

UNITED STATES OF AMERICA

BEFORE THE
NUCLEAR REGULATORY COMMISSION

In the Matter of:)	
)	
HOUSTON LIGHTING & POWER)	Docket No. 50-498 OL
COMPANY, ET AL)	50-499 OL
)	
South Texas Nuclear Project)	
Units 1 and 2)	

Matagorda Room
Holiday Inn
Highway 35 West
Bay City, Texas

Wednesday
May 13, 1981

PURSUANT TO ADJOURNMENT, the above-entitled matter
came on for further hearing at 9:00 a.m.

APPEARANCES:

Board Members:

CHARLES BECHHOEFER, ESQ., Chairman
Administrative Judge
Atomic Safety & Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

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I N D E X

WITNESSES

DIRECT

CROSS

REDIRECT

RECROSS

BOARD
EXAM.

Jerome H. Goldberg;
Richard A. Frazar
(Resumed)

By Mr. Jordan
By Mr. Eager

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1156

P R O C E E D I N G S

9:00 a.m.

JUDGE BECHHOEFER: Good morning, Ladies and Gentlemen.

Before we begin this morning, we first would inquire whether there is anyone in the audience who wishes to make a further limited appearance statement.

(No response.)

JUDGE BECHHOEFER: Not being any, are there any other preliminary matters that the parties wish to discuss?

It's our anticipation we will go directly into the motions that have been filed. Prior to that, are there preliminary matters?

(No response.)

JUDGE BECHHOEFER: Well, going into the motions, Mr. Jordan, we've read the motions. Do you have anything to add before we hear from the Staff?

I particularly might say, have you reached any sort of an agreement on Saturday or Friday, which is one of the motions?

MR. JORDAN. We have. We've gotten started. I don't want to say yes, that we've reached an agreement. We'll probably come to one within the next -- like at lunchtime. We've talked about some possibilities that I haven't decided on yet whether we can really accept it, but it may work in

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1 trying to get through on Friday. We'll get through with the
2 major piece, the Amaral situation, on Friday. So I would say
3 if people want to give their arguments on it now, fine, but I
4 think we ought to be able to come to something by lunchtime or
5 after lunchtime.

6 JUDGE BECHHOEFER: Well, it may save our time not to
7 take that one up at this time and go to the other ones.

8 Do you have anything to add to your written motions
9 before we hear from the Applicants' staff?

10 MR. JORDAN: No, I think we can go. I've had my
11 say, first round.

12 JUDGE BECHHOEFER: Okay. Mr. Axelrad or Mr. Newman.

13 MR. NEWMAN: Mr. Axelrad will be responding.

14 MR. AXELRAD: Mr. Chairman, I would suggest that
15 we take up one motion at a time. Is that your intention?

16 JUDGE BECHHOEFER: That's satisfactory.

17 MR. AXELRAD: Okay. The first motion is the one
18 to establish the testimony on cross-examination, and in
19 essence the Intervenors were arguing that they should cross-
20 examine and prepare to present their testimony after the Staff.

21 This subject had been discussed at the last
22 pre-hearing conference. The Board had ruled, although we
23 haven't had a chance to review the transcript of the pre-
24 hearing conference, that as in the usual situation the Staff,
25 in light of the responsibilities that it has, would make its

1 presentation and cross-examination of the Applicants'
2 witnesses last.

3 We see no reason why that standard practice should
4 be deviated from in this proceeding.

5 The only aspect that the Intervenors are pointing
6 to is that the Staff has taken the position in this proceeding,
7 that is the situation in every proceeding, by the time the
8 hearing stage is reached the Staff has taken a position one
9 way or the other, and that does not detract from the Staff's
10 responsibility to represent the public in its proceedings and
11 to take a position on the basis of the entire record.

12 Now, we see no reason in this particular case that
13 the Staff should be called upon to cross-examine or present
14 its testimony before the Intervenors do.

15 JUDGE BECHHOEFER: Mr. Reis or Gutierrez?

16 MR. GUTIERREZ: I'll be responding to motions,
17 Mr. Chairman.

18 JUDGE BECHHOEFER: Okay.

19 MR. GUTIERREZ: The Staff concurs in the Applicants'
20 reasoning, but we also recollect that either formally or
21 informally during the pre-hearing conference this was discussed,
22 and the order was the Applicant first, the Intervenors second,
23 then the Staff third.

24 With respect to the current motion, it's the
25 Staff's position that the Intervenor fails to set forth

1 sufficient grounds to warrant changing its usual practice.

2 In reviewing the motion, the only substantive
3 basis that the Intervenor seems to give warranting changing
4 the order is that the NRC Staff does not come to these
5 proceedings as a neutral observer with pure untainted wisdom.

6 Our only response to that is it's our obligation
7 not to be neutral but to take a position. We do owe an
8 obligation to the public that after monitoring the plant,
9 the construction of the plant over a course of seven, almost
10 eight years now, obviously we would have had to have formed
11 an opinion. That's not to say we're biased. That's not to
12 say that we're wedded to that opinion.

13 But as Mr. Axelrad points out, in any case when it
14 comes time for hearing the Staff has formed an opinion.

15 Again, I direct the Intervenor's attention to the
16 Staff's pre-filed testimony, and I think a careful reading of
17 it will reveal that the Staff clearly states that because of
18 the stage of construction that this isn't a final position in
19 favor of issuance of an OL license.

20 What we're saying is that at this stage we think
21 the Applicant has experienced problems, has taken sufficient
22 steps to remedy those problems, and we are continuing
23 monitoring the construction of the plant through the resident
24 reactor inspector and I&E Staff.

25 So the cited basis does not have any foundation

1 in fact.

2 JUDGE BECHHOEFER: Mr. Gutierrez, aside from the
3 Staff's stated position on the proceeding, does the Staff in
4 this proceeding as well as others, have other duties with
5 respect to the completeness of the record?

6 MR. GUTIERREZ: Yes. I was going to get to that.

7 The point I think should be made that it seems
8 that particularly the I&E inspector has a unique role in these
9 hearings, but they are the only individuals that have inspected
10 the Applicants' operations, have listened to allegers and are
11 charged with finding facts, investigating allegations, and in
12 that capacity the Staff presents, or attempts to present a
13 complete record as possible, and to have that done during
14 the middle of the proceeding doesn't seem to have any basis
15 in reasoning.

16 It's only after we hear the Applicant, hear the
17 Intervenor, that the I&E inspector can respond to the full
18 record and attempt to complete or resolve that record.

19 JUDGE BECHHOEFER: So I take it your witnesses
20 would be prepared to answer questions, not totally, not only
21 on the direct testimony but on other testimony that the
22 Intervenors and Applicants may have offered.

23 MR. GUTIERREZ: Yes.

24 JUDGE BECHHOEFER: So far as it bears out their
25 earlier or their prior inspections.

1 MR. GUTIERREZ: That's correct.

2 I might also add that in this particular
3 proceeding there's going to be an attempt to update the
4 I&E record to the time at which the I&E Staff goes on the
5 stand, from mid-April when we filed our pre-filed testimony
6 to the current status, there's been almost eight I&E reports
7 issued since the time we filed our pre-filed testimony and
8 we will submit those subsequent I&E reports and have people
9 on the stand to address them.

10 MR. HAGER: If I can speak as well, I'm not a
11 signature on the motion, but it does seem to me on this first
12 motion I would support the CEU position and I think that the
13 issue does ride on 10 CFR 2.731, which states, contrary to
14 what Mr. Gutierrez said, that the proponents of an order will
15 ordinarily open and close.

16 Now, the problem of a --

17 JUDGE BECHHOEFER: Well, let me ask you, is the
18 Staff the proponent of an order, or is the Staff perhaps --
19 the eventual order I think is the issuance of an operating
20 license.

21 Now, do you view the Staff as a proponent of that,
22 or do you view the Staff as indicating that the Applicants,
23 in their opinion, have fulfilled the requirements of that?

24 I think there may be a difference.

25 MR. HAGER: Yes. Well, I don't have a copy of

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1 the transcript this morning, but I do distinctly remember
2 Mr. Reis saying at the conclusion of his opening statement
3 that he was going to support the issuance of an operating
4 license in this hearing.

5 JUDGE BECHHOEFER: Right. Well, what I asked you
6 is support the same thing as being a proponent.

7 MR. HAGER: Well, I think the NRC Staff has its
8 choice if it doesn't come in. In other words, they could
9 have said we don't care, you know, this is between the
10 Intervenors and the Licensee and we really don't have -- that
11 would be irresponsible for them to take that position.

12 They're either are a proponent or they're in
13 opposition to the order, and they have stated their position
14 as being a proponent of the order.

15 You're either for or against, and they have said
16 that they are for, so they would come within the interpretation
17 of 2.731.

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1 MR. HAGER: The other problem I think you ought
2 to speak to is that they do have a responsibility for a
3 complete record. There's no question about that.

4 They should attempt to discharge that responsibility
5 in the order in which they come, which would be right after the
6 Licensee, to the extent that they feel that the Intervenors
7 raise issues that would somehow make the record somewhat less
8 complete.

9 They would have an opportunity then to close as well.
10 Under this 2.731, since they open and close, they would have
11 a chance to come back again and raise questions that leave
12 matters open that should be resolved, and have a chance to
13 close, but it shouldn't affect the order because it's already
14 taken care of in 2.731.

15 MR. GUTIERREZ: If I can respond to that,
16 Mr. Chairman. The reference to 2.731 is a very specific reg
17 that does specifically say proponent of an order. There are
18 a lot of assumptions translating that reg to the issuance of
19 an operating license.

20 The Staff does not consider itself the proponent
21 of an order, even granting the fact that that operating
22 license somehow is viewed as an order.

23 It's the Applicant who is the proponent. The
24 Staff is a unique party in this proceeding. The only thing
25 we are a proponent of is the safe construction of any nuclear

1 facility. That's what we are a proponent of.

2 Again, I disagree slightly with Mr. Hager's
3 characterization and Mr. Reis' opening remarks and will
4 direct his attention to our testimony. I think if he gives
5 it a careful reading, what we are saying is that at this
6 stage of the proceeding we feel the Applicant is taking
7 sufficient measures to ensure the plant is constructed and
8 will be operated in a manner consistent with the public health
9 and safety.

10 That's saying one thing, and it's saying something
11 very different to say you are a proponent of an order and
12 you're going to argue it.

13 What we're saying is if additional information
14 comes in we have a resident reactor inspector on the site and
15 if things come to his attention we will of course change that.

16 The only thing we're a proponent of is the public
17 safety.

18 JUDGE BECHHOEFER: I take it you construe proponent
19 in a way indicated you want to do a seeking, seeking something
20 from the support.

21 MR. GUTIERREZ: Of course. This motion is an
22 example. CEU is the proponent of the motion and CCANP is
23 joining in the motion for separate reasons and sharing some
24 reasons, but CCANP is not the proponent of this motion.

25 MR. HAGER: As far as this motion goes, there are

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1 issues that we would disagree with, issues we would agree
2 with, so we were a proponent of some of the issues and were
3 not on some of the other issues.

4 I think as a proponent you have to look at the
5 ineligibility of this rule that clearly refers to a situation
6 where there's a plaintiff and defendant in a normal proceeding.

7 In a situation of an administrative hearing we
8 have a proponent of an order and someone who is opposing the
9 order.

10 The NRC comes in on the side of the proponent.
11 They could have been in opposition. They happened not to be
12 in this proceeding. They're on the side of the proponent, so
13 they would be subject to the same rule as the proponent would
14 be subject to. There's no possibility for a third position.

15 In a court proceeding, a plaintiff-defendant,
16 there's no third position on one side or the other.

17 MR. GUTIERREZ: Mr. Chairman --

18 JUDGE BECHHOEFER: Well, in terms of the original
19 application for an operating license, you think the Staff has
20 supported that application as it stood in every respect?

21 MR. HAGER: The conclusion of the hearing would be
22 either to grant or deny the operating license to Houston
23 Lighting & Power.

24 As I understand the NRC's position --

25 JUDGE BECHHOEFER: Won't it be either granting it

1 as requested or granting it subject to --

2 MR. HAGER: There could be modifications.

3 JUDGE BECHHOEFER: -- or denying it. Isn't there
4 a series of gradations?

5 MR. HAGER: I agree. Now, if the NRC would be
6 willing to state now on the record what types of modifications
7 in the license they would be supporting, then I might be
8 willing to change my view.

9 But they're a proponent; the situation may become
10 somewhat more cloudy and then they could be in the position
11 of being a proponent on the ultimate issue but being in
12 opposition on some of these supportive issues.

13 In that case perhaps they would have a legitimate
14 reason to claim that they are not a proponent of the order in
15 its entirety.

16 Then we'd have a situation where we'd be dealing
17 with the equitable grounds for the order, but as it now stands
18 they're a proponent of the ultimate order. They've expressed
19 no opinions in any of these supportive issues in ways in which
20 they would be willing to modify support and modification of
21 the license.

22 As it stands now they are aligned with the
23 Applicant in this proceeding. As I say, I'd be open to hear
24 the NRC, in what ways they are not aligned with the Applicant.

25 JUDGE BECHHOEFER: Well, I believe Mr. Reis

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1 yesterday said something about they were -- at this time they
2 felt the Applicants were qualified to construct and to operate
3 the plant. Then I think Mr. Reis added subject to surveillance,
4 or some words along that line.

5 MR. HAGER: I heard that as well.

6 JUDGE BECHHOEFER: I'm going to ask the Staff this,
7 too. Is that the normal position? I am wondering whether
8 that might be subject to somewhat more surveillance than
9 normally would be ordered.

10 MR. HAGER: I had exactly the same questions run
11 through my mind, because as he said that, that sounds like
12 something that in fact, is that what the NRC is supposed to be
13 doing all the time, is that an admission that they were not
14 performing their duties of surveillance earlier and now they're
15 going to, or are they really contemplating something over and
16 above what they're doing in a normal case.

17 As I said, I'd be open to hear those kinds of
18 assertions now by the NRC, but just that statement alone
19 doesn't contain a particular meaning to me, whether they're
20 saying that they're going to continue to surveil the plant
21 in the way which they had in the show-cause order or they're
22 talking about something over and above a kind of normal
23 surveillance.

24 JUDGE BECHHOEFER: Well, I'd like to ask at this
25 time, maybe they could elaborate a little bit on what that is

1 intended to refer to.

2 MR. GUTIERREZ: Well, Mr. Chairman, I only can
3 refer CCANP's counsel to the over 100 I&E reports prepared
4 by the NRC over the course of the South Texas Project.

5 If after reading those he still feels the NRC has
6 never disagreed with the Applicant, then we might have a
7 basis for discussion. He seems to simply brush off that we
8 have aligned ourselves with the Applicant without thinking
9 through the problem. Again, he doesn't give a basis for that.

10 The point the Staff is trying to make is that we
11 are a unique party. We are interested in the public health
12 and safety.

13 How we discharge that is through a binding
14 program that has begun since 1973. We've had a resident
15 reactor inspector on the site daily since 1979. We've written
16 over 100 I&E reports and many notices of violation.

17 All of those notices of violation represent areas
18 where the NRC has not agreed with HL&P's position. All of
19 those areas HL&P has responded to, and at times we have found
20 them adequate and at other times we have found them inadequate
21 and required further improvements.

22 So to sit here and represent to this Board that
23 we have blindly aligned ourselves with HL&P, in my mind is
24 just an acknowledgement by counsel that he has not read the
25 AE o- I&E history in this case and he might not have read the

1 Staff's direct testimony presented summarizing that history.

2 MR. HAGER: I think, or of course I would hope
3 I could draw this to a close, but I am forced to respond to
4 Mr. Gutierrez' comment, which I think is very wide of the mark.

5 I have been through the I&E reports. There's no
6 question that I see here that the NRC Staff has fulfilled its
7 obligation to do inspections and to write reports. It does
8 this in the case of every plant.

9 It so happens in the case of the South Texas
10 Nuclear Project they're been called upon to do so to an
11 extraordinary extent, but this is the duty of the Staff to
12 respond to the situation before them and they have responded
13 to the problems in the South Texas Nuclear Project. This is
14 what they do in the ordinary course of their business.

15 This does not affect their position before this
16 Board in this hearing. Their position in this hearing, and
17 I haven't heard anything to the contrary, is that they're the
18 proponent of the order, they're aligning themselves with the
19 proponent, they want the license to issue.

20 This doesn't mean to say that they haven't
21 performed their obligation for audit the Licensee. The
22 Licensee themselves have a quality assurance program, and in
23 their quality assurance program they write reports and the NRC
24 writes reports. We don't dispute this. Of course there are
25 reports, but in this hearing they are aligning themselves

1 with the proponent of the order, which is that the license
2 should issue.

3 MR. AXELRAD: Mr. Chairman, if I may add just a
4 couple of words here.

5 MR. JORDAN: It's my motion. I guess I'd like
6 to get back to some of my responses to what's been said, if
7 I may.

8 JUDGE BECHHOEFER: Right. I did want to inquire
9 of either you or Mr. Hager why the Staff is in a different
10 position here than normal operating license cases where the
11 Staff would come last in presentation of evidence.

12 MR. JORDAN: I'll answer that.

13 Let me follow up first on where we've been going
14 just recently.

15 It seems to me that there's no question that in
16 operating license cases and in construction permit proceedings
17 the Staff disagrees with the Applicants all the time, and they
18 work with the Applicants. That's what the process is all
19 about.

20 If the Staff didn't disagree with the Applicants when
21 they came in with their applications there wouldn't be any
22 reason for the Nuclear Regulatory Commission. Of course they
23 disagree with them. They work with them. They tell them no,
24 this isn't good enough, and the Applicant comes back.

25 Ultimately the Staff reaches a position, and they

1 reach a position and they come in and take a position in favor
2 of the issuance of the license.

3 That is no different from what is happening in
4 this case, and the suggestion that we are in an early stage
5 of the proceeding and they're really uncertain as to the
6 ultimate conclusion that they'll reach because they will get
7 more information as times goes on, is no different from any
8 other case. Every case is that way. The Staff has that
9 ongoing responsibility.

10 Now, your question specifically goes to why is it
11 different.

12 JUDGE BECHHOEFER: My question is why is this case
13 different.

14 MR. JORDAN: Yours goes to why is it different.

15 JUDGE BECHHOEFER: Because the usual practice is
16 to have the Staff go last.

17 MR. JORDAN: Well, the usual practice may be to
18 have the Staff go last, but the regulation says that the
19 proponent normally goes first, and I don't know that --

20 JUDGE BECHHOEFER: Well, under the usual practice the
21 Staff is not considered a proponent, and I wanted to find out
22 why anything is different.

23 MR. JORDAN: I don't know, frankly, how the usual
24 practice came to be established, whether the issue was
25 litigated. I've been told that the decision has been reached

1 to have the Staff go last in other cases, at least recently,
2 I can't cite you specifically, on the ground that they were a
3 proponent.

4 The idea that the Staff is not a proponent of an
5 order seems to me to be really seriously playing with words.
6 The Staff comes in here. They have reached a position. There
7 is no question about it, and first it's the question of whether
8 the issuance of an operating license will be in order.

9 There's no question of that. There will be an
10 order that issues the operating license. It's fallacious to
11 say that a decision on a motion like CEU has made is an order
12 but the ultimate conclusion of this hearing isn't an order,
13 well, that's got the argument all backwards.

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The point, it seems to me, is there is no question --

JUDGE BECHHOEFER: No disputing that that's the license in order.

MR. JORDAN: I'm sorry. I thought the Staff was disputing that.

JUDGE BECHHOEFER: No. The Staff is just disputing whether they are a proponent of that order or whether they are just supporting it, and that's the distinction I was trying to --

MR. JORDAN: I fail to see a distinction between someone who's supporting an order and someone who is a proponent of the order. They are the same animal.

They are here arguing to this Board that despite what they've seen, despite all these hundreds of inspection reports, that this order should be issued . . . at least at this stage that the operating license should be issued. And it seems to me that nothing makes it clearer that they should be considered a proponent than the fact that despite all of this, these violations that they had seen, they come down on that side.

I just do not see how we could use the English language and have the Staff come out not being a proponent.

JUDGE BECHHOEFER: Mr. Axelrad.

MR. AXELRAD: Yes, sir.

I have two observations, Mr. Chairman. One is with respect to the question of the proponent.

1 It appears to me that the only person, the only
2 organization that has the burden of proof in this proceeding
3 is the Applicant. And the Applicants are certainly the
4 proponents of the issuance of the operating license.

5 To the extent that other people may support that
6 also on the basis of the record that's to be developed does
7 not make them proponents in the sense that they have the
8 burden of proof, and it is not their responsibility to have the
9 order issued.

10 What is happening in this argument, it appears to me
11 that the Intervenors are attempting to analogize this
12 administrative proceeding to an appellant proceeding.

13 There are obviously situations when after a final
14 order was issued and a decision is reached and there were
15 appeals made that the NRC Staff or the NRC itself will be a
16 participant in appellant proceedings and might then, under
17 those circumstances, be aligned with the -- as the appellant
18 with the appellant or as a defendant with other defendants.
19 But this is not the situation in a proceeding of this kind
20 before this Board.

21 What is happening here is that a record is being
22 developed. The Staff is taking a position on the basis of the
23 evaluation it's done to date. It presumably will continue to
24 evaluation the record as it is developed here and will submit
25 proposed findings and conclusions after the record is completed.

1 At that time they may continue to support the grant of the
2 license. It may at that time decide to support the grant
3 of the license subject to some additional conditions. It may
4 take any number of positions.

5 It is not irrevocably locked into the support of
6 the operating license, and it is not the proponent of the grant
7 of the license.

8 MR. JORDAN: With all respect, your Honor, it seems
9 to me that the Staff has made it quite clear that it feels it
10 has a responsibility to decide which way it goes on whether an
11 operating license should be issued or not, and that
12 responsibility continues into this proceeding where it comes
13 to the Board arguing that such a license should be issued. And
14 when it takes that -- When it fulfills its responsibility, as it
15 says it has, and decides on a position, it then has responsibility
16 to pursue it. And for that reason, it then has the burden of
17 proof on that issue. It is no different from any other party
18 in that sense.

19 JUDGE BECHHOEFER: Mr. Jordan, I don't know if you
20 are familiar with the Midland decision. It is not a direct
21 analogy, but if this were considered a show-cause proceeding,
22 as was an earlier Appeals Board Commission ruling which said
23 that even if the Staff issued an order to show cause it was not
24 the proponent of that order and that it did not have the burden
25 of proof. This is the Midland decision, which the Commission

1 considered changing but didn't.

2 Are you aware of that? Could you comment on that?

3 MR. JORDAN: I have not read it, your Honor.

4 JUDGE BECHHOEFER: Would the Staff be prepared to
5 analogize that, or do you find any analogy there?

6 MR. REIS: Your Honor, I am not immediately
7 familiar with that.

8 But I would point out that aside from the years
9 of precedent that the Staff has gone last in all these
10 proceedings, the rules themselves indicate the Staff has gone
11 last. It is given extra time to respond to motions so that
12 it can consider the positions of all the parties that have
13 gone before.

14 Its findings of fact are filed after all the other
15 parties have gone. And that is why precedent has grown up over
16 all these years that the Staff goes last.

17 I'd like to point to 2.754(a)(2), which talks about
18 the Staff having 40 days to file findings of fact after the
19 record is closed; whereas, other parties have 30 days.

20 Now, the purpose of those rules, and the purpose
21 of the rules throughout, and the precedent of this Commission
22 is so that the Staff can evaluate and consider what goes before
23 and make sure there is a complete record and all things of fact
24 together in discharging the Staff's duty.

25 The Staff is a very special party to these

1 proceedings, and I think it has been recognized as that in that
2 it has higher duties to the Commission, to the Board, and other
3 parties to these proceedings. And that's why it goes last.

4 JUDGE BECHHOEFER: Under .754, I take it the Staff
5 doesn't come under paragraph (a)(3).

6 MR. GUTIERREZ: Come under. . .

7 JUDGE BECHHOEFER: I take it the Staff was never
8 involved under that section.

9 MR. REIS: I don't believe so without asking the --
10 I'm not sure.

11 - - -

1 MR. REIS: It certainly doesn't have the burden
2 of proof, so I don't see how it would come under that caption.
3 I am not acquainted with any where it has been done.
4 It does not have the burden of proof because the -- the
5 proponent of the order has the burden of proof. It's been
6 decided time and time again by the Commission that the
7 burden of proof on any issue, any licensing proceeding, where it
8 rests is totally and squarely on the Applicant of the license.
9 I think that's pointed out by the Supreme Court in the Vermont
10 Yankee case on the cases that have gone before, although they've
11 changed the standard which would lead to additional inquiry.

12 There was no question throughout those proceedings
13 and in the Supreme Court that the ultimate burden rested on
14 the Applicant all the way through.

15 MR. BECHHOEFER: Mr. Jordan and Mr. Hager --

16 MR. REIS: And there's been no addressing the
17 unique role.

18 MR. BECHHOEFER: I was going to ask you to comment
19 on these provisions of 2.754. It doesn't really appear that
20 the Staff is apart from the -- as the burden of proof. It
21 seems that that party is covered under A-1 and A-3. The Staff
22 and other parties, intervenors, are covered under A-2.

23 What significance do you read into that section of
24 the rules, either one of you, or both of you?

25 MR. HAGER: I think I would concede here that the

1 practice is well established that the Applicant has the
2 burden of proof. I don't think there's any question about
3 that.

4 Apparently the Staff also has a corresponding
5 obligation to furnish a complete record, and the distinction
6 between Burden of proof and a complete record in an adminis-
7 trative proceeding is a very fine line. So, I think that the
8 staff's responsibilities are closely analogous to the
9 responsibility of the Applicant to satisfy the burden of
10 proof standard.

11 When the Staff is allying themselves with the
12 proponent of the order that they have the responsibility
13 to complete the record, which would support the eventual order
14 which they are advocating. So, I see an analogy -- close
15 analogy in that identity between their positions. I don't
16 think that the Staff has the burden of proof, per se. The
17 Applicant carries the burden of proof. It's their responsibility.

18 As far as the Midland case, I have read that.
19 My reaction to that was there was a very questionable case
20 where they didn't take it up. My recollection may be wrong,
21 but I have a vague recollection that the Staff in that case
22 chose not to support a show cause order except in respect to
23 the proceeding. Under those circumstances, you might have a
24 different situation where they draw back on their show cause
25 order and choose not to support it in the hearing.

1 The intervenors then are required to support the
2 show cause order in that situation, but the Midland case is
3 not weighty authority. I think that the arguments aren't all
4 in on that case. I don't know if we want to depend upon that
5 as a precedent.

6 JUDGE BECHHOEFER: Very well. The Commission
7 proposed a rule making to over turn Midland, and it has
8 recently withdrawn it, within the last month. So, so far as
9 I know, the Commission still supports that decision now. I
10 even think the withdrawal was unanimous, if my recollection is
11 correct.

12 MR. JORDAN: If I may, there are other considera-
13 tions that have been ignored so far concerning the order and
14 the most efficient way of running this hearing.

15 The fact is that everything is going to be --
16 is going to run a lot more smoothly if we can get the prepare
17 testimony of the -- if you will, the folks with the --
18 everything that's on paper already into that record, particularly
19 the information of the Staff. As I suggest in the motion,
20 much of the information is going to come from the Staff, or the
21 information that's of interest to us. We will get -- some of
22 it is in there in writing as it is. We will undoubtedly get
23 more details on cross-examination and that may cover a lot of
24 what we might otherwise want to get from somebody else and
25 thereby bringing in witnesses, for example, to -- if you will --

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1 give life to an I&E report on one issue or another.

2 I can't tell you specifically which ones our witnesses

3 would speak to, but it seems to me that that is the sort of basis

4 on which other people can then speak, and we can decide whether

5 we need them or not. I mean, just in terms of practicalities,

6 that makes a great deal of sense to me. In addition to that,

7 as I mentioned also, we don't know what will be the result of

8 subpoenaing people and trying to find them and whether they're

9 going to come or they will have to be enforced in those kinds

10 of issues. I mean, you know, we could finish the Applicant's

11 testimony and then go on for a long time on that sort of thing.

12 It seems to me, just in practical terms, to make more sense

13 to have the Staff go first -- go second.

14 MR. AXELRAD: If I may respond to that, it seems

15 to me that the argument that has just been made is preposterous.

16 No party in this proceeding or in any NRC proceeding has the

17 luxury of waiting until everyone else's testimony has been

18 presented, subject, of course, to cross-examination, to decide

19 whether or not he needs to bring any additional witnesses.

20 The Intervenors have had ample time to identify

21 witnesses. They are now at the point where they are required

22 by this Board to name adverse witnesses by this Saturday if

23 any are going to be named. They certainly will not be entitled

24 to wait until after they have cross-examined our witnesses and

25 the Staff's witnesses and then decide whether or not they will

1 name any additional witnesses.

2 JUDGE BECHHOEFER: Let me ask you, is it possible
3 for this Board, if it should turn out that we should issue some
4 subpoenas and there was some difficulty in enforcing them, do
5 we have the discretion to alter the schedule on an ad hoc basis
6 to accommodate that?

7 MR. AXELRAD: Certainly, Mr. Chairman. The Board
8 has the discretion to do any number of things. What I was
9 reacting to was the suggestion by the Intervenor that was the
10 most logical and effective way to run a proceeding, to wait
11 until after the Applicant's witnesses and the Staff's witnesses
12 have presented all their testimony, to cross-examine and then
13 have the Intervenors decide whether or not they're going to
14 call a witness.

15 MR. HAGER: Mr. Chairman, if I may simply briefly
16 respond to what Mr. Axelrad has characterized as preposterous,
17 exactly the way any civil or criminal proceeding is conducted
18 is that the party that has the burden of proof, and any other
19 parties aligned with that party, are responsible for presenting
20 their case. Then the defendant or the accused in the criminal
21 proceeding has the luxury to sit back and decide whether to
22 put on a direct case, after cross-examination and after they
23 have decided whether or not the plaintiff or the prosecution
24 has established a case. That is exactly the way an analogous
25 situation in a criminal or civil procedure would normally be

1 conducted. It's far from preposterous to suggest that we have
2 followed that analogy to some extent in this proceeding.

3 MR. AXELRAD: Mr. Chairman, Mr. Hager obviously
4 has not taken the time to read the NRC regulations, which
5 require prefiling of testimony by all parties prior to the
6 proceeding and not prior to the start of the hearing and not
7 stagger presentation of the witnesses and testimony after
8 one party or another has put on its case.

9 MR. HAGER: We have not only read the regulations,
10 we have also filed a motion in opposition -- a motion about
11 that very matter, Mr. Axelrad, copies of which you have
12 received.

13 JUDGE BECHHOEFER: One further question I would
14 like to pose is whether the Staff, perhaps, would answer --
15 if it should turn out that the Staff witnesses on cross-
16 examination, if new information came out -- would normally or
17 would other parties be given the chance to bring in further
18 testimony if necessary in those areas, as a matter precedent.
19 I personally haven't experienced a case where that's been
20 true, but are you aware of any?

21 MR. GUTIERREZ: It seems to me, Mr. Chairman, that
22 obviously after the NRC testifies upon a showing of relevancy
23 and a necessity to complete the record, the Staff would always
24 be in favor of additional evidence.

25 JUDGE BECHHOEFER: So that if it turned out that

1 your witnesses either raised a new question or there was an
2 obvious gap where they couldn't fill in information there might
3 be some more, further testimony by any of the parties, Intervenors
4 or Applicants, as the case may be?

5 MR. GUTIERREZ: With the idea that this particular
6 proceeding is addressing specific issues.

7 JUDGE BECHHOEFER: That's correct, within the
8 scope of --

9 MR. GUTIERREZ: -- the issues before this Board.
10 The Staff would be in favor of that, of course,
11 to the extent new information arises creating new issues not
12 formulated by the Board, not adopted by the Board, so far.
13 Obviously, those issues would be appropriate for the full
14 operating license to be decided in the next couple of years.

15 JUDGE BECHHOEFER: That was understood within
16 my question, within the scope of the particular issue we're
17 considering now.

18 Mr. Jordan, do you have any further -- any comment
19 on that before we go to other part so the hearing?

20 MR. JORDAN: No.

21 JUDGE BECHHOEFER: Okay. Mr. Axelrad?

22 MR. AXELRAD: Yes, sir. Mr. Chairman, the Board
23 has already admitted into this proceeding the basic issues
24 which the Commission has directed be heard on an expedited
25 basis. We do not believe that any additional contentions

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1 should or need be admitted to the extent that Investigation
 2 Reports Nos. 81-11 and 81-17 discuss events which it is alleged
 3 relate to managerial competence and character. They are
 4 subsumed within the present issues and, as I will point out,
 5 we will be prepared to address them at the appropriate time
 6 in our presentation.

7 We would include in this category of matters
 8 subsumed within the present issues, allegations concerning
 9 intimidation of employees and removal of equipment or records
 10 from the termination shack prior to an NRC inspection, even
 11 though these are not QA/QC matters.

12 There are other matters relating to inspection
 13 reports which we do not believe relate to the issues in this
 14 proceeding: whether or not appropriate environmental controls
 15 are maintained in the parts of the termination shack and the
 16 qualifications of electrical workers, for example. These are
 17 not and should not be matters before this Board at this time.
 18 They are not QA/QC matters. They do not relate to the
 19 adequacy of the structures referred to in the show cause order
 20 or the issues before this Board. They do not even involved any
 21 safety-related work, since no such work has been performed.

22 Nevertheless, we consider it desirable and useful
 23 to clear the air in connection with the allegations in 81-11
 24 and 81-17. Therefore, even though some of those matters may
 25 stray beyond the precise issues being heard before this Board

1 on an expedited basis, it would appropriate for us to permit
2 these matters to be explored on a limited basis so they can
3 be placed in the proper perspective. But in our view, such
4 an exploration should not be permitted to run into an unending
5 review of collateral matters not properly before the Board at
6 this time.

7 We would suggest that this be accomplished in the
8 following fashion:

9 We will be providing testimony next week from a
10 panel of Brown & Root witnesses, Dr. Broom and Mr. Ray
11 Vurpillat. They will be prepared to respond to cross-examination
12 and/or questions concerning the investigation that has been
13 conducted of the matters discussed in 81-11, 81-17, and of the
14 actions being taken by Brown & Root as a result thereof.

15 Once this basic information is a part of the
16 record, we would then propose that we recall the witness panel,
17 Mr. Goldberg and Mr. Frazar, who will be able to respond to
18 cross-examination or to questions concerning HL&P determination
19 on these matters. Proceeding in that fashion, we believe, will
20 permit the establishment of an orderly and complete record on
21 those matters.

22 Obviously, we expect that NRC witnesses, when they
23 are called, will also be able to respond to cross-examination
24 under 81-11 and 81-17.

25 If the Intervenors wish to present evidence on these

1 matters and identify their witnesses promptly, we would be
2 willing to let them be heard through oral testimony without
3 the need to prefile written testimony.

4 We see no need for discovery on these matters.
5 The only aspects of relevance relate essentially to managerial
6 competence and character. And Mr. Goldberg and Mr. Frazar
7 will be able to be cross-examined thereon.

8 The issues before this Board are not the possible
9 malfeasance or misfeasance of individuals in the field, but
10 HL&P's related actions.

11 If, of course, when the record is compiled in the
12 Board's discretion additional witnesses are required or a
13 party has made a convincing showing that the record would
14 benefit from additional inquiry, the Board will be able to so
15 decide on the basis of its understanding and knowledge of the
16 record and not on the basis of any ambiguities and generalities.
17 Accordingly, we urge the Board to deny the motion and to adopt
18 Applicant's suggestion for the first evidence of cross-
19 examination concerning 81-11 and 81-17 to take place
20 next week when Dr. Broom and Mr. Vurpillat testify.

21 JUDGE BECHHOEFER: Mr. Axelrad, do the Applicants
22 believe that the reaction of the -- either Houston or Brown &
23 Root to a notification of some sort that the NRC is going to
24 inspect -- do you consider that comprehensive on the general
25 issues before us? Really Item 2 in the list of four.

1 MR. AXELRAD: Yes.

2 MR. GUTIERREZ: I'd like to respond.

3 MR. REIS: I believe Mr. Hager goes.

4 JUDGE BECHHOEFER: I think the Staff can go first.

5 MR. GUTIERREZ: Well, I wanted to particularly
6 respond to that question with respect to the second proposed
7 issue.

8 The Staff feels that it's relevant to the extent
9 it's a factor in a Board judging HL&P's character and
10 competence to build the South Texas Project and to manage its
11 general contractor and coordinate the effort.

12 The additional point should be kept clear that to
13 the extent this is alleging a criminal conspiracy, this
14 particular Board has no jurisdiction. The matter has been
15 referred to OJA, and upon evaluation it's assumed OJA would
16 refer it to the Justice Department if they feel it warrants
17 prosecution.

18 But this particular issue, in the sense that it
19 evidences managerial competence and character is already
20 assumed in adopted issues.

21 Saying that, we initially want to make three
22 responses to the over-all motion.

23 First, in reviewing the proposed issues, we do
24 think that to the extent these new matters are relevant to
25 Houston Lighting & Power's character or competence, they

1 should be and will be factors presented and then subsequently
2 considered by this Board in judging that character or
3 competence.

4 Secondly, to the extent they present new issues
5 that have not been formulated by this Board, and in this
6 regard I think particularly of Proposed Issues 3 and 4, the
7 Staff feels they very well might be relevant and proper
8 contentions for the full OL hearing but not necessarily for
9 this expedited OL proceeding which was directed by the
10 Commission on specific areas.

11 JUDGE BECHHOEFER: If the Applicants' witnesses
12 would address that, would you or would the Staff have any
13 objection to --

14 MR. GUTIERREZ: If they're addressing it as evidence
15 illustrating HL&P's ability to manage or construct the project,
16 there's no problem. I think it's relevant to the proceeding.

17 JUDGE BECHHOEFER: I take it to the extent then
18 that it raised other safety issues or other issues within our
19 jurisdiction we could really consider it again later on if
20 there was a question of --

21 MR. GUTIERREZ: If it was a question of safety,
22 obviously it would be more properly framed and addressed in a
23 full operating license proceeding.

24 But also in the sense that it is evidencing HL&P's
25 inability to manage the project, it's relevant to this

1 particular proceeding.

2 JUDGE BECHHOEFER: Well, I take it from your
3 previous remarks that you will have the inspectors who were
4 responsible for 8111 and 8117, or some of them at least,
5 prepared to answer questions on those inspections.

6 MR. GUTIERREZ: We will have people who participated,
7 yes.

8 JUDGE BECHHOEFER: I'm not trying to say everybody,
9 but at least some questions.

10 MR. GUTIERREZ: That's right.

11 The last point we did want to make was what I
12 hinted at in direct response to Proposed Issue 2, I think the
13 Board on the conspiracy issue should be -- should only look at
14 it to the extent it again evidences HL&P's character or
15 Brown & Root's character, which the Staff feels HL&P should be
16 charged with to the extent they are the Applicants.

17 But any in-depth inquiry going into criminality
18 is not this Board's jurisdiction and has already been referred
19 to OIA.

20 JUDGE BECHHOEFER: I take it to the extent NRC has
21 an announced inspection and the Applicants, or Brown & Root
22 took steps to make sure the inspection results were a certain
23 way, that would be relevant certainly to the issues before us
24 now.

25 MR. GUTIERREZ: Of course, yes.

1 JUDGE BECHHOEFER: Mr. Hager.

2 MR. GUTIERREZ: We have one more point,
3 Mr. Chairman.

4 JUDGE BECHHOEFER: Oh, I'm sorry.

5 MR. GUTIERREZ: The last point to be made was that
6 because I&E inspections are ongoing and continuous, new issues
7 continually will be raised, and this Board must make a decision
8 at what point to cut off admitting the issues, especially in
9 this limited partial OL proceeding, and make a decision that
10 any new issues will be more properly addressed at subsequent
11 proceedings.

12 And the Staff feels that herein lies the best
13 example of when that line should be drawn. The Intervenors
14 are proposing subsequent discovery, depositions, issue
15 formulations. The Staff is in favor of this but not in the
16 context of this proceeding.

17 If they want to formulate issues to be adopted by
18 the Board for the full OL, that's one thing. We will address
19 them then.

20 But it just simply begs the question, if the
21 hearing is postponed until October, between now and October
22 there will be a dozen more I&E reports which will raise
23 possibly other issues.

24 At that time will the Intervenors propose
25 subsequent discovery? For this particular proceeding it has

1 to be cut off, and when relevant we'll address it in the full
2 OL proceeding.

3 MR. REIS: Mr. Chairman, if I could just add one
4 thing to that, in the nature of the Commission's proceedings,
5 OL's are -- and OL applications and licensing of OL's, and
6 their hearings go on during construction, if the motion were
7 to be granted and it were to become precedent, it would mean
8 that you would have to wait until the entire plant is
9 constructed, sitting around for a couple of years while the
10 hearing process goes forward before you could begin the OL
11 hearings and the OL proceeding, because there is and there
12 will arise during construction, and throughout the entire
13 period of construction, new issues and new matters coming to
14 the fore, and the possibility of them, particularly in regard
15 to I&E proceedings.

16 I&E conducts continuous inspections and they will
17 be continuing to conduct inspections.

18 If this should be precedent and we should delay
19 discovery and new hearings into October, that means, well, we
20 won't go back to hearings until December, and then, as
21 Mr. Gutierrez said, there will be another dozen issues and we
22 can delay it again, and as a result, the whole scheme of the
23 Commission's proceedings of having OL's considered while the
24 plant is being constructed would break down.

25 We're not against the Board's not considering the

1 issues. We're talking about how proceedings should be
2 conducted and how they should be conducted in this particular
3 case and what the issues are before this Board in this limited
4 hearing.

5 JUDGE BECHHOEFER: Mr. Hager.

6 MR. HAGER: Yes. Well, I'm surprised and perhaps
7 happy that I can in this issue agree with both the Applicants
8 and the NRC, with the Applicants in that I think that these --

9 MR. GUTIERREZ: Excuse me, Mr. Hager.

10 MR. HAGER: I think Mr. Gutierrez was as surprised
11 as I was.

12 MR. GUTIERREZ: I fell off the chair.

13 (Laughter.)

14 MR. HAGER: The Applicants' point that these
15 matters that are brought in this Item 3 of the motion really
16 do not raise new issues are assumed in the issues presently
17 before the Board I think is well taken. I agree with that.

18 I think that all these matters, including and with
19 the proviso that was added by Mr. Gutierrez, insofar as Item 2
20 in the list of four pertains to criminal activity, I think I'd
21 agree there to that extent that's appropriate for another
22 hearing, but to the extent that it at the same time reflects
23 that character it's appropriate for this hearing.

24 I also agree with Mr. Gutierrez that it is likely
25 that there would be another ten or eleven I&E reports by the

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1 next time this hearing would come around, would also reflect on
2 character, so it raises questions here. This matter really
3 raises more questions than it does answers in the sense that
4 if we're going to wait for discovery now we deny this Board
5 access to information which is extremely relevant to the
6 matter under issue here.

7 I think one of the strongest pieces of evidence
8 we're going to bring is that the practices are ongoing, they
9 haven't stopped even after the show-cause order. They're
10 happening today, and yesterday.

11 So we do want the Board to hear this evidence. At
12 the same time, if we stop this hearing for discovery, we won't
13 fulfill the order of the Commission to have an expedited hearing
14 now. So I would feel that one resolution of that question, and
15 I don't have the answers, but one possible answer would be to
16 go ahead and put the evidence on in the state it is now, even
17 without discovery, but recognizing that there are these new
18 pieces of evidence coming along that have an ongoing reflection
19 on character, if the Board makes a ruling on character that
20 would permit HL&P to continue the construction of this plant,
21 then I think we have to recognize that that character issue
22 is not going to go away. That's going to come back in the
23 later hearing, and at that time any of the matters dealt with
24 in this hearing upon which we did not have discovery should
25 not be precluded from the later hearing.

1 This discovery may be involved with those issues
2 and they should be brought forward in another hearing on the
3 issue of character.

4 I think as these these arise we should attempt to
5 bring them before this Board for whatever status they may
6 have, even though we haven't gone through discovery and the
7 information may not be as complete as we would really want it
8 and hope it would be after full discovery. These are my
9 comments.

10 JUDGE BECHHOEFER: Mr. Jordan, would you be
11 satisfied with the type of resolution that it seems that all
12 the other parties are in favor of?

13 MR. JORDAN: No, I don't think I would be.

14 JUDGE BECHHOEFER: Rather than its new contentions.

15 MR. JORDAN: Well, the resolution -- I think that
16 virtually all of this falls within character, competence,
17 managerial competence in the broad sense. I think that all of
18 the evidence on those matters would be admissible in that sense.

19 These are really there to be more specific, really
20 to narrow the issues, which is not usually what the Intervenors
21 are doing, but in the sense that we perhaps don't need new
22 contentions to get all this information in, that may be right.

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1 I would note that on the question of what falls
2 within everything here we have a couple of items that have been
3 objected to as not appropriate for this hearing.

4 No. 3 on our list of additional contentions relates
5 to environmental controls at the termination shack to keep
6 calibrated equipment from going out of tolerance.

7 It seems to me that gets to QA and QC. It gets to
8 whether that system is working.

9 JUDGE BECHHOEFER: Right.

10 Well, didn't the parties admit that to the extent
11 it involves QA that it was included?

12 MR. JORDAN: Well, I must say I get --

13 JUDGE BECHHOEFER: If it involves a separate safety
14 issue, it wouldn't be. But it would be, perhaps, appropriate
15 for later on.

16 MR. JORDAN: Well, those issues will be difficult
17 to separate, I would think. I guess I would stand on the
18 proposition that they are all related to the QA/QC, to
19 character and competence, as you've been ordered to examine
20 them, including, in addition, the No. 4 on electrical personnel.

21 That gets directly to HL&P's character and
22 competence in dealing with Brown & Root.

23 JUDGE BECHHOEFER: Well, I believe the other parties
24 have indicated they are willing to litigate all of those
25 matters to the extent they bear on QA.

1 MR. JORDAN: If that's the case, I don't have a
2 difficulty with that. But I do have great difficulty with --
3 I guess I don't know, and I don't know how the Board can know,
4 what on earth it is doing here.

5 It sounds to me, the Commission has said to you
6 character and competence; we're going to have an expedited
7 hearing on that issue. And that is the issue, with some other
8 contentions, but that fundamental issue is before you now,
9 and it somehow -- I just don't see -- You're going to get to
10 the end of this phase of the hearing at the end of June or
11 sometime and you are going to know, because the Staff has told
12 you, that there is going -- that we can expect that there will
13 be new evidence that's going to relate to character and
14 competence that you haven't seen.

15 And I must say that this particular set of
16 information that we have raised here is as serious a question
17 as there has been raised before with respect to this plant at
18 all.

19 How in the world is the Board then going to reach
20 a decision?

21 I don't see how you can do more at that point than
22 say, "Well, we didn't have complete discovery on this. You
23 know there's some things coming along, and, you know, two years
24 from now we'll have the rest of this hearing."

25 I fail to see how the hearing is going to be worth

1 anything unless we at least get into the information that
2 is available now. And this is the most important single aspect
3 of the information that will come before you: What have they
4 been doing since they were found out? What have they been
5 doing since the show-cause order?

6 And to treat this information without giving it
7 the discovery treatment that everything else has gotten and
8 that it certainly deserves I think is ignoring and just not
9 giving enough weight to what may well be what's the most
10 important thing for you to consider.

11 JUDGE BECHHOEFER: Okay.

12 Can cross-examination serve in lieu of discovery?

13 MR. JORDAN: I've never seen cross-examination
14 serve adequately in lieu of discovery. And I don't -- I mean,
15 I know who will be here. Those people, obviously, are chosen
16 to be there. I don't know who else there is.

17 There are other people involved in all these
18 things that we would want to learn matters from. There are,
19 undoubtedly, related documents.

20 I don't think cross-examination would serve
21 adequately at all.

22 JUDGE BECHHOEFER: Well, could it serve to identify
23 those people and those documents?

24 MR. JORDAN: I suppose we could do depositions
25 on cross-examination. We couldn't -- We would then get -- I

1 guess I see -- If we really do treat cross-examination as
2 discovery, and, mind you, we have -- Let me follow that up.
3 If we treat it as discovery, we can expect that to take quite
4 some time. But more -- The greater problem I have with that
5 is, for heaven's sake, we're here to cross-examine on evidence
6 and testimony that's been given, and we have been running from
7 day one, I assure you, preparing for this thing and here we
8 have new information. We would want to prepare discovery
9 carefully in the normal course of things and really do it right,
10 and we do not have the opportunity to do that. And we would
11 not have the opportunity to do that.

12 JUDGE BECHHOEFER: How should we draw some sort
13 of a cut-off date? Because, obviously, we're going to have
14 to do that.

15 The Commission wants us to come up with an early
16 decision. It doesn't mean that we can't come up with a later
17 decision which might modify it. But we have to come up with
18 a fairly early decision. And I'm wondering how we set a
19 cut-off date.

20 MR. GUTIERREZ: Mr. Chairman, if I can briefly
21 respond to that and then Mr. Jordan respond.

22 It is a practical problem. I think we all
23 acknowledge that.

24 The rules provide that once a decision is made,
25 if new evidence or developing evidence comes to the light of

1 a party, they can always bring a motion to re-open the record.
2 Therein lies the solution, it seems, from the Staff's point of
3 view.

4 If Mr. Jordan through his investigation or through
5 his representatives' investigation or through NRC investigation
6 discovers new evidence relevant to the issues before this
7 Board and which will be decided by this Board, a motion to
8 re-open the record on that issue will be made.

9 JUDGE BECHHOEFER: Would we, by any chance, lose
10 jurisdiction over those issues, or could we condition an order
11 so that we wouldn't?

12 MR. REIS: Mr. Chairman, the ultimate issue of
13 whether an operating license should issue is not going to be
14 decided at this proceeding.

15 JUDGE BECHHOEFER: That's correct.

16 MR. REIS: So that I don't think the question of
17 jurisdiction would necessarily be foreclosed until that time,
18 not in the usual -- It isn't the usual thing where there is a
19 Board decision and then it goes to the Appeal Board and the
20 decision of the -- the jurisdiction of the Board that made the
21 initial decision is lost.

22 This is a partial initial decision. I think these
23 issues are still the character and competence. Although we're
24 looking at today the character and competence and expediting
25 those issues today, it's still something -- it's still an issue,

1 and the ultimate issue is issuance of a license, and even
2 afterwards. I mean, there are -- There have been proceedings
3 where licenses have been issued and those matters are looked
4 at again.

5 The Commission does have rules to allow those
6 matters to be re-opened and looked at again.

7 MR. AXELRAD: Mr. Chairman, if I may add just
8 one point.

9 I think one of the problems that the Board is
10 having is because these matters are being discussed now in the
11 abstract. It seems to me much more useful after the
12 Intervenors' witnesses have been subject -- the Applicants'
13 witnesses have been subject to cross-examination and the Board
14 then has the benefit of that testimony for it to consider
15 whether it still has any problems with respect to the status
16 of the record or whether any additional information needs to be
17 gathered.

18 I don't see why we have to attempt to resolve those
19 matters in the abstract today when you will have testimony
20 on that subject on the record next week.

21 (Bench conference.)

22 JUDGE HILL: I'd like to ask the Staff is it your
23 intention to include with your long list of I&E reports that
24 you already have on your testimony, is it your intention to
25 include IR-8111 and IR-8117?

1 MR. GUTIERREZ: Yes. I thought I mentioned that.

2 At an appropriate time, either when the Staff goes
3 on or when the parties agree, all I&E reports subsequent to the
4 timely filed testimony, which, I think the cut-off date was
5 something like April 13 -- any I&E report issued subsequent to
6 that -- I think there's about eight, including 8111 and 8117 --
7 will be submitted, and persons participating in those reports
8 will be on to be subject to cross-examination.

9 (Bench conference.)

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1 JUDGE BECHHOEFER: Mr. Jordan, do you have any
2 further comments, or Mr. Hager, either?

3 If not, I think -- do you?

4 MR. HAGER: I don't. This probably is not a
5 further comment, but if the Board would incorporate in its
6 ruling this issue of if this information is now subject to
7 full discovery that it should still be brought forward in a
8 later hearing, I would just invite the Board perhaps to speak
9 to that issue in its ruling; in the other words, the status,
10 sort of a res judicata effect on any information that would
11 be brought forward that would not have been subject to full
12 discovery of the cut-off point for that effect, the res
13 judicata effect, that this hearing should be that evidence
14 which was subject to full discovery proceedings.

15 I would invite the Board to speak to that issue in
16 its ruling.

17 JUDGE BECHHOEFER: Mr. Jordan.

18 MR. JORDAN: I guess I would certainly add to that
19 that with respect to anything that is discussed in this hearing
20 for which there hasn't been full discovery, we should have
21 that opportunity without moving to reopen or anything of the
22 sort.

23 Then if we are given that opportunity we would use
24 it and then it would result in whatever it resulted in and
25 whatever needed to come back to the Board would come back to

1 the Board on further motion.

2 Now, I can't say that I'm satisfied with that. I
3 think that we need real discovery at least on this one. Those
4 are very serious charges and very serious problems. They
5 reflect very serious lack of competence and character. It seems
6 to me that we should have full discovery this time.

7 JUDGE BECHHOEFER: Are you saying that if we
8 decided that the solution which all the other parties have
9 proposed, if we should accept that we should in addition allow
10 you to engage in discovery with respect to those two matters?
11 Not the two inspection reports. I'm trying to understand you.

12 MR. JORDAN: To put it simply, and perhaps to put
13 some dates on it, for example, if you were to go that route
14 then it seems to me we should have a discovery period, perhaps
15 the same discovery period that I proposed in here, in which to
16 obtain further discovery on those points.

17 JUDGE BECHHOEFER: I see.

18 MR. JORDAN: And then we go from there to whatever
19 the results demanded, but we should not be foreclosed by the
20 fact that they came and spoke here, even if we could cross-
21 examine we should not be foreclosed from that discovery.

22 JUDGE BECHHOEFER: No, you wouldn't.

23 Do the Applicants have any objections, or does the
24 Staff have any objections? I want both of them to answer to
25 that type of procedure, to perhaps limit it to questions

1 questions taking into account the testimony that had come in
2 cross-examination, but if there are further gaps, should they
3 be subject to discovery concerning those inspection reports?

4 MR. AXELRAD: Mr. Chairman, with respect to any
5 further discovery that might be provided, to the extent that
6 there are any safety related contentions which the Intervenors
7 are trying to raise as to those matters which might be heard
8 at the further operating license proceedings down the line,
9 that might be appropriate to have discovery in connection
10 with that, to the extent that those contentions may or may not
11 be admitted.

12 As to any consideration of these matters with
13 respect to competence and character, it seems to me that we
14 should not be making a decision today as to whether or not any
15 additional discovery will or will not be granted or would or
16 would not be needed.

17 What we've been urging on this Board is they can
18 better make those decisions if they're necessary after it hears
19 the evidence and determines whether or not additional matters
20 should be looked into. But at that time the Board can make a
21 decision on that matter, and the competence and character
22 aspects as they are raised by those inspector reports should be
23 put to bed at the time.

24 MR. REIS: Mr. Chairman, I think Mr. Jordan is
25 asking -- certainly if there is new information coming to light

1 it would be appropriate, as you indicated in your third pre-
2 hearing conference order, for consideration at the final
3 licensing hearing.

4 However, the idea, conceptually the idea of having
5 discovery after the hearing on this issue is a little ludicrous,
6 and I think we have to cut it off, we have to make a decision.
7 These proceedings will have to terminate, and the idea that
8 we're going to have the hearing, make a decision and then have
9 discovery extending into October, is it, in the motion, or
10 whatever it is, just isn't the way proceedings operate and it
11 cannot operate that way.

12 If there is in the future new evidence, then this
13 can be reopened. It can be considered, as you indicated in the
14 third pre-hearing conference order, on the final operating
15 license. But I think a decision has to be made on the record
16 and there has to be a time to close and complete the record.

17 As I indicated before, inspections will be going on,
18 we hope, and I can give you the NRC's word they will be
19 continuing to go on until the plant receives its operating
20 license and of course during operations after that.

21 We can't have the luxury of saying no, we're going
22 to stop, we're going to close everything down, we're going to
23 stop making inspections even, so that we can close the record
24 and get things fixed at a point in time. No, we have to take
25 a snapshot, and in some ways procedures that would normally be

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1 granted may be overridden and there's a chance later to look
2 at it later, but a decision is going to have to be made on
3 evidence at that time and a decision is going to have to be
4 made at that time.

5 MR. JORDAN: Your Honor, if I may respond, I don't
6 mean to interrupt, but it seems to me -- frankly, I thought I
7 was proposing, or I'm not a proponent of that, but suggesting
8 a concept that may give you a solution. None of this hearing
9 is particularly normal. It's certainly not normal that we have
10 an expedited hearing that is not part of the integral hearing
11 as a whole. It is not much later in the stage where much more
12 of the evidence would be available to us. That is not normal.
13 It is obviously not normal to have discovery after the testimony
14 goes forward.

15 It is also not normal to have the evidence come
16 forward on crucial issues, absolutely crucial issues in this
17 case without having had -- the parties having had a decent
18 opportunity for discovery.

19 It seems to me that one thing that must be clear
20 is that it is not fair to allow the Applicant to put on his
21 description and his explanations of these things and have that
22 stand in the record without having given us the opportunity to
23 examine that through discovery.

24 Now, this question of reopening and when we close
25 off, and all of that, it seems to me I don't know, I guess I

1 hear things both ways from the Staff; we're going to cut it
 2 all off, but don't worry, next week if there's new information
 3 you can open it up.

4 We are talking about these inspection reports and
 5 the solution to how to deal with them, and it seems to me that
 6 this one is too important to treat even in my proposal, but my
 7 proposal is hardly out of the bounds of reason that seem to
 8 have been suggested.

9 (Bench conference.)

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1 JUDGE BECHHOEFER: The Board has decided that --
2 I don't know whether we should call it denying the motion or
3 dismissing it. But we do so -- We do so with the understanding
4 that the material will be put into evidence.

5 In allowing cross-examination, we will take into
6 account that there was no discovery previously, which means
7 it may have a somewhat broader scope in addition. But we
8 will leave the discovery question open, and if it appears that
9 there are areas where further information, either gaps or
10 ambiguities, where further information should be developed,
11 we will leave open the question for now whether or not there
12 should be later discovery.

13 MR. JORDAN: Mr. Chairman, could we take a brief
14 break?

15 JUDGE BECHHOEFER: Okay. Let's break for about,
16 I guess about 15 minutes.

17 (A brief recess was taken.)

18 JUDGE BECHHOEFER: Back on the record.
19 We're ready to hear the motion to call
20 Mr. Hubbard as an expert witness.

21 Mr. Jordan, do you have anything to add to your
22 motion papers on that before we start or before we hear from
23 the other parties?

24 MR. JORDAN: I would just say, your Honor, as
25 reflected in here that, one, Mr. Hubbard has the expertise

1 that is directly on a major issue before the Board. That seems
2 to me is the major point to consider.

3 And, two, I simply see no reason that there should
4 be any prejudice to the other parties from having him testify.

5 That being the case and the need for a complete
6 record here, it seems to me he must be allowed to be called.

7 JUDGE BECHHOEFER: What would be the -- If we were
8 to look at the minimum 15-day rule for -- I won't say minimum --
9 but the one suggested minimum for filing prepared testimony,
10 what would be the earliest date Mr. Hubbard could file prepared
11 testimony?

12 MR. JORDAN: I don't know the earliest date he could
13 file. But from talking to him, it would be perhaps in the first
14 week in June.

15 JUDGE BECHHOEFER: Well, if he filed by June 1, it
16 would be in time for the June 15th hearing session.

17 MR. JORDAN: I can't --

18 JUDGE BECHHOEFER: If you go by the --

19 MR. JORDAN: I mean -- Well, as I say in here,
20 he has told me that he could provide testimony and appear
21 after June 1. I don't know exactly whether he would be able
22 to prepare testimony and have it available June 1.

23 I know that he is deeply involved in a couple of
24 other proceedings right now. I can get back with him and see
25 if it is possible he can file by June 1 or what the earliest

1 likely date is that he can file.

2 JUDGE BECHHOEFER: Well, I just wanted to inquire.
3 We want to hear what the Applicants and Staff have to say and
4 Mr. Hager has to say first before we decide on anything.

5 Mr. Axelrad?

6 MR. NEWMAN: I will respond on this point.

7 I'd like to first address what I regard to be the
8 basic issue, and that is whether or not good cause exists for
9 calling this witness late and out of time.

10 If the Board will recall, on December 2nd, 1980,
11 the Board issued its second prehearing conference order. Among
12 other things, that order directed that all parties file a list
13 of witnesses and the substance of their testimony by March 2nd,
14 1980 -- '81. Excuse me.

15 The order specified at page 7, and I quote,
16 "Modifications will not be granted absent a strong showing of
17 good cause."

18 Intervenors elected or were unable to comply with
19 the Board's order. The Board reviewed the circumstances and
20 extended the time for the Intervenors to file their list of
21 witnesses. That date was extended to March 30.

22 The filing that the Intervenors made in response
23 to that order never mentioned Mr. Hubbard.

24 Now we have the issue once again raised as to
25 whether or not witnesses can be added to the proceeding without

1 appropriate prior identification and notice to the parties.
2 This time we have an even odder case, because Mr. Hubbard was
3 identified as an individual who might have information or
4 background with respect to quality assurance matters in a filing
5 by CCANP in response to their interrogatory No. 3-1 dated
6 June 13, 1981.

7 Whether we can charge CEU with knowledge of
8 CCANP's --

9 JUDGE BECHHOEFER: 1980?

10 MR. NEWMAN: -- understanding --

11 Beg pardon?

12 JUDGE BECHHOEFER: 1980? June 13th, '81.

13 MR. NEWMAN: I'm sorry. '81. Excuse me.

14 Whether they can be charged with the knowledge that
15 CEU had I think is clearly beyond question. The two
16 organizations have been in close contact over the past several
17 months. Many of the pleadings that they have filed over the
18 past several months have been joint pleadings.

19 And I guess in light of the totality of the
20 circumstances of the case now in trial, it is very clear to
21 me that there has been no effort now made to show good cause
22 for this late identification of proposed witness Hubbard.

23 Now, beyond the vaguest generalities, there is no
24 indication in Mr. Jordan's motion that Mr. Hubbard is aware
25 of the South Texas Project quality assurance/quality control

1 program or, indeed, what he would testify about generally.

2 It must be remembered that Mr. Hubbard would have
3 to have knowledge of how nuclear power plants are designed
4 and constructed. Some general knowledge of quality assurance
5 in other contexts would not be a matter that would be of
6 significance to this Board and this proceeding.

7 Finally, Mr. Chairman, it simply cannot be -- Putting
8 aside for a moment the question of whether prejudice is suffered,
9 it simply cannot be that every time the Intervenors obtain
10 some new counsel or obtain new advisors or obtain new
11 resources, whether financial or otherwise, that they are
12 entitled to identify a new witness. It is clear, as expressed
13 by NRC Staff and by the Board, that this is an expedited
14 proceeding that must be brought to a close in a timely fashion.
15 And I think that the Board would be setting a very serious
16 precedent, one that would endanger the timely completion of
17 this expedited hearing, by permitting on such a skimpy showing
18 the identification and calling of a new witness.

19 And, therefore, we strongly object to Mr. Jordan's
20 motion and urge that it be denied by the Board.

21 JUDGE BECHHOEFER: Mr. Gutierrez or Reis, as the
22 case may be.

23 MR. GUTIERREZ: The Staff approaches Mr. Jordan's
24 motion slightly differently.

25 Mr. Jordan's motion asks that Mr. Hubbard be heard

1 as a witness on questions of quality assurance and quality
2 control. The Staff would only point out that QA/QC is a
3 broad term, a general term that needs to be defined before we
4 take a position.

5 What I had in mind is this: If Mr. Hubbard is
6 being produced as a witness for QA/QC matters relevant to the
7 operations of the South Texas Project, then the Staff would
8 assume that he's being produced in response to our partial
9 SER and that CEU is within time to identify a witness.

10 I believe according to the Board's April 21st, 1981
11 order, identification of witnesses relative to SER matters
12 is June 1, 1981.

13 So, with respect to Mr. Hubbard testifying on
14 QA/QC matters relative to operations, the Staff does not
15 object to Mr. Hubbard as a witness.

16 A separate and distinct matter is quality assurance/
17 quality control issues for design and construction. In this
18 connection, the Staff agrees with the Applicant. I think the
19 Applicant very well stated the procedural history of Intervenor's
20 deadlines for identification of witnesses from the second
21 prehearing order of December 2, 1980. They were supposed to do
22 it first on March 2nd, 1981 and were extended to March 30, 1981.

23 The Staff would only point out that we also feel
24 that good cause or a strong showing of good cause has not been
25 established by the Intervenor's for identifying Mr. Hubbard

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1 at this time relative to QA/QC matters for design and
 2 construction or to character, competence, or any other -- any of
 3 the other issues. But to have Mr. Hubbard address QA/QC
 4 for operations and address specifically the partial SER, we have
 5 no problem.

6 JUDGE BECHHOEFER: Well, let me ask you something
 7 concerning design and construction.

8 Can or should the Board give consideration to the
 9 lack of resources of Intervenors, generally, and this one in
 10 particular -- these in particular and the fact that they have
 11 changed counsel?

12 They lost, or I guess this isn't the case for CEU,
 13 but the fact that they have just hired, have been able to hire
 14 counsel, should we give any weight to that circumstance?

15 MR. GUTIERREZ: Mr. Chairman, I think the point
 16 should be made that NRC case law is clear that whether an
 17 Intervenor is represented by counsel or is pro se, a layman
 18 is equally capable of knowing what a deadline is as a lawyer is.
 19 And the fact that two deadlines have passed should not be
 20 excused by reason of the fact that at one point Intervenor
 21 had counsel and one point it doesn't.

22 There is clear NRC case law saying that that
 23 isn't a relevant issue, and I can have that case for you
 24 tomorrow. But right offhand I can't think of the name.

25 So in direct answer to your question, I don't think

1 it should be a relevant consideration.

2 JUDGE BECHHOEFER: Mr. Hager?

3 MR. HAGER: My understanding of the June 13th
4 document and CCANP's previous knowledge of Mr. Bridenbaugh
5 was that they had expected him to testify on contention 3,
6 I believe, which is not presently before the Board. So that
7 as far as CCANP's involvement, they did not anticipate
8 Mr. Bridenbaugh testifying on these issues is my understanding.

9 I don't have that document before me right now.

10 JUDGE BECHHOEFER: I probably have it with me, if
11 I can dig it out.

12 But in any event, let me ask you, was it -- I
13 remember Mr. Bridenbaugh being mentioned. Was Mr. Hubbard
14 mentioned?

15 MR. HAGER: They are in the same firm.

16 JUDGE BECHHOEFER: I realize that.

17 MR. NEWMAN: The answer to that question,
18 Mr. Chairman, if I may, is yes.

19 JUDGE BECHHOEFER: Yes. Because I don't --

20 MR. NEWMAN: Mr. Hubbard was specifically identified
21 in answer to that interrogatory, and, in addition to that, his
22 background, to the extent relevant to quality assurance, was
23 mentioned.

24 MR. HAGER: I don't think I've said anything that
25 would contradict that. What I'm saying is that that

1 interrogatory related to an issue not presently before the
2 Board.

3 I think perhaps Mr. Jordan should speak to the
4 other issues.

5 JUDGE BECHHOEFER: Mr. Jordan, we would like to know
6 whether or which aspect of QA Mr. Hubbard will address, whether
7 it is operations, the types of questions raised by the
8 Safety Evaluation Report, or construction --

9 MR. JORDAN: Well, Mr. --

10 JUDGE BECHHOEFER: -- design and construction.

11 MR. JORDAN: Yes, sir. It is incorrect, to an
12 extent, that we don't say what he's going to testify about.
13 I explained, I believe, that his testimony would be largely in
14 the nature of rebuttal to the Frazar testimony.

15 There is no question that I would want him to
16 testify on QA/QC both as it is now being testified on related
17 to design and construction and on the operational aspect of
18 QA/QC. Those are --

19 In terms of his expertise, I'm sorry that
20 Mr. Newman apparently hasn't read his resume. There's really
21 no question when you do that this man has expertise in quality
22 assurance, that he has testified on quality assurance. I
23 mentioned in the motion that he has been before the ACRS.
24 I believe he has testified before Congress on quality
25 assurance/quality control issues, and, I must say, specifically

1 related to nuclear plants.

2 He would bring to this Board invaluable information
3 and insight on those points.

4 I should note that he is already reviewing the
5 documents. He has -- I'm not sure exactly which ones, but I
6 know that he has reviewed at least the testimony of -- the
7 first testimony of Mr. Frazar, and I expect he's reviewing the
8 second testimony of Mr. Frazar at the moment.

9 I must say that I don't think that it is reasonable
10 or rational to separate the consideration of design and
11 construction QA/QC from the operations QA/QC. It is the same
12 operation. It is the same outfit. It is the same fundamental
13 questions and principles, and it doesn't make sense to separate
14 those out.

15 JUDGE BECHHOEFER: Well, that's not -- I don't think
16 that's quite right, because I am not aware that Brown & Root
17 is involved in the QA for operations.

18 MR. JORDAN: Well, to that extent, that's true.

19 JUDGE BECHHOEFER: To that extent, there's
20 obviously a difference.

21 MR. JORDAN: That is true. But it is still an HL&P
22 QA/QC people program.

23 I would note -- My co-counsel reminds me that he
24 has already reviewed the SER, in particular, and would
25 definitely testify as to that.

1 What troubles me about much of what has been said
2 is that you have before you two Intervenors, or I will speak
3 only for CEU, and I must emphasize CEU is not CCANP. And I
4 specifically asked Ms. Buchorn about her knowledge of
5 Mr. Hubbard, and she informed me that she was not aware of
6 those qualifications.

7 But you have Intervenors before you that I believe
8 have stood up astoundingly well under extraordinarily adverse
9 circumstances, which you have affidavits of great medical
10 difficulties. You know of the schedule of Mr. Sinkin, who
11 will be taking his final law school exams tomorrow. I think
12 that can be taken into account here.

13 And I think that what is really relevant here
14 is we're trying to get at the full and complete truth. And
15 Mr. Hubbard has something to offer that the rest of the
16 parties do not. That is good cause.

17 JUDGE HILL: Mr. Jordan, I have read the resume.
18 I interpret -- I know Mr. Hubbard, by the way, and I also
19 interpret his resume that his area of expertise in QA/QC is
20 quite narrow and is limited to VWR control and instrumentation
21 systems.

22 And I would like to hear from you how you would
23 use such a witness in rebuttal on QA areas such as concrete
24 and welding and general construction, not in the areas in which
25 Mr. Hubbard is an expert.

1 MR. JORDAN: It seems to me that -- I remind you
2 I don't know what Mr. Hubbard would say. I don't know that he
3 would testify that -- about concrete QA specifically, for
4 example. But I do know that he is an expert in the principles
5 of QA/QC and has the ability to apply them himself. To the
6 extent that there is a narrow area that he couldn't get into
7 because he didn't have expertise in that area, well, that would
8 be a question for the time.

9 But it seems to me the important point is that he
10 had broad QA responsibilities for a massive program with
11 General Electric. It may be that it was a particular area of
12 what General Electric did, but the fact remains that the
13 expertise is sort of a fundamental QA/QC expertise.

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1 For example, if I may give an example of the kind
2 of general and basic principle that he would discuss is this
3 whole question -- which is very important here -- of appropriate
4 organization and what really works and what doesn't and whether
5 a third party arrangement is necessary and whether having the
6 constructor do the QA is reasonable. That kind of thing is
7 well within his expertise.

8 JUDGE LAMB: Mr. Jordan, do you believe he will be
9 able to address such questions as -- You've mentioned
10 organizational structure. Do you believe he will be able to
11 address questions dealing with personnel qualifications or
12 training activities or both?

13 MR. JORDAN: Well, I -- It's hard to answer that
14 question.

15 For example, if he hasn't been a concrete expert,
16 then I wouldn't expect him to be able to answer questions about
17 the specific concrete knowledge of somebody. That would be the
18 knowledge of somebody related to concrete. But I think in terms
19 of quality assurance/quality control expertise, certainly to
20 the extent that it is -- that that is a field that's not tied
21 to a technical -- a particular technical point, yes, I would
22 think he could.

23 As I say, it is a difficult question to answer
24 beyond that.

25 MR. NEWMAN: Mr. Chairman, may I respond for a moment?

1 JUDGE BECHHOEFER: Yeah. Just one moment.

2 (Bench conference.)

3 JUDGE BECHHOEFER: Mr. Jordan --

4 MR. JORDAN: Yes.

5 JUDGE BECHHOEFER: -- is it likely that

6 Mr. Hubbard would be called upon to evaluate the transition
7 of the QA program from design and construction to operation?

8 MR. JORDAN: Yes. I would say so.

9 JUDGE BECHHOEFER: Mr. Axelrad, what is your comment,
10 first, on the Staff's point that a portion of this testimony
11 would relate to the SER items?

12 MR. NEWMAN: The Staff's position on that is correct.
13 If Mr. Hubbard is an expert on the operations QA program, if
14 that's what he's being tendered for, then his identification
15 is not covered by the requirement to file which is already passed.

16 I have heard --

17 JUDGE BECHHOEFER: How about the transition? When
18 I just asked the last question, I was paraphrasing a statement
19 in the SER --

20 MR. NEWMAN: Cold start-up, hot start-up?

21 JUDGE BECHHOEFER: Well, the transition from the
22 design and construction to operation.

23 MR. NEWMAN: Well, that's a process of handing
24 over systems of the plant for pre-operational testing,
25 functional testing, et cetera. That would be -- One would be

1 required to have some knowledge of the operations QA side
2 of a nuclear power plant to do that sort of thing. And I've
3 looked at his resume. There is not a word to suggest that
4 Mr. Hubbard has ever been around a nuclear power plant that
5 was in operation on a matter relating to the quality control
6 and quality assurance relating to that operation.

7 I really am astonished at the fact that we would
8 at this late date and on such skimpy information even begin
9 to entertain the notion of having an additional witness as
10 to whom there has been no assertion with respect to this
11 unique expertise, his unique knowledge, nothing that clearly
12 establishes that this individual is essentially indispensable
13 to a complete meaningful record.

14 I believe, Mr. Chairman, in light of your prior
15 rulings, to allow this type of thing to come in at this
16 point would be entirely inappropriate.

17 JUDGE BECHHOEFER: Does the Staff have further
18 comments?

19 MR. GUTIERREZ: Only to reiterate our earlier
20 point, Mr. Chairman, that, again, some of what Mr. Newman was
21 hinting at is if Mr. Hubbard is presented as a witness on
22 SER related QA/QC matters, obviously, his credentials can be
23 questioned; his credibility can be eroded.

24 I don't think that disqualifies him as a witness
25 in SER related matters. On non-SER related matters, the Staff

1 is in total agreement with the Applicant that procedurally
2 time has passed, not once but twice, and it has been the
3 Staff's position that good cause was not shown to make the
4 first extension of time. So it continues to be that position
5 on non-SER related matters.

6 SER related matters can be presented and his
7 credentials tested at that time.

8 JUDGE BECHHOEFER: Mr. Jordan, do you have any
9 closing comments or further --

10 MR. JORDAN: Only that I think on the matters that
11 Mr. Newman has been raising of the extent of expertise, that
12 that's a matter for cross-examination or voir dire at the time,
13 not for whether he should be called.

14 JUDGE BECHHOEFER: Is it a matter we should take
15 into account if we should find good cause to deviate from our
16 prior orders?

17 MR. JORDAN: Well, I think his apparent expertise,
18 as we can vow to, is the fundamental basis for good cause.
19 We can -- We can fly him in for voir dire. But I don't think
20 that's a rational approach. Better we should -- It seems to
21 me we made a prima facie showing of good cause on that point.
22 If he wants to get into it in voir dire, then that would be fine
23 at the time.

24 (Bench conference.)

25 JUDGE BECHHOEFER: Off the record for a moment.

1 (Bench conference off the record.)

2 JUDGE BECHHOEFER: Back on the record.

3 The Board has decided that insofar as SER items are
4 concerned, no motion is needed, and the witness has been
5 identified in sufficient time. Insofar as other QA items are
6 concerned, the Board has decided to grant the Intervenor's
7 motion.

8 We find that the possible addition to the record
9 will outweigh the admitted lateness of the identification of
10 Mr. Hubbard.

11 We will require that both insofar as he covers
12 SERs and other items that the schedule we established in our
13 order of April 21 be followed, and I hope Mr. Hubbard can meet
14 this. His testimony will then be due to be filed by June 5.
15 That's the schedule we established earlier.

16 MR. JORDAN: Your Honor, we've been running the
17 last few weeks. Dick Hubbard can run, too.

18 Thank you.

19 JUDGE BECHHOEFER: But, I mean, we're just
20 tacking it on to the same schedule we established earlier.
21 His testimony can be somewhat broader than the SER items.

22 MR. NEWMAN: Mr. Chairman, we will, of course,
23 have an opportunity to take Mr. Hubbard's deposition. Taking
24 that deposition will impose some hardship, and, therefore,
25 we would ask that in fairness that the Board make it clear

1 that Mr. Hubbard is to come to Houston for the purpose of
2 taking his deposition so that we can, consistent with our
3 obligations in this proceedings, also pursue our discovery
4 and the deposition of Mr. Hubbard.

5 I would ask that that be added to the Board's
6 order.

7 JUDGE BECHHOEFER: Would the Applicants, obviously,
8 pay travel and per diem?

9 MR. NEWMAN: No.

10 MR. JORDAN: Your Honor, that's -- that would
11 impose, obviously, an extraordinary burden on us. I suggest
12 that we've had an approach already discussed today that is
13 perfectly what the Applicant can do, which is to cross-examine
14 him extensively on the stand. I have no problem with that
15 cross-examination being broader than it might otherwise be
16 as they haven't had a deposition before that.

17 It seems to me that is quite the reasonable answer.

18 JUDGE BECHHOEFER: Let's go off the record for a
19 minute.

20 (Bench conference off' the record.)

21 JUDGE BECHHOEFER: Back on the record.

22 Does the Staff have comments on the proposal
23 that the Applicants just made?

24 MR. REIS: No. We have no position. We'd just
25 merely note that the schedule set out by the Board previously

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1 which it is following does not provide for depositions at all.
2 I don't know whether that was an oversight or an intent there.

3 I presume that any deposition would be taken
4 between June 5th and June 15th, and if there was any, we would
5 certainly -- The Staff feels with the duties to go forward
6 that certainly any depositions, and we don't care where they
7 are or who pays for them, be taken in that period.

8 JUDGE BECHHOEFER: Is there any precedent for
9 who pays travel expenses if we should order somebody to go
10 out of his city for a deposition?

11 MR. REIS: I don't know of any.

12 JUDGE BECHHOEFER: I happen not to be aware of any.

13 MR. REIS: The Federal Rules, I think, address
14 this, but I'm not quite sure what they state. I know that
15 the Staff can't, but. . .

16 JUDGE BECHHOEFER: I'm not saying that.

17 MR. REIS: But between the Intervenors and the
18 Applicants, I'm trying to remember the regular practice on
19 a deposition. It is usual to pay the travel expenses of the --
20 I believe in general rules that it is usual to pay the travel
21 expenses of the one being deposed. I may be wrong.

22 MR. COWAN: Your Honor, our client, as Mr. Newman
23 indicated, is certainly not very enthusiastic about paying
24 Mr. Hubbard's per diem or travel expenses. But in candor
25 to this Board, we must advise that I think it is the customary

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1 practice under the Federal Rules of Evidence if one litigant
 2 wishes to take the deposition of the other side's expert, he
 3 must pay the expert's per diem and travel expenses. And we
 4 make that admission with some reluctance, but that is the
 5 practice.

6 JUDGE BECHHOEFER: How about fees? I'm not talking
 7 about statutory fees.

8 MR. COWAN: Normally, if one side wishes to take
 9 the other side's expert, he must pay a reasonable fee for
 10 the expert's time while he appears to give his testimony.

11 JUDGE BECHHOEFER: If -- Mr. Jordan, would you --
 12 Do you have any objection if we should order that the
 13 deposition be taken in Houston but subject to the addition
 14 that travel, per diem, and -- I won't say what fee because
 15 I have no idea right now what a reasonable fee is. But it
 16 would just be a reasonable fee be paid.

17 Would you have any objection if we should --

18 MR. JORDAN: I think, then, your Honor, our
 19 only difficulty is scheduling a way to be present. And I
 20 don't -- If they want to take his deposition. . .

21 (Pause.)

22 JUDGE BECHHOEFER: Well, my guess is that given
 23 time changes, it would take at least two days of his time
 24 including travel.

25 MR. JORDAN: I think that is quite a burden on him.

1 It may be there's a way to schedule this rationally by
2 relative to when he's going to be here. But I guess I do find
3 it to be a substantial burden on us, particularly when I
4 compare it to our inability, really, to get after the evidence
5 on the inspection reports we discussed earlier. We're not
6 going to have an opportunity to depose. We don't even know
7 who those people are until somebody gets up here on the
8 stand and talks about it.

9 So I think the reasonable trade-off is to have
10 them cross-examine him right here.

11 MR. NEWMAN: Mr. Chairman, I believe that under
12 any normal circumstances when a witness is identified we should
13 have an opportunity to take his deposition. And it seems to
14 me that the Board here has accommodated an out-of-time
15 identified witness, and a reasonable accommodation would be to
16 have Mr. Hubbard appear in Houston in time so that we can take
17 his deposition, evaluate his deposition, and establish the
18 basis for cross-examination based upon that deposition.

19 Subject to the amendment Mr. Cowan suggested,
20 I would urge that the Board's order include a requirement
21 that Mr. Hubbard appear in Houston for the taking of his
22 deposition. Transportation, fees, and per diem to be paid
23 by the Applicant.

24 JUDGE BECHHOEFER: Alternatively, what about the
25 Applicants taking the deposition wherever Mr. Hubbard resides?

1 I don't have that in front of me. I assume that's California.

2 MR. JORDAN: It's San Jose, California.

3 MR. NEWMAN: I really don't believe that's a
4 reasonable response in a situation where other parties have
5 been burdened by the late identification of a witness. It
6 just seems that basic fairness in such circumstances requires
7 that we be given some accommodation in light of the manner in
8 which this matter has come up.

9 MR. COWAN: Your Honor, there's one other practical
10 consideration there, too. There are a number of people who
11 would want to be present who would be entitled to be present
12 at Mr. Hubbard's deposition. Presumably Mr. Jordan would want
13 to be there and Mr. Hager. Presumably someone from the Staff.
14 We would have to have not only a lawyer questioning the
15 witness but also someone to advise us on technical questions
16 of quality assurance that we might wish to interrogate
17 Mr. Hager (sic) about.

18 So there's going to be -- It is a lot easier for
19 one person to come from San Jose to Houston than it is for
20 all of the people who would want to attend that deposition to
21 go out to San Jose.

22 JUDGE BECHHOEFER: Off the record.

23 (Bench conference off the record.)

24 JUDGE BECHHOEFER: The Board will require or
25 permit the Applicants to take Mr. Hubbard's deposition here.

1 But all travel, per diem, and a reasonable fee for an expert
2 witness will be paid. We don't want Mr. Hubbard to be out of
3 pocket for at least the two days it is going to take for him to
4 come to Houston.

5 And we hope that the schedule -- Perhaps the schedule
6 could be accommodated so that other parties -- all the parties
7 can be present, and we hope that can be done.

8 So -- But that will be between the 5th and the 15th,
9 although, again, I can't say that on the 15th that will be the
10 day that Mr. Hubbard will testify. But it is in that session
11 following the 15th. But it may well be the earlier part of that
12 session. We will have to see how we progress.

13 But on those terms, we do grant the motion.

14 MR. JORDAN: Thank you.

15 JUDGE BECHHOEFER: Now, the final one. I better
16 not just call it record-keeping, but in shorthand maybe that's
17 what it is.

18 Mr. Jordan, any further comments on that before we
19 hear from other parties?

20 MR. JORDAN: Only that it does appear, particularly
21 with respect to the QA/QC personnel, that they could be important
22 to inquiry which may occur -- may occur, depending on what we
23 hear in the course of this hearing, and certainly may occur
24 as a result of later investigative reports or new information
25 later on. It seems to me it is very important that some effort

1 be made that these people won't be lost.

2 We're not really asking a lot, it seems to me.

3 I don't -- Houston Lighting & Power can hardly require somebody
4 who is leaving to give them a forwarding address. But they can
5 make a good faith effort in that regard.

6 JUDGE BECHHOEFER: So you would -- I assume that
7 your motion is limited to employees that have some knowledge
8 of QA/QC matters. It wasn't entirely obvious from the terms
9 of the motion. It seemed that in certain areas you refer to
10 all employees.

11 MR. JORDAN: The QA/QC are the more important
12 ones, presumably, because they are more directly in the area
13 of major concern. But on the other hand, it is also true
14 that engineering personnel, construction personnel may well
15 have information that will be needed. There may be construction
16 people who are so fed up with the way things are related to
17 QA/QC that they, you know, that they have information.

18 I understand that there have been something like
19 2,000 people laid off out there, and I don't know how many of
20 them were called back from time to time, since the show-cause
21 order. That's -- If those people have information, we've already
22 lost a lot of it. And all we're trying to do is try and have
23 something to track them with if it becomes necessary.

24 JUDGE BECHHOEFER: Well, I --

25 MR. JORDAN: So I'm not referring only to QA/QC.

1 This is really to all of them.

2 JUDGE BECHHOEFER: Well, what about persons who
3 are employed for particular purposes on construction and when
4 that element of construction is finished they are -- I don't
5 know if they are discharged but their job is completed.

6 Now, would they be covered?

7 MR. JORDAN: They would be covered.

8 JUDGE BECHHOEFER: And what would you have -- I
9 won't say either the Applicants or Brown & Root. What would
10 you have them do? Would you have them do more than to ask the
11 people when they leave where they are going or what their
12 addresses are? Would you impose a further follow-up effort?

13 I'm trying to define the scope of what you are
14 asking for.

15 MR. JORDAN: Well, I have difficulty imposing on
16 them some tracking of someone beyond what they tell them about
17 where they are going. But I think it is reasonable to have
18 them ask if they are moving, where they are going, what their
19 forwarding address will be. But that's about all we could ask
20 within reason, I would think.

21 JUDGE BECHHOEFER: Okay.

22 Mr. Axelrad or Newman, as the case may be.

23 MR. AXELRAD: Yes. I'll address this,

24 Mr. Chairman.

25 We haven't had a chance since 9:00 o'clock last

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1 evening to research whether this kind of a request has any
2 type of precedent or whether the type of information requested
3 by the Intervenors has any precedent in NRC practice.

4 It does appear to us quite clearly just from the
5 limited exchange that has taken place between the Chairman
6 and the counsel for Intervenor that this is an open-ended
7 request which has no logical or appropriate basis.

8 This is a construction project. People get hired.
9 People get laid off. There are, depending upon --

10 JUDGE BECHHOEFER: Let me ask you one question.
11 When people are hired or laid off, does Brown & Root or
12 Houston, as the case may be, ask the question already, "Where
13 are you going?" Is that a standard practice already?

14 MR. AXELRAD: I can't speak for --

15 JUDGE BECHHOEFER: If it is, maybe that's -- Maybe
16 that's the end of it. Maybe it is moot.

17 MR. AXELRAD: I can't speak for Brown & Root. But
18 I would suspect that Brown & Root is somewhat similar to
19 HL&P. There's no definite policy. But, obviously, when
20 somebody leaves you need an address at that time, a forwarding
21 address at that time at least for such purposes as sending a
22 W-2 form later on and things of that kind. So that type of
23 information when an employee is leaving is just automatically
24 put in his file, I believe. And if that's all that we're
25 talking about, I don't believe that that would be a --

1 JUDGE BECHHOEFER: I take it that like for the
2 foreseeable course of this portion of the proceeding those
3 records would not be destroyed in that period of time.

4 MR. AXELRAD: Well, if there are such records,
5 they would not be destroyed. But one of my problems,
6 Mr. Chairman, is that we have, there's HL&P, there's Brown &
7 Root, there's subcontractors, there's people that are
8 consultants. There are any number of people who come on the
9 site and do work.

10 We just cannot be subject to the burden of
11 requiring those people, those other organizations to maintain
12 any kind of record whatsoever, particularly when there is
13 no foundation, no basis for the request that's being made by
14 the Intervenors.

15 JUDGE BECHHOEFER: The Staff.

16 MR. GUTIERREZ: The Staff would only respond that
17 we're not aware of any precedents or similar requests. But
18 beyond that, we do not take a position on this motion.

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1 MR. JORDAN: Your Honor, it does seem to me, based
2 on what Mr. Axelrad has said, that this would hardly be any
3 sort of burden.

4 Really, they're just asking their Brown & Root
5 contractor to do what they very likely already do.

6 I would note that it is the QA-QC personnel with
7 which we are most concerned. The fact that it occurs with
8 respect to any QA-QC personnel that are dismissed or otherwise
9 leave the project during the course of this hearing, at least
10 at this point, we would like to know who they are and where
11 they went and why.

12 That, in a sense, is a discovery request. That is
13 separate from this particular request, but it seems essential
14 to keep things tied together and not lose the information that
15 the Board needs.

16 MR. AXELRAD: Mr. Chairman, counsel has now added
17 to his previous request a discovery request. This is not an
18 appropriate time to undertake additional discovery.

19 With respect to his previous remarks, if all that
20 he is asking is that the company, Brown & Root and subcontractors
21 do whatever they would do anyway, no order is necessary for
22 that purpose.

23 If he is asking us, Brown & Root, or the sub-
24 contractors to do anything more than that, that is presently
25 not sufficiently defined in the motion and there is no basis

1 provided for any requirement of any sort with respect to
2 keeping track of personnel.

3 JUDGE BECHHCEFER: Hasn't Mr. Jordan mentioned
4 as a basis -- I won't say legitimate or not -- but he has
5 mentioned a basis that people at least connected with QA-QC
6 could have information of usefulness to the Board and their
7 whereabouts perhaps should be -- steps should be taken to
8 ascertain where they're located.

9 MR. AXELRAD: Mr. Chairman, that is true in every
10 licensing proceeding, both for a construction permit and
11 operating license. It's always possible that some one employee
12 of the Applicant, or anybody else, could have some information
13 which may at some future time be useful to the Board.

14 That is not the basis for imposing a new onerous
15 requirement upon Applicants. It is not provided for in the
16 licensing requirements of the Commission at this time, and
17 for which we know of no precedent and for which we still have
18 heard no basis provided for by either counsel for the
19 Intervenors.

20 MR. GUTIERREZ: For clarification, Mr. Chairman,
21 from listening to the discussion and reading the motion, the
22 motion asks that HL&P and Brown & Root keep records.

23 Now, if I understand Mr. Axelrad correctly, he's
24 saying in the course of ordinary business HL&P and Brown & Root
25 must keep at least the most current address of their employees

1 in order to send them their W-2 forms.

2 Now, I'm at a loss in reading this motion just what,
3 in addition to that, Mr. Jordan is requesting from the Applicant,
4 and I think if we get a clear statement from Mr. Jordan at
5 least the debate would be a little more focused.

6 MR. HAGER: Mr. Chairman, I may be out a ways on
7 this issue at this point.

8 JUDGE BECHHOEFER: We haven't heard from you yet
9 on this.

10 MR. HAGER: Yes. I've been trying to stay out of
11 this thing. It's hitting close to home and I think I might
12 have to say something.

13 CCANP has had problems in locating very important
14 witnesses; just one named Doug Robertson. We have no idea
15 where he is. He has very important information that did
16 pertain to overriding of QA-QC. There are other witnesses
17 as well. This is a problem. We don't have statistics or
18 comparisons of the kind of turnover at other plants, and that
19 would be interesting, but there has been a very high turnover
20 in this plant, particularly among people in the QA-QC
21 department, and particularly among people who had interesting
22 things to tell this Board.

23 So this is a problem. This may not be the time
24 for a permanent remedy to this problem of losing witnesses,
25 but it has presented itself as a problem, and perhaps some

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1 kind of position or requirement such as to maintain at least
2 reasonable kinds of records to find these people would not be
3 overly burdensome. Certainly a person obtains his last pay-
4 check and at that time it's not difficult to ask where any
5 information can be forwarded, further records, W-2 forms,
6 and so forth.

7 But if it's unprecedented it's because the
8 situation at STP itself may be unprecedented. CCANP has
9 confronted these problems in locating witnesses.

10 JUDGE BECHHOEFER: Let me ask you, with respect to
11 the person you named, did the Applicant have a record of where
12 that person went after he was -- immediately after he was
13 terminated?

14 MR. HAGER: I wasn't involved in the investigation
15 of that. I do have information that the people who were
16 unable to locate him after they brought inquiry, my assumption
17 is that they --

18 JUDGE BECHHOEFER: What I was trying to ascertain
19 is that if the Applicants kept a record of the next address of
20 a person, would that have not been sufficient to locate this
21 particular individual, because if so, I'm not sure that any
22 order we can enter would enable them to keep track of people
23 who move a number of time. There might be difficulty in
24 alleviating the particular problem you just presented.

25 MR. HAGER: Of course, it would have to be

1 coupled with the understanding that that information would be
2 made available to the Intervenors to make it effective, and of
3 course, there's the rule of reason on this that they would
4 only be responsible for knowing where the person went next,
5 who you're going to be employed by next or what the next
6 address was, not an ongoing responsibility to follow every
7 change of address after that.

8 It's simply to keep track of where the next address
9 after they leave either Brown & Root or Houston Lighting &
10 Power would be.

11 MR. AXELRAD: Mr. Chairman, the discovery period
12 is over. To the extent Intervenors are complaining about
13 any difficulties they may or may not have had during discovery,
14 this is not the time to bring those matters up. They never
15 asked us for any location for Mr. Robertson. But that is all
16 beside the point.

17 The point is they're trying to impose upon us
18 what appears to be a potentially burdensome requirement, and
19 one which neither we nor any other Applicant in the proceeding
20 should be subject to.

21 There are contested proceedings held before the
22 Nuclear Regulatory Commission all the time. There are any
23 number of people who may have information with respect to
24 contesting matters who may or may not be in the employ of the
25 license Applicant and who may leave at any time, and never

has this type of proceeding required any type of record keeping requirement of the type suggested by the Intervenors.

3 MR. JORDAN: In response to that, Your Honor, this
4 is indeed an extraordinary case. It's not just every case.
5 It's just not a case where we're arguing about whether the
6 steam supply system is adequate or not.

7 This is a case of where what happened to
8 individuals at that plant is of great importance, and so
9 it's very important that those individuals not be lost.

10 If they got fired, if they get fired, if they
11 have been fired or get fired in the future because they have
12 told the NRC something, or, for example, because someone from
13 Brown & Root went to HL&P and they got fired, well, that's
14 pretty important to the inquiry, the ultimate inquiry that the
15 Commission is going to have to make.

16 Now, it's true that the discovery period is over,
17 but my point here really is, and we've talked about it so much,
18 this is the expedited phase of this hearing.

19 The Staff's investigations will go on.
20 Undoubtedly people will continue to work there, and come to
21 the Staff, come to the Intervenors with more information, and
22 we just want to get it straight that that information cannot
23 be lost by simply firing those people and letting them go.

24 MR. AXELRAD: I object to that, Mr. Chairman.
25 There is no indication anywhere that Brown & Root employees

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1 have been fired for going to HL&P or to the NRC, and I object
2 to the counsel for the Intervenors characterizing his request
3 for information on the basis of that spurious comment.

4 JUDGE BECHHOEFER: Mr. Jordan, my real question is
5 what kind of an order are you asking from this Board that
6 would change what the Applicants or Brown & Root are already
7 doing?

8 If it's anything other than the next address,
9 apparently to keep that, I think probably through tax require-
10 ments they're probably required to.

11 MR. JORDAN: It may well be that I'm not asking
12 for anything more than they already do. I just want it ordered
13 that they do it so that if there is a problem and we get to that
14 later on, they've got that information.

15 Presumably they can change their approach to what
16 they do now if they're not ordered not to. And for that
17 matter, we didn't have representation, as far as I know, that
18 Brown & Root actually, or even HL&P actually does maintain the
19 records in that fashion.

20 JUDGE BECHHOEFER: Off the record for a minute.

21 (Discussion off the record.)

22 JUDGE BECHHOEFER: Back on the record.

23 The Board has decided to deny the motion, based on
24 our assumption at least, that at least Brown & Root and HL&P
25 do keep records of either the current or the next address of

1 employees who are being terminated.

2 The Board would, however, in the near future
3 like a report on the practice of both Houston and Brown & Root,
4 not the other subcontractors, but those two companies, and if
5 it should turn out that those records are not kept, we would
6 seriously question whether that would be the case, but if it
7 should turn out that those records are not kept, we then may
8 reconsider, but we will deny the motion based on our assumption
9 that the next address of these people is kept for tax or other
10 reasons, and we won't put any time limit on the report to the
11 Board but it should be as soon as you can reasonably find out
12 that information. You can advise us of that.

13 (Bench conference.)

14 JUDGE BECHHOEFER: It's about five after twelve now
15 and we've ruled on all the motions. I think it would be a good
16 idea to break for lunch now and come back with the testimony.

17 We are withholding any judgment on this motion
18 concerning Saturday until after lunch, and after lunch we will
19 resume the testimony of Mr. Goldberg and Mr. Frazar.

20 Are there any matters before we break that anybody
21 wishes to raise?

22 (No response.)

23 JUDGE BECHHOEFER: Okay.

24 (Bench conference.)

25 JUDGE BECHHOEFER: Let's break for an hour and

1 fifteen minutes, so about 1:20 we will resume.

2 (Whereupon, at 12:05 p.m., a recess was taken
3 until 1:20 p.m., the same day.)

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AFTERNOON SESSION

1:20 p.m.

JUDGE BECHHOEFER: Back on the record.

Do the parties have a report on any agreement or any suggestions for the Saturday hearing?

MR. REIS: Mr. Chairman, the Staff feels that we must meet on Saturday.

In addition, the Staff feels we must meet the nights of this week. This proceeding is the very beginning of the proceeding but it's proceeding so slowly, and with 17 pounds of Applicants' witnesses and substantial pounds of the Staff's witnesses, we're never going to finish.

I can see us going to Christmas at the rate cross-examination is going and the rate the audience and motions are going, and frankly, we feel that there has to be a major speed-up.

We think not only should the Board's suggestion be accepted of going Friday night, but we think we think we must go Saturday and we must go the other nights of this week.

I know it puts a substantial hardship on the members of the Board and the parties, and it puts a substantial hardship on me, but I've been told that the cross-examination, for instance, of Mr. Goldberg is just beginning.

And if you take those 50 witnesses and you say there's going to be eight hours on the stand for each of them,

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1 which is really not that much, or a full day on the stand
2 for each of them, that means 50 days of testimony just on the
3 Applicants.

4 Therefore, I think in order to get this thing
5 moving we have to go, or at least be getting on a very, very
6 pressed schedule.

7 The Staff feels that we should not only meet on
8 Saturday, but we should meet in the evening, to 7:30 in the
9 evening without a dinner break.

10 MR. JORDAN: Your Honor, I don't think I need to
11 tell you, but that will be an absolutely impossible and grossly
12 unfair burden on this Intervenor in this case.

13 We should have a reasonable opportunity to
14 participate and we have made every effort thus far. I must say
15 that it seems to me that the goal of the Staff is to wear us
16 all down and that's how we're going to get through with this
17 hearing. We'll be dead by the end of next week. So it won't
18 take much longer to finish the hearing when that happens, and
19 that is not going to get you the best record, believe me.

20 We have discussed this issue back and forth
21 considerably. I think that, believe it or not, CEU may have
22 reached an accommodation with the Applicant that we think is
23 reasonable, and I haven't had a chance to CCANP about it, and
24 upon hearing Mr. Reis' position saw no point in talking to the
25 Staff about it.

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1 That approach is to begin Mr. Amaral's -- well, to
2 put on the Oprea board immediately after Mr. Jordan tomorrow,
3 the parties to focus on Mr. Amaral, to go late on Thursday, I
4 should think to 7:00, or that kind of a figure, or perhaps put
5 a dinner break in between, and then to go with that panel with
6 that same commitment and to cross-examine Mr. Amaral on Friday,
7 going late Friday if need be, and that accommodates the
8 Saturday situation.

9 Now, I will personally, on behalf of CEU, make a
10 commitment to try to get the Amaral testimony done, the cross-
11 examination done in that period of time.

12 I cannot say, none of us can say whether or not the
13 cross-examination would be finished, but that we would try to do
14 and then we would not have to come on Saturday.

15 I might add one thing to that. Evening sessions
16 will make it difficult if not impossible for us to put together
17 our subpoena list by Saturday, and certainly by Friday. We are
18 in the midst of doing that at this moment.

19 I discussed with the Applicants the fact that we
20 will all be in Houston on Saturday and we should be able to
21 deliver the subpoena list to the Applicant, to whoever will be
22 in Houston on Saturday.

23 We will have difficulty with that with evening
24 sessions, but I think we could meet that deadline.

25 Now, I don't need to say anything more about these

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1 evening or weekend meetings for the rest of the time.

2 JUDGE BECHHOEFER: Are you saying that you would be
3 willing to work late on Thursday night? Run until 7:30 on
4 Thursday and on Friday if necessary?

5 MR. JORDAN: Yes, if there is no Saturday meeting.

6 JUDGE BECHHOEFER: Mr. Axelrad.

7 MR. AXELRAD: Mr. Chairman, we have discussed with
8 counsel for CEU the possibility of running late on Thursday,
9 possibly taking a short dinner break and coming back after
10 dinner for several hours and getting a substantial hearing time
11 in on Thursday and then running late on Friday evening until
12 7:30 or 8:00 or something like that, and with those two
13 commitments, and with the understanding that everyone was
14 going to use his best efforts to complete the cross-examination
15 of a portion of the Oprea panel testimony, Mr. Amaral and a
16 few pages in Mr. Oprea's testimony that deals with the QA
17 organizational alternatives, so Mr. Amaral could then be
18 excused, subject to recall later if it develops that any further
19 examination of the panel requires any further testimony on
20 his part. So he's being excused insofar as his direct
21 testimony was involved.

22 That could be done and perhaps the Saturday morning
23 session could be dispensed with. We certainly feel the same
24 way as counsel for the NRC Staff with respect to the slow pace
25 of the proceeding at this time and that perhaps an effort

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1 could be made by all parties to minimize the amount of time
2 spent on arguments on motions and to expedite testimony. I
3 think it may well be necessary to have evening sessions next
4 week in Houston also.

5 The next thing is that counsel for CEU had
6 indicated that the list of adverse witnesses to be called
7 would be available in Houston I believe at about noon. I
8 believe we would need it sometime relatively early on Saturday
9 in order for us to be able to prepare our responses to those
10 and still make them available to the Board by the date that was
11 specified in the Board's order.

12 JUDGE BECHHOEFER: I might say I thought I had
13 announced that the response would be an oral response. It
14 need not be in writing.

15 MR. AXELRAD: I understand, Mr. Chairman, but it
16 still has to be prepared. We don't know how many names are
17 going to be on our list. We don't know what kind of a review
18 we're going to have to do. The weekend time will be the only
19 time we have to do that, in view of the hearings being held on
20 the weekend and hopefully the evenings.

21 JUDGE BECHHOEFER: Is noon Saturday satisfactory
22 for you to meet that?

23 MR. JORDAN: Frankly, I don't know the logistics of
24 Houston. I gather they're substantial. We would make every
25 effort to get into them by noon on Saturday. We're going to be

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1 in Houston and I will try to -- it's due at noon on Saturday
2 anyway, so we would make the deadline that had previously been
3 set. That is certainly our intent.

4 JUDGE BECHHOEFER: Okay. Off the record.

5 (Discussion off the record.)

6 JUDGE BECHHOEFER: Back on the record.

7 The Board will adopt that latter schedule for a
8 whole day hearing Thursday and we will hold a hearing Thursday
9 night. We will have a dinner break then and we will try to run
10 until 9:00 o'clock. We will run to 7:30 or 8:00 on Friday
11 without a break if we have to. We will try to get through
12 with Mr. Amaral and we will cancel the Saturday hearing insofar
13 as the evidentiary hearing is concerned. We will be hearing
14 limited appearances if there are any on Saturday morning, but
15 we have made our public announcement of that.

16 I might say the Board, we may hold some evening
17 sessions, but the Board, for its own preparation, thinks that
18 we need some time after the hearings to discuss what's going on
19 and plan for our Board questioning.

20 I won't make any commitment to hold hearings every
21 night, irrespective of the desire of the Staff to finish early.
22 We will have to finish as soon as possible, and we will take it
23 into account and we may have some evening hearings. I do not
24 think we will have hearings every evening.

25 Are the Applicants prepared to present their panel?

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1 MR. AXELRAD: Yes, sir.

2 JUDGE BECHHOEFER: May we have the panel.

3 (Witnesses resume the stand.)

4 MR. AXELRAD: Just one last remark, Your Honor.

5 With respect to the testimony on Thursday and Friday, of course,
6 there's the commitment on the parties part to focus on the
7 Amaral testimony. Obviously, he is testifying on more than one
8 limited subject. It is possible that we will not take all that
9 time and that the cross-examination will be continued.

10 JUDGE BECHHOEFER: That's right. The commitment
11 was to try to finish up with Mr. Amaral, at least through the
12 initial part, subject that he would be available for recall
13 later if necessary, as you have mentioned.

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1 Now, Mr. Jordan, I guess you're free to resume.

2 CROSS-EXAMINATION CONTINUED

3 BY MR. JORDAN:

4 Q Mr. Goldberg, a couple of things you mentioned
5 yesterday struck me, one I wasn't that clear on at all.

6 You mentioned that at one point when you were
7 with Stone & Webster -- I believe you put it -- you were
8 assigned to support a major outage by Connecticut Yankee.
9 Is that right?

10 BY MR. GOLDBERG:

11 A Right. That's correct.

12 Q What happened at Yankee?

13 BY MR. GOLDBERG:

14 A As part of a refueling and plant modification
15 outage, Stone & Webster was hired to perform an electrical
16 penetration change out of all the electrical penetrations on
17 all their reactor containment.

18 Q Was that a Stone & Webster plant originally?

19 BY MR. GOLDBERG:

20 A Yes, it was.

21 Q Was that one of the plants that you had worked on
22 previously, you personally?

23 BY MR. GOLDBERG:

24 A No, not prior to that particular assignment.

25 Q I gather they came up with some problem in the

1 electrical change-out that caused this to happen?

2 BY MR. GOLDBERG:

3 A Well, subsequent to the original design of the
4 plant, there were penetrations developed in later years that
5 proved to be more reliable for the integrity and the utility
6 had committed to a program to change out the old designs with
7 the new designs.

8 Q The other thing that struck me was that I asked
9 you whether you were brought into STP, HL&P, to make things
10 right. You said that it was a tall order, but, in essence,
11 yes.

12 I would like to focus for a while, then, on what
13 it was that you did when you took the reins. First, with
14 regard to the engineering staff, did you-all reorganize that
15 at all?

16 BY MR. GOLDBERG:

17 A That's an ongoing effort. In order to reorganize
18 an engineering staff, you have to have additional resources,
19 conceivably. To that end, we have taken steps to obtain
20 certain additional resources.

21 Q I guess my question really is, since you were
22 brought in to take on this challenge, did you bring in or
23 put your particular expertise to that reorganization?

24 BY MR. GOLDBERG:

25 A Yes. Once having joined the company and having

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1 examined the resources that were available, the expertise that
2 existed, there were a few areas which I felt some additional
3 seasonal personnel would be very helpful in enabling us to
4 carry out our responsibilities.

5 Q Okay. So you then brought in some new people who
6 you think will be good, or are good?

7 BY MR. GOLDBERG:

8 A We have put in some new people, and we have a
9 program for certain other additions, and it's a matter of
10 finding the right resources.

11 Q When you say resources, are you talking about
12 people there?

13 BY MR. GOLDBERG:

14 A Yes.

15 Q Were you, yourself, knowledgeable of people to
16 bring in, and did you bring in people who you knew to be good
17 personally?

18 BY MR. GOLDBERG:

19 A As it turns out, just by happenstance, one of the
20 people that we did acquire was a person for whom I had had a
21 previous contact. I did not recruit this person, per se.
22 He was brought to my attention by a professional search outfit
23 that we had engaged to find the resources that we need.
24 So, it's just coincidental that I brought in some people that
25 I do know.

1 Q Who was that particular person?

2 BY MR. GOLDBERG:

3 A We brought in a manager of licensing by the name of
4 Mr. Cohen Robinson who was also a previous employee of the
5 Stone & Webster Engineering Corporation.

6 We extended an offer to another former Stone &
7 Webster employee. He has not yet accepted, so I don't think
8 it's appropriate that I divulge his name.

9 Q That's fine.

10 I guess what I'm not clear on then, is that you
11 have brought in the people and seen to it that a program was
12 put underway to bring in the people, but that's a different
13 question of whether you were involved in the actual structural
14 reorganization of what you were responsible for.

15 BY MR. GOLDBERG:

16 A We have undertaken certain reorganizations with
17 the availability of Mr. Robinson. We have reorganized an
18 organization that was previously called nuclear services and
19 licensing, so that we would have licensing now as a separate
20 organization reporting through Mr. Robinson and directly
21 through myself. This provides a strong manager and direct
22 charge of a very important element of our activities, and it
23 provides us a chance to give it more concentrated seasoned
24 attention.

25 Q Now, you keep saying we, but I gather, or I will

1 ask you:

2 The things that you're talking about, are these things
3 that have been done on your initiative?

4 BY MR. GOLDBERG:

5 A That's correct, but I represent a company; and I
6 certainly had substantial management encouragement at the
7 executive level to allow me to acquire the services of
8 professionals like Mr. Robinson.

9 Q Okay. So, in other words, management was really
10 giving you free rein to do whatever needed to be done?

11 BY MR. GOLDBERG:

12 A And they've been very supportative in those
13 efforts, that's correct.

14 Q I gather then, that you've been able to do the
15 things that you personally feel are needed?

16 BY MR. GOLDBERG:

17 A That is correct.

18 Q As a result of all of this, from your testimony,
19 you now believe that HL&P is now devoting adequate resources
20 to the STP?

21 BY MR. GOLDBERG:

22 A That is a judgment being made in concert with
23 how do I compare HL&P's commitments to those that I'm familiar
24 with seeing in the industry, and I believe that their commit-
25 ment is clearly in accord with what I'm used to seeing.

1 In fact, if anything, I think it's substantially greater.

2 But, in looking at the balance of resources in
3 certain areas, I felt the need to bring in some more seasoned
4 particular skills.

5 Q And so at this point, having done that, you find
6 it adequate?

7 BY MR. GOLDBERG:

8 A In what specific context? You mean for all time?

9 Q Your overall judgment is that it is now adequate?

10 BY MR. GOLDBERG:

11 A I would like to answer that question in this
12 way:

13 Being a product of Richover's program, I worked for
14 a man who was never satisfied. And, quite frankly, I think
15 I am fairly characteristic of that. Having something that's
16 adequate, I'm not necessarily satisfied. We're constantly
17 looking for ways to improve our ability to carry out our job.
18 To that end, I can assure you that there is nothing static
19 about our organization; we will work for ways to improve it.

20 And while it may be completely adequate in the
21 sense that I have sufficient resources to carry out the job,
22 I am not satisfied. We're looking down the road at plant
23 operations that will come about years later. There are things
24 I still want to do to further enhance our technical skills.

25 Q Okay. Now, when you came to the HL&P, the challenge

1 for which you were the answer I gathered to have been reflected
2 in the show cause order which you, in fact, discussed with
3 Mr. Oprea when you met with him. Is that a fair statement?

4 BY MR. GOLDBERG:

5 A Well, that presupposes that I fill all of Mr. Oprea's
6 expectations, and I think I would rather have him answer that
7 question.

8 Q Well, as you look at it, forgetting about what
9 Mr. Oprea thinks and whether you fulfill his expectations,
10 isn't it fair that you came to this plant or to HL&P -- in
11 fact, you saw the show cause matter -- you discussed matters
12 with Mr. Oprea, and didn't it appear to you that the kinds
13 of things that were reflected in the show cause order were
14 the reason you were brought in, to make things right?

15 BY MR. GOLDBERG:

16 A Oh, I would certainly believe that those matters
17 were somewhat instrumental in enabling Mr. Oprea to make the
18 judgment that he was looking for. I'm sure he took that
19 into consideration.

20 Q In fact, at the time this was a plant with some
21 pretty serious problems; wasn't it?

22 BY MR. GOLDBERG:

23 A I guess I would agree, but I would rather add that
24 the problems that this plant has -- which you choose to
25 characterize as serious -- are not uncommon in this particular

1 industry. These problems have occurred at other plants, and
2 these are not unusually unique problems, in any way.

3 Q Is it your view that the South Texas Project is
4 typical of nuclear power plants across the country in terms of
5 the problems that it has and as are reflected in the show cause
6 order?

7 A I think I alluded yesterday that it is, I would
8 say, characteristic of what a lot of plants and plant programs
9 were like in the early seventies.

10 Q My question, though, is I want to get clear on
11 what it is you think -- how you think STP is similar to other
12 programs or other plants. I gather that you're saying that
13 the problems that arose in connection with the show cause
14 order and whatever else it was that was the challenge of
15 STP that you came to work on, are typical of what you know
16 from your experience in the nuclear industry, or is this an
17 unusual plant?

18 BY MR. GOLDBERG:

19 A I'm saying it is very similar to plants that were
20 being engineered and constructed in the early seventies.

21 Q Now, with respect to the show cause order, the
22 bulk of that, or at least a large portion of that show cause
23 order is related to quality assurance and quality control,
24 isn't it?

25 --

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1 BY MR. GOLDBERG:

2 A I would say it's related to quality. I don't think
3 it's restricted to the province of quality assurance and
4 quality control.

5 Q Aren't there aspects of the show cause order that
6 are specifically related to the quality assurance-quality
7 control program?

8 BY MR. GOLDBERG:

9 A That is correct.

10 Q Wasn't that a major concern?

11 BY MR. GOLDBERG:

12 A I would say that is one of the concerns.

13 Q Are you willing to say it's one of the major
14 concerns?

15 BY MR. GOLDBERG:

16 A I would say that any concern that bears on the
17 quality of the plant is important, and I frankly can't
18 distinguish one important concern from another. They're all
19 important.

20 Q But you were not brought here to address the
21 quality assurance-quality control aspects of this project,
22 correct?

23 BY MR. GOLDBERG:

24 A Not as having a responsibility for the functional
25 performance of the quality assurance department, but in the

1 context in contributing in the performance of engineering and
2 construction activities that have a direct bearing on quality.
3 I believe that was very definitely one of the responsibilities
4 for which I was being considered.

5 Q But you were --

6 BY MR. FRAZAR:

7 A I would like to amplify with Mr. Goldberg's answer
8 by saying that even though he does not have the responsibility
9 directly for the performance of the quality assurance department
10 in Houston Lighting and power, he does have direct control
11 and responsibility for the implementation of many of the
12 features of the quality assurance program.

13 Q Thank you.

14 Mr. Goldberg, you were, then, not brought here and
15 are not in a position, are you, to address problems such as
16 harassment of quality control inspectors? Is that part of your
17 role?

18 BY MR. GOLDBERG:

19 A I think that certainly has an aspect for which I
20 have a direct interest. That harassment was alleged to have
21 been caused by construction workers or supervisors pressuring
22 an inspector, and certainly the attitudes of the construction
23 supervisors and workers is of some concern and responsibility
24 to myself.

25 Q What about --

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(Witnesses conferring.)

MR. JORDAN: Your Honor, I would have to object to the witnesses talking with each other in the course of cross-examination.

MR. NEWMAN: Mr. Chairman, if that's not permitted, I guess I fail to understand the purpose of the panel concept which has been used and as is described, as a matter of fact, in Appendix A to Part 2.

I know of no situation where the panel constituted as such to present testimony is unable to confer with one another --

(Witnesses conferring.)

MR. JORDAN: Excuse me, Mr. Newman, but before and until the objection is ruled upon, can we have the witnesses not speak with each other.

(Bench conference.)

MR. JORDAN: And I would have the record reflect that they were speaking together as I made that statement.

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MR. JORDAN: To respond, in addition --

(Witnesses conferring.)

JUDGE BECHHOEFER: I think the witnesses may confer as to who is going to answer the question or whether both of them are answering. But I don't think they should coach each other as to what to say. I don't -- I can't say what they were doing conferring the last time.

I don't think they should confer with each other on the substance.

MR. HAGER: Just an addenda to that, Mr. Chairman, we asked them to confer on the record simply. I have no objection to their conferring with each other simply on the record so we all know what they are talking about, or if they are going to consult with each other who is going to answer the question, simply do it on the record.

MR. AXELRAD: Mr. Chairman, before responding to that -- I guess the Board is ready to rule on that -- I would like to have the Board reconsider its ruling.

The purpose of the panel presentation is to permit information to be provided for the record that provides the best information with respect to the subject matter being discussed or being inquired about. Now, to the extent that members of a panel can by conferring with each other provide an answer for the record which is the best answer for the record, that is exactly the purpose of the panel. And to

1 eliminate that type of consultation among panel members
2 defeats the very purpose of the panel. You might as well
3 just have witnesses appear individually and provide for five
4 consecutive pieces of testimony for five panel members.

5 The whole purpose of the panel presentation will
6 be defeated if the Board's ruling is maintained.

7 MR. JORDAN: Your Honor, I must say that it seems
8 to me that there should be no difficulty in having their
9 consultation on the record. I certainly agree, particularly
10 when we have in panels other than this one where there may
11 be experts who can work together and whose questions of each
12 other could conceivably help. But it seems to me that what
13 is said about this plant and what comes into the record should
14 be on the record when somebody asks a question of these
15 witnesses.

16 Now, that, even that reasoning doesn't apply here
17 because these witnesses ostensibly are really two separate
18 aspects of this project altogether. I don't know why they
19 are here as witnesses. They seem far more logical to me as
20 individual appearances, but if they want to be here as a
21 witness, that's fine.

22 JUDGE BECHHOEFER: I was going to ask what the
23 Staff's feelings --

24 MR. REIS: I think we have to look at the nature
25 of the testimony. As Mr. Jordan says, it is a technical

1 matter that takes several experts or people from different
2 disciplines to consult about it and give a reasonable scientific
3 answer, and I think there can be consultation, and I think
4 consultation is proper.

5 Where you get to factual matters, however, I think
6 in the cross-examining of every witness, the whole recordation
7 or recalling of what he knows should be that witness'.

8 Let me point out, also, in this particular case
9 the answers are not given as panel answers. They are given as
10 answers of individual people. The testimony -- Although they are
11 both bound together in one volume, the testimony is quite
12 separate, and we might have a totally different situation where
13 the testimony in direct was directed at a panel and a panel
14 gave an answer. Here we don't even have one question that was
15 directed at both people and the answer and the testimony to
16 both people.

17 So I think that consultation -- In summary,
18 consultation is very fine sometimes in NRC proceedings.

19 I don't remember the particular question
20 Mr. Jordan asked. If it was a question of a technical nature,
21 you know, and two quality assurance people get together and
22 are acquainted with quality get together and confer as to the
23 best technical answer, I think that's fine. But where the
24 thrust of the question is more fact, I think it should be
25 answered by the one to whom the question is directed,

1 particularly when and more importantly when in this particular
2 case the testimony is so separate. It is only bound together.

3 Now, one can elaborate and supplement what one or
4 the other says. That's no problem. But the testimony here
5 was not directed to a panel but to two individuals, and they
6 each swore only to their own testimony. So I think you have
7 a little different situation than the usual NRC panel.

8 (Bench conference.)

9 JUDGE BECHHOEFER: I think that Mr. Reis's point
10 is well taken. I think this is not a panel in the traditional
11 sense. I think the person who is asked a question should
12 answer, and the other person is free to supplement that. In
13 fact, we would encourage that because they may be able to
14 answer the question and they may have different points of view
15 to present.

16 So we do not rule out any supplementation, but
17 we think that each member of this panel and the panels that
18 are presented this way, and I would draw a distinction between
19 this panel and the way the NRC panels are presented where each
20 witness is swearing to the entire testimony and the result
21 there would be somewhat different.

22 But I think our ruling that the person that's asked
23 the question -- It is modified to the extent that I think the
24 person who is asked the question should answer it. The other
25 person is free to add supplement as has been done occasionally

1 here, and that we think is appropriate.

2 MR. JORDAN: And that was not objected to.

3 JUDGE BECHHOEFER: Right. So that's our ruling.

4 BY MR. JORDAN:

5 Q Getting back, then, Mr. Goldberg, to quality
6 assurance and quality control, I gather you are not responsible
7 for assuring that QA/QC documents are not falsified.

8 BY MR. GOLDBERG:

9 A That is correct.

10 Q Similarly, you are not responsible for assuring
11 that the appropriate QA/QC inspections or at least the QC
12 inspections are in fact made.

13 BY MR. GOLDBERG:

14 A I would say yes, but with the following qualification.
15 If a particular construction procedure clearly calls for
16 inspection activity, I would certainly be concerned if that
17 construction team did not afford the inspection crew the
18 opportunity to perform the required inspections.

19 Q You're also not --

20 BY MR. FRAZAR:

21 A Excuse me. If I may supplement the earlier
22 question concerning falsification of QA/QC records, I think it
23 is noteworthy that each manager who is responsible for an
24 organization in the design and construction of the plant has
25 as his responsibility the compliance with procedures that

1 prescribe the operations under him. And to the extent that
2 those procedures require the processing of various quality
3 assurance records by his own personnel, he has that responsibility.

4 Q Now, Mr. Frazer, the quality assurance records are
5 records that would be produced by the quality assurance or
6 quality control personnel?

7 BY MR. FRAZAR:

8 A No. That's not the records that I'm referring to.

9 Q What are we referring to, then?

0 BY MR. FRAZAR:

11 A The term "quality assurance records" is a broad
12 term that is used to refer to many different types of
13 documentation that attest to the quality of the plant, and
14 those records are processed in some cases by quality
15 assurance/quality control personnel. And in some cases they
16 are processed by engineers in the design organization, and in
17 other cases by construction personnel in the construction
18 organization.

19 Q Now, then, there are certainly particular documents
20 that are produced by QA/QC.

21 BY MR. FRAZAR:

22 A That's correct.

23 Q In particular, QC inspection reports.

24 BY MR. FRAZAR:

25 A That's correct.

1 Q And, so, whatever somebody under Mr. Goldberg's
2 chain of command would do with those, he wouldn't do anything
3 with them until they had been produced by QA/QC.

4 BY MR. FRAZAR:

5 A That is correct.

6 BY MR. GOLDBERG:

7 A I would like to add that I did treat your question
8 in the context that you were just pursuing there, that the record's
9 produced by quality control inspection.

10 But Dick Frazar was absolutely correct that
11 certainly calculations performed by engineers do form a
12 permanent record of activities that do bear on the quality of
13 the plant, and I do bear responsibility to insure that those
14 records are maintained in the proper fashion.

15 Q Thank you.

16 These questions do go specifically to what QA/QC
17 people do as opposed to other records. Obviously, virtually
18 every record in that plant in a sense relates to quality.

19 The next question, now.

20 You are not, Mr. Goldberg, responsible for the
21 quality of the work -- or the quality of the inspection that
22 is done by QA/QC or by QC inspectors?

23 BY MR. GOLDBERG:

24 A That is correct.

25 Q You are not responsible for assuring that the

1 records that are kept by the QA/QC personnel are in good shape
2 or accurately reflect the status of the plant?

3 BY MR. GOLDBERG:

4 A If these records were produced by the quality assurance
5 organization, that would be correct. But they ultimately become
6 the safeguard of records that are produced elsewhere. For
7 example, in construction, which would be my responsibility
8 until the time they were turned over to quality assurance.

9 BY MR. FRAZAR:

10 A I might also add that there are some records that
11 are generated during the course of design and construction
12 for which Mr. Goldberg and I have joint responsibility to insure
13 that those records are maintained accurately because they have
14 entries made by personnel that are under the direction of either
15 Mr. Goldberg or myself, as the case may be.

16 Q But to the extent, Mr. Goldberg, that records that
17 are produced under your command are held -- I'm sorry -- held
18 solely by the QA/QC people, then you are not responsible for
19 them as of that point.

20 BY MR. GOLDBERG:

21 A Once they have been turned over to quality assurance,
22 then they would become the responsibility of Mr. Frazar for
23 safekeeping.

24 Q So taking --
25

1 BY MR. FRAZAR:

2 A If I may, the maintenance of quality assurance
3 records for certain portions of the work on the project do
4 not fall under my responsibility. There is a records management
5 organization within our company that has the responsibility
6 for the storage and safekeeping of those records. And that
7 organization is not directly under my control.

8 Q At what point does the record -- do the records get
9 to that point in the organization?

10 BY MR. GOLDBERG:

11 A To whom are you directing the question?

12 Q To either one of you.

13 BY MR. GOLDBERG:

14 A If we talk, say, the development of design records
15 such as a drawing, at the time that the drawing is issued
16 there is a control copy that is sent to records management.
17 So that's an ongoing management activity.

18 But in the case of an activity that they originate
19 within the construction, then an element of the activity has
20 to be transferred to quality assurance. And this would become
21 particularly important during the start-up test program where
22 construction at the completion of the system would be
23 responsible to review their work and make sure it is complete.

24 They would turn over to quality assurance a record
25 of any undone work that they know is not done. So quality

1 assurance wouldn't read that as nonconformance. It might
2 represent work that couldn't be completed because equipment
3 was missing, and that record originates with construction.
4 Once it is turned over to quality assurance, quality assurance,
5 in effect, does maintain that record.

6 Q Okay.

7 So, Mr. Goldberg, taking -- Recognizing, as you have
8 said, that much of what you have to -- much of what you do has
9 to do with fundamental quality, recognizing that there is a
10 quality assurance/quality control aspect or section of the
11 company, you are not the answer to any problems that those
12 aspects of the company's performance -- that exist in those
13 aspects of the company's performance, correct?

14 BY MR. GOLDBERG:

15 A Well --

16 MR. NEWMAN: Mr. Chairman, I'm going to object to
17 that question. I don't believe that it is susceptible of a
18 clear answer.

19 It is not clear, as I understand the question,
20 whether he is asking whether Mr. Goldberg is participating
21 in the quality assurance/quality control functions or whether
22 or not he's responsible for supervising or otherwise developing
23 quality assurance/quality control department, and I believe
24 that on that distinction there is a significant matter, and
25 I don't believe that's satisfactorily clarified in the question.

1 So I think that the question should be rephrased.
2 Perhaps we might get an answer that would be useful for the
3 record.

4 JUDGE BECHHOEFER: Could you rephrase the question?

5 MR. JORDAN: Your Honor, I think the question was
6 answered. It was too late, the objection.

7 (Pause.)

8 Aside from that, it struck me as being clear. The
9 question was whether -- In fact, I will be glad to rephrase it.

10 JUDGE BECHHOEFER: Well, let's make sure, because
11 I wasn't sure myself what the question was, and I would
12 appreciate some clarification.

13 BY MR. JORDAN:

14 Q Mr. Goldberg, to the extent that there were problems
15 in the quality assurance/quality control functions of the
16 company, isn't it fair to say that you were not brought in as
17 the answer to those problems?

18 MR. NEWMAN: Now, are we talking there, Mr. Jordan,
19 about the Quality Assurance/Quality Control Department or the
20 quality control/quality assurance functions, lower case?

21 I don't believe that your question is going to
22 develop a meaningful record unless you clarify your inquiry.

23 MR. JORDAN: I think that it can be -- I'm talking
24 about the activities of those personnel designated as quality
25 assurance/quality control personnel.

1 MR. NEWMAN: And is your question, then, whether
2 Mr. Goldberg is responsible for directing the activities of
3 personnel in the Quality Assurance/Quality Control Department?

4 Do I understand your question correctly?

5 MR. JORDAN: I don't think that is the way I asked
6 the question, and I wouldn't -- No. That is not the question.

7 The question is: To the extent that there were
8 problems in the department, quality assurance/quality
9 control personnel and their activities, he was not -- he was not
10 brought in as the answer to those problems.

11 JUDGE BECHHOEFFER: Well, you're talking about
12 problems, isn't that correct, problems in the Quality Assurance/
13 Quality Control Department, problems for which that department
14 is responsible?

15 I'm trying to clarify it.

16 MR. JORDAN: Well, I have some difficulty myself,
17 your Honor, in that I don't. . . I guess I'm not absolutely
18 clear as to whether the existing department is the same as the
19 previous department. But what I know is that there are
20 allegations and admissions of quality assurance/quality control
21 problems at the company in response to the show-cause order.
22 And we know he's not responsible for -- Mr. Frazar is not
23 responsible.

24 MR. NEWMAN: If that is the question, whether
25 Mr. Goldberg is responsible for the coordination of Mr. Frazar's

1 department, then let's put that question and get an answer
2 for the record. It's a simple question. Just put it plainly
3 and get an answer.

4 JUDGE BECHHOEFER: I would suggest that the
5 question the way I heard it included the department both before
6 Mr. Frazar took charge of it and after; isn't that correct?

7 MR. JORDAN: Well, before Mr. Goldberg arrived at
8 the site and after.

9 JUDGE BECHHOEFER: So with that qualification, I
10 think he could answer as to those aspects of it.

11 MR. NEWMAN: May I have the question reread, then,
12 please.

13 JUDGE BECHHOEFER: Do you want the reporter to do
14 it, or do you want Mr. Jordan to do it?

15 MR. JORDAN: Well, I will rephrase it.

16 MR. NEWMAN: If Mr. Jordan will rephrase it, that's
17 satisfactory.

18 BY MR. JORDAN:

19 Q Mr. Goldberg, to the extent that there were problems
20 in the Quality Assurance/Quality Control Department of HL&P
21 before you came, you were not brought in as the answer to
22 those problems.

23 BY MR. GOLDBERG:

24 A That is correct.

25 Q And if there is an answer to those problems in terms

1 of a person, he's sitting next to you.

2 MR. REIS: Your Honor, I object to the question. I
3 don't know what the word "answer" means in that question.
4 "Answer" is very broad and general, and I don't know what it means.

5 JUDGE BECHHOEFER: Yes. Could you --

6 MR. NEWMAN: I think, also, I would join in that
7 objection, Mr. Chairman. I think that what we're developing
8 here is perhaps a really obfuscated record.

9 JUDGE BECHHOEFER: Could you rephrase that latter
10 one and make it more precise?

11 I think I know what you are driving at, but let's
12 make sure the witness does before he answers.

13 BY MR. JORDAN:

14 Q If there is a person responsible for resolving
15 all the difficulties that came up and reflected in the show-cause
16 order with respect to the Quality Assurance/Quality Control
17 Department, then he is sitting next to you, isn't he?

18 MR. REIS: Your Honor, I object to the question.
19 If there is a person and he's sitting next to you -- I think
20 the first question may be is there a person, is there a single
21 person, and then we can go on. I think there's two questions.

22 MR. NEWMAN: I think another way of asking the
23 question is to the extent that the show-cause order raises
24 issues with respect to the efficiency or efficacy of the
25 Quality Assurance/Quality Control Department, was Mr. Goldberg

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brought in to correct those portions of the department which may have been found wanting.

That is a simple, concise question. I think that's what Mr. Jordan would like to get an answer to. Either he's having trouble with formulating the question, or this is an attempt to get a very broad and undisciplined record, and I don't think it is the latter.

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1 JUDGE BECHHOEFER: Mr. Jordan, does that reflect
2 your question or is your question --

3 MR. JORDAN: Well, I think actually we have the
4 answer to that question.

5 BY MR. JORDAN:

6 Q Mr. Goldberg, is there someone in the company with
7 the particular responsibility of assuring that the quality
8 assurance-quality control department resolves any difficulties
9 reflected in the show-cause order and complies with all
10 applicable requirements?

11 BY MR. GOLDBERG:

12 A There are a number of people in that responsibility.

13 Q Is there any one person in particular who has the
14 major line responsibility for that?

15 BY MR. GOLDBERG:

16 A It is my understanding that the fundamental
17 responsibility rests with Mr. Frazar, who is the manager of
18 quality assurance, and of course, he reports to Mr. Oprea, who
19 also bears the responsibility for that as well.

20 Now, with respect to Mr. Frazar --

21 Do you have something to add?

22 BY MR. FRAZAR:

23 A I was going to add that my line responsibility is
24 the management of the quality assurance department and as such
25 we are keepers, if you will, of the quality assurance program

1 and correction of the problems identified vis-a-vis the show-
2 cause order and the attendant notices of violation is the
3 responsibility of quite a number of other managers in addition
4 to myself, as well as other executives in our company.

5 Q Mr. Goldberg, yesterday we got into the question of
6 compensation and relative compensation, and so on.

7 Do you know Mr. Frazar's salary?

8 BY MR. GOLDBERG:

9 A Not in terms of the specific dollars, no.

10 Q Do you know what it is relative to yours,
11 approximately?

12 BY MR. GOLDBERG:

13 A I don't think I know it -- I don't know with
14 sufficient certainty to say yes. I could only say I could
15 bracket it because I'm somewhat aware of Mr. Frazar's position,
16 and I know within our company for that particular position the
17 range of possible salary that that position would merit, so to
18 that extent I have a ballpark, but that's a broad ballpark.

19 Q I don't want to know the numbers, but could you
20 give me the range in terms of how it relates to yours?

21 MR. NEWMAN: I'm going to object to that question,
22 Mr. Chairman, on grounds of relevance. There are so many
23 variables that explain the difference in the salaries of two
24 people that it is virtually impossible to draw any meaningful
25 conclusion from any statement that Mr. Goldberg might give

1 about the relationship of his salary to Mr. Frazar's, when
2 Mr. Goldberg has much broader responsibilities, they reach
3 across many projects, he supervises not only STP but Allens
4 Creek, together with all of the support organizations of the
5 company, except the QA department, for supporting those
6 projects.

7 He has many, many years of experience. Last night,
8 as I mentioned to Mr. Jordan, one need only look at the table
9 and see where the grey hair is. It is with the vice-president
10 for nuclear engineering and construction, and I think that as a
11 practical matter the question that has been put can really
12 reach no answer that's useful to this record.

13 Now, there may be other questions that can be asked
14 about general comparisons of salary structures, more generally,
15 but there's no point to knowing what the relationship is of
16 Mr. Goldberg's salary to Mr. Frazar's.

17 MR. JORDAN: I would say in response, first, for the
18 record, that what has just been said is not a part of the record
19 and it's not testimony in this case. That should be clear. If
20 there is a need to examine that question, it seems to me the
21 place to do it is on redirect.

22 The point, of course, and the relevancy is, as I
23 discussed yesterday, the relative importance that is given by
24 this company to the people responsible for building nuclear
25 power plants are the people responsible for the quality

3-4 1 assurance aspects of it, both of whom report to the same person,
2 and that comparison is in fact relevant.

3 If the company feels there are details of that
4 comparison that they want to get into, then the place for that
5 is redirect, but that does not render this comparison irrelevant.

6 (Bench conference.)

7 MR. REIS: Mr. Chairman, if the Staff may be heard,
8 the Staff basically feels that the question is relevant, and
9 as long as we don't go to particular dollar figures, any way
10 of getting at it, where someone is in the hierarchy and what
11 they do, and the very fact that they might have broader duties
12 and have more responsibility might of itself show where they
13 rank in the hierarchy and what is considered important by the
14 corporation.

15 But much of what Mr. Newman brought forward, as
16 Mr. Jordan said, is the problem of redirect.

17 The Staff feels that the discussion of particular
18 dollar figures is inappropriate. It gets to the privacy of
19 the witnesses and it doesn't really have to be brought forward.

20 But the relevancy of the general place in the
21 organization and how important you consider quality and the
22 quality assurance department I think is of relevance, and I
23 think salaries shed some light upon it, though it might be
24 very hard to get at salaries when you consider all the other
25 benefits a corporation can confer besides straight monetary

1 salaries.

2 MR. NEWMAN: Mr. Chairman, I would just like to
3 indicate that while I can't disagree completely with Mr. Reis
4 because maybe somewhere, somehow you can find some arguable
5 relevance in relation to salaries. It is such a remote
6 possibility of getting any useful information in the record
7 and carries with it the possibility of getting misleading
8 information on the record, but I would strongly object to a
9 discussion of the relationship of those two salaries.

10 I think that if one wants to ask questions about
11 reporting responsibilities, access to the Chairman, access to
12 the executive vice-president, there are all of those things to
13 show the importance of the function to the management of a
14 corporation.

15 There are ways of getting at that without discussing
16 the question of salary structure, which, as I see it, is subject
17 to so many variables that it can't possibly be of meaningful
18 value on the record.

19 JUDGE BECHHOEFER: I think the Board already ruled
20 last night that the levels of compensation are relevant. The
21 exact dollars of salary are not; they are not meaningful, so as
22 far as we are concerned, the question may be asked in terms of
23 comparing the levels of compensation of the individuals, and
24 that obviously cannot be limited to dollars. But the place in
25 the hierarchy is certainly relevant, and the levels of

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1 compensation are also relevant to the quality of the people
2 they get to perform the jobs, so to that extent I believe the
3 question is appropriate.

4 So if levels of compensation are substituted for
5 dollar amounts, which I believe the question as now asked had
6 dollar amounts in it --

7 MR. JORDAN: I was not asking for dollar amounts.

8 JUDGE BECHHOEFER: I see. I misunderstood.

9 MR. JORDAN: No, just for a comparison. It would be
10 a comparison, relative comparison to dollar amounts but not of
11 the -- I don't need the actual figures, twice as much, half as
12 much, whatever.

13 JUDGE BECHHOEFER: Well, in terms of that, the
14 question is permissible and we will hear the answer.

15 BY MR. JORDAN:

16 Q Do you recall the question, Mr. Goldberg?

17 BY MR. GOLDBERG:

18 A Would you repeat it, please?

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1 MR. JORDAN: I'll rephrase the question.

2 BY MR. JORDAN:

3 Q Mr. Goldberg, could you tell us in relative terms
4 how Mr. Frazar's salary compares with yours? I realize you may
5 need to use a range for his, so you're welcome to do that.

6 BY MR. GOLDBERG:

7 A I do not know Mr. Frazar's salary, per se. If I
8 assume he is not in a special classification for which I would
9 not have knowledge, it's fair to say the vice-presidents of
10 Houston Lighting & Power are paid higher salaries than managers,
11 and I am a vice-president and Mr. Frazar is a manager.

12 (Discussion between counsel.)

13 Q Do you have access, Mr. Goldberg, to Mr. Frazar's
14 salary if you want to?

15 BY MR. GOLDBERG:

16 A Not really. He's not an employee within my
17 jurisdiction and I would not have access to that information.

18 Q Without asking him, can you give us a better
19 estimate than just vice-presidents are paid more? When you
20 were speaking before you said you thought there was a range and
21 that you could compare the range. Can you give us that
22 comparison?

23 MR. REIS: Your Honor, right now we're in
24 speculation. There is a range. Mr. Goldberg is presuming
25 he's not out of the class. He is presuming that he is within

4-2
1 the range, that it may be someplace within the range, and he's
2 comparing his salary to that range.

3 I think this is calling for complete speculation
4 and I don't think it's useful.

5 I think much of the same information could be
6 gotten from Mr. Oprea, and I think it would be quite proper
7 to ask Mr. Oprea.

8 (Bench conference.)

9 MR. REIS: Therefore I object to the question as
10 calling for speculation.

11 MR. NEWMAN: I support the objection of Staff
12 counsel for the very same reasons.

13 MR. JORDAN: I must say, Your Honor, I had the
14 impression before we had the extended discussion on the
15 objection, Mr. Goldberg had a range that he could compare that
16 was not speculation.

17 Now we may be at the point where we have to ask
18 about dollar figures to get the comparison out. I don't feel
19 the need to do that. I would be glad to have the two of them
20 talk to each other, and Mr. Goldberg can then give us the
21 comparisor.

22 (Bench conference.)

23 MR. NEWMAN: Mr. Chairman, I just want to indicate
24 that I feel as well that the reformulation by Mr. Jordan is of
25 equal concern. There is no reason for Mr. Goldberg and

1 Mr. Frazar to swap salary information. It may indeed be
2 information that each one should keep to his own self, and so
3 as Mr. Reis indicated, the question of comparative salaries can
4 be asked of an individual who is in a position to comprehend
5 the range of both salaries. It's really, I think, a fruitless
6 inquiry and one which I find objectionable.

7 JUDGE BECHHOEFER: Mr. Jordan, is there anything
8 that you're hoping these witnesses can testify to that Mr. Oprea
9 couldn't?

10 (Conference between counsel.)

11 JUDGE BECHHOEFER: It appears to the Board that
12 Mr. Oprea would be probably --

13 MR. JORDAN: Your Honor, let me put it this way.

14 If Mr. Oprea comes with the information, and he will
15 give us the relative comparisons of salaries and other
16 compensations from whatever source, that will be fine. I'll be
17 glad to drop the topic with these witnesses.

18 However, if he does not have that when he comes here
19 for cross-examination, I'll insist on calling these witnesses
20 back.

21 (Bench conference.)

22 MR. NEWMAN: Mr. Chairman, I'm going to assume that
23 question has been withdrawn, and I will argue the question at
24 such time as Mr. Oprea appears.

25 JUDGE BECHHOEFER: The Board will want Mr. Oprea to

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1 answer that question as to the levels of compensation before it
2 deems that information should be on the record, so the Board
3 will, for the present time, we would sustain the objections to
4 the question from these people, but we will expect Mr. Oprea
5 to answer, and if he can't, we may have to recall these
6 witnesses.

7 MR. REIS: Your Honor, the Staff would like
8 Mr. Oprea to speak to that in terms of total compensation.

9 JUDGE BECHHOEFER: Yes.

10 MR. REIS: He isn't privy to insurance plans, who
11 picks up health benefits, whether there is a car leasing plan,
12 or whatever, and speak to it in relevant terms, in looking at
13 the total compensation -- the total cost to the company as an
14 employee cost for each employee, and whether one is two times
15 the other, one and a half times the other, fifty percent of the
16 other, whatever it is in those terms, but the total compensation
17 package in the cost to the company.

18 JUDGE BECHHOEFER: That's exactly what the Board
19 has in mind. So for the present we will sustain the objection.
20 The subject can be answered by Mr. Oprea.

21 MR. JORDAN: Thank you.

22 BY MR. JORDAN:

23 Q Mr. Goldberg, I'd like for a moment to go back to
24 Beaver Valley. You worked, as I recall, when you first were
25 involved at Beaver Valley on equipment support design and

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1 such supports as that; was that within your purview?

2 BY MR. GOLDBERG:

3 A I believe that was, yes.

4 Q In your work did you review and confirm designs
5 that had been worked on for the plant, that had been prepared
6 for the plant?

7 BY MR. GOLDBERG:

8 A I was responsible for doing the designs.

9 Q For actually doing them. Is this an area where
10 seismic questions are important?

11 BY MR. GOLDBERG:

12 A Yes.

13 Q Wasn't there a serious error in Stone & Webster's
14 seismic calculations discovered for Beaver Valley a few years
15 ago?

16 MR. NEWMAN: I object to that question.

17 MR. REIS: Your Honor, I object to that question.
18 It has nothing to do with this proceeding. I don't think there
19 are any questions of seismic errors in this case, and certainly
20 not in this part of the hearing, and I don't think it's
21 relevant or material here. One project at a time.

22 JUDGE BECHHOEFER: Is this question aimed at the
23 witness' qualifications?

24 MR. JORDAN: Of course.

25 - -

1 BY MR. GOLDBERG:

2 A No.

3 JUDGE BECHHOEFER: I was going to say objection
4 overruled.

5 BY MR. GOLDBERG:

6 A The answer is no.

7 MR. JORDAN: The objection has been overruled?

8 JUDGE BECHHOEFER: Yes, and I think he has
9 answered already.

10 BY MR. JORDAN:

11 Q And the answer was?

12 BY MR. GOLDBERG:

13 A No.

14 Q Are you familiar with seismic design difficulties
15 at Beaver Valley?

16 BY MR. GOLDBERG:

17 A Alleged or real?

18 Q Alleged.

19 BY MR. GOLDBERG:

20 A I'm familiar with the alleged ones, yes.

21 Q What were they?

22 MR. REIS: Your Honor, I again object in that we
23 are apparently embarking upon another case. Now, what that
24 design deficiency may have been, I don't see where it's
25 relevant either to his qualifications or to this proceeding in

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1 any manner.

2 MR. NEWMAN: And I think, moreover, Mr. Chairman,
3 that they have not begun to lay a foundation for such a line
4 of inquiry. One would have to have a basic foundation for
5 information as to what particular things Mr. Goldberg designed
6 or was responsible for the design of, and I think what he would
7 be reporting to you is, on the basis of the question that's been
8 put is basically secondhand information relating to alleged
9 difficulties at another plant that's not been demonstrated to
10 have any relationship to this one.

11 MR. JORDAN: Your Honor, he has just testified a
12 few moments ago that he did in fact work on and did the design
13 for areas where seismic questions were important. Of course,
14 Beaver Valley goes far beyond that. Mr. Goldberg was the
15 project engineer for Beaver Valley. Mr. Goldberg was the
16 project manager for Beaver Valley, and Mr. Goldberg himself
17 testified that he had the responsibility, the over-all
18 responsibility for whatever was done under his control at
19 Beaver Valley.

20 It seems to me that what happened at Beaver Valley
21 has a direct bearing on a number of issues, but certainly in a
22 sense on qualifications. It has a direct bearing on who it is
23 that HL&P chose to come into this plant and set things right.

24 It seems to me the results of his work in the past
25 are very important to these issues.

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MR. REIS: Your Honor, we are dealing -- these were allegations and we're dealing completely with speculation here and I don't see where any foundation has been laid, and I don't think it's relevant to this proceeding. It's another plant, another time, and I don't think it goes to his qualifications.

MR. NEWMAN: Mr. Chairman, I would just like to indicate that beyond this I feel that this whole effort is really frivolous.

If time before is so important, to attempt to walk around questions by asking regarding matters that occurred many years ago at a different installation which Mr. Goldberg may or may not have had direct responsibility for, rather than getting to the heart of the matter, what is it that you do and what is it about your experience that's relevant to demonstrate that you're able to do your job, and instead of doing that we're just getting into a lot of speculation and third-hand gossip. It's a waste of everybody's time

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1 JUDGE BECHHOEFER: I think we will uphold the
2 objection to the specific question about seismic matters, but
3 I do believe that the witness could explain, to the extent he
4 is able to, what the nature of the problems that arose in
5 Beaver Valley were and whether they were -- what his connection
6 with those problems were --

7 I don't want to get into the technical details
8 of Beaver Valley.

9 -- and I think that last question really asks that.
10 I think the witness can explain his involvement to whatever the
11 questions that were raised. Perhaps he could do that just
12 through the Board.

13 WITNESS GOLDBERG: If you'll be patient, because
14 the matter that I think Mr. Jordan is pursuing -- I don't
15 know how much research he's done, but I don't think he's done
16 very much.

17 Back in 1967, four years before I joined Stone &
18 Webster, they developed a state of the art technique for
19 combining the seismic forces, and I would leave it to the
20 NRC Staff to confirm that their practice was, in fact, state
21 of the art at that point in time.

22 Subsequently, in 1975, I believe it was --
23 no, I'm sorry. Let me get my time right. -- 1979, I believe,
24 it came to the NRC's attention vial a concern raised by the
25 operators of Beaver Valley that the method of seismic load

1 calculation was not consistent with the later standards.

2 When NRC made further inquiries into this matter,
3 it turned out that there were five power plants designed by
4 Stone & Webster which had used the technology that had been
5 developed in the late sixties, and Stone & Webster was required
6 to re-examine these analyses using the later techniques to
7 determine whether or not there were any serious design
8 deficiencies as a result of having used the earlier technique --
9 and I am not prepared to give you an accounting of exactly
10 how many specific problems showed up, but in terms of
11 percentage, it was like a fraction of one percent.

12 These techniques that were used by Stone & Webster
13 were used by every other architect engineer in the industry.
14 So, if there was quote, an error, unquote committed, unfortu-
15 nately, everyone in the business was committing this quote,
16 error, unquote. I would believe that there are persons within
17 the NRC who could articulate more fully since they have the
18 opportunity to get into this matter on a national basis.

19 Whether or not the use of the word error is a
20 proper connotation, I think it would be more accurately stated
21 that there were more design developments subsequent to the
22 work at Beaver Valley which would suggest that if you would
23 design the plants using the later methods that, in fact, those
24 designs would be potentially slightly different. And, by the
25 same token, things that were designed today into the South

1 Texas Project might very well, ten years from now, be judged
2 not to satisfy any later design criteria. That's part of the
3 dynamics of our industry.

4 But, I do believe the use of the word error, would
5 suggest that you haven't done your homework.

6 Q Did all of the nuclear power plants in the United
7 States, all the ones that had been designed --

8 MR. NEWMAN: I'm going to object to that question.
9 I think that the last answer has demonstrated, certainly, that
10 Mr. Goldberg is very knowledgeable; that it hasn't advanced
11 by one inch the inquiry in this case; and I believe that
12 what we're going on to now is a further extrapolation of the
13 earlier experience with seismic design calculation to no,
14 absolutely no, useful end.

15 JUDGE BECHHOEFER: I think that objection will
16 be sustained.

17 But, Mr. Jordan, at some point in the near future
18 we would like to take a short break. I don't know what a
19 good breaking point is, but --

20 MR. JORDAN: Now would be a good time for me. I am
21 done with that.

22 JUDGE BECHHOEFER: We'll take about fifteen minutes.

23 (A brief recess was had.)

24 JUDGE BECHHOEFER: Back on the record.

25 --

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CROSS-EXAMINATION CONTINUED

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BY MR. JORDAN:

Q Mr. Goldberg, at page 5 of your testimony, you state that HL&P administers the contracts with Brown & Root and Westinghouse. Does HL&P administer any other contracts related to STP, itself?

BY MR. GOLDBERG:

A Yes. We administer a number of contracts for consulting services for the conduct of certain engineering and construction activities.

Q Who are your other major contractors other than Brown & Root and Westinghouse?

BY MR. GOLDBERG:

A Well, they are the two major contractors.

Q How many others are there?

BY MR. GOLDBERG:

A Those are the only major contractors.

Q How many other contractors are there whose contracts HL&P administers?

BY MR. GOLDBERG:

A I don't have the specific number. I'm sure we can get that information for you.

Q Are any of -- do any of the other contractors have responsibility for quality assurance and quality control?

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1 BY MR. GOLDBERG:

2 A There are a number of contractors who are under a
3 subcontract to Brown & Root. Manufacturers, for example, by
4 purchase order, in effect, are under a contract and manu-
5 facturers for quality-sensitive equipment are required to have
6 the quality assurance program that controls their design and
7 manufacturing processes.

8 Q Those contracts are administered by Brown & Root,
9 however, not by HL&P; is that correct?

10 BY MR. GOLDBERG:

11 A That is correct.

12 Q Further on that page you mention that it is often
13 the case that construction contractors provide engineering,
14 design, procurement, fabrication, and QA services within the
15 scope of their contracts. What's the basis for that statement?

16 BY MR. GOLDBERG:

17 A The general practices of the industry. That is a
18 common arrangement.

19 Q Do you have any idea how common it is?

20 BY MR. GOLDBERG:

21 A Well, based upon my experience, it's very common.
22 I did identify, I believe, earlier the various jobs with which
23 I was associated.

24 Q So, Stone & Webster -- when you were with Stone &
25 Webster, that was the situation?

1 BY MR. GOLDBERG:

2 A It was for the units that I was involved. That
3 is correct.

4 Q Are you aware of other construction contractors that
5 provide the same full service?

6 BY MR. GOLDBERG:

7 A Yes.

8 Q Who?

9 BY MR. GOLDBERG:

10 A Bechtel, EBASCO Services --

11 Q Brown & Root?

12 BY MR. GOLDBERG:

13 A Brown & Root. Use are the ones I am sure of.
14 I am speculating a number of smaller technicianary firms.

15 JUDGE BECHHOEFER: Mr. Goldberg, one clarification:
16 Did Stone & Webster actually do the construction
17 work as well as the architect engineering work on a nuclear
18 plant?

19 WITNESS GOLDBERG: Yes, Mr. Chairman, Stone &
20 Webster can do any number of -- we can perform any number of
21 contractual relationships. For example, Beaver Valley I was
22 a job which was engineered, designed, constructed, and
23 quality assurance responsibility rested with Stone & Webster.
24 Beaver Valley II, we were the construction managers and the
25 Duchesne Light Company maintained responsibility for quality

1 assurance. On North Anna I and II, the relationship was the
2 same as Beaver Valley I.

3 It is possible, depending on the nature of the
4 contract, to organize the responsibilities as desired by the
5 utility and as would be accepted by the particular contractor.

6 JUDGE BECHHOEFER: So when you say, off of the case,
7 I take it there are numerous different arrangements that
8 could occur in the nuclear industry?

9 WITNESS GOLDBERG: That is correct, but the relation-
10 ship that Houston Lighting & Power has with Brown & Root was
11 quite common back in the days when this particular contract
12 was established.

13 JUDGE BECHHOEFER: Is it common today?

14 WITNESS GOLDBERG: To a lesser degree.

15 In my experience, a number of utilities have
16 been encouraged to divide the work. There is one school of
17 thought that by dividing the engineering responsibilities
18 from the construction responsibilities provides a chemistry
19 that might make the construction effort more independent of
20 the engineering effort.

21 JUDGE BECHHOEFER: Thank you.

22 BY MR. JORDAN:

23 Q You said the utilities have been encouraged to
24 divide the work; recently some of them have. By whom were they
25 encouraged?

1 BY MR. GOLDBERG:

2 A Partially from their own earlier experiences,
3 perhaps. When you have the relationship of a single contractor
4 performing the engineering and construction, there is a number
5 of construction engineering responsibilities that oftentimes
6 are assumed by engineering at the expense that this burdens
7 the engineering arm and perhaps might result and perhaps might,
8 in effect, take longer for the production.

9 I think you bring more resources to bear when you
10 do divide the work. The engineering, design, and construction
11 of one of these power plants is a huge undertaking.

12 Q You said the arrangement such as HL&P has with
13 Brown & Root was quite common. Well, let's start with the
14 time when that contract was entered into. Were there other
15 arrangements that were -- where the construction contractor
16 did not perform all those functions that were common at that
17 time as well?

18 BY MR. GOLDBERG:

19 A Are you saying were there contracts that were
20 entered into elsewhere at that point in time that were different
21 in scope?

22 Q Yes.

23 BY MR. GOLDBERG:

24 A I would only assume they were. I think the
25 predominant trend back in the early seventies was to go with

1 the total scope of the contract similar to this.

2 I believe the other forms of contracting were
3 very infrequently entered into at that point in time.

4 Q Moving on, on page 6 of your testimony, you begin
5 to get into the organization of the project management team.
6 Let me ask you first, are you the head of the project manage-
7 ment team, or is Mr. Barker?

8 BY MR. GOLDBERG:

9 A Mr. Barker is designated manager of the South
10 Texas Project. He reports directly to myself, so I bear a
11 responsibility for Mr. Barker's activities.

12 Q And what is Mr. Barker's function?

13 BY MR. GOLDBERG:

14 A As the manager of the South Texas Project, he
15 provides the overall direction of the engineering, construction,
16 purchasing, accounting, virtually all the light company resources
17 that are devoted toward carrying out our engineering construc-
18 tion project, management, et cetera, responsibility. He does
19 not have any functional responsibilities for the quality
20 assurance of the department or for the operations department
21 or for the fuels -- nuclear fuels group.

22 But, with those exceptions, he basically bears
23 responsibility for directing the activities of HL&P with
24 respect to South Texas.

25 MR. JORDAN: Now, Your Honor, at this point, I was

1 going to get to Mr. Barker's salary, or at least compensation
2 and relative compensation, related to counterparts in quality
3 assurance in that sort of line.

4 Based on our discussion this morning, or this
5 afternoon, it appears that Mr. Oprea is the right place to do
6 that and, in fact, it appears, since he is the man at the top
7 of both quality assurance on one side and construction on the
8 other, he can give us those comparisons in a way that it would
9 not be worth our while to get into these questions with these
10 witnesses.

11 So, on the assumption that Mr. Oprea will have
12 that information available -- comparable or relative compensation
13 for both Mr. Goldberg's operation and Mr. Frazar's operation,
14 and by that I mean up and down the line wherever there are
15 counterparts who deal with each other -- I will dispense with
16 that here.

17 MR. NEWMAN: Well, I'm not sure that we are at
18 the same question.

19 Are you asking now for a comparison of Mr. Barker's
20 salary with his opposite number in the QA function?

21 MR. JORDAN: That is what I would be getting to.
22 It seems to me we have individuals here who should have the
23 salary knowledge of one or the other, but Mr. Oprea should have
24 them both, and he's the right place to go.

25 MR. NEWMAN: Well, let's first determine whether

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1 ition is -- well, is there someone for Houston Lighting &
2 er who is the overall corporate QA manager, for instance,
3 charge of not only STP But Allen's Creek and the other
4 sil plants and STP? Or are there just specific project
5 managers at the moment?

6 WITNESS FRAZAR: The current organizational arrange-
7 , Mr. Chairman, the functions of quality assurance which
8 e previously under my direct control now come together
9 r. Oprea's level. There is a gentleman -- which -- this
10 nizational arrangement is covered in my testimony -- and
11 e is another gentleman who operates another part of the
12 ity assurance department from the Houston base.

13 I think, though, related to the question that
14 Jordan has asked, that I have, currently, total responsi-
15 ty for the quality assurance on the South Texas Project
16 Mr. Barker has, as Mr. Goldberg has stated, responsibility
17 the balance of the project. In that sense, we are on a
18 footing in terms of our job responsibilities.

19 JUDGE BECHHOEFER: Thank you.

20 (Counsel conferring.)

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1 Mr. Goldberg can answer that question about Mr. Barker versus
2 his opposite number in QA. If that's -- do you want to put
3 that question to him, Bill?

4 MR. JORDAN: I'd be glad to.

5 Q Can you tell me who Mr. Barker's opposite number in
6 QA is?

7 BY MR. GOLDBERG:

8 A It would be Mr. Frazar.

9 BY MR. FRAZAR:

10 A I would like to amplify the answer.

11 As is reflected in my testimony, approximately a
12 year ago I assumed direct command of the South Texas Project
13 quality assurance organization. Prior to that time, my
14 job position in the company was as corporate QA manager, with
15 much broader responsibilities -- to the extent that I am
16 still temporarily filling the South Texas Project QA manager's
17 position. There is not currently a corporate quality assurance
18 manager for Houston Lighting & Power, per se, and that position
19 would be the direct opposite number of Mr. Barker.

20 MR. JORDAN: I'm troubled because --

21 JUDGE BECHHOEFER: I'm a little confused now.

22 Mr. Barker's position would be comparable to your
23 current acting position, is that correct?

24 WITNESS FRAZAR: (Nods affirmative.)

25 JUDGE BECHHOEFER: And at the moment, your other

1 BY MR. JORDAN:

2 Q Now, having said that, Mr. Frazar, it's still the
3 case, however, that you report directly to Mr. Oprea and
4 Mr. Barker does not?

5 BY MR. FRAZAR:

6 A That is correct.

7 Q Can you tell us the comparison between your
8 compensation and his?

9 BY MR. FRAZAR:

10 A No, I can't. I don't know Mr. Barker's salary.

11 Q Mr. Goldberg, can you?

12 BY MR. GOLDBERG:

13 A I have already indicated that I do not know
14 Mr. Frazar's salary, so I could not make any such comparison.

15 Q That's what I thought.

16 (Conference between counsel.)

17 MR. JORDAN: Your Honor, it seems to me that the
18 answers have indicated that these gentlemen could not provide
19 those answers, and I think that the place to go is Mr. Oprea.

20 JUDGE BECHHOEFER: That seems to be accurate.

21 MR. JORDAN: And it seems to me that that applies
22 down the line for the quality assurance section versus the
23 construction section.

24 JUDGE BECHHOEFER: Well, that's the way the record
25 appears at the moment, to me anyway.

1 BY MR. JORDAN:

2 Q Returning to Mr. Barker, Mr. Goldberg, you testified
3 on Page 9 to some of his experience, and you say his 16 years of
4 experience in various areas.

5 Q Could you please tell those years of experience
6 for us, what his positions and responsibilities were over those
7 times?

8 BY MR. GOLDBERG:

9 A I don't have the breakdown of years at each of his
10 prior points of employment. I have his total experience and I
11 can identify the areas or the companies he had previous
12 employment. I know he spent a couple of years working on the
13 nuclear program at Texas A&M.

14 Q I know he has spent time with the H. B. Zachry
15 firm, which I understand is in the engineering and construction
16 business in San Antonio.

17 Q Do you know if that is a nuclear related firm?

18 BY MR. GOLDBERG:

19 A That was not a nuclear related firm.

20 Q And going back to the Texas A&M experience, could
21 you tell us --

22 BY MR. FRAZAR:

23 A Excuse me. I believe I know Mr. Barker, and during
24 the time that he was at H. B. Zachry I believe that they were
25 preparing to enter the nuclear field and he was involved in

1 nuclear matters at H. B. Zachry.

2 Q Back to the Texas A&M experience, do you know
3 exactly what he was involved in there?

4 BY MR. GOLDBERG:

5 A Not precisely. The general flavor that I got from
6 talk with Dave about his prior experience was that he was
7 involved in work at the school in their nuclear engineering
8 department.

9 He also spent time at the Todd Shipbuilding
10 Corporation in Galveston, and there he was in various
11 engineering and construction activities in the support of the
12 NS Savannah program. I do believe he got involved in refueling
13 work and decontamination work associated with that program.

14 Q Does that make up his 16 years?

15 BY MR. GOLDBERG:

16 A That is correct. Plus, of course, the time he
17 spent with HL&P.

18 Q How long has that been?

19 BY MR. FRAZAR:

20 A I believe the time Mr. Barker came to work for
21 HL&P was approximately about 1972.

22 Q What have been his positions at HL&P?

23 BY MR. GOLDBERG:

24 A My personal knowledge was that he was the previous
25 manager of quality assurance for Houston Lighting & Power before

1 taking the position of manager of the South Texas Project.

2 Q How long was he in that prior position, the QA
3 position?

4 BY MR. FRAZAR:

5 A Mr. Barker was the first manager of quality
6 assurance at Houston Lighting & Power, and he held that
7 position until April 1977, when he assumed the position of
8 manager of the construction division of our company.

9 He remained in that capacity approximately one
10 year, until assuming the current position that he holds as
11 manager of the South Texas Project.

12 Q So he's been manager of the South Texas Project
13 since early '79, something like that?

14 BY MR. FRAZAR:

15 A Let's see, April '77 to April of '78 would be one
16 year, so I would say sometime in 1978 was when Mr. Barker took
17 over the South Texas Project.

18 Q In the position he's now in?

19 BY MR. FRAZAR:

20 A Yes.

21 Q Mr. Goldberg, on Page 6 you say you meet frequently
22 with key people, Mr. Barker and his key project team members.

23 Who are those key project team members?

24 BY MR. GOLDBERG:

25 A It's located in the Houston area. In addition to

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1 Mr. Barker himself, he has the manager of the Houston office
2 activities, Mr. Briskin, and the acting technical project
3 manager, Mr. Blau; licensing personnel assigned to the project,
4 individual engineers, as the occasions would arise; additionally
5 I interface with Mr. English, who is the site manager at the
6 construction site, and various members of his staff, in
7 particular, people associated with the field engineering
8 activities, people involved in the planning and scheduling of
9 cost control activities, and when the occasion arises, people
10 associated with the purchasing activities.

11 Q Turning to those individuals, are they the ones
12 who are set out on Attachment No. 2 to your testimony which
13 follows Page 14?

14 BY MR. GOLDBERG:

15 A I can identify Mr. English, Mr. Briskin. I failed
16 to mention a number of direct contacts with Mr. White, and in
17 looking at that attachment, that certainly is also another
18 point of contact in the Houston office.

19 I've had a lot of contact with Mr. McClure, who
20 is the project controls manager. Occasional contact with
21 Mr. Dodson, the project purchasing manager.

22 I've had contact with Mr. Kovach's discipline
23 manager. I've had a lot of contact with Mr. Granger prior to
24 his leaving the project. His position now is occupied by
25 Mr. Blau.

1 Q I'd like to get into the experience and
2 qualifications of these individuals who begin, start at least
3 following -- your list is on Page 9. We talked about Mr. Barker.

4 I'd like to go then to Mr. Briskin. You say he has
5 over 20 years of experience in power plant project management.
6 Where did he have that experience?

7 BY MR. GOLDBERG:

8 A Prior to joining Houston Lighting & Power,
9 Mr. Briskin was employed with the Westinghouse Electric
10 Corporation, and subsequently with the Florida Power & Light
11 Corporation, and he joined Houston Lighting & Power upon
12 leaving Florida Power & Light. I believe that occurred in
13 the spring of 1980.

14 Q Do you know if he has a college degree?

15 BY MR. GOLDBERG:

16 A I do not believe he is degreed.

17 Q Mr. English is next on your list. How long has he
18 been with HL&P?

19 (Witness reviews document.)

20 BY MR. GOLDBERG:

21 A I'm not completely sure. I seem to recall when I
22 met Mr. English for the first time, which would have put it in
23 July of last year when I was visiting the site and prior to
24 joining Houston Lighting & Power. I think he characterized
25 that he had been on the site approximately a year, so that

1 would make his association with Houston approximately maybe a
2 year and nine months at this point. That's an approximation.
3 I don't have precise dates.

4 Q Mr. Frazar, you were nodding your head. Did it
5 appear that Mr. English has been on the site since about July
6 of '79?

7 BY MR. FRAZAR:

8 A I think that's approximately correct, as best I
9 recall. I know it's on the order or magnitude of two years
10 that he's been with our company.

11 Q And he came to the company to go to the STP?

12 BY MR. FRAZAR:

13 A Yes. He went directly to STP.

14 Q Do you know if his 12 years of experience related
15 to nuclear power plant construction? Are those the last 12
16 years?

17 BY MR. GOLDBERG:

18 A I couldn't say with absolute certainty that was the
19 last 12 years of his career. He was associated with two other
20 architect engineering firms that I'm familiar with.

21 One is United Engineers & Constructors, and the
22 other one is EBASCO Services, Incorporated, in the capacity of
23 a construction manager or superintendent, as the case might
24 have been, when he was with each of those firms. You get
25 periodic assignments and sometimes you might go from a nuclear

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1 job to a non-nuclear job and then a subsequent assignment
2 might put you back on a different nuclear job, so I would
3 have to explore in great detail that service record to know
4 the answer to your specific question, but I am conversant with
5 his background and I have had occasion to review some of his
6 activities with both United Engineers & Constructors as well as
7 EBASCO Services.

8 Q Is he degreed?

9 BY MR. GOLDBERG:

10 A I do not believe he is degreed.

11 Q No. 4 on your list is the supervisory engineer of
12 Houston Engineering. Who is that person?

13 BY MR. GOLDBERG:

14 A That is Mr. Blau. He currently is the acting
15 technical project manager, but he is also designated as the
16 supervising engineer at Houston.

17 Q Now, when you put your testimony together, the
18 Attachment No. 2, you showed Mr. Granger in the spot of project
19 engineering manager. When did he leave that position?

20 BY MR. GOLDBERG:

21 A It was -- I was going to say approximately early
22 April. He is still with Houston Lighting & Power and he has
23 been assigned to another project.

24 Q Although you had his name on Attachment 2, the
25 person you were referring to on Page 9, No. 4, as having a

1 bachelor of science degree in mechanical engineering, and so on,
2 was Mr. Blau?

3 BY MR. GOLDBERG:

4 A When I made my corrections to this testimony I had
5 corrected Mr. Granger's assignment to read Mr. Blau, the
6 acting project engineering manager.

7 Now, I want to make sure I understand your question.
8 In light of that, what is your question?

9 Q I think I'm confused as to who was what. No. 4 on
10 Page 9, that is not the position that Granger was in?

11 BY MR. GOLDBERG:

12 A No. That is the position below Mr. Granger. The
13 supervising engineer at Houston Engineering reported to
14 Mr. Granger.

15 Q I see.

16 BY MR. GOLDBERG:

17 A And that particular position was and currently is
18 occupied by Mr. Blau.

19 Q Who is also acting in Mr. Granger's position?

20 BY MR. GOLDBERG:

21 A That is correct.

22 Q I see. Well, then, Mr. Blau, when did he get his
23 degree?

24 BY MR. GOLDBERG:

25 A I don't have that information handy. I know his

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1 degree is a bachelor of science in mechanical engineering.

2 Q But you don't know how long ago he got it?

3 BY MR. GOLDBERG:

4 A I do not have the date of his degree, no.

5 Q He has eight years of design experience with HL&P.

6 What projects or areas was he working on?

7 BY MR. GOLDBERG:

8 A Well, he's had a little over two years of experience
9 on South Texas Project, and prior to coming to the South Texas
10 Project I understand he worked on fossil projects but I don't
11 have a listing of what they were.

12 Q Do you know how big they were?

13 BY MR. GOLDBERG:

14 A In terms of power output?

15 Q Megawatts.

16 BY MR. GOLDBERG:

17 A I'd have to do the research to get you that
18 information.

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1 Q Do you know where he worked before he came to
2 Houston Lighting & Power, or did he come just out of school?

3 BY MR. GOLDBERG:

4 A I'm of the opinion he came to Houston Lighting &
5 Power when he left college.

6 Q On number 5, again, who is the supervising engineer-
7 site engineering? This is page 9, number 5 on your list.

8 BY MR. GOLDBERG:

9 A That's a Mr. Parkey.

10 Q Would you spell that?

11 BY MR. GOLDBERG:

12 A P-a-r-k-e-y.

13 Q Do you know when he got his degree?

14 BY MR. GOLDBERG:

15 A It would appear, based on the information I have,
16 he has a total of six and one-half years of nuclear experience
17 which he accumulated between an assignment with the Tennessee
18 Valley Authority and subsequently Houston Lighting & Power.
19 And I am of the understanding that he joined TVA upon
20 graduation from college.

21 So I would say he was degreed sometime around
22 1975.

23 Q Is this slot, a supervising engineer-site engineering
24 a counterpart to number 4 and reports to the project engineering
25 manager?

1 BY MR. GOLDBERG:

2 A That is correct.

3 Q Do you know what aspect of Browns Ferry engineering
4 he was involved in?

5 BY MR. GOLDBERG:

6 A Aside from the three years in start-up, I don't
7 know beyond that what his particular experience was. As a
8 matter of fact, it would appear from the way he's gotten this
9 broken down on page 9, his total experience is six and one-half
10 years and he had three years in start-up engineering with TVA,
11 and he's had three and a half years at HL&P. So he worked at
12 TVA as a start-up engineer.

13 Q I guess -- Well, start-up engineering seems an
14 extraordinarily broad area to me.

15 Can you tell us what that is?

16 BY MR. GOLDBERG:

17 A Well, I would be guessing to try to know precisely
18 the scope of what comes under that within TVA's interpretation.
19 My personal experience with people who function in, quotes,
20 start-up engineering are usually people who are involved in
21 the preoperational test program, checking out various fluid,
22 electrical, and control systems leading up to determination
23 if a plant is ready for fuel.

24 Now, it is also possible in a broader interpretation
25 it might have included the testing after fueling leading up to

1 initial criticality and approach to power range testing.

2 Q I gather that that is not what he's doing for
3 HL&P now.

4 BY MR. GOLDBERG:

5 A No. We do not have a plant at the stage of
6 completion that would be involved in start-up testing.

7 Q On page 8 of your testimony at the top you say
8 that the total staffing for the project management team
9 includes 230 HL&P project employees of whom 195 are professional
10 employees.

11 Is that Mr. Barker and everyone under him?

12 BY MR. GOLDBERG:

13 A That is correct.

14 Q Now, what are the major categories of the
15 professional employees?

16 BY MR. GOLDBERG:

17 A Under Mr. Barker's organization these would be
18 people involved in project management, project control,
19 which is principally involved in the planning, scheduling,
20 cost, engineering segments, accounting, purchasing, engineering,
21 construction management, construction discipline supervision,
22 field engineering, health physicist assigned to the project.

23 I might have inadvertently left somebody out.
24 That would be predominantly the disciplines that make up this
25 group of professionals.

1 The only people who would not be included under
2 the heading of professionals would be those people involved
3 in the clerical support.

4 Q You mentioned, I believe, a project engineering
5 group. Would that be the engineering that you mentioned?

6 BY MR. GOLDBERG:

7 A Yes.

8 Q Start with that. Who is the top man of that
9 organization?

10 BY MR. GOLDBERG:

11 A Well, Mr. Blau is the acting project technical
12 manager.

13 Q He has 50 engineers in his organization?

14 BY MR. GOLDBERG:

15 A That is correct.

16 Q Are all those engineers degreed?

17 BY MR. GOLDBERG:

18 A All but one.

19 Q Mr. Goldberg, you're referring to some notes.
20 Could you tell us what those are?

21 BY MR. GOLDBERG:

22 A I have a list of who those engineers are and
23 basically what their degrees are and their years of nuclear
24 experience.

25 Q Did you prepare that list yourself?

1 BY MR. GOLDBERG:

2 A No. I had this list prepared for me under the
3 direction of Mr. Barker.

4 Q Was it prepared specifically for this hearing?

5 BY MR. GOLDBERG:

6 A The information already existed, but I wanted to
7 have a ready reference in the event that these questions
8 might arise.

9 Q All but one of those 50 engineers has an engineering
10 degree.

11 How many of those -- You mentioned you have the
12 nuclear experience of each of those 50.

13 (Pause.)

14 Let me begin, under Mr. Blau there is a structure.
15 Could you describe the structure below him?

16 BY MR. GOLDBERG:

17 A He has a number of discipline supervising engineers.
18 He has a man who covers mechanical and nuclear. He has a
19 civil man, an electrical, an I&C man, and we also have a
20 licensing engineer.

21 JUDGE BECHHOEFER: One clarification there. Is
22 this Mr. Blau in an acting capacity or in the capacity of the
23 individual?

24 WITNESS GOLDBERG: It is in his acting capacity,
25 and it is the project technical engineer.

1 JUDGE BECHHOEFER: Would normally the supervising
2 engineer of Houston engineering be under him, under that
3 position?

4 WITNESS GOLDBERG: Yes.

5 JUDGE BECHHOEFER: So that would be -- Okay.
6 He in effect occupies two positions then?

7 WITNESS GOLDBERG: That is correct. We are
8 recruiting the best possible talent we can to fill the job of
9 the project technical manager. In the meantime, Mr. Blau
10 is serving in that position.

11 JUDGE BECHHOEFER: Is Mr. Blau a candidate?

12 WITNESS GOLDBERG: I think he --

13 JUDGE BECHHOEFER: Or aren't you free to say that
14 at this time?

15 WITNESS GOLDBERG: Well, I don't think this will
16 cast any aspersion on Mr. Blau. He's a very bright young man.
17 I think that this job suggests that someone with a little bit
18 more experience, I think, would be appropriate. I think that
19 perhaps in about four or five years Mr. Blau would be a far
20 more active candidate than he might be today.

21 JUDGE BECHHOEFER: Thank you.

22 BY MR. JORDAN:

23 Q Mr. Goldberg, I'd like you to go to each of the
24 people who report directly to Mr. Blau and tell us their work
25 experience.

1 (Witness reviews document.)

2 Q (Continuing) And in each case with respect to
3 nuclear experience, if you could tell us just what that
4 experience is.

5 BY MR. GOLDBERG:

6 A Well, we have a Mr. Hernandez who has a bachelor
7 of science in civil engineering who has six and a half years
8 of nuclear experience. He's been assigned to the South Texas
9 Project for Houston Lighting & Power.

10 We have a Mr. Molleada who has a bachelor of
11 science in mechanical engineering who has six and a half years
12 of nuclear experience which has been received while serving in
13 the City Public Service Company and Houston Lighting & Power.

14 Q For the ST Project?

15 BY MR. GOLDBERG:

16 A That is correct.

17 Mr. Parkey has got a bachelor of science in nuclear
18 engineering with six and one-half years experience, and that
19 was accumulated between an assignment at TVA and Houston
20 Lighting & Power.

21 Mr. Rogan --

22 Q Would you spell that?

23 BY MR. GOLDBERG:

24 A R-o-g-a-n. Has a bachelor of science in electrical
25 engineering. He has seven and a half years of nuclear

1 experience which was gained while in the employ of Houston
2 Lighting & Power assigned to the South Texas Nuclear Project.

3 We have a Mr. Raymond who --

4 Q Can you spell that?

5 BY MR. GOLDBERG:

6 A R-a-y-m-o-n-d. Who has a bachelor of science
7 in civil engineering with 13 years of nuclear experience,
8 which is a combination of work performed for the United States
9 Navy, for Stone & Webster Engineering Corporation, and for
10 Houston Lighting & Power on both the South Texas Project and
11 the Allens Creek Project.

12 Q Can you tell us how long he has been with HL&P?

13 BY MR. GOLDBERG:

14 A I don't have that information with me, but I can
15 get that.

16 Q If you would.

17 MR. REIS: I might point out for the record and
18 perhaps to shorten this that attached to the NRC Staff's
19 testimony of Lawrence Crocker is a Table 13.1 appearing on
20 page 13-4 and following that contains much of the information
21 that Mr. Goldberg is testifying to.

22 WITNESS GOLDBERG: Thank you, Mr. Reis. I recall
23 you had --

24 MR. REIS: It is also, I am told, in the
25 Applicants' amendment 13 to their SFA and 15.

1 MR. JORDAN: Could we go off the record for a
2 second?

3 JUDGE BECHHOEFER: Yes.

4 (Discussion off the record.)

5 JUDGE BECHHOEFER: On the record.

6 MR. REIS: I want to point out, of course, that that
7 was current at the time it was prepared, and there was a date
8 of preparation on it. There might have been changes in the
9 staff of Houston Lighting & Power, both that we have been told
10 about subsequently and then amendments that might not be
11 reflected therein or that Houston Lighting & Power just didn't
12 get the time to tell us about yet.

13 I hope this can now be shortened. This is -- does
14 all go to competence of Houston Lighting & Power. And it was
15 hard to make an objection, but since it is going to come into
16 the record it might really be cumulative as to what is going to
17 be there.

18 MR. JORDAN: I think at least from what's in the
19 SER, apparently this will help for the top people. But I am
20 going to want the experience of all 50 engineers. I wanted
21 to get these top people off and it seems to me we ought to be
22 able to run pretty quickly with the rest of them, and those are
23 not in here.

24 MR. NEWMAN: Mr. Chairman, if we're back on the
25 record, perhaps we could in the interest of shortening this

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1 thing up supply the information that Mr. Jordan seeks by
2 asking these questions of Mr. Goldberg. For the record, we'll
3 prepare a document that incorporates that information and show
4 it to Mr. Jordan. And subject to objection by any of the parties,
5 of course, we'll ask that it be incorporated in the record.

6 Does that meet your needs, Mr. Jordan?

7 MR. JORDAN: Yes. For each of these people I've
8 been getting the name, degree, number of years nuclear and
9 number of years at STP.

10 I think that would --

11 JUDGE BECHHOEFER: You mean at Houston or at STP?

12 MR. JORDAN: Well, in one case --

13 JUDGE BECHHOEFER: You're getting both, actually.

14 MR. JORDAN: Well, in one case, it was the last
15 one, Mr. Raymond, was only -- was apparently both at Allens
16 Creek and STP. What I would like in this document is to
17 specify STP unless it is impossible and the individual's
18 responsibilities related to both projects. Otherwise, I would
19 like to have both. I would like to know specifically how long
20 on STP.

21 WITNESS GOLDBERG: I wonder if I might --

22 MR. JORDAN: In addition to that, if it can be
23 provided in the context of the entire structure of the
24 engineering department.

25 Now, I would say that to shorten it considerably,

1 there's a claim of a 195 professionals, and, frankly, I want
2 to know the experience and degrees of each one of those
3 professionals.

4 JUDGE BECHHOEFER: I think it would save considerable
5 time if we could have that information supplied.

6 MR. NEWMAN: I believe we can supply that,
7 Mr. Chairman. If we have any difficulty in that, I will advise
8 the Board before the session convenes tomorrow morning.

9 WITNESS GOLDBERG: Could I add one minor
10 correction?

11 Earlier, Mr. Jordan asked if Mr. English was
12 degreed, and for reasons that I can't explain -- maybe it is
13 a Freudian slip -- he has a bachelor of law degree.

14 (Laughter.)

15 BY MR. JORDAN:

16 Q His bachelor of law degree is the result of a
17 Freudian slip?

18 JUDGE BECHHOEFER: Well, Mr. Goldberg, I was going
19 to ask you when I got around to asking questions whether you
20 consider an LLB degree a degree.

21 (Laughter.)

22 MR. REIS: I would ask his counsel to advise him
23 of his rights.

24 (Laughter.)

25 - - -

1 MR. JORDAN: With the proviso that that informa-
2 tion will be forthcoming, I would like to just ask a few
3 general questions of Mr. Goldberg.

4 Q Of the 195 professionals, do you know how many of
5 them are degreed?

6 BY MR. GOLDBERG:

7 A No. I wouldn't want to venture on that. I suspect
8 a large number.

9 Q What is a large number? 50 percent?

10 BY MR. GOLDBERG:

11 A Why don't we supply the information you've requested,
12 then you can guess that.

13 Q But the best that you could do right now would
14 be rough speculation?

15 BY MR. GOLDBERG:

16 A That's right. I don't have that with me right now.

17 Q With respect to the 57, there were 50 engineers --
18 this is your testimony, pages 8 to 9 -- 50 engineers and a
19 seven-man licensing technical staff and with respect to those
20 individuals, you say there's 265 man-years nuclear experience?

21 BY MR. GOLDBERG:

22 A That's for the 57?

23 Q Yes. Do you know how many of those years would be
24 at STP?

25 --

1 BY MR. GOLDBERG:

2 A I don't happen to have that particular split-out.
3 I'm sure that that also could be identified.

4 Q Do you have an estimate?

5 MR. NEWMAN: Mr. Chairman, I don't think -- I'm
6 going to object to the question, because it's been asked and
7 answered. I think Mr. Goldberg has indicated that he really
8 doesn't want to hazard a guess and he's willing to furnish
9 the information for the record and I think that resolves the
10 point. I object to the question.

11 MR. JORDAN: I will just state it slightly
12 differently.

13 BY MR. JORDAN:

14 Q If you were to give us a guess, that is just what
15 it would be, isn't it, of how much of that 265 years is from
16 GTP?

17 MR. NEWMAN: Mr. Chairman, that's asked and answered.
18 I'm going to object to that question. We're pursuing a line
19 that's going anywhere.

20 JUDGE BECHHOEFER: Am I led to believe that that
21 figure, as well as the other information, will be supplied?

22 MR. NEWMAN: The witness has said so, and we have
23 said we would furnish that material for the record.

24 JUDGE BECHHOEFER: Well, I mean that particular
25 number.

1 MR. NEWMAN: Yes. That will be furnished for the
2 record.

3 JUDGE RECHHOEFER: I think subject to that, the
4 objection is sustained.

5 BY MR. JORDAN:

6 Q I may be overlapping. We will see. You mentioned
7 on the top of page 5 -- 4 -- the individuals providing part-
8 time support, and do those fall within that 195?

9 BY MR. GOLDBERG:

10 A What page are you referring to?

11 Q The top of page 9, second line of testimony.

12 BY MR. GOLDBERG:

13 A And what was your question, please?

14 Q My question was whether those forty individuals
15 you refer to there are a part of the total 195.

16 BY MR. GOLDBERG:

17 A Yes.

18 Q So, that would be part of the information provided?

19 BY MR. GOLDBERG:

20 A Yes.

21 JUDGE BECHHOEFER: One clarifying question:

22 Of all the names that you have read out so far,
23 the only one that isn't included in Table 13.1 of the Staff
24 safety evaluation is that of Mr. Hernandez. Where does he fit
25 in?

1 Or is he substituting for someone?

2 (Witness reviews document.)

3 BY MR. GOLDBERG:

4 A Mr. Hernandez had previously functioned in the
5 role of lead project engineer for civil work. Then, I think the
6 last couple of months he was reassigned to a special
7 coordinating position to oversee the remedial action for the
8 quoted 50.55(e) problems.

9 Mr. Raymond has taken over as the lead civil
10 engineer, but Mr. Hernandez is reporting to Mr. Blau as well
11 as Mr. Raymond.

12 MR. GUTIERREZ: Mr. Chairman, the Staff would
13 only point out that that table was current --

14 JUDGE BECHHOEFER: I am aware of that. I was just
15 wanting to know how Mr. Hernandez fit in it.

16 MR. GUTIERREZ: All right. Because if it has not
17 been done at the time that the Staff is empanelled, they will
18 update that.

19 (Pause.)

20 MR. JORDAN: Shall I proceed, Your Honor?

21 JUDGE BECHHOEFER: Yes.

22 BY MR. JORDAN:

23 Q On page 8 of your testimony, answer 9, Mr. Goldberg,
24 you note that you attend the project review meetings.
25 What are those meetings?

1 BY MR. GOLDBERG:

2 A We have a number of periodically scheduled meetings
3 to review the status of the project.

4 We have a monthly meeting which is called the
5 project review meeting which is held with our contractor,
6 Brown & Root, where we review all pertinent matters, whether
7 it be engineering, design or construction, material control,
8 virtually any business that relates to the performance of the
9 work associated with the broad range of project management-
10 engineering construction of the South Texas Project.

11 Q You also mentioned B&R quality assurance management
12 review meetings which are held monthly.

13 Do you attend those?

14 BY MR. GOLDBERG:

15 A Yes, I do.

16 Q What are those meetings?

17 BY MR. GOLDBERG:

18 A These meetings, which are basically chaired by
19 Brown & Root are meetings dealing with quality assurance.
20 We review -- or I should say Brown & Root reviews with their
21 own people, as well as certain members of Houston Lighting &
22 Power management team, the numbers of nonconformance reports,
23 various problems that have been identified in the conduct of
24 business so that one can see trends, establish any serious
25 concerns that should get special attention, and it would

1 constitute, I guess, the analogy of the meeting that you
2 previously had inquired about which was the project review
3 meeting which dealt with virtually everything other than the
4 business of quality assurance organizations. That's pretty
5 well covered in this management review board.

6 It's possible Mr. Frazar would like to contribute
7 something further on that question.

8 Q Yes?

9 BY MR. FRAZAR:

10 A The Brown & Root quality assurance management
11 review board is a group of the most senior executives of the
12 Brown & Root Corporation who have responsibility over portions
13 of the South Texas Project. That board functions on a regular
14 basis to meet and receive reports from the project QA manager
15 for Brown & Root as to his view of the project from a quality
16 assurance standpoint and reports, detailed reports, on each
17 aspect of the quality assurance program.

18 As Mr. Goldberg mentioned, nonconformance reports,
19 audit deficiency reports, corrective action requests, special
20 problems that may be current at the time of the meetings --
21 those matters are presented through this management review
22 board for their information and for any actions or directions
23 that they want to give to their own forces or any questions
24 they want to ask in clarification of the issues.

25 Q Now, either one of you can answer this. Do you --

1 BY MR. FRAZAR:

2 A I just wanted to say that members of HL&P managment
3 have been attending the meetings of this board, as was indicated
4 on response to the show cause, since sometime during last year.

5 JUDGE BECHHOEFER: Mr. Frazar, I know you testified
6 that Mr. Oprea attended these meetings. Do you attend some
7 or all of these meetings?

8 WITNESS FRAZAR: Yes, sir, I have attended
9 virtually all of the meetings. There have been a couple of
10 meetings where I was out of town or not available to attend,
11 but I have attended most of them, yes, sir.

12 JUDGE BECHHOEFER: Thank you.

13 BY MR. JORDAN:

14 Q Who else from HL&P attends?

15 BY MR. FRAZAR:

16 A I can't certify as to how many of the meetings,
17 but I know Mr. Barker has attended the meetings; I know
18 Mr. Briskin, who works for Mr. Barker, has attended the
19 meetings; Mr. Goldberg; Mr. Blau, and prior to that Mr. Granger;
20 Mr. English.

21 I think that pretty much runs the list of the
22 people that I recall having attended the meetings.

23 Q Would you -- might there have been, perhaps, some
24 lower-level engineers, particular disciplines, to talk about
25 specific problems that had come up, or can you recall?

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1 I'm talking about HL&P.

2 BY MR. FRAZAR:

3 A Yes. I recall there being some of the lower-
4 level people attending the meetings to hear matters that were
5 discussed in the meetings.

6 Q And in those meetings, is there also discussed the
7 status of the Brown & Root QA/QC organization and the progress
8 as of the time that your meeting is held?

9 BY MR. FRAZAR:

10 A There is a prepared agenda for each meeting. The
11 agenda is prepared by the project QA manager, and he puts on
12 there matters he wishes to review before the QA management
13 review board. At times he has discussed matters pertaining
14 to the organization.

15 Q But it really goes to the full range of the
16 responsibilities of the project QA manager, doesn't it?

17 BY MR. FRAZAR:

18 A Yes, that's correct. And also other people in the
19 Brown & Root quality assurance organization who have management
20 responsibilities, for example, the audit section managers.

21 Q So it would go to, for example, the quality --
22 the engineering aspects of the quality assurance?

23 BY MR. FRAZAR:

24 A The information that is presented at the meetings
25 deals in virtually all aspects of the project as they relate

1 to quality assurance.

2 Q Who is the Brown & Root QA manager? Who is the
3 individual?

4 BY MR. FRAZAR:

5 A The Brown & Root corporate QA manager is a
6 Mr. R. J. Vurpillat.

7 Q Who is the -- I'm sorry.

8 I gather the person who sets the agenda and takes
9 the problems to the board is the project QA manager?

10 A That is correct.

11 Q Who is that, now?

12 A That position has been filled, up until very
13 recently, by a Mr. W. J. Freidrich, who is an employee of
14 Management Analysis Company.

15 Q Is that spot open now?

16 BY MR. FRAZAR:

17 A No, that slot has been filled with a permanent
18 Brown & Root employee who just recently joined.

19 Q What's his name?

20 BY MR. ERAZAR:

21 A His name is Mr. Al Smith.

22 JUDGE BECHHOEFER: Was Mr. Freidrich a consultant
23 when he served in that capacity?

24 WITNESS FRAZAR: In the sense -- well, let's make
25 sure that I understand the way that we're going to use the

1 word consultant.

2 Mr. Freidrich was placed in that position with
3 responsibility for the day-to-day management of the quality
4 assurance organization for Brown & Root. And in that sense,
5 I don't term him a consultant. The way I use the word
6 consultant is someone who is in the wings and advises and
7 counsels with you about a protest or problems or whatever, but
8 doesn't necessarily take responsibility for seeing that those
9 -- that management activity takes place.

10 JUDGE BECHHOEFER: Well, who would be responsible
11 for how he performs his jobs? Would Brown & Root be responsible,
12 or would his employer be responsible?

13 WITNESS FRAZAR: Brown & Root would retain
14 responsibility for the performance of the quality assurance
15 organization. It's an integral part of their company.

16 JUDGE BECHHOEFER: But, for instance if he didn't
17 do the job correctly, would he be disciplined by Brown & Root
18 or would he be just sent back to the company?

19 I'm trying to track --

20 WITNESS FRAZAR: Hypothetically, if he did not
21 perform his job functions correctly, he would be sent back
22 from where he came.

23 JUDGE BECHHOEFER: By Brown & Root? Brown &
24 Root would have control over that?

25 WITNESS FRAZAR: No. The contract for the services

1 that Mr. Freidrich has been performing on the project was the
2 contract consummated with Houston Lighting & Power Company.

3 JUDGE BECHHOEFER: Well, I mean for Mr. Freidrich
4 fulfilling the job.

5 WITNESS FRAZAR: I beg your pardon?

6 JUDGE BECHHOEFER: I mean the arrangements by which
7 Mr. Friedrich fulfilled the job, the particular arrangement
8 which put Mr. Friedrich in the position of filling the job.

9 Who would be -- who would have the authority to
10 say, you aren't doing the job right, therefore, you're fired or
11 you're demoted, or whatever. Would Brown & Root have that
12 responsibility, or would Brown & Root have to go to the other
13 company and say please send us somebody else?

14 WITNESS FRAZAR: The owner of the plant, Houston
15 Lighting & Power Company, as discussed in my testimony, performs
16 the role of programmatic direction over Brown & Root. And in
17 that regard, we have the latitude to request Brown & Root to
18 make changes to the organization, including personnel if
19 personnel proves to be substandard.

20 JUDGE LAMB: Maybe I can clarify this question.

21 Did Mr. Freidrich work full time for Brown & Root,
22 or did he work for someone else and his services were retained
23 by Brown & Root on a full-time basis?

24 WITNESS FRAZAR: Mr. Freidrich is an employee of
25 Management Analysis Company.

1 JUDGE LAMB: Okay. That's one of the things.

2 WITNESS FRAZAR: Yes, sir.

3 JUDGE LAMB: He was assigned full time to Brown &
4 Root to do this work, is that the idea?

5 WITNESS FRAZAR: He was assigned full time to do this
6 work, yes, sir.

7 JUDGE LAMB: Yes, sir.

8 BY MR. JORDAN:

9 Q Mr. Frazar, back to Mr. Freidrich. He was assigned
10 full time to Brown & Root to do this work?

11 BY MR. FRAZAR:

12 A That's correct.

13 Q Although the contract was with HL&P?

14 BY MR. FRAZAR:

15 A That's correct.

16 Q He reported directly to a Brown & Root superior,
17 didn't he?

18 BY MR. FRAZAR:

19 A Yes.

20 Q Back to you, Mr. Goldberg, or actually either one
21 of you can address this.

22 At the top of page 7 of Mr. Goldberg's testimony,
23 it mentions a separate corporate QA group that's also from
24 Houston and in Attachment 1 of Mr. Frazar's testimony, there
25 is a chart which shows the Houston QA manager, Mr. Ulrey,

1 reported directly to Mr. Oprea. What was Mr. Ulrey's role?

2 BY MR. FRAZAR:

3 A As I mentioned earlier today in response to an
4 earlier question, upon my assuming full responsibility and
5 full-time responsibility for the South Texas Project organization
6 and relocating to the jobsite, that left virtually half of the
7 corporate QA department needing someone to manage it, since it
8 is based in Houston. Mr. Ulrey assumed the responsibility for
9 managing that part of the quality assurance program and in
10 that capacity he has reported to Mr. Oprea since I came to the
11 jobsite.

12 Q Do you know Mr. Ulrey's experience and qualifications?

13 BY MR. FRAZAR:

14 A Yes, sir, I do.

15 MR. REIS: Your Honor, I'm going to object to any
16 line going to Mr. Ulrey in that we don't show that Mr. Ulrey
17 has any responsibility for this project.

18 I'm not quite clear. Did he have responsibility
19 for the project?

20 (Staff counsel conferring.)

21 MR. REIS: I'm sorry, he did. I withdraw the
22 objection.

23 MR. JORDAN: With the objection withdrawn, would
24 you answer the question.

25 WITNESS GOLDBERG: Would you repeat the question.

1 Q Are you familiar with the qualifications and
2 experience of Mr. Ulrey?

3 BY MR. FRAZAR:

4 A Do I know the qualifications and experience of
5 Mr. Ulrey?

6 Q Yes.

7 BY MR. FRAZAR:

8 A I am generally familiar with Mr. Ulrey's background
9 and qualifications.

10 JUDGE BECHHOEFER: Mr. Jordan, let me ask something
11 at this point. Are we on the road to perhaps another listing?

12 MR. JORDAN: We're not.

13 JUDGE BECHHOEFER: That will be 159 or so people?

14 MR. JORDAN: No.

15 JUDGE BECHHOEFER: Maybe we should save some time
16 by doing the same thing.

17 MR. JORDAN: There are such lists in the future,
18 but not at the moment.

19 JUDGE BECHHOEFER: Okay. I don't want to go through
20 ten or fifteen before we decide we need a list.

21 MR. JORDAN: No, we won't.

22 JUDGE BECHHOEFER: Okay.

23 BY MR. JORDAN:

24 Q On Mr. Ulrey -- was he -- has he been involved in
25 the South Texas Project?

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1 BY MR. FRAZAR:

2 A Only in a supporting role. Portions of the
3 organization that report through Mr. Ulrey furnish reporting
4 services to the project.

5 Q What are supporting services?

6 BY MR. FRAZAR:

7 A Vendor surveillance on certain vendors in the
8 project is provided by Mr. Ulrey's vendor surveillance
9 organization. The auditing group under Mr. Ulrey's direction
10 performs parts of the project.

11 Oh, and one other item. Certain documents that
12 are produced from the engineering activities on the project are
13 reviewed for the inclusion of proper quality assurance
14 requirements by the quality assurance arm of Mr. Ulrey's
15 organization.

16 JUDGE BECHHOEFER: Is Mr. Ulrey currently designated
17 as acting, or is he just the manager at this stage?

18 WITNESS FRAZAR: Mr. Ulrey's title is as shown in
19 the Attachment 1 to my testimony.

20 (Court reviews documents.)

21 JUDGE BECHHOEFER: Go ahead.

22 MR. JORDAN: I would say -- I hadn't realized this,
23 But based on what Mr. Frazar has said about Mr. Ulrey's
24 involvement with STP, the need for the information such as that we
25 asked of Mr. Goldberg will extend to Mr. Ulrey as well as it will

1 to Mr. Frazar's organization so that -- in other words, we can
2 do that on paper, assuming that the paper provides enough
3 information.

4 JUDGE BECHHOEFER: Just for clarification, turn to
5 Attachment 1 to Mr. Frazar's testimony.

6 Which of these positions would you like that
7 information for? Everybody that's reported, Mr. Frazar plus
8 only Mr. Ulrey or do you -- I'm trying to get clarification
9 for what we will be asking for or what you want.

10 MR. JORDAN: I think the entire chart.

11 JUDGE BECHHOEFER: The entire chart? Because then
12 we have --

13 MR. REIS: Including the fossil plant?

14 JUDGE BECHHOEFER: I was wondering how far we go
15 down, because the fossil plant manager --

16 MR. JORDAN: Yes. I looked at the fossil plant
17 notation there, and my concern on that point is that part of
18 this gets to the company's commitment to quality assurance and
19 I would like to know what it is on that across the board.

20 MR. REIS: Your Honor, I would object. I think
21 we're going quite far. I don't see where the fossil manager
22 comes in; I don't see where the QA supervisor for Allen's
23 Creek comes in -- there has to be a limit to this someplace,
24 and I think the limit is, let's see what's doing on the South
25 Texas Project. That's what we're involved with here.

1 Frankly, I don't think this board is concerned at
2 all what his qualifications are for the fossil plant and the
3 QA managers. I don't see where it is relevant to the issues
4 involved here.

5 MR. NEWMAN: I would join in that objection,
6 Mr. Chairman, and I guess I get concerned that we're getting a
7 record that has so much irrelevant material in it that it can
8 only serve to make the Board's job more difficult in sorting out
9 the evidence of value and making a judgment.

10 MR. JORDAN: It does seem to me that the Allen's
11 supervisor, QA supervisor, at least is relevant to this
12 company's competence, character, and commitment to QA in the
13 area of nuclear power.

14 It seems to me, certainly, that the relevancy
15 extends, as well, to its commitment to QA in any other area
16 but certainly to the Allen's Creek.

17 (Bench conference.)

18 JUDGE BECHHOEFER: The Board would like the
19 Applicants to prepare a chart, but don't include anything about
20 fossils. I think for one thing, the standards may well be
21 considerably different for fossils, and I don't think we would
22 want to get into that. To the extent that the company has already
23 hired people for Allen's Creek, their qualifications could
24 set forth. I would imagine that that is in the formative
25 stage, and the company probably hasn't hired that many people

1 thus far for Allen's Creek. So, don't bother with including
2 the desired qualifications for certain spots. People
3 already on board or hired, to the extent that they come under
4 this chart on Attachment 1, you may include those or you should
5 include those.

6 MR. AXELRAD: We will do that.

7 JUDGE BECHHOEFER: The fossils need not be
8 included.

9 I might say, the people who reported to Mr. Ulrey,
10 unless they have some specific duties with regard to STP or
11 Allen's Creek, I think if they just -- if we just have --
12 if they are just general corporate personnel which have to do
13 with nuclear and fossil -- it's not necessary to include
14 persons of that sort and their qualifications, the legal staff
15 and things of that type. But, if there is anybody directly
16 designated for South Texas or Allen's Creek, then I think
17 they should be included.

18 MR. NEWMAN: I think we understand the Board's
19 instructions, and we should be able to comply with that.

20 JUDGE BECHHOEFER: Thank you.

21 MR. JORDAN: That's fine.

22 JUDGE BECHHOEFER: Okay.

23 BY MR. JORDAN:

24 Q Mr. Goldberg, on page 10 of your testimony, you
25 discuss the function of HL&P's STP project engineering group,

1 stating it reviews the activities of the Brown & Root designs
2 of Brown & Root engineers.

3 Where are your engineers located?

4 BY MR. GOLDBERG:

5 A The major portion, approximately -- I guess it's
6 on the order of forty -- are at Clinton Drive, which is the
7 headquarters of Brown & Root Engineering. We occupy offices
8 in their office building, so they are in very close proximity
9 to the activities for which they are reviewing. The balance
10 are located at the jobsite.

11 Q I gather that Brown & Root does the basic design
12 work for the plant, is that right?

13 BY MR. GOLDBERG:

14 A That is correct.

15 Q So they come up with the documents, the blueprints,
16 the specs, that will then be followed as long as they stand up,
17 is that correct?

18 BY MR. GOLDBERG:

19 A They prepare all of the basic design documents for
20 South Texas Project.

21 Q And those documents then -- your team reviews the
22 designs that Brown & Root prepares?

23 A That is correct.

24 Q How many people are in the -- you say Brown & Root has
25 a large staff of design engineers. How large is that staff?

1 BY MR. GOLDBERG:

2 A The last number I recall which constitutes the com-
3 bined force of both their engineers and their designers was
4 approximately 950 people.

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L9-1

1 BY MR. JORDAN:

2 Q So I'm clear, the engineers and designers, it's the
3 work of that group that gets reviewed by the project engineering
4 team of HL&P?

5 BY MR. GOLDBERG:

6 A That is correct.

7 Q You state that your group reviews and approves
8 basic design documents. This is in your Answer No. 12. What
9 are the basic design documents that they approve?

10 BY MR. GOLDBERG:

11 A In the early formation of the project they would
12 agree with basic design criteria. They review and approve the
13 design documents produced by Brown & Root which would reflect
14 the basic design criteria. These would be system design
15 descriptions, one line elementary mark diagrams, the various
16 materials prepared by Brown & Root which are ultimately reflected
17 in the SAR. These documents are basically reviewed and
18 approved by our people and are published, and changes thereto
19 are also reviewed and approved.

20 Other documents, such as production drawings, we
21 receive copies of each one and we review those but we do not
22 approve them if in the course of the review we see anything
23 that we are not at all sure is necessarily consistent with some
24 of the basic information that we did in fact review, then those
25 will be questioned on a case basis.

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We do get into the circuit of reviewing and approving changes, however, to these designs that are featured on design change notes.

Q What's the distinction between reviewing and saying nothing about something and reviewing and approving it?

You seem to draw a distinction in HL&P's review of these things.

BY MR. GOLDBERG:

A If one approves it, their signature or initials would appear someplace on the document signifying that they have concurred with the contents of the document. Just a simple review, in the absence of approval, would be to examine the document. We would not be in the circuit to perform an approval, but by the nature of a review if we felt that there was some matter contained therein that was unacceptable or questionable, those matters would be pursued on a case basis, and certainly we have the opportunity to influence the character of that document in the event that our requirements might point to some need for improvements.

JUDGE BECHHOEFER: Mr. Goldberg, one clarification; if one looked at the document which you have reviewed after the fact, didn't initial off on it as you didn't have to approve it in advance, how would one tell that document from one that happened to never have been looked at by anybody?

WITNESS GOLDBERG: You could not make a distinction.

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1 JUDGE BECHHOEFER: Would there be any records
2 which would show that you reviewed the particular document
3 in the outside records or office records that showed that the
4 document came in and was filed?

5 WITNESS GOLDBERG: I believe there are records that
6 would show that the document was issued and distributed, because
7 we made reference earlier to a record management system which
8 prints copies of each of these documents, and these are
9 controlled distribution so we would know that the document had
10 been furnished to our engineers.

11 As far as being able to discern after the fact did
12 every single production drawing get reviewed, the answer would
13 be no.

14 Within the purview of the whole scheme of engineering,
15 technical reviews are tailored to the degrees of importance of
16 the subject.

17 There are many design drawings, for example, that
18 do not relate to serious matters either from a standpoint of
19 plant safety or reliable generation of electric power. Review
20 of those documents oftentimes is on a spot basis and we try to
21 permit, you might say, the amount of attention commensurate with
22 the importance of the subject.

23 JUDGE BECHHOEFER: Would there be any utility to
24 having a separate box or square or line on each of those
25 documents, and one of them would say approved, and one of them

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1 would just say reviewed by the individual who did either one
2 would initial in the right place? Would there be any utility
3 in a system of that sort?

4 WITNESS GOLDBERG: I would be of the opinion that
5 it would be somewhat academic. The notion of having to
6 annotate on each and every case that was reviewed, in my view,
7 would not contribute meaningfully because a review, unlike an
8 approval, constitutes something less than feeling that you have
9 sufficiently examined all the features, that you're prepared to
10 put your signature on a document attesting to your believing it
11 to be fully acceptable.

12 Oftentimes when engineers review drawings they may
13 be only looking at a segment of the drawing under, quote, a
14 review connotation, and so the initials that the review had been
15 completed would further require that you have to initial what
16 feature that you review, and it would become an onerous record
17 keeping system, and frankly I think it would contribute little
18 to the quality of the job.

19 JUDGE BECHHOEFER: Okay. Could there be a situation
20 where something which was reviewed, or should have been reviewed,
21 wasn't, and that review would have determined that it should
22 have been approved rather than reviewed? I think you mentioned
23 that if you had done a review and found that something should
24 have been approved there might be a hold put on an action until
25 proper approval took place. Would there be any utility in

19-5 1 having a system designed to make sure that the drawing or
2 document of this sort didn't fall through the crack?

3 WITNESS GOLDBERG: Well, I like to think of the
4 engineering team of the utility much like we look at quality
5 assurance in the context of construction.

6 We have hired a contractor, Brown & Root, to
7 perform the engineering and design for the South Texas Project,
8 for which he has a considerable number of people to perform
9 this work, both currently as part of his own organization as
10 well as organizations that he may subcontract special work to.

11 If in fact we were to get into the business of
12 performing very, very extensive review of his work to the
13 extent that we were endeavoring to look at virtually every
14 element of his output, our organization would clearly have to
15 be as big or possibly bigger than his.

16 We feel that the place to concentrate their resources
17 is in the review of basic design criteria and those documents
18 prepared by the contractor that have to reflect that design
19 criteria.

20 To subsequently review each daughter document can
21 become just an unbelievably large task. I don't know that we
22 would be able to do it, potentially even with the same number
23 of people that they have. We would virtually get into a
24 considerable volume of daughter paper.

25 JUDGE BECHHOEFER: I was really trying to see if

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1 there was any utility if you initialed the things you did
 2 review so that after the fact if something would fall through
 3 the crack perhaps there would be more of a way of tracing the
 4 responsibility for a certain action.

5 I'm just trying to establish whether or not there
 6 might be some utility to that. I served for years in a General
 7 Counsel's office and every time I'd see a document I'd put my
 8 initials on it and I didn't always review it for all aspects of
 9 the document. The fact that I had seen it might be significant
 10 to something at some point. I wondered if a similar situation
 11 might be useful in your position.

12 I don't mean reviewing any more documents than you
 13 review now, but just to have the reviewer initial it to show
 14 that he had seen it.

15 WITNESS GOLDBERG: Well, that certainly might
 16 possibly be of some value. I don't feel strongly about it
 17 one way or the other.

18 I feel that when you're in the position of review,
 19 when something does go wrong, whether you did or didn't review
 20 the document doesn't detract from your responsibility.

21 (Bench conference.)

22 JUDGE BECHHOEFER: You may continue.

23 BY MR. JORDAN:

24 Q Mr. Goldberg, referring to this general review
 25 function we've just been talking about, is that something

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1 that's common in your experience in the nuclear industry,
2 that sort of structure?

3 BY MR. GOLDBERG:

4 A Well, my previous involvement in the nuclear
5 industry was one of being the architect engineer, so I was
6 more involved with the responsibility for the basic preparation
7 of the documents rather than the review of them.

8 It's been my experience that the utility organi-
9 zations I have had contact with who maintain engineering staffs
10 are -- it's been my experience they're considerably smaller and
11 less involved than my perception of Houston Lighting & Power's
12 involvement on this particular project.

13 Q Now, this structure, is it essentially the same as
14 what's been in place all along as far as STP?

15 BY MR. GOLDBERG:

16 A I can't address too much prior to October of last
17 year. It hasn't changed significantly since I've come aboard.

18 Q You note on Page 11 that HL&P -- you discuss your
19 directing Brown & Root to incorporate modifications, and so on,
20 and you said you instructed them to utilize the criteria of
21 10 CFR 50, Appendix R, and additional criteria.

22 When did that happen?

23 BY MR. GOLDBERG:

24 A I believe there have been a number of reviews
25 conducted by both Brown & Root and Houston Lighting engineers,

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1 spanning probably 18 months in which we were providing guidance
2 to Brown & Root on implementing the requirements of this new
3 standard.

4 Q Is this where you instructed them to use that
5 standard?

6 BY MR. GOLDBERG:

7 A Yes. When a new standard comes along and it goes
8 beyond basic commitments in the SAR, we must provide some
9 direction to the contractor as to whether or not this is a
10 matter that he should be adopting immediately or whether it
11 will be a matter of further discussions with the licensing
12 staff.

13 We have given Brown & Root the direction to
14 incorporate the requirements at the time.

15 MR. JORDAN: That's all I have of Mr. Goldberg.

16 JUDGE BECHHOEFER: I think at the moment we'll take
17 a break, although I guess the Staff should cross-examine
18 Mr. Goldberg before we get to Mr. Frazar.

19 MR. REIS: No. There's still CCANP, and Mr. Hager
20 is there as big as life.

21 JUDGE BECHHOEFER: Right. I might add that
22 basically the Intervenors are not supposed to overlap, and they
23 can ask different questions but we don't want repetition. We
24 have, I think, consolidated the Intervenors for this purpose,
25 but to the extent the questions are different we will permit

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1 the testimony.

2 MR. JORDAN: I must say, Your Honor, we did not
3 understand the Intervenors had been consolidated for the
4 purposes of cross-examination and have not prepared him that way,
5 I mean Mr. Hager going after me at this point is -- I'm sure
6 that neither one of us is interested in duplicative cross-
7 examination, but we didn't understand that to be the case, and
8 as I say, I think our interests are different in this case.

9 JUDGE BECHHOEFER: Yes, to some extent your
10 interests are in this case, and it has become more apparent
11 since we consolidated. We will limit the questions that have
12 been asked before.

13 I think we should take a short break. We'll take
14 a ten-minute break.

15 (A brief recess was had.)

16 JUDGE BECHHOEFER: On the record.

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1 MR. JORDAN: Mr. Chairman, you undoubtedly noticed
2 before we took this break that as I learned that we would go
3 late, my face fell. Having picked it up, I must strenuously
4 object to us going late tonight.

5 The situation is simply that we are extremely
6 pressed for time. We really, in all reason, expected this
7 to be a day of normal, a normal session. We had no advance
8 notice that we would be going on past what we might expect,
9 a likely 5:00 o'clock or so. And, frankly, the situation
10 we're in is hard enough regardless. But, the fact is that
11 we have earlier today discussed that we're going to take things
12 out of order; we're going to put Mr. Amaral on tomorrow; we're
13 going to try to get that done; and that is going to take
14 preparation that I didn't anticipate. I full expected that
15 I would have this evening to do that, and it really makes it
16 far more difficult to knock a couple of hours off of that
17 preparation.

18 I would add that if we look at where we are in
19 this hearing right now, I don't think we're going so terribly
20 slow. These first witnesses are very important. They are
21 certainly as important as any. It seems to me that we are
22 really pretty much on time. We had very few limited appearances,
23 so we were able to get started earlier than expected. We haven't
24 had many since. I guess I don't see that we're going that
25 slowly. We've had some ways to speed up cross-examination by

1 information being provided by the company, and I expect it will
2 satisfy me. I will make the effort to identify this same kind
3 of information in the future. I think we're doing all right.
4 But, more importantly, it just isn't -- it's just an
5 untenable burden to go late tonight and cut off preparation
6 time that we need to prepare for that panel that will start
7 tomorrow.

8 MR. NEWMAN: Your Honor, I would just like to enter
9 a word. I don't regard going until 6:00 or 6:30 this evening
10 as a late session. I think that unless we are prepared for
11 days like that, we will, indeed, have difficulty finishing this
12 hearing on any timetable consistent with the Commission's order.
13 So, I would propose to go on, certainly at least until 6:30, and
14 I would suggest 6:30. That doesn't seem unreasonable to me.

15 JUDGE BECHHOEFER: Well, I think we will go at
16 least until 6:00 o'clock. I don't think -- I don't consider
17 running until 6:00 late. At 6:00, or right after 6:00, we will
18 see if there is a convenient place for breaking, a convenient
19 breaking point that we can after 6:00 which will be a good
20 place to stop. But I would normally expect to go to 6:00 just
21 about every day.

22 MR. JORDAN: I have no trouble with going to 6:00
23 everyday, Your Honor, but I guess in these circumstances and
24 our reasonable expectations and the fact that we've agreed to
25 take the company's witnesses and treat them in a special way for

1 the benefit of the company, this is not -- it's just not
2 "every day." It seems quite reasonable that we should quit
3 now so that we can go do that.

4 JUDGE BECHHOEFER: Well, I think we should go to
5 at least 6:00, and we'll see what happens when we get there.
6 It may be a convenient place to stop at that point. And,
7 in view of the problems, we will try not to go beyond 6:00 today
8 but I do think normally we should go to 6:00.

9 MR. JORAN: Thank you.

10 JUDGE BECHHOEFER: Mr. Hager?

11 MR. HAGER: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. HAGER:

14 Q Mr. Goldberg, you've only recently joined South
15 Texas Project and Houston Lighting & Power and the issues that
16 would be -- that we would be concerned with you've come down
17 here to accept the challenge, and we're interested in your
18 background in accepting the challenges and we're interested
19 in your qualifications to perform the duties necessary to
20 solve the problems of the South Texas Project. We're also
21 interested in learning what you've done since you've been here
22 and your analysis of the problem. So, my questions will
23 deal with those two issues, the retrospective issue of your
24 background and your experience since joining Houston Lighting &
25 Power.

1 I thought I would give you an opportunity, though,
2 before you start answering my questions and trying to give
3 answers that I'm interested in, yesterday you said something
4 that sort of piqued my interest and it seemed that you had
5 something more to say to us when you answered the question
6 as to why did you join Houston Lighting & Power. You sort of
7 smiled and said, well, the answer you gave was somewhat different
8 than the answer you told your boss.

9 So, I'm a little bit curious. I will give you the
10 opportunity to tell us what it was that you had told your
11 boss when he asked you why you had joined Houston Lighting &
12 Power.

13 BY MR. GOLDBERG:

14 A Well, I was just adding a little levity when I spoke
15 to my boss. That's really --

16 The reasons I joined are the ones I gave yesterday.
17 It just reminded me of what I told him, which has absolutely
18 no bearing on my testimony.

19 Q Very good. You came down here to accept the
20 challenge. That, I think, was your testimony yesterday.
21 Could you tell us how you perceived that challenge, your
22 analysis of the problems that were facing any person who had
23 accepted this position with Houston Lighting & Power.

24 BY MR. GOLDBERG:

25 A I think the sort of problems that I've been able

1 to focus some attention on have shown a certain pattern.
2 Many of these problems are ones that were alluded to that were
3 very commonplace on jobs that were undertaken in the early
4 seventies. And, as you may recall, the elements that I felt
5 related to that conclusion were that it was during that point
6 in time that the NRC quality requirements started to unfold.
7 And, more importantly, an appreciation of what it would take
8 to satisfy those requirements was also starting to unfold.
9 And, for architect engineers that were actively engaged on
10 the design construction of power plants in the early seventies,
11 the difficulties that I can remember that we had are not
12 unlike some of the difficulties that I perceive South Texas is
13 having right now.

14 Brown & Root has constructed power plants other
15 than South Texas Nuclear Power Plant, but it is my understanding
16 this is the first one which they have designed and I think the
17 magnitude of the task, coupling into the task the newer require-
18 ments which make these tasks more difficult, perhaps, than they
19 were back in the early seventies, I think, tends to initially
20 catch people off guard. I think Brown & Root is recognizing
21 the magnitude of the task and it's acquiring additional
22 resources of quality and experience nature to cope with those
23 tasks.

24 Similarly, this is Houston Lighting & Power's
25 undertaking, and the magnitude of the task is clearly evidenced

1 in additional activities on the part of Houston to deal with them.

2 We are increasing our experience base to help us
3 cope with the issues South Texas is currently facing. I think
4 there has been, in my view, a clearly demonstrated commitment
5 by both companies to acquire those additional resources to
6 cope with these issues.

7 Q Now, when you step into a situation of this sort
8 and begin to analyze the problems that a company might be having
9 in a construction project, there would be, I would think, a number
10 of different issues you might want to look at. You might want
11 to look at the personnel; you might want to look at the program;
12 you might want to look at accountability procedures to ensure
13 personnel are accountable for what they do. Then, you might
14 analyze it for problems simply as a matter of licensing if the
15 project was having some trouble in relating to the regulators.
16 How did you analyze the issue in this kind of a concrete nature?

17 BY MR. GOLDBERG:

18 A Well, I come down on people. Wherever we may have
19 a system in use which can be improved, should be improved, the
20 fact that it may not be getting recognized sooner than later,
21 perhaps further attests to maybe the fact that the people don't
22 have the experience to recognize the need for the changes.

23 So, my personal assessment within Houston Lighting &
24 Power has been to examine the capabilities of the people for
25 which I am responsible to direct -- to identify where I felt

1 there were skills and experience lacking, and then concentrate
2 as a first priority on an aggressive program to obtain those
3 needed skills.

4 Q What are your criteria for judging people in your
5 area of work?

6 Again, there are a number of different criteria
7 that could be used. I would be interested in your opinion of
8 the important criteria that you would apply to assess the
9 quality of the people who work for you.

10 BY MR. GOLDBERG:

11 A Well, I reflect on my early experiences in nuclear
12 power. When you start out and you hear all the same messages
13 and objectives stated by people but you don't really appreciate
14 the dedication and commitment that it requires to meet.

15 I seem to recollect that I worked for Admiral
16 Richover for approximately fifteen years. I never really felt
17 like I was on top of my job. I was kind of in front of it
18 until I had been thrashing around at it for probably twelve.
19 Now, that experience that has spanned twelve years, I think
20 gives me some preception of the things that should be done
21 so that you don't have to thrash around for twelve years.

22 Q What are some of these things?

23 BY MR. GOLDBERG:

24 A Well, if one looks, for example, at either an
25 engineering activity or a construction activity and you start

1 with first identifying what the requirements are that you have
2 to meet and then you go about in a systematic way to fashion a
3 means to accomplish those objectives, you assess the resources
4 that it's going to take to do it, and then the fact that it
5 will require training so that those resources are prepared for
6 the activity.

7 You will probably spend as much time in planning
8 the execution of the work, if not more, than you do in the
9 execution itself.

10 Q Now, are you saying that this is the way you
11 approach your job, or is this the way you expect the people who
12 work under you to approach their job?

13 BY MR. GOLDBERG:

14 A This is the way I would like to ensure that my
15 people perform, by providing a council to effect that kind of
16 an operation.

17 I want to point out that there many of my people
18 who do operate this way. So, it isn't a case of saying that
19 there isn't any of that semblance of order as I see it, but
20 rather to establish in what areas additional strength would
21 help to make that kind of an activity very routine matter as
22 opposed to a very arduous task where we might have limited
23 resources.

24 Q Now, let me be sure that I am clear on this.

25 Are you speaking about a program which you would

1 introduce for any given set of personnel to follow, or are you
2 more talking about personalities and types of people who follow
3 these similar types of procedures in their work as you would
4 like to see followed by people who work for you? Are we talking
5 about a specific program that would be introduced, or are we
6 talking about people?

7 BY MR. GOLDBERG:

8 A I think we're talking about both.

9 With the right people, we would have the specific
10 programs that in principle I have alluded to.

11 Q When you came to work with Houston Light &
12 Power, did you find that the program on that side --

13 You said both. Did you find that on the program
14 side that there was a program in place that was satisfactory to
15 you?

16 BY MR. GOLDBERG:

17 A I would say yes. I would think.

18 Q Then it must be that the people were wrong?

19 BY MR. GOLDBERG:

20 A Yes, but like any program, improvements can be
21 effected.

22 Q No, what I'm saying is, when you came to work with
23 Houston Lighting & Power, you said it was a combination of
24 program and people. You said there was a challenge here.
25 There were problems.

1 Now, did you find here the program that was adequate
2 to meet those problems, or did you not? That's a simple yes or
3 no answer.

4 BY MR. GOLDBERG:

5 A I don't think I can give you a yes or no answer.

6 Q Go ahead and try to do it anyway.

7 BY MR. GOLDBERG:

8 A I will give you a yes with a qualification.

9 The programs that existed in theory should satisfy
10 our requirements. However, the programs are fashioned with
11 the level of experience that the people have who develop these
12 programs, and clearly there are opportunities, as you bring
13 more experience to bear, to improve these programs to effect
14 an optimization which makes better use of their time.

15 And if one can effect better use of individuals'
16 time, then you provide a greater capability or capacity for
17 what these individuals can accomplish and that is an improvement
18 worth getting.

19 Q All right. Now, if I understand that response
20 correctly --

21 I really asked you what did you think was most
22 important, and you said people. I asked you what is it about
23 people that you look to, and you told me about what I considered
24 a program.

25 --

1 BY MR. GOLDBERG:

2 A No, I said experience.

3 Q Okay. Now, we're to the people again, experience.

4 So, when you came to Houston Lighting & Power, you
5 both looked at the program on the one side and you felt you may
6 have some small changes in the program or you found the program
7 in place was generally adequate? That's the question I'm
8 asking you. Do you agree with that?

9 BY MR. GOLDBERG:

10 A Yes.

11 Q Okay, then, so you look at the other side of the
12 equation here, and you look at the people. With the people,
13 your greatest concern was their experience. Is that correct?

14 BY MR. GOLDBERG:

15 A I indicated that I felt there was a need for
16 added experience.

17 Q And were there any other criteria which you applied
18 to the people you found under you other than experience that
19 you considered to be important?

20 BY MR. GOLDBERG:

21 A In a few instances, I felt that we may have had
22 some people performing tasks that perhaps were not within the
23 mainstream of their capabilities.

24 Q And did you look at -- for example, would you
25 consider -- I'm just going to throw out some possibilities:

1 Were degrees important in terms of training
2 experience? Did you consider that to be one of your important
3 criteria?

4 BY MR. GOLDBERG:

5 A You're speaking of formal training?

6 Q Formal training.

7 BY MR. GOLDBERG:

8 A I would make the observation that I'm very impressed
9 with the educational background of --

10 Q No, I asked you -- excuse me -- I did ask you whether
11 you felt that was an important criteria which you apply in
12 assessing people. Is that an important criteria?

13 BY MR. GOLDBERG:

14 A It would be in those instances where the work would
15 involve highly complex analyses. It's not likely a person would
16 have that skill without having obtained a certain quantity of
17 formal training.

18 Q So that both degrees and experience would be
19 important? Perhaps experience is more important than degrees,
20 but degrees would be important in specific situations where
21 there is relevant education needed?

22 MR. NEWMAN: Your Honor, I'm going to object to
23 that question, Your Honor. I believe at this point it's become
24 entirely indecipherable and at a minimum -- I would like to
25 have that question read back to see whether or not there are

1 one, two, or twelve questions in that.

2 MR. HAGER: That was a summary of the testimony.
3 I just wanted to be sure that I got it right.

4 MR. NEWMAN: Then let's proceed slowly, point by
5 point --

6 MR. HAGER: Mr. Newman is not the witness. If the
7 witness feels that he is unable to answer it, then he may say
8 so.

9 MR. NEWMAN: It is my obligation as Counsel,
10 Mr. Hager, to point out to the Board that questions are being
11 put which will not contribute to a meaningful record because
12 they are confused, tangled facts with opinion and don't
13 provide an opportunity for the witness to respond to
14 meaningful questions.

15 That is my objection. I am not testifying.

16 Restate your question point-by-point and let's
17 see what answers you get.

18 JUDGE BECHHOEFER: Could you break the question
19 up into --

20 MR. HAGER: Fine. It was a summary of the previous
21 testimony. I simply wanted to clarify what was said.

22 BY MR. HAGER:

23 Q In analyzing the people who work under you, you look
24 at first their experience and second, where relevant, you look
25 at their training. Is that a correct summary of what you have

1 just told me?

2 BY MR. GOLDBERG:

3 A I didn't, as I recall, try to put those in some
4 chronological order. I looked at the person's experience, which
5 includes his education.

6 Q What else would the experience include other than
7 education?

8 BY MR. GOLDBERG:

9 A Certainly the application of that education toward
10 work, either within Houston Lighting & Power or within any
11 other company involved in nuclear power engineering and
12 construction.

13 Q Very good.

14 Now, I want to back up a second, and what I consider
15 that we are addressing at this moment are the most important
16 part of the challenge which you saw in your job at Houston
17 Lighting & Power, is that correct? We're looking at the
18 most important job that you saw you had to discharge when you
19 came to Houston Lighting & Power?

20 BY MR. GOLDBERG:

21 A What is your question?

22 Q My question is, did you see that this issue of the
23 people who worked under you as being the most significant part
24 of your challenge at Houston Lighting & Power? Assessing their
25 capability to perform the tasks, to solve the problems which

1 were your challenge in coming?

2 BY MR. GOLDBERG:

3 A I don't think that was the connotation earlier.
4 I don't know why you derived that.

5 Q Well, I started out with a line of inquiry about
6 -- asking about the challenge that you saw at Houston Lighting &
7 Power. We then talked about what was the largest part of that
8 challenge. We talked about people, we talked about program.
9 We came back to people. We talked about the experience and
10 that sometimes the training is important.

11 I simply wanted to go back and ask you, was there
12 something that you saw as a more important challenge than
13 what we've been talking about? Was there some other issue
14 you saw as the most important part of the challenge to which
15 you were addressing yourself than these questions which we're
16 now talking about, the people that served under you?

17 BY MR. GOLDBERG:

18 A I believe that the question on the people's
19 capability was the area that I felt needed to be addressed
20 first.

21 Q Okay. And could you tell us how you went about
22 addressing that problem of the people who worked under you.

23 BY MR. GOLDBERG:

24 A I spent an early part of my association with
25 Houston Lighting & Power, getting to know the people that were

ing the work and looking at the manner in which they were trying it out. This, of course, was in concert with some appreciation for the problems that the project was having. I focused my attention on those activities that might relate to those problems.

Q Okay. So, you observed the way in which the work was going forward. That seems to be somewhat different than what you had said previously, that you were concerned about their experience and their training.

10 So, I'll ask a question that give you an opportunity
11 that gives you a chance to explain what you did to inform
12 yourself about the experience and training of the people
13 worked under you.

14 MR. NEWMAN: Mr, Chairman, I believe the record is
15 ting so confused now, by virtue of Counsel's testifying, that
16 are really getting into the area of a record that will be
17 ally indecipherable. It is not up to Counsel to comment
18 evidence. Counsel is to address questions directly to the
19 ness, questions which can be answered.

20 The idea of reading a speech and just asking the
21 nesses do agree or disagree with that is no way to get
22 through a meaningful record. I urge that if this
23 practice continues, that the Board admonish Counsel to stick
24 to direct questions and not speeches or comments on the
25 evidence.

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1 MR. HAGER: Mr. Chairman, I will acknowledge that
2 most of the questions I've been asking are leading questions,
3 but this is cross-examination. In order to do any kind of
4 effective cross-examination, it is important that counsel doing
5 cross-examination be permitted to ask leading questions.

6 JUDGE BECHHOEFER: Well, you can ask leading
7 questions, but please try to keep them simple enough so that
8 a witness can answer. Sometimes they're getting so long that
9 it's very difficult to follow.

10 MR. HAGER: Well, I will do my best.

11 JUDGE BECHHOEFER: So, could we --

12 MR. HAGER: I'll do the last question. I just
13 asked which troubled Mr. Newman. I will keep it very short.

14 JUDGE BECHHOEFER: Well, try to keep them short.

15 MR. HAGER: I think that was short, frankly, but
16 I will try to keep it even shorter.

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1 Q Could you tell us what you did to inform yourself
2 of the experience and training of the people who worked under
3 you when you came to Houston Lighting & Power?

4 BY MR. GOLDBERG:

5 A I had occasion to meet with their supervisors in
6 direct charge of their work to learn what kind of people he
7 had in terms of general numbers and qualifications, on
8 opportunities when specific problems would arise, I would
9 actually talk directly with the engineers that were in charge,
10 that were charged with the responsibility for resolving these
11 problems, and this gave me an opportunity to form some first-
12 hand opinions as far as their skill and being able to organize,
13 and what are the problem elements, what approaches they intended
14 to pursue to resolve these problems, and in effect the general
15 assessment of their seasoning in demonstrated skills in the
16 pursuit of production work.

17 Q Very good. You said first that you requested
18 information about the number of people working under you. How
19 many people were working under you when you came to Houston
20 Lighting & Power?

21 BY MR. GOLDBERG:

22 A In total, between the South Texas Project --

23 Q Could we limit this only to the South Texas Project?

24 BY MR. GOLDBERG:

25 A Well, the number of people that are assigned to the

21-2 1 project, I believe, are on the order of 230, which 40 of those
2 are part-time people which did not work directly for us. They
3 were on loan to us.

4 Q Did you at any time request a survey of the
5 experience and training of the 230 people that worked under you?

6 BY MR. GOLDBERG:

7 A Well, aside from the performance of a personal
8 survey, I didn't ask anybody else to survey it for me.

9 Q So you undertook to personally acquire the
10 information on your own?

11 BY MR. GOLDBERG:

12 A Yes. This wasn't done in the context of looking at
13 every single person, but looking at people that were performing
14 what I call key roles.

15 Q How many people would you say that you made this
16 attempt to assess their experience?

17 BY MR. GOLDBERG:

18 A I could only give you what I perceive as my
19 perception of the numbers. I didn't keep some kind of special
20 book. I would estimate that probably at one time or another
21 I would have looked at the activities of maybe 30 to 40 people.

22 Q Would Mr. Barker have been included?

23 BY MR. GOLDBERG:

24 A Yes, sir.

25 Q Mr. Briskin would have been included?

1 BY MR. GOLDBERG:

2 A Yes, sir.

3 Q And Mr. Blau would have been included in that 40?

4 BY MR. GOLDBERG:

5 A Yes, sir.

6 Q And what was your conclusion upon looking at
7 Mr. Barker's -- strike that -- you personally inquired of
8 Mr. Barker as to his training and his experience relative to
9 nuclear power?

10 BY MR. GOLDBERG:

11 A Yes.

12 Q Did you inquire about his experience with the
13 H. B. Zachry Company?

14 BY MR. GOLDBERG:

15 A Not particularly.

16 Q I see. I'll just turn to Mr. Frazar for a second
17 because I am curious about Mr. Barker's experience.

18 Mr. Frazar, you volunteered information that
19 Mr. Barker did have nuclear experience at H. B. Zachry. Can
20 you tell us some of the details on that?

21 BY MR. FRAZAR:

22 A I think what I said was that I recollect that
23 H. B. Zachry was preparing to enter the nuclear field as a
24 company and that Mr. Barker worked for H. B. Zachry during that
25 time and I believe was associated with their nuclear field,

1 and that's the extent of my knowledge about that.

2 Q Do you know if that was in the context of any
3 specific nuclear power plant or some other context?

4 BY MR. FRAZAR:

5 A No, sir.

6 Q Are you saying you don't know?

7 BY MR. FRAZAR:

8 A I don't know.

9 Q I would like to skip back now, and I may skip
10 forward again to the present, but I'd like to skip back to the
11 past, Mr. Goldberg, and ask about your experience between 1975
12 and 1977 when you were in charge of a large number of engineers
13 with Stone & Webster, and if we could fill in some of the
14 details exactly what your responsibilities were during that
15 period.

16 BY MR. GOLDBERG:

17 A I thought that was all covered yesterday.

18 Q Well, let me ask some very specific questions. I
19 think it was covered generally.

20 Could you explain to us what a structural dynamics
21 analysis would be?

22 BY MR. GOLDBERG:

23 A In the parlance of the nuclear engineering it has to
24 do with the development of the response to the structure to
25 ground motion, earth movements.

21-5
1 Q I see. And could you tell us what the pipe stress
2 analysis might be?

3 BY MR. GOLDBERG:

4 A Well, this is basically common to all power plants.
5 This is where one analyzes the stresses set up in the system
6 where the various forces act on the piping system.

7 Q Could you tell us what your terms of -- were you
8 studying this in the abstract simply to contribute to a
9 general knowledge of engineering design, or was there some
10 particular problems which you were addressing at that time?

11 BY MR. GOLDBERG:

12 A This was answered yesterday.

13 We pointed out that we were the group that took
14 the design responsibility for those disciplines for all the
15 nuclear power plants being designed by Stone & Webster.

16 Q And what advancements did you make as a consequence
17 of your study, for example, of structural dynamics analysis?

18 BY MR. GOLDBERG:

19 A Are you speaking of what advances did the division
20 make?

21 Q Yes.

22 MR. NEWMAN: Mr. Chairman, I'm going to object to
23 that question. I don't believe that question is relevant to
24 any inquiry here.

25 MR. HAGER: We're talking about what Mr. Goldberg

21-6

1 has accomplished in the past as a troubleshooter or as a
2 doctor of problems, and this apparently was a very significant
3 part of his career at a time when there were some problems under
4 study. Mr. Goldberg was in charge of that study and I asked
5 him --

6 MR. NEWMAN: Your question was did he advance the
7 art in some way. If your question is did Mr. Goldberg trouble-
8 shoot nuclear power plant problems, ask that question and you'll
9 get that answer.

10 I think, Mr. Chairman, you'll have to admonish
11 counsel here.

12 JUDGE BECHHOEFER: Well, I don't want to admonish him.
13 The question that was asked is too broad and I'll uphold the
14 objection.

15 MR. HAGER: Well, the question of structural
16 dynamics analysis was under study by Mr. Goldberg's group and
17 I'm asking what was the outcome of those studies, how did they
18 advance the solution of whatever problem it was that they were
19 studying, what did he accomplish, what was the problem, how was
20 it solved.

21 MR. REIS: Mr. Chairman, I don't understand the
22 relevance of the question and I object to the question on the
23 grounds of relevance.

24 We've gone through his background and experience.
25 The additional question here I don't think goes to his

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1 background and experience, and if it does, it's cumulative.

2 I don't see where the examiner is leading.

3 MR. HAGER: Well, I have a copy of Mr. Goldberg's
4 testimony in front of me and I am referring to it and I don't
5 consider what I'm asking him to be cumulative. I'm asking
6 about what he testified. He no more than answered and spoke
7 about five lines of the recorded testimony here about what he
8 did during this period 1975 to 1977. I think that is a very
9 significant part of Mr. Goldberg's career. I'd like to go into
10 it in a little more detail as to exactly what he was doing
11 during that time. He had a very responsible position as the
12 head of more than 300 engineers. I'd like to know what they
13 accomplished.

14 JUDGE BECHHOEFER: Well, I think there's a
15 difference between what they were engaged in and what they
16 published, because if we go into the details of his actual past
17 I think it's somewhat far removed from the question we have
18 before us.

19 MR. HAGER: Well, I think it would exhibit
20 Mr. Goldberg's capacity to very briefly draft an issue and
21 tell us what happened, and I'm not going to go any further
22 than that question. I'm going to ask him what was the problem
23 and how was it solved.

24 Just as an example, we have a problem here at
25 South Texas. We have asked him how he intends to solve it,

1 and I'm now looking into the past to see how he solved other
2 problems and I'm sure he'll be able to tell us. It will be an
3 opportunity for Mr. Goldberg to show his qualifications.

4 MR. NEWMAN: Mr. Goldberg testified, I think,
5 exhaustively yesterday about his experience in the '75 to '77
6 period, and I believe that any further discussion of that period
7 of his career, unless there is some point not yet established,
8 which I don't believe Mr. Hager has identified, I believe the
9 testimony is purely cumulative.

10 MR. HAGER: The exhaustive testimony that Mr. Newman
11 is referring to takes up less than a page of the transcript,
12 and this is a very significant --

13 MR. NEWMAN: It's not the quantity, it's the quality,
14 Mr. Hager.

15 MR. HAGER: Well, I'm sure that Mr. Goldberg is a
16 very high quality gentleman, but it's difficult to explain his
17 quality in the scope of one page, Mr. Newman. I'd like to give
18 him an opportunity to expand on exactly what happened during
19 1975 to 1977. He was in charge of a very important study group.
20 It seems to me a very innocent question and very germane to the
21 question of Mr. Goldberg's qualifications, and that is that there
22 would be no more important question to ask Mr. Goldberg, given
23 the short term that he's been with Houston Lighting & Power.
24 There's not much to ask about what he's done. More important,
25 they brought in a new person who seems to be the highest level

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1 person that's been brought in to put out the fire down here.
2 I'd like to know what kind of a fireman he is. It's very,
3 very germane, and it couldn't be more relevant.

4 (Bench conference.)

5 JUDGE BECHHOEFER: I think it's cumulative, so we
6 will sustain the objection; cumulative insofar as we think the
7 responses were relevant to what we have to consider, so we will
8 sustain that objection.

9 MR. HAGER: I really never like to beg the
10 indulgence of a Board or a Court, but I would refer the Board
11 to the testimony on Page 330, and I just beg that this is not
12 cumulative. He no more than mentioned that the engineering
13 mechanics was responsible for performing structural dynamics
14 analysis, pipe stress analysis, pipe support design analysis,
15 equipment support design analysis, and he goes on to say that's
16 what he was doing, and all I'm asking now is what did that
17 involve, what did he do, what did they perform; how do we know
18 that they had a project that after two years of study and using
19 up the time of more than 300 engineers they didn't come up with
20 any results at all and moved on to something else. I'm just
21 giving him an opportunity to tell us what did he accomplish
22 during those two years. He told us what he was doing. I want
23 to know now what he accomplished. In other words, he told us
24 the subject. I'm asking him to expand and tell us about what
25 they accomplished in that subject, for example, structural

1 dynamics analysis, or any of the others. It seems to me there
2 could be no more germane question as to what Mr. Goldberg has
3 accomplished in his career.

4 (Bench conference.)

5 JUDGE BECHHOEFER: I think we will not reconsider.
6 I think the objection has been sustained. I think what he is
7 doing is important and he has testified to that. I think the
8 particular results of what he did in his past performance are
9 only marginal and probably not relevant at all to his general
10 experience.

11 MR. HAGER: I'll have to understand this ruling then
12 more carefully, because this would seem to be -- this would go
13 to many more issues than Mr. Goldberg, since we're likely to
14 talk to other people who have been brought in from outside to
15 improve the quality of the people who are now at Houston
16 Lighting & Power and to help solve some of the problems, and
17 each of those cases we're going to want to look into their
18 qualifications and look into what they've done in the past.

19 So a ruling of this nature I think would go far
20 beyond simply Mr. Goldberg.

21 MR. NEWMAN: Mr. Chairman, I urge the Board to
22 terminate this argument.

23 The question that counsel is putting is a question
24 that will have to be answered in the context of each witness'
25 testimony, and to speculate about what might happen down the

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road with another witness in an examination of his qualifi-
cations serves no useful purpose and may indeed lead to
determinations that may be in error, and that would not be in
error if they were considered in the context of the specific
witness' testimony.

JUDGE BECHHOEFER: I think that's correct. I do
not want to generalize, but I think the particular question,
in the context of what's already gone before, we will sustain
the objection.

(Bench conference.)

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1 JUDGE BECHHOEFER: Mr. Hager, it is about 6:00
2 o'clock. Are you anywhere close to being finished?

3 MR. HAGER: Oh, I don't think so. I think I have
4 a number of other questions. I don't know how many objections
5 of that sort would be sustained. So it would be difficult to. . .
6 That was an area I wanted to explore in some detail. I do
7 have some other areas I'd like to go into detail as well.

8 (Bench conference.)

9 JUDGE BECHHOEFER: Off the record.

10 (Bench conference off the record.)

11 JUDGE BECHHOEFER: Back on the record.

12 One of the things we were trying to discuss is
13 whether it would be a good idea to break right now since we
14 are not close to the end of this. It is 6:00 o'clock.

15 Are you in a place where you could --

16 MR. HAGER: I think that would be the most
17 convenient. That's broken my line of questioning fairly
18 clearly, and I think this is a good demarcation point. So I'd
19 be willing to break at that point.

20 JUDGE BECHHOEFER: Okay. The Board thinks it
21 might be desirable to break right now.

22 Before we break, what will -- With the schedule,
23 I take it, this panel, am I right, will not be back until
24 Monday?

25 MR. NEWMAN: The order, Mr. Chairman, is that

1 Mr. Jordan will appear tomorrow first thing. Upon completion
2 of Mr. Jordan's testimony, the Oprea/Briskin/Amaral panel will
3 take the stand.

4 The focus of the questioning through the balance
5 of tomorrow and Friday, including the evening sessions that
6 the Board has referred to, will be on Mr. Amaral's testimony
7 and that portion of Mr. Oprea's testimony which refers to
8 and relies upon Mr. Amaral's advice.

9 At the conclusion of the Oprea/Briskin/Amaral
10 panel, we would then propose to proceed with the next witnesses
11 in line.

12 JUDGE BECHHOEFER: Well, what about the rest of
13 this panel? This is what I was trying to develop. When would
14 this panel be brought back, sometime next week, I take it?

15 MR. AXELRAD: Yes. I think that we may as well
16 continue after the initial focus on the testimony of Mr. Amaral
17 and Oprea on the QA organization alternative. I think it might
18 be well to continue to focus and finish all testimony presented
19 by that panel and then bring back Mr. Goldberg and Mr. Frazar
20 after the entire Oprea panel is completed.

21 MR. REIS: I am not sure that I will -- I'm just
22 trying to consider whether that will create more problems than
23 it will solve in that we had looked and the Staff had looked
24 certainly to cross-examine Mr. Goldberg and Mr. Oprea (sic)
25 before the balance of the Oprea/Briskin panel. And the Staff

1 would before going on and dealing with Mr. Oprea would
2 certainly hope to finish up with Mr. Goldberg and to have
3 an opportunity to cross-examine him before the other testimony
4 is given before the cross-examination phase.

5 MR. AXELRAD: Mr. Chairman, we would be willing
6 to proceed in either fashion, either take the Oprea panel
7 on the Amaral/Oprea testimony on QA alternatives, stop with
8 that, bring Goldberg/Frazar back and finish that even on Friday,
9 for example, or continue with the Oprea panel and bring
10 Goldberg/Frazar back after the Oprea panel was finished,
11 whichever the Board feels would be suit its needs.

12 JUDGE BECHHOEFER: Well, I think the Board would
13 opt to go for whatever is more convenient to the other parties,
14 including the Staff.

15 MR. REIS: Well, I think that since we are making
16 an accommodation to the Applicants to take these two people out
17 of order or to break up the testimony, and I would like it
18 broken up as short as possible. I imagine cross-examination
19 of Mr. Oprea generally will be quite extensive, and it is
20 okay to deal with the Amaral matters. But I think generally
21 cross-examination of these witnesses has begun and I think it
22 ought to be completed before we go into the examination of
23 Mr. Oprea.

24 (Bench conference.)

25 JUDGE BECHHOEFER: The Board agrees with that, and

1 we will examine Mr. Amaral. And I guess the extent to which
2 Mr. Oprea's testimony deals with the same subject as
3 Mr. Amaral, it is sort of an integral part, the remainder of
4 that fairly long testimony I think we will save until after
5 we finish this panel.

6 MR. NEWMAN: That's perfectly satisfactory.

7 JUDGE BECHHOEFER: Okay. With that, we will --

8 MR. HAGER: That will be satisfactory to CCANP.

9 JUDGE BECHHOEFER: With that, we will adjourn
10 and be back at 9:00 tomorrow.

11 (Whereupon, at 6:07 o'clock p.m., the hearing
12 in the above-referenced matter was adjourned, to
13 reconvene at 9:00 o'clock a.m., May 14, 1981, in the
14 same location.)

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This is to certify that the attached proceedings before the
NUCLEAR REGULATORY COMMISSION

in the matter of: HOUSTON LIGHTING & POWER COMPANY, ET AL
South Texas Nuclear Project, Units 1 & 2

Date of Proceeding: May 13, 1981

Docket Number: 50-498 OL, 50-499 OL

Place of Proceeding: Bay City, Texas

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

LaGailda Barnes

Official Reporter (Typed)

LaGailda Barnes

Official Reporter (Signature)