremely helpful,  
22 as was done in prior orders in this vein, to have an  
23 attachment listing all of the Contentions admitted, as  
24 modified, and one thing I was going to suggest was in the  
25 renumbering, that somehow there be a parenthetical

1 identification of what the original number was. There has  
2 been a lot of work done, at least I suspect from the  
3 Licensee's standpoint, I know from the staff and FEMA  
4 standpoint, talking about certain Contentions we are  
5 referencing, and it would just be very helpful if right at  
6 the outset in the renumbering we have a designation of what  
7 they originally were.

8 DR. LITTLE: The name of the part and the number  
9 that we discussed in the context of yesterday and today.

10 MR. GRAY: Yes.

11 CHAIRMAN SMITH: Probably the way it would come  
12 out, the list of Contentions would come out as an actual  
13 Xerox of the form submitted containing either written in on  
14 the Contention what the number was, or actually Xeroxed, if  
15 it appears when the Contention is presented, accompanied by  
16 a new Board number for litigation. And it would be perhaps  
17 Sholly EP-1, Sholly EP-2, but it would show, cut out and  
18 pasted in, his actual Contention as he submitted it.

19 MR. GRAY: Yes.

20 CHAIRMAN SMITH: Okay.

21 Is there anything further this morning?

22 I am uncomfortable that we promised everybody that  
23 we were only to discuss the limits of Mr. Sholly's  
24 Contention, but the opportunity came up, and I think that  
25 what we had better do is we will send out a memorandum to

1 all of the parties bringing to their attention in this  
2 transcript the discussion that we had which exceeded our  
3 assurances that we would limit our discussion to his  
4 Contentions.

5           Okay, now go ahead.

6           DR. JORDAN: I guess I just wanted to raise one or  
7 two items with respect to what is going to happen next week.

8           First of all, I am asking now staff and the  
9 Licensee chiefly what the order will be next week.

10           First, I presume we are going to discuss hydrogen?

11           CHAIRMAN SMITH: Mr. Trowbridge isn't here and Mr.  
12 Gray doesn't know.

13           DR. JORDAN: That is true. This is the wrong  
14 group pretty much.

15           MR. GRAY: As far as the total is, understand, I  
16 don't know. My understanding was that Tuesday in the  
17 afternoon there would be a discussion of hydrogen.

18           DR. JORDAN: Then it is my understanding that we  
19 will go from there to UCS-1 and 2.

20           So if there are no objections, that's the way it  
21 would probably be.

22           CHAIRMAN SMITH: Let's go off the record.

23           (Discussion off the record.)

24           CHAIRMAN SMITH: We will conclude the record now.

25           DR. JORDAN: There was one thing I should have

1 raised when Mr. Tourtellotte was here, and you will have to  
2 convey it to him. I have looked over the schedule of staff  
3 testimony when they plan to respond to some Board questions  
4 and other items. This was chiefly Mr. Novak's affidavit,  
5 and there was one thing that I was not able to identify.

6 (Pause)

7 CHAIRMAN SMITH: He is going to just remind Mr.  
8 Tourtellotte of some things and concerns we have in an  
9 informal way. There is no need for it to be on the record  
10 because the official transcript was limited to emergency  
11 planning today.

12 So we will adjourn and meet again at 1:00 p.m. on  
13 Tuesday the 4th.

14 (Whereupon, at 10:28 o'clock a.m., the hearing in  
15 the above-entitled matter recessed, to reconvene at 1:00  
16 o'clock p.m., Tuesday, November 4, 1980.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

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in the matter of: METROPOLITAN EDISON COMPANY  
(TMI UNIT 1)

Date of Proceeding: October 31, 1980

Docket Number: 50-219

Place of Proceeding: Harrisburg, Pa.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Alfred H. Ward

Official Reporter (Typed)

POOR ORIGINAL

*Alfred H. Ward*

Official Reporter (Signature)