

1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 In the matter of: :

5 METROPOLITAN EDISON COMPANY :

Docket No. 50-289
(Restart)

6 (Three Mile Island Unit 1) :

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25 North Court Street,
Harrisburg, Pennsylvania

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Tuesday, February 3, 1981

11

Evidentiary hearing in the above-entitled

12

matter was resumed, pursuant to adjournment, at 10:10 a.m.

13

BEFORE:

14

IVAN W. SMITH, Esq., Chairman,
Atomic Safety and Licensing Board

15

DR. WALTER H. JORDAN, Member

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DR. LINDA W. LITTLE, Member

17

Also present on behalf of the Board:

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MS. DORIS MORAN,
Clerk to the Board

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APPEARANCES:

21

On behalf of the Licensee, Metropolitan Edison
Company:

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GEORGE F. TROWBRIDGE, Esq.
ERNEST BLAKE, Esq.

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Shaw, Pittman, Potts and Trowbridge,
1800 M Street, N.W.,
Washington, D. C.

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8102100076

ALDERSON REPORTING COMPANY, INC.

400 VIRGINIA AVE., S.W., WASHINGTON, D.C. 20024 (202) 554-2345

1 Petitioners for leave to intervene pro se:

2 STEVEN C. SHOLLY,

3 304 South Market Street

4 Mechanicsville, Pennsylvania

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1 On behalf of the Commonwealth of Pennsylvania:

2 ROBERT ADLER, Esq.
3 Assistant Attorney General,
4 505 Executive House,
5 Harrisburg, Pennsylvania
6 WILLIAM DORNSIFE,
7 Nuclear Engineer

8 On behalf of Union of Concerned Scientists:

9 ROBERT D. POLLARD
10 Harmon & Weiss,
11 1725 I Street, N.W.
12 Washington, D. C.

13 On behalf of Newberry Township TMI Steering
14 Committee:

15 PATRICIA A. SMITH,
16 Box 52, R. D. 1
17 Etters, Pennsylvania

18 On behalf of ANGRY:

19 GAIL BRADFORD

20 On behalf of Three Mile Island Alert:

21 LOUISE BRADFORD

22 On behalf of the Regulatory Staff:

23 JAMES TOURTELLOTTE, Esq.
24 DANIEL SWANSON, Esq.
25 Office of Executive Legal Director,
United States Nuclear Regulatory Commission,
Washington, D. C.

Petitioners for leave to intervene pro se:

21 NORMAN AAMODT,
22 R.D. 5,
23 Coatesville, Pennsylvania

1	C O N T E N T S		
2	<u>WITNESS:</u>	<u>DIRECT CROSS REDIRECT RECROSS BOARD</u>	<u>CROSS ON BOA</u>
3	Afternoon Session p. 11,339		
4	Robert C. Arnold		
	By Mr. Blake	11,432	
5	By Ms. G. Bradford		11,477
	By Mr. Adler		11,482
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P R O C E E D I N G S

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2 CHAIRMAN SMITH: Good morning, ladies and
3 gentlemen.

4 Before we begin with the scheduled business of the
5 day, I would like to announce some ex parte communications.

6 Dr. Johnsrud called this morning and stated
7 because of icy conditions in her driveway, she would be
8 unable to attend the session this morning. Also observing
9 that there was no bus service from State College, Mrs.
10 Aamodt called yesterday and requested and received
11 permission to file the direct testimony this morning instead
12 of yesterday.

13 On Thursday, January 29, I telephoned Mr. Blake
14 and told him that the Board was having difficulty in
15 reconciling some of the testimony on the organization of TMI
16 1 and GPUNC with the charts attached to Mr. Arnold's
17 testimony, and I advised him that it would be helpful to the
18 Board if charts accurately or more easily explaining the
19 testimony were to be filed.

20 I had overlooked, and then it came to my attention
21 over this weekend that the chart of the SER on page 9, I
22 believe, of the supplement on management issues, fairly well
23 describes the organization, but I did not have that
24 information until too late to correct the request.

25 MR. BLAKE: Mr. Smith, I am prepared this morning

1 to have Mr. Arnold, and he is prepared to give, not only for
2 the Board's benefit, but for the parties as well, a summary
3 of the GPU nuclear organization in addition to the filing of
4 the testimony which is in toto. He will address the title
5 differences, and as well, a recap and overview of the GPU
6 nuclear organization.

7 I had hoped to be able to contact each of the
8 Intervenors this morning. I have talked with the staff. I
9 have not talked with each of them to get their okay on such
10 a presentation, which would be brief, but in the form of
11 additional direct.

12 CHAIRMAN SMITH: Let's take it up when we finish
13 the business of this morning.

14 MR. BLAKE: Okay.

15 CHAIRMAN SMITH: I just wanted to state the ex
16 parte communications I have had.

17 I also had a telephone conference with Mr. Swanson
18 on the same subject matter, on the subject matter of
19 confusion as to what the order of procedure would be today,
20 and it was all resolved.

21 Is there any other preliminary business before we
22 begin with the scheduled business of this morning.

23 (No response.)

24 CHAIRMAN SMITH: All right, I see that the
25 Commonwealth filed some papers this morning before the

1 hearing began which we have had an opportunity to look at on
2 the question of expediting the proceedings, but the staff's
3 papers were laying on the Board's bench as we opened the
4 proceeding, and it is eleven pages long, and we have not had
5 a chance to read it.

6 So I think that before we consider it, we are
7 going to have to take time out to read the staff's
8 recommendations.

9 MR. TOURTELLOTE: I can summarize it if it would
10 help.

11 CHAIRMAN SMITH: In your summarization -- all
12 right. It will not help because I notice here, flipping
13 through it, that you put, for example, a proposal that we
14 rule on summary dispositions ten days before the issue comes
15 up, and at the same time we go to a six-day hearing
16 schedule, night and day, which I think is almost a frivolous
17 recommendation, and I want to consider it before we discuss
18 it very much.

19 So I think we should take time off to reconsider
20 your recommendations.

21 We will take a five minute break.

22 MR. TROWBRIDGE: Mr. Chairman, I also have two
23 fairly short statements in response to the two Commission
24 memoranda which I intended to read and hand out at the same
25 time so people could follow. If it would be helpful to the

1 Board, I would distribute these now.

2 CHAIRMAN SMITH: All right, why don't you do that,
3 and then we will take a five minute break and look over the
4 papers.

5 The order we will follow this morning will be to
6 take up the letters of Commissioner Hendrie -- the letter of
7 Chairman Ahearne and Commissioner Hendrie on expediting the
8 proceeding, and the other subject matter, and then the
9 letter of Chairman Ahearne requesting recommendations on how
10 the order may be modified and other recommendations.

11 MR. TROWBRIDGE: Mr. Chairman, might it be
12 profitable to take a ten or fifteen minute break so we can
13 all read these very carefully?

14 CHAIRMAN SMITH: All right, that is fine. Let's
15 take ten minutes.

16 (A brief recess was taken.)

17 CHAIRMAN SMITH: Ladies and gentlemen, I think
18 that the Intervenor's are ready to proceed now.

19 All right. In addition to the absence of any
20 representative from ECNP, I note that there is no
21 representative present from Chesapeake Energy Alliance.

22 (Pause)

23 CHAIRMAN SMITH: Mr. Trowbridge, I just noticed
24 you had statements, two written statements.

25 MR. TROWBRIDGE: One concerns the January 22

1 memorandum, and the second concerns the 2nd.

2 CHAIRMAN SMITH: Yes. I did not notice the one on
3 Chairman Ahearne's letter.

4 (Pause)

5 CHAIRMAN SMITH: The procedure that we will follow
6 is first to take up the letter of January 28, 1981 from
7 Chairman Ahearne and Commissioner Hendrie, Item No. 1, and
8 that is the Licensing Board, after appropriate consultation
9 with the parties, should provide us with the best estimate
10 of the future schedule of the proceeding. Response should
11 include the projected dates for, A, concluding the
12 evidentiary hearing; B, filing of proposed findings of fact;
13 and C, issuance of the Board's decision.

14 Mr. Trowbridge, we will call upon you first in
15 each of these problems.

16 MR. TROWBRIDGE: Mr. Chairman, it had been my plan
17 to read my short statement. In view of their distribution
18 and the recesses, would the Board prefer that the statement
19 simply be copied into the record.

20 CHAIRMAN SMITH: Everyone has had a chance to read
21 it. Now it has been served. So I see no purpose in
22 rereading it. So we will just have it copied into the
23 transcript.

24 (The document referred to, statement of Mr.
25 Trowbridge, Counsel for Licensee Metropolitan Edison

1 Company, follows:)

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1 MR. TROWBRIDGE: In that case, I think I will not
2 attempt to summarize it, Mr. Chairman. I would have the
3 Board note the reservations I have indicated about my
4 somewhat optimistic projection for the conclusion of the
5 hearing. It can be attained. I have not given up hope.

6 I also ask the Board to note, on some items, for
7 example, how well the staff and the Commonwealth or the
8 staff, including FEMA, will be prepared to put on testimony,
9 it is something the Board should look particularly to the
10 Commonwealth and to the staff for their estimates. Possibly
11 the Board can get some indication from Intervenor with
12 Contentions remaining to be heard, how they see their
13 participation, which I find it very difficult to judge.

14 CHAIRMAN SMITH: All right. We will certainly
15 hear from the Intervenor, but I think we should hear from
16 Mr. Tourtellotte next.

17 MR. TOURTELLOTTE: Well, basically on concluding
18 the evidentiary hearing, we have basically an agreement with
19 the Licensee that it may end somewhere around mid-April.
20 That is our best estimate. But we also believe that there
21 are possibilities of longer periods of time being taken for,
22 among other things, the off-site emergency planning issues
23 which we believe could last anywhere from three to six
24 weeks. Consequently, there might be an additional three
25 weeks for that reason.

1 Also, the financial issues we believe might take
2 from two to four weeks. So there is a possibility of adding
3 another two weeks on, and of course we recognize we will
4 have to come back for cleaning up plant design and
5 modification issues sometime, and that will take at least a
6 week. So there is a possibility that the schedule would be
7 extended or would be somewhere in between April 15 and May
8 29th for completion of the evidentiary hearing.

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1 Filing of proposed findings of fact and
2 conclusions of law, we agree generally that in most
3 instances those filings should be made 30 days after the
4 completion of the issue on the record and that reply
5 findings should be filed 30 days after that time.

6 I think we may or may not be going a little bit
7 longer than the 30 days on the plant design and modification
8 issues, although we are not certain right now as to when
9 exactly those issues will close out.

10 CHAIRMAN SMITH: What 30 days are you referring
11 to?

12 MR. TOURTELLOTTE: Beg pardon?

13 CHAIRMAN SMITH: You just referred to 30 days, but
14 I did not know how --

15 MR. TOURTELLOTTE: 30 days after the completion of
16 the issue area. In other words, the issue areas generally
17 are plant design and modification, management, emergency
18 planning, and financial issues.

19 CHAIRMAN SMITH: So your statement was: 30 days
20 after --

21 MR. TOURTELLOTTE: 30 days after we complete plant
22 design and modification, I would say, in ordinary
23 circumstance we would say we would be ready to file the
24 findings. We have, however, in a separate document agreed
25 that we would do this on a date certain, which I believe is

1 May 1, and that reply findings we have requested would be
2 due June 1.

3 And I was simply pointing out to the Board that
4 that may or may not turn out to be 30 days after plant
5 design and modification issues are decided. But parties
6 have pretty well agreed on that.

7 In emergency planning or in management, I think
8 those issues are relatively -- are somewhat easier to handle
9 in findings than the technical issues, and those issues
10 should be 30 days after the completion of the issue area
11 with reply findings due 30 days after that.

12 CHAIRMAN SMITH: And what dates specifically would
13 then apply?

14 MR. TOURTELLOTTE: Well, I had some difficulty
15 coming up with specific dates, because I was not certain
16 when we would be working those plant design and modification
17 issues in. However, I estimate that the Phase 2 of the
18 management issues, which will be the next thing, I think,
19 that we will be able to complete, will be somewhere -- will
20 be completed somewhere around March 15.

21 CHAIRMAN SMITH: So you would have proposed
22 findings filed on those issues by April 15?

23 MR. TOURTELLOTTE: Yes.

24 CHAIRMAN SMITH: And 15 days later, that would be
25 the plant design issues.

1 MR. TOURTELLOTTE: Well, assuming that -- assume
2 for a moment that we finished management by March 13 on the
3 calendar and we would start the next week on plant design
4 and modification and finish that by the 20th of March. In
5 ordinary circumstances, I would say the 20th of April.

6 However, what I was pointing out is there is a
7 filing by the Licensee that indicates that all of the
8 parties have agreed on plant design and modification, that
9 we would file those May 1. But May 1 is not too far from
10 April 20, and the reply findings would be due 30 days
11 later.

12 On emergency planning, I think there is a
13 possibility that emergency planning would be finished as
14 early as April 10 and as late as April 30, so that the
15 findings would be due 30 days after whatever date that is
16 completed on emergency planning, and reply findings 30 days
17 after that.

18 I think that financial issues, depending upon the
19 emergency planning issues are completed, financial issues
20 could be done by April 30 or by May 30, so that the findings
21 for those would be 30 days after that, which would be either
22 May 30 or June 30.

23 (Board conferring)

24 (Discussion off the record)

25 CHAIRMAN SMITH: Yes, ma'am. Of course, you are

1 aware that the Board has already conducted several days of
2 limited appearances from the public. We also plan to
3 schedule additional sessions. We have had many requests for
4 March 5, and we are trying to determine whether space is
5 available for that. We understand that space was to have
6 been available.

7 We are going to try to set a session which seems
8 to be a very popular date, and we are going to try to set
9 March 5 for a limited-appearance day, the evening. And
10 also, there was a suggestion that March 11 be made a snow
11 date, and we are going to try to do that. But we do not
12 know that we will have space, but we will try to get a
13 notice out as soon as we can.

14 I want you to feel comfortable staying here.

15 (Discussion off the record)

16 CHAIRMAN SMITH: We will set a date as close to
17 that as we can when we find space. Obviously, there is not
18 enough room here. So we will set a date as close to that
19 March 5 as we can, depending upon the availability of
20 space.

21 Whatever I have told the first lady is
22 sufficient. The second lady said, "Will the opportunity for
23 limited appearances be provided before we issue a decision
24 on whether the plant can be started?" And I said, "That is
25 correct."

1 Mr. Tourtellotte.

2 MR. TOURTELLOTTE: I think I touched on all the
3 issues as to when I felt they might be completed, and, in
4 general, concur with the idea that as each issue area is
5 completed, we should file findings 30 days after the
6 completion of that issue area.

7 CHAIRMAN SMITH: Would you summarize and give us
8 your best estimate as to the close of the evidentiary
9 hearings and the date by which the last proposed findings
10 will be filed?

11 MR. TOURTELLOTTE: Yes. As I explained at the
12 beginning, I think it would, because of the uncertainties in
13 the level of participation, especially in off-site emergency
14 planning, I think there is an area band of about six weeks.
15 That is, there is an area of about six weeks that it could
16 end. And the earliest date would be April 15. The latest
17 date would be May 30. And the findings then for those
18 respective dates would be May 15 the earliest date that we
19 would submit our findings.

20 CHAIRMAN SMITH: The final findings?

21 MR. TOURTELLOTTE: The final findings on the final
22 issue, with reply findings due a month after that, on June
23 15. And at the outside, May 30 would be a completion with
24 final findings due June 30 and reply findings due July 30.

25 CHAIRMAN SMITH: Would you explain which findings

1 would be due on June 30?

2 MR. TOURTELLOTTE: Assuming that financial is the
3 last issue that we decide and assuming that it is not
4 completed until May 30 --

5 CHAIRMAN SMITH: I understand.

6 MR. TOURTELLOTTE: Of course, all the findings on
7 the other issues, issue areas, would have already been
8 submitted prior to that time.

9 CHAIRMAN SMITH: Yes. However, if the hearing
10 continues until May 30 on any issues and the Board presides
11 over the hearings, we would not be able to use the earlier
12 proposed findings. It would be particularly difficult to
13 take advantage of them on a six-day-a-week-and evening
14 hearing schedule.

15 Is there a spokesman for the Intervenor?

16 MR. SHOLLY: No

17 CHAIRMAN SMITH: Let's just start in the back row
18 and go -- let's begin with Mr. Aamodt and receive comments.
19 Do you have any comments? We want to talk about the second
20 session -- we are now just talking about comment on
21 realistic expectation of when the hearing will be over, when
22 the proposed findings will be filed. And if you care to
23 comment on the initial decision, that is up to you.

24 MR. AAMODT: No.

25 CHAIRMAN SMITH: All right.

1 Mrs. Smith?

2 MS. SMITH: My only comment is we are interested
3 in our Contention, which is emergency planning, because we
4 are the tail end. We want nothing but our fair hearing. So
5 to ask me or us to expedite it is very difficult to respond
6 to. We want the most fair hearing possible. I guess that
7 is about all I have to say. To rush through it would not be
8 fair.

9 CHAIRMAN SMITH: Okay. We are going to discuss
10 accelerating. Now we are asking for comments on the most
11 realistic schedule that we can report to the Commissioners.

12 MS. SMITH: I am not all that knowledgeable on
13 dates. I will settle with my comments.

14 CHAIRMAN SMITH: All right.

15 Mrs. Bradford?

16 MS. LOUISE BRADFORD: I, too, am not really
17 knowledgeable. As you know, I am new to this hearing
18 process, and so I have no comment on the dates.

19 CHAIRMAN SMITH: All right.

20 Ms. Gail Bradford?

21 MS. GAIL BRADFORD: Sir, as you know, ANGRY has
22 Contentions in a number of these areas, although we are
23 really principally concentrating on emergency planning. And
24 I can foresee having some difficulties doing so many things
25 simultaneously, writing proposed findings, just as I can see

1 that the Board will have difficulty reading proposed
2 findings on one section while they are hearing another
3 section.

4 The other thing that troubles me about splitting
5 up the proposed findings this way, although I can see an
6 advantage because presumably the testimony will be fresher
7 in the Board's mind when they read the proposed findings, I
8 can see a problem. All these issues are interrelated. If
9 -- just to pull an example out -- if the financial proposed
10 findings show that the Utility is teetering on the brink of
11 bankruptcy and they cannot do the plant design modifications
12 -- it is all interrelated -- you might find after hearing
13 the financial, that that changes your opinion on a previous
14 issue even though it is not direct testimony on that.

15 CHAIRMAN SMITH: So you would -- would you think
16 that a schedule which would anticipate filing proposed
17 findings after an issue -- after the record on a particular
18 issue has been closed, however giving the parties an
19 opportunity to examine the evidentiary record through to the
20 end of the hearing and supplement their proposed findings?
21 Would that satisfy your concern about that? We were
22 thinking about that very problem, too, because the entire
23 record can be cited in support of proposed findings. Do you
24 think that would be a workable --

25 MS. GAIL BRADFORD: I think it would be certainly

1 best to have the opportunity to file supplementary findings
2 better than not having that opportunity. I just wonder
3 whether that would make for a clear presentation if there
4 were a lot of supplementary findings. I think you would
5 have some difficulty interpreting what people really meant
6 or what to think from it.

7 CHAIRMAN SMITH: All right.

8 Mr. Pollard?

9 MR. POLLARD: The only comment I have is that when
10 Ms. Weiss agreed to the May 1 date as filing of proposed
11 findings of fact on the design area, that, of course, was
12 under the assumption that we would finish the hearing on the
13 design issues at some reasonable time before that. So, with
14 that possible exception, I have no disagreement with Mr.
15 Tourtellotte's summary.

16 CHAIRMAN SMITH: Mr. Sholly?

17 MR. SHOLLY: I have nothing to add, Mr. Chairman.

18 CHAIRMAN SMITH: Mr. Adler?

19 MR. ADLER: I concur, in general, with Mr.
20 Tourtellotte's estimates for the final date of hearing.

21 I would like to respond to Mr. Trowbridge's
22 inquiries regarding our off-site emergency planning
23 testimony. I believe his question was directed at whether
24 we would meet the February 23 deadline. And as of now, we
25 do plan to meet that date. I would note that I have

1 requested the NRC staff to inform me whether they will meet
2 the February 23 deadline. I note that they did not meet the
3 deadline for on-site testimony. And Mr. Gray has informed
4 me that he will let me know within this week whether they
5 will meet that date.

6 Regarding the date for proposed findings of fact,
7 I had planned and I will file a written response to
8 Licensee's motion this week. Briefly, we will pose no
9 objections to the May 1 deadline for findings of fact on
10 plant design issues.

11 However, I did add reservations to that
12 agreement. As Mr. Tourtellotte points out, we have no
13 assurance at this point that the hearing in fact will be
14 over by May 1, and I would object to any schedule that would
15 require the Commonwealth to file proposed findings or a
16 substantial amount of proposed findings prior to the close
17 of the record.

18 As the Board is aware, Mr. Baxter and Mr. Cutchin
19 are now back in the office, while co-counsel litigate the
20 other issues in the proceeding. And I view it as
21 unreasonable and an abridgement of our rights to advise the
22 Commission to require us simultaneously to dig through
23 11,000 pages of transcript on the plant design issues while
24 I am here litigating both the management and the emergency
25 planning Contentions.

1 I would like to add that, in our written response,
2 we said that we will make every effort possible to meet the
3 May 1 deadline on the plant design modifications, and we
4 intend to do so. However, I do object to the staff's
5 proposal that findings be required 30 days after the close
6 of each set of issues during the process. So we will try
7 to meet the May 1 deadline.

8 CHAIRMAN SMITH: All right. What would you
9 recommend then in lieu of that proposal?

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1 MR. ADLER: Well, I --

2 CHAIRMAN SMITH: Other than the May 1.

3 MR. ADLER: I would propose that the May 1
4 deadline be retained just for the plant design and
5 modification issues. However, if the hearing is not over by
6 May 1, in light of the fact that the Board could not
7 possibly review the findings until the evidentiary record is
8 closed anyway, I would recommend that that date be extended
9 to the date following the close of the record.

10 CHAIRMAN SMITH: So we would have two basic
11 filings, one of May 1 and one on all other issues following
12 the close of the record?

13 MR. ADLER: That is correct.

14 CHAIRMAN SMITH: Per your proposal.

15 Will the Licensee and the staff comment on the
16 problem raised by Ms. Bradford that the segmented schedule
17 of proposed findings does not take into account evidence
18 that may come up later which may bear upon the issues?

19 MR. TROWBRIDGE: Mr. Chairman, I think the
20 Chairman's own suggestion that supplemental findings could
21 be possible. I would certainly think, in order -- if
22 further matters occurred in the hearing, then the record
23 would be developed further in a way that was relevant to the
24 findings. I see no choice but to allow for the possibility
25 of late items of interest to early issues.

1 CHAIRMAN SMITH: Mr. Tourtellotte?

2 MR. TOURTELLOTTE: I think that certainly we could
3 have supplemental findings if that should develop. On the
4 other hand, I think it is also important to urge that as
5 each issue is closed out, that that issue is in fact closed
6 out unless substantial good cause is shown for reopening
7 that issue area. And I would think it would almost have to
8 be the same as demonstrating that the record should be
9 reopened, only simply reopened, on that issue area before
10 further matters were entertained along those lines.

11 CHAIRMAN SMITH: Is that consistent with the
12 protocol we have followed in hearings so far, that we have
13 proclaimed an issue closed?

14 MR. TOURTELLOTTE: I do not know that we have
15 gotten to the point. That is the way that I would urge that
16 it be handled. I would think that it would be in order to
17 proceed in a very logical manner, it would seem to me that
18 we would urge all parties to bring up everything that they
19 had to bring up with respect to plant design and
20 modification once we have gotten that out of the way.

21 The parties have rested. I think that should be
22 it.

23 MR. TROWBRIDGE: I did not mean to suggest, Mr.
24 Chairman, that there would be a relaxation of normal ground
25 rules of when you have finished a subject there needs to be

1 good cause to reopen it. I left room for the possibility
2 that good cause could happen or just that in the nature of a
3 hearing we might develop testimony that has relevance to
4 what we were talking about at that time and also had
5 relevance to earlier issues.

6 CHAIRMAN SMITH: All right, is there anything
7 further on the scheduling?

8 MR. TROWBRIDGE: Yes. I would like to express
9 some concern about Mr. Adler's report on the uncertainty as
10 to FEMA's timing. I made a special point in my memorandum
11 about not knowing about FEMA. I made the point about my
12 schedule could be considerably lengthened if by unexpected
13 development -- I mentioned particularly the uncertainty
14 about FEMA. I am concerned that this Board, or more
15 particularly, the Commission, rely on projections which are
16 only projections. And the Commission has had the experience
17 now of an early target projection, if you like, and it is --
18 for the total proceeding, and perhaps issued its August 9
19 order in some degree on reliance on that kind of a
20 schedule.

21 I think the Commission ought to be careful about
22 relying on projections that are not in hand.

23 (Board conferring)

24 CHAIRMAN SMITH: Ms. Bradford?

25 MS. GAIL BRADFORD: In this discussion I have not

1 heard from the staff or the Licensee what I would see as any
2 advantages to splitting up the filings of proposed finding
3 of fact, in that I just -- I just have to assume that the
4 Board would have to take time to read the proposed findings
5 of fact in order to have the advance filing be profitable
6 for the Board.

7 And so, in Mr. Tourtellotte's schedule I do not
8 see where he has taken a week or even the seventh day of one
9 of his six-day weeks or any time for the Board to read the
10 proposed findings of fact. He has got the Board constantly
11 hearing.

12 CHAIRMAN SMITH: Well, we are going to call upon
13 Mr. Tourtellotte --

14 MS. GAIL BRADFORD: I do not see it is necessarily
15 a realistic schedule.

16 CHAIRMAN SMITH: We hope Mr. Tourtellotte will be
17 able to give us some practical advice as to how the schedule
18 that he recommends can be followed. I am sure he has some,
19 otherwise he would not have made them. So we will ask him
20 about that.

21 MS. GAIL BRADFORD: Thank you.

22 CHAIRMAN SMITH: Mr. Sholly?

23 MR. SHOLLY: Two things, briefly. I might note
24 that were I to continue litigating emergency planning and
25 management issues, I would run into the same problems that

1 Ms. Bradford has mentioned, trying to do two or three things
2 at once.

3 Secondly, with regard to the suggestion of
4 supplemental findings, I can see very easily a problem of
5 questions being raised of "Why didn't you file that before,"
6 and getting into a whole series of back-and-forth arguments
7 on that. I just wonder how profitable it would be to get
8 into that situation.

9 CHAIRMAN SMITH: The suggestion was that after the
10 hearing on an issue was over, but somehow evidence which a
11 party wished to cite in support of the issue came up
12 throughout the rest of the hearing, they could bring back to
13 the Board's attention by proposed findings, by supplemental
14 findings, not relook at all of it but only evidence that
15 came up after the phase closed.

16 MR. SHOLLY: I understand that, Mr. Chairman. But
17 I am presuming that somehow that new evidence would have to
18 be tied to something that occurred earlier. And there very
19 well may be questions of "Why didn't you anticipate this?"
20 It has happened time and time again.

21 CHAIRMAN SMITH: Did you notice the distinction
22 made between reopening the record on a particular issue and
23 filing supplemental proposed findings, when it just so
24 happens that evidence that a party may wish to cite is
25 developed later on after the issue closed? That is an

1 important distinction.

2 MR. SHOLLY: I understand that, sir.

3 CHAIRMAN SMITH: The --

4 MR. AAMODT: May I --

5 CHAIRMAN SMITH: Mr. Aamodt?

6 MR. AAMODT: I would like to put up on record as
7 liking very much to have the opportunity to make a final
8 supplemental filing, if that is what it is called. What we
9 have in mind here is, for example, the testimony we filed
10 today, some of the issues relative to training and testing
11 are greatly affected by the facilities available.

12 CHAIRMAN SMITH: Some of the issues related to
13 what?

14 MR. AAMODT: Training and testing.

15 CHAIRMAN SMITH: Related to what?

16 MR. AAMODT: To the facilities available in the
17 plant. And we may find in plant modifications and so on,
18 that these things do impact. And it would be helpful to
19 have the opportunity to make a supplemental statement.

20 CHAIRMAN SMITH: All right. Thank you.

21 (Board conferring)

22 CHAIRMAN SMITH: Is there anything further on the
23 schedule?

24 (No response)

25 CHAIRMAN SMITH: All right, let's move to the

1 subject matter of Chairman Ahearne's letter of January 22.

2 Mr. Trowbridge, I was not aware before the break
3 that you had filed two statements. And I have not had much
4 of an opportunity to look at your statement on the January
5 22nd matter.

6 MR. TROWBRIDGE: We could take a further break, or
7 I could read it. Either one.

8 CHAIRMAN SMITH: I have had some chance. Would
9 you summarize the higher points? It would be interesting to
10 members of the public, too.

11 MR. TROWBRIDGE: Mr. Chairman, I would suggest it
12 would actually go faster if I read it.

13 CHAIRMAN SMITH: All right.

14 MR. TROWBRIDGE: This statement --

15 CHAIRMAN SMITH: I am almost through it now. Just
16 give me a moment, and I will be up with you, so it will not
17 be necessary.

18 (Pause)

19 CHAIRMAN SMITH: I am ready.

20 MR. TROWBRIDGE: All right, Mr. Chairman. I would
21 note on page 3 of the statement that I left room for the
22 possibility that we might have already filed or might yet be
23 filing a motion with the Commission with the three
24 modifications to the August 9 order enumerated on that
25 page. The actual status is somewhere in between have been

1 and will be.

2 We have distributed copies of our motion to the
3 Board and all the parties to the proceeding here today. I
4 think the mailing is still awaiting the typing of
5 envelopes. But it will occur today.

6 CHAIRMAN SMITH: Have you given this statement to
7 the reporter?

8 MR. TROWBRIDGE: Yes.

9 CHAIRMAN SMITH: So it is bound in. It should be
10 bound in.

11 (The document referred to, the second statement of
12 Mr. Trowbridge, follows.)

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1 MR. TROWBRIDGE: Mr. Chairman, may I make a
2 procedural inquiry? There are three statements: now mine,
3 the staff's, and the Commonwealth's. I have nothing further
4 to add to mine, but I do have comments on the staff's and on
5 the Commonwealth's statements, as they may presumably have
6 comments on ours. I would suggest that we take first my
7 statement and discuss it, then the staff's, and then the
8 Commonwealth's, so that I do not get discussing the
9 Commonwealth's before they even present it.

10 CHAIRMAN SMITH: All right. That was the sequence
11 that the Board had in mind. So now let's take up the
12 discussion of Mr. Trowbridge's comments.

13 Mr. Tourtellotte?

14 MR. TOURTELLOTTE: We have no comments.

15 CHAIRMAN SMITH: You have no comments?

16 MR. TOURTELLOTTE: No comments on his statement.

17 CHAIRMAN SMITH: Mr. Adler?

18 MR. ADLER: I have no comments. Are we just
19 discussing his memorandum with respect to the January 28 --

20 CHAIRMAN SMITH: This is the January 22nd letter.
21 January 22nd memorandum from Chairman Ahearne.

22 MR. ADLER: All right. With respect to the hot
23 functional testing, the Commonwealth has no objections to
24 permitting hot functional testing. And, in fact, we feel
25 that there may be some safety benefits to permitting

1 Licensee to do so, in two respects.

2 First of all, with respect to the testing that
3 Licensee has to perform before restart, we would prefer that
4 such testing not be performed in a hurried or rushed manner,
5 and we feel the earlier it begins, the better for the safe
6 operation of the plant.

7 And second, we view certain operator training
8 benefits to getting them dealing with the real plant as soon
9 as possible.

10 With respect to the third, the third proposal of
11 Licensee, regarding delays in schedules consistent with
12 those permitted for other operating reactors, we have no
13 objections unless such a change would be contrary to a
14 specific finding of this Board with respect to a particular
15 requirement for restart.

16 (Pause)

17 CHAIRMAN SMITH: Does the staff intend to respond
18 to the motions for the Commission referred to by Mr.
19 Trowbridge?

20 MR. TOURTELLOTTE: Yes.

21 CHAIRMAN SMITH: Has the staff's position been
22 formulated?

23 MR. TOURTELLOTTE: No, it has not.

24 CHAIRMAN SMITH: The staff cannot give us any
25 assistance, no advice on Mr. Trowbridge's comments?

1 (Pause)

2 (Counsel for staff conferring)

3 MR. TOURTELLOTTE: If we take the items in order
4 on page 3, staff does not oppose hot functional testing.
5 The second is staff would not oppose the expedited 35-day
6 review. I am not sure I would use those terms. But we
7 believe that the 35-day review period should be at the
8 Board's decision rather than waiting until staff
9 recommendations.

10 The third requirement I am not sure that we can
11 say anything about. I think that is an area of dispute
12 possibly between the staff and the Licensee. And the
13 suggestion is that the Commission would retain the right to
14 change implementation schedules for the Licensee consistent
15 with its treatment of other operating reactors. My view is
16 the Commission has that right, anyway, without endorsing the
17 fact that they should retain that right or that they should
18 in fact change the implementation. I think the Commission
19 has the final say in this case, anyway.

20 So is that sufficient to help the Board?

21 CHAIRMAN SMITH: Whatever help you are able to
22 give is fine.

23 MR. TOURTELLOTTE: Is there any other --

24 CHAIRMAN SMITH: I suppose the subject matter
25 generally -- we will cover all the subject matter in the

1 course of discussing the other recommendations.

2 MR. TOURTELLOTTE: I think that is about as much
3 as we can say at this time.

4 CHAIRMAN SMITH: Any Intervenor wish to comment on
5 Mr. Trowbridge's statement?

6 MR. SHOLLY: A brief question. I am just
7 wondering if the hot functional testing is significantly
8 different from the testing which has apparently been going
9 on. I just wonder if the Licensee has an answer to that. I
10 assume that they know what I am referring to.

11 MR. TROWBRIDGE: Well, I think there is a further
12 description, Mr. Sholly, in the motion itself as to the need
13 for hot functional testing. But there is a need to put the
14 system together and to run it at what I understand to be
15 essentially operating temperatures and pressures using pump
16 heat. That tests a lot of equipment, and particularly it
17 tests for leaks. It is something done normally for every
18 reactor before it operates.

19 The only difference between this reactor and the
20 others is that we will have fuel in the vessel, and we will
21 be under -- and we will take obviously whatever measures are
22 necessary to see to it that the reactor remains subcritical
23 during that period.

24 MR. SHOLLY: I have a second question, then, which
25 would be directed to the staff: Has the staff ever

1 evaluated hot functional testing with fuel loaded in a
2 reactor before? And if so, for what plant?

3 CHAIRMAN SMITH: Isn't this a digression?

4 MR. SHOLLY: I do not believe so.

5 CHAIRMAN SMITH: Excuse me. You are not talking
6 about the pump heating testing. You are talking about --

7 MR. SHOLLY: This is hot functional testing as it
8 is described in the Licensee's --

9 CHAIRMAN SMITH: With the heat provided by
10 fission?

11 MR. SHOLLY: With nonnuclear heat, sir.

12 DR. JORDAN: Mr. Sholly's point is even though the
13 heat is provided by the pumps, it is being done with a core
14 in which has some fission products in it, and that this is
15 different than is usually considered under hot functional
16 testing. And I believe his question to the staff is have
17 they thought about this and has there been similar things
18 happening in other cases. And I think Mr. Tourtellotte is
19 talking with Mr. Silver about that one right now.

20 (Board conferring)

21 MR. TOURTELLOTTE: The answer to the first
22 question is that we know of no instance -- that is not to
23 say that there is none -- but we know of no instance right
24 here and now where that type of hot functional testing has
25 occurred before.

1 However, we will be reviewing quite carefully the
2 procedures for this hot functional test, and we will
3 consider all of its ramifications before we actually allow
4 the test to be made.

5 DR. JORDAN: May I ask a question of the staff?
6 Normally, before going into operation, of course, there is a
7 considerable period of time, many weeks, a month even or two
8 at least, devoted to hot testing prior to going into
9 operation. Now -- and this does require Commission
10 approval. Does that include the tests before the core is
11 loaded with uranium? The hot functional testing. Mr.
12 Silver, I am sure, knows the answer.

13 MR. SILVER: I do not believe hot functional
14 testing without -- that is, with pump heat and without a
15 core -- requires Commission approval.

16 DR. JORDAN: I see.

17 MR. SILVER: So that this is a somewhat unique
18 situation as far as my personal knowledge is concerned. I
19 would answer Mr. Sholly's earlier question about the
20 difference between the testing we are talking about now and
21 testing which has been going on. It is primarily a function
22 of temperature.

23 The order at the moment requires that the core be
24 kept in a cold shutdown condition. And to my knowledge,
25 this has been maintained. Some heatup is permitted under

1 the conditions of the order, but not to the temperatures of
2 the hot functional testing. We are now discussing -- the
3 temperatures that would be reached at that time, which, as
4 Mr. Trowbridge says, is essentially operating conditions,
5 again, generated by pump heat.

6 MR. TROWBRIDGE: Mr. Chairman.

7 (Board conferring)

8 CHAIRMAN SMITH: Isn't there a void in the
9 discussion? Your assumption is the plant is in cold
10 shutdown during hot functional testing, but I think one of
11 the questions was with fuel in the core. And I think you
12 answered in the sense that there would be no fuel in the
13 core.

14 MR. SILVER: No, sir, I do not think I said that,
15 or I did not intend to. There is no consideration of
16 unloading the reactor prior to hot functional testing.
17 There has not been any up until this time. The hot
18 functional testing, which as I understand what the Licensee
19 is proposing that we have, considered up to this time
20 involves pump heat with the core in the vessel as it now
21 exists.

22 DR. JORDAN: But, of course, the core would be
23 maintained at subcritical; there would be no fission heat,
24 only the after-heat that is in there at the moment?

25 MR. SILVER: Quite so.

1 CHAIRMAN SMITH: Mr. Sholly?

2 MR. SHOLLY: The reason I raise this -- and
3 certainly, I do not know if this is the case or not -- if
4 this is an unusual situation which has not been evaluated
5 before, it may well be that there are different types of
6 failure modes that might lead to some kind of adverse
7 consequence. I am certainly in no position to assert that
8 there is. But I have not heard anyone say for sure that
9 there is not. Since it has not been analyzed, no one would
10 know for sure.

11 I should hope that this would be taken into
12 account and looked at very closely. Apparently, it is
13 something brand-new.

14 CHAIRMAN SMITH: All right. This is information
15 which is appropriate for us to discuss this morning.
16 However, the primary position for the debate is before the
17 Commission. There is really nothing before us on it. So
18 the parties will have an opportunity to respond to the
19 motions before the Commission.

20 MR. SHOLLY: Fine.

21 CHAIRMAN SMITH: Anything further by Intervenor
22 on -- Mr. Pollard?

23 MR. POLLARD: Mr. Tourtellotte's statement on his
24 -- on Chairman Ahearne's January 22nd memorandum --

25 CHAIRMAN SMITH: We are still on Mr. Trowbridge's

1 statement. We will come to Mr. Tourtellotte's statement in
2 a moment. We are trying to keep them separate.

3 MR. POLLARD: You are asking for comments on Mr.
4 Tourtellotte's statement?

5 CHAIRMAN SMITH: Not yet. We want complete
6 comments on Mr. Trowbridge's statement.

7 MR. POLLARD: I just misspoke. I am sorry. Did I
8 say "Tourtellotte"?

9 CHAIRMAN SMITH: I don't know. I heard you --

10 MR. POLLARD: Let me start over and see if I am on
the right memo. I am speaking of Licensee's statement on
12 Chairman Ahearne's January 22nd memo.

13 First of all, the point the Licensee's counsel
14 makes is suggestions in this memo would not make any changes
15 in the conduct of the evidentiary hearing, whereas these are
16 more proposals to speed up restart of the plant than they
17 are proposals that affect the progress of this hearing.

18 As far as UCS goes, this morning is the first time
19 we have seen the actual motion to the Commission. I expect
20 we will respond to it.

21 The point that I want to raise particularly is we
22 started off with the first paragraph of Commissioners
23 Ahearne and Hendrie's memo of January 28, and we have gone
24 through and people have given their comments on what they
25 think the realistic schedule is. Without addressing

1 paragraph 2 of that memo, I wonder of what use it is to
2 begin addressing Chairman Ahearne's January 22nd memo, that
3 is, if we have a realistic schedule for the hearing or an
4 estimate of it, but we do not know at what point the plant
5 could start up or complete the modifications listed in
6 paragraph 2 of the January 28th memo from the Commission.

7 Why should we be wasting any time worrying about
8 speeding up the hearing? And the reason I raise this
9 comment is it is UCS' view that although this hearing may
10 have taken longer than the Commission envisioned it, it is
11 not the fault of the Intervenor. And in your report to the
12 Commission, if you disagree with that, we would ask that you
13 would specifically point out any instances where you believe
14 that it is the result of some Intervenor action that has
15 caused this hearing to be delayed with no good reason.

16 The reason I raise it is I am concerned in our
17 effort to expedite the hearing, without knowing yet whether
18 that would expedite restart of the plant. It appears to me
19 that likely from the suggestions that up here in the staff
20 and Licensee's papers, that once again it is the Intervenor
21 who will have to shoulder additional burden.

22 And so my basic comment is I think we are
23 premature in addressing Chairman Ahearne's January 22nd memo
24 until the staff and Licensee address paragraph 2 of Messrs.
25 Ahearne and Hendrie's January 28th memo.

1 CHAIRMAN SMITH: Well, I am sure the Commissioners
2 will be interested in your comment. However, we were
3 requested to submit a report on the same date that the
4 parties submit a report on Question 2. And I see no
5 particular harm in having the Commissioners have this
6 information early. The amount of time it has taken is not a
7 great amount.

8 MR. POLLARD: Could we hear from the staff and
9 Licensee on paragraph 2 of the January 28 memo before we
10 turn to a discussion of the January 22nd memo?

11 CHAIRMAN SMITH: Oh. The Licensee, as I
12 understand, reads paragraph 2 as not to require a report to
13 the Board but a report directly to the Commission, which I
14 read it that way, too.

15 MR. POLLARD: My point is if they would
16 voluntarily give us some information about what they now
17 feel, it would help us in our discussion of whether or not
18 there is any need to expedite the hearing.

19 CHAIRMAN SMITH: Mr. Trowbridge?

20 MR. TROWBRIDGE: Mr. Chairman, I am not prepared
21 to discuss paragraph 2 today. We have taken these things in
22 order. We have spent quite a bit of time getting ready to
23 answer what we haven't answered in the way of the two
24 memoranda.

25 I do not -- the question here the Commission posed

1 was: Is there anything the Commission could do to expedite
2 the hearing? And as the Board suggested, the Board obtain
3 comments from the parties before the Board responded to that
4 Commission question.

5 It may be that the need to accomplish an
6 acceleration of the hearing is closely related to how fast
7 we will be ready to restart. But it is a subject which can
8 be discussed by itself and then combined at the Commission
9 level with information they get on our ability and the
10 timetable for physically being able to restart.

11 I do not think this is the place to debate the
12 need. We simply have been asked for the information from
13 the Commission, and they will put the two pieces together.

14 CHAIRMAN SMITH: All right.

15 MR. SHOLLY: Mr. Chairman, I feel compelled to
16 note here that, in my view, anyway, we are not hearing from
17 the Commission itself; rather, in one case, we are hearing
18 from a single Commissioner who happens to be the Chairman, and
19 in the second case we are hearing from the Chairman and
20 another Commissioner.

21 But the Commission itself has not posed any
22 questions, and I do not see that we are under absolute
23 obligation. They have requested information, and certainly
24 the Board and the parties are free to supply that
25 information. I do not see that we are under an obligation,

1 under an order from the Commission, to do something.

2 CHAIRMAN SMITH: It may be -- I don't know what
3 the background behind Chairman Ahearne's memorandum is. I
4 know that he does refer to more than one Commissioner. But
5 I assume that it is only Chairman Ahearne that is
6 inquiring.

7 Well, any Commissioner making the request would
8 receive the attention from the Board that they have
9 requested. I agree that you are under no obligation, but we
10 did feel we were under an obligation to give you an
11 opportunity to comment before we made our recommendations.

12 MR. SHOLLY: The reason I raise that kind of
13 allies itself with the concern Mr. Pollard raised. If the
14 modifications which are going to be required cannot be
15 completed until some unspecified date in the future -- and
16 the date I have seen in print somewhere is October -- and if
17 the hearing process itself cannot be completed until then,
18 this all seems rather pointless.

19 CHAIRMAN SMITH: Now you are talking about the
20 amount of time it is going to take.

21 MR. SHOLLY: Yes, sir.

22 CHAIRMAN SMITH: And we will, consistent with a
23 thorough report, we will move right along. And the expense
24 really is to the Licensee. I regret you felt it was
25 necessary to drive up from your Washington office, but the

1 hearing is being held here. That is the only point. You
2 are just saying it may be a waste of time.

3 Well, I am sure the Commissioners will be aware of
4 your view on it. In the meantime, this is the opportunity
5 we have for comments. I agree that the Commissioners can
6 consider both the Question 2 on Chairman Ahearne and
7 Commissioner Hendrie's memorandum of January 28 at the same
8 time they consider the reports.

9 The Commission request did not provide -- well, I
10 -- the Board is not involved in paragraph 2. That is a
11 request from the Licensee.

12 MR. ADLER: Mr. Chairman, while Licensee is
13 technically correct that Item 2 of the January 28th
14 memorandum requested a report to the Commission directly,
15 first of all this Board certainly has independent authority
16 to request similar information of the parties.

17 And second, I would think that this type of
18 information would be pertinent to the Board in rendering its
19 recommendations to the Commission pursuant to the January
20 22nd memorandum. And I fully expected that this item would
21 have been addressed this morning as well.

22 CHAIRMAN SMITH: The question is a very
23 complicated question. As I read it, it requires several
24 assumptions. And we have not arrived at the point where the
25 assumptions are known yet. I think that your point may be

1 very well taken. As we approach the end of the hearing and
2 we have to know what the time schedules are, then I think we
3 might very well ask the Licensee just how much time is
4 available before there is an impact upon your rights before
5 we make our decision.

6 I think that is an appropriate question. Right
7 now, it is a question from the Commissioners, and I do not
8 think it is right yet for the Board to ask, not until we are
9 closer to the end of the record.

10 MR. TROWBRIDGE: Mr. Chairman, we have been
11 conscious all along that we ought to be telling this Board
12 something more about what we see as our physically possible
13 restart schedule. This provides communication from the two
14 Commissioners, provides an opportunity to do that.

15 But look carefully at the Commission's request.
16 It is broken down into three parts: How long would it take
17 if we were involved in the August 9 order items only? How
18 long would it take if we have a full complement of NTOL
19 requirements prior to restart? And then, how long would it
20 take to accomplish anything and everything that any other
21 party to this proceeding has recommended be done prior to
22 restart?

23 We are obviously not going to be able to answer
24 that last question, but we can talk to some illustrative
25 examples. This is not an easy question to answer, and my

1 reluctance this morning is because we are going to have to
2 prepare a careful answer to that question. And I do not see
3 this occasion here as the need to debate the issue.

4 CHAIRMAN SMITH: It is important when you consider
5 the purpose of the memorandum, it is going to be used
6 apparently in responding to Mr. Dieckamp's letter. So it is
7 a very important consideration on the part of the
8 Commissioners.

9 I think that the Licensee should have all the time
10 it needs to prepare a very careful response. As far as the
11 Board's needs are concerned, we will be receiving a copy of
12 it. We will ask further questions as we come to the end of
13 the hearing.

14 Now, is there anything further on Mr. Trowbridge's
15 --

16 MR. AAMODT: Mr. Smith.

17 CHAIRMAN SMITH: Yes, sir, Mr. Aamodt.

18 MR. AAMODT: The purpose of the meeting today is
19 to form some worthwhile commentary on the length of time
20 involved to arrive at a conclusion; is that right?

21 CHAIRMAN SMITH: That is -- there are two purposes
22 as far as this Board is concerned: to report a realistic
23 schedule for the completion of the hearing, as we understand
24 it to be, and I would say that that would be under some
25 assumption that there is no change.

1 MR. AAMODT: Right.

2 CHAIRMAN SMITH: And then the other purpose is to
3 address Chairman Ahearne's request that we give advice on
4 how the proceeding may be accelerated.

5 MR. AAMODT: Yes, sir. That being the case, I
6 personally would object to even the consideration of the
7 question of hot testing. That seems quite outside the scope
8 of what we are here for. And it does not seem fair to me
9 that, particularly with the question that Steve raised
10 relative to whether or not anyone had ever done anything
11 like this before, that this should be thrust on us without
12 any opportunity to think about it, and then a judgment come
13 out of this meeting.

14 CHAIRMAN SMITH: There will be no judgment coming
15 out of this meeting as to hot testing.

16 MR. AAMODT: I appreciate that. We will have --

17 CHAIRMAN SMITH: Wait a minute. Wait a minute. I
18 do not know if I can say that. The staff has filed before
19 the Board suggestions which include operation at low power
20 levels. So until we have gone through the staff's
21 suggestions to the Board, we can't. But within the context
22 of Mr. Trowbridge's comments, Mr. Trowbridge was pointing
23 out that before the Commission now is the issue of hot
24 functional testing. And then that is a motion which he
25 explained was filed, and you have not yet received, but you

1 will have an opportunity to respond directly to the
2 Commission on that.

3 MR. AAMODT: It is new to us all today then.

4 CHAIRMAN SMITH: Yes, it is. Most certainly it
5 is. It is new to the parties and -- but the question will
6 come up again on Mr. Tourtellotte's recommendations. And I
7 assume that those are recommendations to us to recommend to
8 the -- so it will be up, and your arguments can be made
9 then.

10 But I would like to complete discussion now on Mr.
11 Trowbridge's comments. Ms. Bradford?

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1 Ms. Bradford?

2 MS. GAIL BRADFORD: My first comment is that this
3 is a microcosm of my problem we were talking about earlier
4 about separating the proposed findings of fact, in that we
5 have a tremendous number of interrelated documents right
6 here and we are separating our comments on them. And I have
7 comments that are interrelated.

8 CHAIRMAN SMITH: You are objecting to being
9 required to address his.

10 MS. GAIL BRADFORD: I am just showing that this is
11 an example of something that I am going to have trouble --
12 if you require parties to file separate findings of fact, I
13 am seeing right now this is a good example that I am going to
14 have trouble with doing that process of filing separate
15 findings of fact.

16 Aside from that, getting to the January 22nd memo
17 from Chairman Ahearne and Mr. Trowbridge's response to that,
18 I think we have slipped the issue a bit. The Commission
19 asks us to identify what actions would expedite the hearing,
20 and we are identifying what would expedite the restart. And
21 in Mr. Trowbridge's response he has one sentence which I
22 think applies. He says on page 3:

23 "Therefore, we have no suggestions to make for
24 modifying the August 9 order insofar as it relates to the
25 procedural conduct of the hearing."

1 CHAIRMAN SMITH: I think you are right. Mr.
2 Trowbridge is identifying for the Board as a matter of
3 information and the parties what they have done before the
4 Commission. I think you have interpreted Mr. Trowbridge's
5 statement correctly.

6 MS. GAIL BRADFORD: I guess I am saying that an
7 attempt to expedite the hearings for the purpose of
8 expediting the restart is what I -- I think I see that is
9 what is going on.

10 CHAIRMAN SMITH: I think that that is --

11 MS. GAIL BRADFORD: If that is going on --

12 CHAIRMAN SMITH: I think you'll have to say there
13 is a relationship between the Commission's consideration of
14 expediting the hearings and its consideration of the
15 restart.

16 MS. GAIL BRADFORD: Yes.

17 CHAIRMAN SMITH: Yes, there is that relationship.
18 That is why they want . Yes, there is a
19 relationship.

20 MS. GAIL BRADFORD: And I just noticed that
21 Chairman Ahearne only asks us to address what would expedite
22 the hearing in this January 22nd memo.

23 CHAIRMAN SMITH: I think you should -- Mr.
24 Trowbridge is just telling us what he has done before the
25 Commission. He has not requested the Board to act upon

1 those three -- the modifications.

2 MS. GAIL BRADFORD: I understand you would not be
3 in a position to act on it.

4 CHAIRMAN SMITH: Yes. He has not even asked us to
5 act. However, wait until Mr. Tourtellotte starts talking
6 about his suggestions. Then I think your observation should
7 be made. I do not know. I am just trying to get rid of
8 Mr. Trowbridge's comments.

9 MS. GAIL BRADFORD: Thank you.

10 CHAIRMAN SMITH: Not get rid of them, but complete
11 the discussion.

12 (Laughter.)

13 CHAIRMAN SMITH: Is there any further comment on
14 Mr. Trowbridge's comments?

15 (No response.)

16 CHAIRMAN SMITH: All right. Now then, let's move
17 to -- let's move to the NRC staff's suggestions.

18 MR. TOURTELLOTTE: Mr. Chairman, in view of the
19 hour, would it be a good time to break for lunch?

20 CHAIRMAN SMITH: No.

21 MR. TOURTELLOTTE: Okay... I am sure that this
22 discussion will last for some time.

23 CHAIRMAN SMITH: I am sure it might.

24 MR. ADLER: Mr. Chairman, in view of the length of
25 this document and the number of items, may I suggest that we

1 take each individually and get everyone's comments on each
2 item, rather than ask for all comments on the entire
3 document?

4 CHAIRMAN SMITH: I think that would be a good
5 procedure. Was there sufficient time during the recess that
6 we provided for the parties to address it? Perhaps, then,
7 Mr. Tourtellotte's recommendation that we go to lunch would
8 be helpful for the Intervenor to have more of an
9 opportunity to look at it. Would that be the consensus of
10 the Intervenor?

11 Yes, I see that it would be.

12 MR. TROWBRIDGE: Mr. Chairman, I'm going to
13 suggest that the Board also consider during this recess how
14 much of Mr. Tourtellotte's memorandum it wants to discuss.
15 It seems to me that only the first items of Mr.
16 Tourtellotte's relate to matters which the Commission might
17 do.

18 CHAIRMAN SMITH: Only the first two items?

19 MR. TROWBRIDGE: Only the first two items are
20 matters which the Commission might address.

21 CHAIRMAN SMITH: Your last words of your sentence
22 fall out of my hearing range.

23 MR. TROWBRIDGE: I am sorry. Only the first two
24 items relate to actions which the Commission might take.
25 That was what the January 22 memorandum was about, what

1 actions might the Commission take.

2 The remaining seven items all are matters which
3 are suggestions for this Board and are within the Board's
4 authority without any further instruction from the
5 Commission. It isn't that I would not like to discuss those
6 items. I have comments on them. But whether or not they
7 need occupy further time today is another question.

8 CHAIRMAN SMITH: The parties, with the exception
9 of two Intervenor, are here today for the purpose of
10 discussing -- I think you are correct in your analysis. But
11 they are here for the purpose of discussing ways in which
12 the hearing can be expedited.

13 MR. TROWBRIDGE: I am prepared to discuss them,
14 Mr. Chairman. I am just thinking about the length of the
15 time, the length of time we may spend.

16 CHAIRMAN SMITH: Well, it could occupy some
17 time.

18 MR. TROWBRIDGE: I meant quite literally over the
19 lunch hour, should the Board consider this question?

20 (Board conferring.)

21 CHAIRMAN SMITH: We will adjourn until 1:10.

22 (Whereupon, at 12:10 p.m., the hearing was
23 recessed, to reconvene at 1:10 p.m. the same day.)

24

25

AFTERNOON SESSION

(1:05 p.m.)

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3 CHAIRMAN SMITH: If there are no objections, I
4 made arrangements for the reporter to insert into the
5 transcript the papers filed by the staff this morning, the
6 staff's suggestions, and the Commonwealth's recommendations,
7 so it will be in the transcript.

8 (The documents referred to follow:)

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1 CHAIRMAN SMITH: We are now ready to discuss the
2 staff's suggestions. Before we open item number one to
3 general discussion, I would like to share the Board's
4 thinking about this suggestion, that is, the one that would
5 permit low level operation. It is unlikely that the Board,
6 without a complete record, or a substantially complete
7 record, would adopt such a suggestion, I mean, endorse it
8 and send it to the Commission.

9 We are aware that a similar issue will be pending
10 before the Commission on the Licensee's motion to the
11 Commission to modify the August 9 order. It occurs to us
12 that this is a matter that should go directly before the
13 Commission and not necessarily to the Board. It seems to me
14 it is very closely related.

15 What would be your reaction to that suggestion,
16 Mr. Tourtellotte?

17 MR. TOURTELLOTTE: We have no problem with that.
18 I think maybe as a preface, it would be well if the Board
19 understood exactly what this list of suggestions is or what
20 we have in mind.

21 Basically, the question that was posed by Chairman
22 Ahearne's memorandum was whether there were any actions the
23 Commission could take which would expedite the hearing. And
24 then he listed four items which could be included. So we
25 interpreted it rather broadly, and interpreting the words

1 "Commission could do" or "what actions the Commission could
2 take," we interpreted not only as the Commissioners, but
3 what is it the Commission itself could do.

4 And consequently, the list of things that we came
5 up with included things that the Commission might do, but
6 also some things that the Board might do. Also, the list is
7 not intended to be one that we would suggest every one of
8 these be followed.

9 What we tried to do was come up with different
10 ideas, some of which I think -- some of the ideas might
11 actually exclude the possibility of adopting other ideas.
12 And exactly which ones might be mutually exclusive, I think
13 we could -- we could talk about it.

14 I think the Chairman appropriately pointed out one
15 very difficult situation, and that is how do you have
16 summary disposition when you are having six-day hearings.

17 CHAIRMAN SMITH: And nights.

18 MR. TOURTELLOTTE: And nights, yes.

19 On the other hand, if you are not having -- if
20 that idea is not adopted, perhaps the motion for summary
21 disposition has some merit. Perhaps it does not have any
22 merit. I do not know. Or it is something that the Board
23 might not want to follow.

24 But what we tried to do is come up with as many
25 ideas as we could and put them together, and so that they

1 could be adopted in part, excluded in part, or excluded
2 altogether.

3 CHAIRMAN SMITH: I note that the title of your
4 submittal is "Suggestions," and I guess that is a studied
5 term as compared to "recommendations."

6 MR. TOURTELLOTTE: Yes. We put in a considerable
7 amount of effort and study, and it may interest the Board
8 and the parties. We threw out some ideas, and so if you
9 have difficulty with some of these --

10 CHAIRMAN SMITH: That is a mind-boggling thought.

11 MR. TOURTELLOTTE: Yes, it is.

12 (Laughter.)

13 MR. TOURTELLOTTE: I personally feel -- and I know
14 you want to go down these one by one, and we are certainly
15 willing to do that. I do think that one of the most hopeful
16 items in this is item number 6, which is a fairly new rule
17 that allows the appointment of special masters.

18 And again, we mentioned the possibility of
19 parallel hearings. But we are not unmindful of the fact
20 that that creates a great deal of difficulty for some of the
21 people involved.

22 On the other hand, at the same time, as we point
23 out, if parallel hearings are not allowed, a special master
24 might still be employed, for instance, to take discrete
25 issues such as emergency planning issues and financial

1 issues which the Board has not reached yet and accept
2 evidence on those matters while the Board has retired to
3 consider issues which have come before it already.

4 And also, the second paragraph is still another --
5 still another approach there, which is simply that this
6 Board can through the regulations request assistance from
7 other panel members in analyzing the record and making
8 suggestions on the final decision.

9 So what that amounts to is sort of a way of
10 boosting the manpower of the Board so it can ease the
11 Board's burden and also facilitate the ultimate decision.
12 That is one of those that I favor most heavily.

13 I would say also that last week I was in
14 California and the question was posed to me by the oversight
15 committee, because they seem concerned about the speed of
16 the hearings. And the question was posed to me as to
17 whether any thought had been given to going from 8:00 in the
18 morning until 7:00 at night seven days a week.

19 And I told them that I did not know whether any
20 such consideration had been given or not, but I had
21 participated in proceedings where we had gone six days a
22 week, and of course in somewhat of a different framework.
23 In ordinary courts of law, I have been in court until 2:30
24 in the morning.

25 But when you are on a sustained basis like this,

1 it is very difficult, as I see it, it is very difficult to
2 get everything done that has to be done and be prepared with
3 that kind of an accelerated schedule.

4 Nevertheless, the idea was placed in there because
5 it is an option and it is one which we have used in the past
6 in other cases. There is nothing in here that has -- is
7 purely advantageous. There are advantages and disadvantages
8 to everything in life that we undertake or we fail to
9 undertake, and these are no exception to that general
10 philosophical rule.

11 So with that preface, and given the Board's
12 comments on item number 1, I would offer nothing else on
13 item number 1. We can move on if you like.

14 CHAIRMAN SMITH: I would like to have, however,
15 before we leave item 1 -- do you have a particular
16 recommendation or report to the Board as to how the
17 suggestion can be brought to the Commission's attention? Is
18 it possible that the staff might itself respond to
19 Licensee's motion to modify in such a way in which this
20 suggestion might be incorporated?

21 MR. TOURTELLOTTE: I am not sure that the motion
22 that is currently before the Commission includes or
23 contemplates this sort of a response. And I think more
24 appropriately, if this matter were to be raised with the
25 Commission, I think it would be more appropriately raised by

1 the Licensee through a separate motion for low power
2 testing.

3 CHAIRMAN SMITH: So the most the Board could do
4 would be to say that this is a suggestion and not a
5 recommendation.

6 MR. TOURTELLOTTE: Yes.

7 CHAIRMAN SMITH: Or the staff.

8 MR. TOURTELLOTTE: On the part of the staff, we
9 would -- my understanding was that the Board was not going
10 to recommend it without some further consideration being
11 given. The staff would make this recommendation, and we
12 stated our basis for the recommendation.

13 CHAIRMAN SMITH: That is the recommendation?

14 MR. TOURTELLOTTE: Yes.

15 CHAIRMAN SMITH: Number one?

16 MR. TOURTELLOTTE: Yes.

17 CHAIRMAN SMITH: Well, I think that then this
18 Board, unless the staff is going to do it directly to the
19 Commission, this Board should just simply refer the
20 recommendation to the Commission, together with any -- the
21 basis that you have submitted for it and any other general
22 comments you want to make on it.

23 But what forum do we provide now for addressing
24 the recommendation? This is the problem. I just don't
25 think that today is the appropriate place to have an

1 informed debate on whether this is an appropriate
2 recommendation or not.

3 So I think it might be better if it got to the
4 Commission directly in the form of a motion, where the
5 parties could address it directly there.

6 MR. TOURTELLOTTE: I think one or two things might
7 be appropriate. One is that the Licensee might indicate
8 that they were going to file a motion along these lines,
9 which would essentially moot the matter insofar as the
10 Board's further consideration, that is, that they would file
11 a distinct motion to the Commission to modify their August 9
12 order for low power testing, in which case it would moot it
13 from your consideration.

14 The other thing is that, given your stated
15 position on it, is that the Board could simply state this
16 was a suggestion that was presented to the Board and that
17 the Board chose not to adopt it as a recommendation to the
18 Commission, but passes it on to the Commission for its
19 information.

20 CHAIRMAN SMITH: Are there any comments on
21 suggestion number 1?

22 MR. TROWBRIDGE: Yes, Mr. Chairman. I don't want
23 to spend time debating the pluses and minuses or merits of
24 this. It is in fact a suggestion that is quite in line with
25 Mr. Dieckamp's motion or letter to the Commission. It is

1 half a loaf, but it is a good-sized half loaf. And if
2 adopted by the Commission, it would be -- it would subsume
3 our heat-up request.

4 I do hope the Board would find some way of
5 bringing to the Commission's attention the suggestion -- the
6 suggestion that has been made by the staff. I do not think
7 it is appropriate to leave it to the Licensee to make the
8 suggestion.

9 We have made a broader suggestion which would
10 include this to the Commission, and I do not think I am
11 prepared to suggest cutting down to 5 percent power.

12 CHAIRMAN SMITH: Would you repeat the last
13 phrase?

14 MR. TROWBRIDGE: Yes. I am saying that we have
15 made a request to the Commission in Mr. Dieckamp's December
16 1 letter which would in essence decouple the entire restart,
17 not just 5 percent, but more, from the hearing process.
18 That is, that restart would be, under Mr. Dieckamp's
19 proposal, authorized on the basis of findings by the
20 Director of Nuclear Reactor Regulation and reviewed by the
21 Commission that we had satisfied requirements imposed on
22 other B&W reactors, and those requirements which were laid
23 on Three Mile Island and are peculiar to Three Mile Island.

24 That was fundamentally Mr. Dieckamp's proposal.
25 The hearing would go on, but the restart might take place,

1 in the sense of a lifting of the immediately effective
2 suspension. The restart could go on independently. That as
3 I read this is what the staff is suggesting, but only up to
4 5 percent power.

5 That is, upon a finding by the Director, the 5
6 percent power was okay, we have done what the Director
7 thinks is necessary to operate safely at 5 percent power,
8 that that would be done. The hearing would then continue,
9 independent of that, to consider power operation at higher
10 levels.

11 So what this suggestion is is a part of what we
12 have already suggested to the Commission, and I do not think
13 the suggestion that we now modify our proposal to come down
14 to -- to limit our proposal to 5 percent power, is one that
15 we care to accept.

16 CHAIRMAN SMITH: The problem as I see it is not
17 one of the merits of the proposal in the matter before the
18 Commission. But the problem we are having is, how do we
19 bring to the attention of the Commission that the staff has
20 made this recommendation and afford due process to the
21 Intervenor to fully address the recommendation?

22 I can think of two ways to do it. One is to send
23 it to the Commission with the observation, strong
24 observation, that there has been no opportunity to address
25 the suggestion or give them an opportunity here to address

1 it, and then forward it to the Commission. I favor the
2 former.

3 I do not think that we are prepared to, nor are
4 the parties prepared to, address the suggestion today.

5 MR. TROWBRIDGE: Fine. I am not trying to address
6 the merits of the suggestion today. I am also talking about
7 how does this get to the Commission. I would like it if the
8 staff would forward some supplemental views on how to treat
9 Mr. Dieckamp's letter, with the suggestion, which I think is
10 quite in keeping with that, or whether -- I would also
11 welcome the Board at least drawing to the Commission's
12 attention that this suggestion has been made without
13 comment.

14 But I would also think that -- I did not think Mr.
15 Tourtellotte's suggestion of a third way to get it to the
16 Commission is workable or in keeping with the request we
17 already have before the Commission.

18 CHAIRMAN SMITH: The staff answer to the first
19 letter, the motion letter, Mr. Dieckamp's letter, did not
20 contain any such recommendation of positions. Is that
21 correct, Mr. Tourtellotte?

22 MR. TOURTELLOTTE: Yes.

23 CHAIRMAN SMITH: It had no recommendations, as a
24 matter of fact.

25 MR. TROWBRIDGE: It was not inconsistent with this

1 or with Mr. Dieckamp's request, for that matter, except for
2 the NTOL issue. But it left it right in the Commission's
3 lap, just what to do about Mr. Dieckamp's letter.

4 CHAIRMAN SMITH: Mr. Adler?

5 MR. ADLER: The Commonwealth's substantive
6 position is to oppose this recommendation, for a number of
7 reasons. First of all, the comments --

8 CHAIRMAN SMITH: Well now, are you going to oppose
9 it on the merits?

10 MR. ADLER: I want to state for the record our
11 substantive position, recognizing the Chairman's comments
12 regarding the procedures.

13 CHAIRMAN SMITH: All right.

14 MR. ADLER: First of all, I view the comments on
15 the need for power as being essentially irrelevant before
16 this Board and before the Commission. And the reason that I
17 wanted to state that to this Board as referencing those
18 considerations as being inappropriate for this Board to
19 convey to the Commission in any sense -- if the staff or the
20 Licensee wants to move the Commission to adopt this
21 recommendation, they can include whatever they want in their
22 motion. And the Commission will make their jurisdictional
23 decision.

24 I agree fully with the comments of the Chair that
25 the Board should certainly not make any recommendations to

1 the Commission, absent any opportunity to make a full
2 finding on the factual issues involved.

3 Alternatively, the staff or licensee should be
4 required to file a formal motion to the Commission for this
5 recommendation.

6 CHAIRMAN SMITH: Intervenors?

7 MR. POLLARD: The UCS position is basically in
8 line with the Commonwealth position, that we think that this
9 Board has no basis for ruling on the merits of this
10 recommendation.

11 Furthermore, the option of having this Board
12 forward this to the Commission I would argue against. If
13 the staff wishes to make this proposal, let them do so
14 directly to the Commission. I do not think that, just
15 because the staff writes down something on a piece of paper
16 as a suggestion, that then it is up to this Board to forward
17 it to the Commission. I think the staff ought to do it.

18 What this Board should confine itself to doing is
19 to answering the questions that the Commission asked it,
20 what are the Board's recommendations to the Commission for
21 things that it can do. And as I understand the Chairman's
22 comments, you do not want to get into the arguments on the
23 merits of the staff's proposal. So I will not.

24 CHAIRMAN SMITH: I think it would be a disservice
25 to call upon parties to address the merits.

1 MR. POLLARD: I think I should at least say for
2 the record, I think on the merits the proposal is not a
3 valid proposal.

4 CHAIRMAN SMITH: Mrs. Smith?

5 MS. SMITH: For the record, Newbury Township
6 concurs with the State and UCS. Thank you.

7 CHAIRMAN SMITH: Any other comments?

8 You see, there is a practical problem, and that is
9 whether we forward it to the Commission or not, the
10 Commission will know about the suggestion. And it is a
11 sense of organization and neatness -- it should be, I think,
12 in a logical fashion, and I would not like to see a report
13 which says, the staff made a suggestion but we do not think
14 it is appropriate for us to tell you about it.

15 We want to make a complete report to the
16 Commission and I think it would be a rather foolish report
17 to say, the staff made a suggestion, but we are not going to
18 tell you what it is.

19 However, we will take your comments under
20 advisement.

21 (Board conferring.)

22 CHAIRMAN SMITH: We certainly will not endorse the
23 suggestion. Whether or not we bring it to the attention of
24 the Commission that such a suggestion has been made in the
25 hearing is something we will take under consideration after

1 considering your remarks.

2 MR. POLLARD: May I just inquire, Mr. Chairman, in
3 your conversations with either the Commission or the
4 Chairman of the Atomic Safety and Licensing Board Panel, has
5 the point been raised as to whether or not any of the
6 parties is going to be permitted to comment to the
7 Commission on both the Licensee's and the staff's filings in
8 response to paragraph 2 of the 28th memorandum, as well as
9 to the Board's response to the January 22nd memorandum?

10 CHAIRMAN SMITH: I have had no conversation with
11 any person beyond this Board about the May 28th letter.

12 MR. POLLARD: I am without counsel today. Perhaps
13 you can advise me, and perhaps other Intervenor.
14 Generally, when there is a motion filed before the
15 Commission, all the parties have the opportunity to comment
16 on it; is that not correct?

17 CHAIRMAN SMITH: Yes, right. You are referring to
18 the January 28th letter. I did have a conversation, which I
19 stated in my memorandum and order, upon the January 22nd.
20 You understand that?

21 MR. POLLARD: Yes, I was aware of that.

22 CHAIRMAN SMITH: But I have had no other.

23 No other comments on suggestion number 1?

24 (No response.)

25 CHAIRMAN SMITH: Suggestion number 2, the staff

1 suggests that financial issues might be eliminated from the
2 notice of hearing.

3 Mr. Trowbridge?

4 MR. TROWBRIDGE: Mr. Chairman, it seems to me this
5 falls very much in the category of item 1 in terms of how
6 and whether this suggestion gets reported to the Commission.
7 I myself would welcome divorcing the financial issue from
8 restart.

9 CHAIRMAN SMITH: Is that all?

10 MR. TROWBRIDGE: I think that is all I have to
11 say, Mr. Chairman.

12 CHAIRMAN SMITH: Mr. Adler?

13 MR. ADLER: No, sir, we have no comment.

14 CHAIRMAN SMITH: Intervenors?

15 MS. LOUISE BRADFORD: Mr. Chairman, TYIA would
16 strongly --

17 CHAIRMAN SMITH: Louise Bradford?

18 MS. LOUISE BRADFORD: Yes, it is.

19 We would strongly object to this second item. We
20 feel that, since we have our -- one of our contentions is
21 financial. It has not come before the Board yet. And we do
22 not see how the Board can make a judgment when that item has
23 not been litigated.

24 CHAIRMAN SMITH: Any other Intervenor? Mr.
25 Sholly?

1 MR. SHOLLY: I recall this as being one of the
2 items that was designated as a short-term item in the August
3 9th order, and it seems to me rather extraordinary that the
4 staff at this time would be proposing to amend the
5 Commission's order by dropping this as one of the bases that
6 the Commission ordered the hearing on in the first place.

7 It seems to me that this is one of the fundamental
8 distinctions that distinguishes TMI-1 from other B&W
9 reactors. And now the staff comes to the conclusion that
10 all of a sudden this does not matter any more.

11 I see no basis for that conclusion, other than the
12 bald conclusion sitting there by itself. And I do not think
13 the Board has any basis for passing the recommendation on,
14 nor do I think the Commission has any basis for taking any
15 action on it.

16 It would seem to me rather extraordinary that the
17 staff, if it would choose to, would make a motion to drop
18 this from the hearing order. And I will agree with the
19 observation that something like this should come from the
20 Licensee if it is going to come from anybody, or perhaps an
21 Intervenor, should there be an Intervenor of that
22 persuasion. But I frankly cannot see the staff making this
23 motion or the Board passing it along. It is something that
24 is within the Licensee's domain.

25 CHAIRMAN SMITH: Ms. Gail Bradford?

1 MS. GAIL BRADFORD: The issue of financial
2 qualification is, I think, the only area of the contentions
3 before this hearing that ANGBY does not have any contentions
4 in. But we feel that financial qualifications affect every
5 other contention. If they do not have the finances to go
6 forward with modifications needed in any other area, it
7 certainly affects those other areas.

8 It is just absurd to rule out considering
9 financial qualifications, especially in this hearing.

10 CHAIRMAN SMITH: Any other Intervenor?

11 (No response.)

12 CHAIRMAN SMITH: Any further discussion on this
13 issue?

14 (No response.)

15 CHAIRMAN SMITH: All right. We have considered
16 your recommendation, Mr. Trowbridge, and observation that
17 the remaining items are already within the jurisdiction of
18 the Board. However, they are matters on which the Board,
19 upon staff suggestion, will take under advisement. And for
20 that reason, we think that the parties present should have
21 an opportunity to comment. And it is particularly
22 convenient that they be given the opportunity to comment
23 now, because they were invited here for that purpose.

24 So we will accept comments. They should, however,
25 be brief. Perhaps the Board's own questions might shorten

1 the amount of debate.

2 MR. POLLARD: Mr. Chairman, before we move on to
3 these, could I again then raise my objection -- the comment
4 that I had earlier when I pointed out, before we started
5 discussing ways to expedite the hearing, we ought to first
6 discuss the need to do so. Now, before when I raised this
7 you pointed out to me that you were simply responding to the
8 question of the Commission, and that you felt that the
9 question of when is the plant ready to restart was directed
10 to the staff and Licensee and was not directed to the
11 Board.

12 But now you are going to proceed on to items where
13 the Board might take action to expedite the hearing. And I
14 would ask, before we even begin such a discussion, could we
15 please have some information about the status of the plant,
16 when it will be ready to operate, before we even waste any
17 time deciding whether there is a need to further expedite a
18 hearing which has already been expedited in terms of the
19 procedures we have been following throughout this hearing?

20 CHAIRMAN SMITH: I see no difference in the
21 substance of the proposal you put before us now and the
22 earlier one. And I see no basis for a different ruling.

23 MR. POLLARD: The difference is, you were simply
24 responding to a question from the Commission, what could the
25 Commission do to speed up the hearing, and that the

1 Commission would then put together the two pieces of
2 information, what the Board thought the Commission could do
3 to speed it up together with the information from the staff
4 and the Licensee as to when the plant would be ready to
5 start up, even if the hearing were not expedited.

6 But now we are going to the point where now the
7 Board is thinking of taking action to expedite the hearing.
8 Now, before you decide whether or not the hearing needs to
9 be expedited, I think you need to get information from the
10 staff and the Licensee as to their views as to when the
11 plant would be ready to restart, given the schedule we
12 discussed earlier today.

13 Perhaps there is no need for the Board to even
14 consider any of the other proposals made by the staff.

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1 CHAIRMAN SMITH: Well, there has been an unspoken
2 and spoken factor in this proceeding, beginning with the
3 Commission's Notice of Hearing, that the Board shall take
4 all the steps it can within the Rules of Practice to
5 expedite the proceeding. They even gave us a schedule. So
6 there is a continuing mandate from the Commission as a
7 result of that order to look for ways in which the hearing
8 can be expedited.

9 And, of course, it has been unspoken in the sense
10 that you yourself, I have seen you stay here and engage in
11 cross examination when you should have been home in bed
12 sick. And you have recognized, I believe, that the Board
13 has made efforts to expedite the proceeding and to have it
14 move along at a reasonable pace.

15 Now, the staff has made some suggestions. The
16 Board has already read them. We can't take them out of our
17 minds; we cannot have amnesia on them. They made
18 suggestions to us which we might put into effect. I mean we
19 cannot say that simply because these suggestions are there
20 that we would never use them. That would be the logical
21 extension of your position.

22 MR. POLLARD: I guess basically I can ask a
23 question. Would the Board undertake ways of expediting the
24 hearing if that in no way would expedite restart of the
25 plant? In other words, is there some goal of simply

1 expediting hearing even if that has no effect on Three Mile
2 Island Unit 1?

3 CHAIRMAN SMITH: Let's assume for the purpose of
4 discussion -- and it is simply an assumption, understand it
5 very carefully -- that the chances are 50-50 that at the end
6 of the evidentiary hearing the Board, with or without
7 conditions, might recommend the restart of TMI-1. I pick
8 50-50 as a point of argument. Let's assume that that is the
9 case.

10 If we expedite the hearing and the result comes
11 out we recommend that the plant cannot be restarted, nobody
12 has lost anything. But if at the end of the hearing the
13 evidentiary record establishes that the plant should be
14 restarted, then the Licensee has been deprived of a right to
15 an expedited hearing.

16 So our interest in expediting the hearing in
17 obedience to the Commission's order in no way reflects a
18 relationship between the restart of the hearing except in
19 the manner which I have stated.

20 MR. POLLARD: I think it does affect certainly the
21 Intervenor's. One is that if you assume that you recommended
22 restart at the end and the plant still was not ready to
23 restart because they still had not completed the
24 modifications, then the expedited hearing simply has added a
25 lot of extra burden to the Intervenor's for no useful purpose

1 to the Licensee.

2 CHAIRMAN SMITH: Agreed.

3 MR. POLLARD: That is why I want to know, given
4 our realistic schedule for when the hearing will be over
5 without further expediting, is it necessary to even consider
6 any further expediting?

7 CHAIRMAN SMITH: If it is unnecessary, then all we
8 have lost is a few hours it takes to discuss it. If it is
9 necessary, then it will have been a worthwhile pursuit.

10 Now, there are two closely related ideas, as you
11 have pointed out. It is not, to me, a logical necessity
12 that one comes before the other.

13 MR. POLLARD: Are you saying then that you will
14 consider the information that the staff and the Licensee are
15 going to file with the Commission in response to paragraph 2
16 of the Commission's 28th memo?

17 CHAIRMAN SMITH: If the Licensee should report to
18 us that the plant will not be ready for operation for a
19 long, long time, well beyond the scope of the hearing
20 process anticipated, then certainly we are going to be
21 thinking about that. You know, we are humans, we get tired,
22 too. We are going to be thinking about that.

23 MR. POLLARD: One of the papers we have today, the
24 Licensee has reported they will not be ready for restart
25 until October of 1981.

1 CHAIRMAN SMITH: Under the assumption that the
2 plant could be restarted by October 1981, looking at the
3 schedule which has been provided today, I would think that
4 there would be a need to have a reasonably expedited
5 proceeding. Don't forget, there has to be time provided to
6 write a decision in this case.

7 However, let's go back to the fundamental. These
8 are suggestions which have been made. We know about them
9 already. We cannot eliminate them from consideration simply
10 because they appear on Mr. Tourtellotte's list. And this is
11 your opportunity to address them.

12 As you might have sensed, we were not real happy
13 with all the recommendations ourselves, suggestions.

14 Anything further on that point?

15 (No response)

16 (Board conferring)

17 CHAIRMAN SMITH: Your remarks are well taken, Mr.
18 Pollard. This is why we are here, to provide an open forum
19 for discussing it.

20 MR. POLLARD: I do not have any objection to
21 discussing them. I am more concerned with what the Board is
22 going to do. Are you going to rule in what I would term a
23 "vacuum" with respect to whether or not your decision on
24 whether to expedite or not expedite -- are you going to
25 consider at all the practical effects? Is this going to

1 help at all get the plant restarted?

2 CHAIRMAN SMITH: I think that we are going to have
3 to look at the Licensee's report, but I cannot say that we
4 are going to so very finely weigh the components that are
5 involved and be able to make a precise decision on exactly
6 how much expedition is required. I do not think that is
7 possible. But we will take all the information that is
8 appropriately available to us as we set schedules and as we
9 take into account the suggestions.

10 Ms. Bradford, Ms. Gail Bradford?

11 . GAIL BRADFORD: Sir, I just -- I want to ask
12 -- and I would like your answer for the record -- if we are
13 to consider expediting these hearings just so that the
14 Licensee may not at the end of the hearing, so that we may
15 not end up with a chance that the Licensee has lost
16 something through delays in the hearing, I hope that you
17 will give equal weight -- and I am wondering whether you
18 will give equal weight -- to the consideration that the
19 Intervenor will have lost something through expediting?

20 CHAIRMAN SMITH: I am speaking from the point of
21 view of a judicial officer. In any litigation, a judicial
22 officer must keep his mind open that a party may succeed,
23 prevail, or fail. If, in the abstract, a slow hearing
24 denies the party an opportunity for due process, then you
25 have to take that into account.

1 In any proceeding that is the case. This is
2 standard judicial appraisal. That is why there are
3 provisions in courts for extraordinary relief, such as
4 restraining orders and things like that, because sometimes
5 if relief is denied too long, then it is denied forever.

6 So your point is we are somehow keeping in mind
7 the possibility that the Licensee may be permitted to
8 restart. As judicial officers, would you suggest we do
9 otherwise?

10 MS. GAIL BRADFORD: No, sir. What I am suggesting
11 is that I understand your point that a slow hearing may
12 damage the Licensee's rights.

13 CHAIRMAN SMITH: Or anybody's rights.

14 MS. GAIL BRADFORD: And what I am suggesting is
15 that a hearing accelerated beyond what we are doing now may
16 damage the Intervenor's rights. And I am wondering whether
17 you wish to comment, and I would like you to comment, as to
18 whether you are giving equal weight to that.

19 CHAIRMAN SMITH: Indeed, the limiting factor, the
20 controlling factor of any expedition is a careful and
21 complete evidentiary record, including, of course, the
22 contentions and the interests of the Intervenor. That is
23 the controlling factor.

24 MS. GAIL BRADFORD: Thank you, sir.

25 CHAIRMAN SMITH: No expedition would ever exceed

1 that.

2 (Board conferring)

3 CHAIRMAN SMITH: And in fairness to the parties, I
4 might add is there any further preliminary comments until we
5 get to number 3?

6 MR. TROWBRIDGE: Mr. Chairman, one-minute
7 comment. As the discussion has proceeded on the assumption
8 that there is an interest in expediting, if the Board
9 decides in favor of restart, I would suggest to you that
10 there is every bit as much need, and perhaps more need, for
11 expedition. Should the Board decide against restart, we
12 then have two choices: one, to correct what the Board finds
13 to be inadequate or to appeal the Board's decision. Either
14 of those is going to be a very long process. And if we are
15 going to be denied restart, the sooner we know it, the more
16 important it is to us.

17 CHAIRMAN SMITH: Okay. That certainly was an
18 oversight. And I appreciate the correction.

19 Now, on Item Number 3, they have a suggestion
20 concerning the scheduling of witnesses. I see some problems
21 with it. It anticipates a scheduling process, which we have
22 not been able to achieve so far in this case. Because of
23 the availability and nonavailability of witnesses and being
24 unable to anticipate in advance the length of cross
25 examination and Board questioning and other problems, we

1 have not been able to project a very precise long-term
2 schedule.

3 I think we have done a fairly good job of
4 identifying what is going to be done in any one given week.
5 But sometimes, as you know, staff witnesses are not
6 available and Licensee's witnesses are not available, and
7 the issues will go over from one week to the next.

8 I really do not know how to implement, even if we
9 thought we should, to implement the scheduling portions of
10 it. I do believe that we have complied with portions of the
11 recommendation -- Number B, for example, Intervenor's be
12 immediately required to specify which Contentions they
13 intend to participate and whether participation be by direct
14 testimony or cross examination.

15 I think we have complied in large part with that.
16 If we have not -- if you are aware -- this relates to your
17 default suggestion to -- if you are aware of where we have
18 -- you believe there is going to be a default in Contentions
19 and we have not made the necessary inquiry, I think you
20 should bring it to our attention.

21 As far as whether they participate by direct
22 testimony or cross examination, I thought that we had
23 probably taken care of that by the provisions for the filing
24 of direct testimony in advance of the appearance of the
25 witnesses when the matter is scheduled to be heard.

1 But we certainly would welcome you to bring to our
2 attention where we have failed. If you have any
3 recommendations where we have not accomplished the purpose
4 of that recommendation or any --

5 MR. TOURTELLOTTE: Yes, I think it would be more
6 appropriate to make a thorough examination. One that is
7 most immediate to my mind is CEA. And CEA has a financial
8 contention, and they indicated that they wanted to get out
9 but they were not sure they were going to get out. And they
10 never attend any of the meetings.

11 And it just seems to me like we ought to set a
12 date early, because we are having to commit staff resources
13 that may take us absolutely nowhere. It may be a matter
14 that the Board is interested in or is not interested in. We
15 do not know right now. And we would prefer not to commit
16 the resources.

17 And as far as we are concerned, I would -- if it
18 is necessary, we will file a motion to hold them in default
19 and exclude them from the proceeding. But that is one, that
20 is the only one that I can think of that comes to my mind.

21 CHAIRMAN SMITH: You picked one where we have
22 already addressed that very subject matter. And the Board
23 did in fact do what you proposed. Upon receiving indication
24 from CEA that it did not intend to provide responses to
25 discovery and to specify and to pursue the Contention, we

1 dismissed it. However, we also adopted portions of it as
2 Board questions.

3 Now, I think it would be a perfectly appropriate
4 motion for you to make in any given instance where you have
5 reason to believe that a Contention has been abandoned, that
6 the Board clarify whether it has been abandoned or not and
7 determine what the Intervenor's intentions are.

8 I agree with you there is no reason why we should
9 all meet here on a particular day to have testimony and have
10 the Intervenor not show up, as has happened in some
11 instances. I agree with you.

12 I just want you to point out if you think we have
13 failed along that line, would you please point out where it
14 is and bring it to our attention?

15 MR. TOURTELLOTTE: There are so many issues in
16 this case and they are so difficult to keep up with, it
17 could well be that the staff has overlooked some of these
18 things as well. And we will go back and try and review as
19 much as we can review, and then come forward with a more
20 specific set of Contentions if we feel we need to have them
21 clarified.

22 CHAIRMAN SMITH: Yes. Also, I would like to bring
23 it to your attention that we did do exactly that with
24 respect to management issues at a meeting where we inquired
25 of every Intervenor who had management issues if they

1 intended to be present and pursue the Contention. And we
2 have also dismissed by default quite a few Contentions of
3 the Environmental Coalition on Nuclear Power. And we are
4 prepared to give fair attention to any other recommendations
5 or motions.

6 MR. TOURTELLOTTE: Along those lines, there is one
7 area, in management, I think -- it has to do with health
8 physics -- where there is an indication that perhaps the
9 Board wants to hear health physics. But we are not sure why
10 the Board wants to hear health physics. Why is there a
11 serious safety question that is involved here? I am not
12 really sure.

13 And whatever the serious safety question is, we
14 would like to address it as the Board sees it rather than as
15 the Contention might have envisioned it.

16 CHAIRMAN SMITH: I think it is appropriate anytime
17 for you to express questions to the Board asking their view
18 why they pick an issue, when we adopt one, why we think it
19 is important and how it should be pursued. That is very
20 important, and it is very welcome.

21 We don't want to stop now to address this one in
22 particular, but we will answer it as well as we can.

23 Are there any more comments on Item 3?

24 MR. ADLER: Yes, Mr. Chairman.

25 CHAIRMAN SMITH: Mr. Adler.

1 MR. ADLER: Item 3C and Item 3D on page 5. We
2 have functioned so far in the proceeding with the parties
3 filing cross-examination plans anytime up until the
4 witnesses appear. And I believe that has functioned
5 adequately.

6 I think that the five-day rule would be somewhat
7 unreasonable and extremely difficult to comply with.
8 Particularly Item D as it relates to Item C, which would
9 disqualify an Intervenor or any other party who does not
10 file a cross-examination plan at least five days prior to
11 the hearing on a scheduled issue, would be excessive.

12 It has been very difficult for us to predict when
13 a particular issue will come to hearing.

14 CHAIRMAN SMITH: Yes. And I guess we are in the
15 unique position of being the only participants who have seen
16 all of the cross-examination plans. And it is our -- my
17 impression, and I think it is my colleagues' impression --
18 that having the cross-examination plans just before the
19 appearance of the witness has been adequate. It gives us
20 enough time to understand the nature of it and to follow
21 it.

22 So that has been adequate, and I do not think that
23 we should impose any requirements that do not serve an
24 identifiable useful purpose.

25 All right, now, motions for summary disposition.

1 This is the one that -- oh, Ms. Bradford.

2 MS. GAIL BRADFORD: Just an additional comment on
3 Item 3 from the staff. In a number of cases, we have only
4 received testimony a matter of days or hours before we have
5 had to listen to the witness, before the witness was
6 available. And it has really been a burden, and I do not
7 see anything in here -- well, what I see is in the process
8 of accelerating the hearing, that situation is only going to
9 get worse.

10 CHAIRMAN SMITH: You are saying you have not had
11 enough advanced time to have written testimony to prepare a
12 cross-examination plan.

13 MS. GAIL BRADFORD: I have not had sufficient time
14 to review the testimony. I, of course, have to consult with
15 other people about technical issues. And I simply have not
16 had enough time to do that already. And I do not see any
17 protection offered here.

18 And I see it going in the other direction, that
19 perhaps this situation of not having enough time between
20 seeing the testimony and confronting the witness -- I see
21 that will only get worse. And this idea of the staff's to
22 have us file cross-examination plans five days in advance is
23 ridiculous.

24 CHAIRMAN SMITH: We have pretty well discarded
25 that idea.

1 MS. GAIL BRADFORD: Well, I think it would
2 actually expedite the hearings to allow a little more time,
3 you know, say, at least several days when we are not doing
4 something else, if you could -- I don't know how to phrase
5 that.

6 CHAIRMAN SMITH: We are very sympathetic to your
7 problem.

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1 MS. GAIL BRADFORD: You get it worse, you know.

2 CHAIRMAN SMITH: You come here with selected
3 issues and you have -- you say you have difficulty
4 preparing. But we have to be prepared on every issue, and
5 we do it. It is hard, but we do it. And we will have to
6 call upon you to work hard, too.

7 I have not seen -- you will have to bring up the
8 instances. I have no particular memory of that being
9 difficult.

10 MS. GAIL BRADFORD: It seems to me the Licensee's
11 testimony on Class 9 arrived very late.

12 CHAIRMAN SMITH: I think that is a good example,
13 and we had to work very hard to catch up.

14 MS. GAIL BRADFORD: Intervenor's are in a position
15 of not just listening to the evidence, but also --

16 CHAIRMAN SMITH: You raise a good question. Now,
17 you are probably referring to the Licensee's witness on
18 Class 9, and you had one question in cross-examination and
19 then you left the hearing room and you were not there. And
20 you know, we prepared and we followed the whole testimony
21 and we asked many questions on it. But you came in with one
22 question and did not even remain for the remainder of the
23 testimony.

24 And we observed in the record at that time that it
25 was very closely related to the subject matter of Beyea's.

1 We have to do the best that can be done, and if we should
2 see that direct testimony is of such a complex nature and so
3 long that it is filed too soon before the appearance of the
4 witness that a reasonable effort for preparation will not
5 allow adequate preparation, then we will listen to motions,
6 listen to complaints, and try to observe it ourselves.

7 But we have not seen it so far.

8 MS. GAIL BRADFORD: Sir, I was not able -- in that
9 case, I was not able to contact Dr. Beyea about that
10 testimony.

11 CHAIRMAN SMITH: You were not even here.

12 MS. GAIL BRADFORD: No, sir. I received the
13 testimony on Friday and the testimony was entered into the
14 record on Tuesday. And during that time I was not able to
15 consult with the person that I consult, because it was just
16 too short.

17 CHAIRMAN SMITH: The scheduling -- we have done
18 the best we can to give as much notice of what the
19 scheduling is going to be. The timing of the Class 9 had
20 been made known far in advance.

21 It would have been hard work for you to master
22 it. I understand that. I appreciate it. But hard work is
23 required.

24 Now, if you have anything new to add to your
25 point, go ahead. I think the ruling that we made --

1 MS. GAIL BRADFORD: Just that I think it would
2 actually expedite achieving clarity in the hearing if there
3 were more -- a better schedule for putting in testimony in
4 advance, so that there really is adequate opportunity to
5 examine it.

6 CHAIRMAN SMITH: For example, when you fail to
7 cross-examine and the testimony continues the entire next
8 day, how can we schedule? How do we know? When you first
9 appeared, I assumed you were here for the purpose of
10 meaningful cross-examination. But you are not adding
11 anything.

12 MS. GAIL BRADFORD: I left at 5:30.

13 CHAIRMAN SMITH: You did not come the next day.
14 Ms. Bradford, I do not think we have to get into particular
15 details. But you identify reasonably how you, with diligent
16 effort, can not have prepared for cross-examination and we
17 will take it under advisement and see what relief should be
18 afforded.

19 I have not identified -- it was hard work to get
20 ready for that one, I will admit that. It took us -- we had
21 to work hard. It would have been better if there had been
22 more time. But we did it.

23 Now, do you have any other comments?

24 (No response.)

25 We are talking about Salomon Levy's testimony,

1 aren't we? Yes.

2 Do you have any more comments? Anything else on
3 item number 3? You are looking like you are going to make a
4 comment, but you are not making any, Ms. Bradford.

5 MS. GAIL BRADFORD: Well, I do have more comments
6 about that situation.

7 CHAIRMAN SMITH: Anything different? Anything
8 new? You are welcome to do it.

9 (Board conferring.)

10 CHAIRMAN SMITH: Mr. Pollard, maybe it would be
11 more efficient if you just submitted your ideas right to the
12 Board.

13 MR. POLLARD: I was just trying to help her
14 understand your --

15 CHAIRMAN SMITH: Okay, I see. Thank you.

16 The ruling is now -- don't repeat. I understand
17 the point that you make.

18 MS. GAIL BRADFORD: I have another point and I
19 just -- I think it is kind of lengthy, and I do not want to
20 hold up everybody for my point about the Class 9 testimony.
21 And I find that I would like to address that further, but I
22 just do not want to do it now.

23 CHAIRMAN SMITH: All right, very good.

24 Now, unless there are more comments on 3, let's
25 move on to 4, motions for summary disposition through the

1 hearing. My experience as a presiding officer is that, from
2 my point of view, fact for fact, issue for issue, a motion
3 for summary disposition requires more time and more work on
4 our part relative to the factual issues than hearing it,
5 than deciding it.

6 My impression would be that it might occupy more
7 Board time. It might save witness time. And that is the
8 balancing that we have to make.

9 The difficulty is that you have a finite amount of
10 Board time and witness time seems to have some flexibility.
11 But I welcome comments on that.

12 MR. TROWBRIDGE: Mr. Chairman, I am generally not
13 an enthusiast for summary disposition. So you can take that
14 into account, largely because I think more time and more
15 effort is expended by the parties, by the Board, in
16 disposition, which frequently does not result in the
17 disposition anyhow.

18 In particular, where the suggestion is made that
19 it would be most useful to apply summary disposition to
20 those contentions which have been abandoned by Intervenor,
21 but retained as issues by the Board, I see very little time
22 to be gained. If in fact we prepare testimony instead of a
23 summary disposition request, and the Board is happy with the
24 testimony, the presentation of the testimony and the asking
25 of Board questions is essentially zero in time. And I would

1 just as soon prepare testimony and not run the risk that the
2 motion for summary disposition does not come up because the
3 Board still has a question.

4 CHAIRMAN SMITH: We might take this under
5 consideration. If there is an issue in which a party
6 believes that there is truly no genuine issue of fact, then
7 first I would suggest that a party contact its adversaries
8 and determine if an agreement can be made on it. But if you
9 believe that there is an issue that could be handled in this
10 fashion and not be disruptive, well, you might consider it.

11 But you would have to understand, the Board might
12 very well say, we just don't want to stop the hearing to
13 rule upon it because of the scheduling that is going on,
14 because of other considerations, so it might be a wasted
15 effort.

16 So I think if you were to select your issue
17 carefully, it might have benefits outweighing the
18 disadvantages. But it would have to be selected carefully.

19 Any comments on that? That would also involve
20 perhaps having an Intervenor involved in the hearing try to
21 prepare a response to a motion for summary disposition at
22 the same time that that party's presence at the hearing is
23 required.

24 Are there any comments on that?

25 (No response.)

1 CHAIRMAN SMITH: Moving on to six days a week and
2 evenings for hearings, I think I would like to have Mr.
3 Pollard lead off the discussion of that. Perhaps he can
4 share some of his experiences with us during -- I realize
5 you are done, and you might have -- you finished your
6 ordeal, but you might have lost some objectivity --
7 subjectivity.

8 MR. POLLARD: I wish I was as sure as the Chairman
9 that we were done, because as I understand it we still have
10 some design issues remaining.

11 But my experience in simply the way the hearing
12 has been run until now, running three and a half days, it
13 was almost more than I and Ms. Weiss could carry. It is
14 simply not possible, from an Intervenor's point of view,
15 operating with very few resources, to be able to
16 simultaneously prepare direct testimony, prepare
17 cross-examination, conduct the cross-examination, five
18 seconds later having to take the stand and present your own
19 direct testimony, be subject to cross-examination, and then
20 reverse your role and start all over again.

21 Of course, we had the additional burden of a
22 two-hour car ride back and forth to Washington, which was
23 not that significant. But what we needed more was the time
24 in the office to prepare for the next issue. And I just
25 think it is a totally ludicrous suggestion that in this

1 particular proceeding we be able to run six days a week.
2 much less evenings.

3 I think that -- in fact, my observation of the
4 Board and the other parties is that they also were having
5 some difficulty keeping up with their three and a half day
6 schedule. But I know we could not have done a six-day
7 schedule and we barely succeeded in doing the three and a
8 half days.

9 CHAIRMAN SMITH: Mr. Adler?

10 MR. ADLER: I agree.

11 (Laughter.)

12 CHAIRMAN SMITH: Mr. Trowbridge?

13 MR. TOURTELLOTTE: Mr. Chairman, I do not think I
14 would care to test the stamina of the Board any more than it
15 is already tested.

16 CHAIRMAN SMITH: Yes. The thing that the
17 suggestion does not take into account is that in NRC
18 proceedings the testimony begins with the written direct
19 testimony, not with the presence of the witness on the
20 stand. And for the Board and the parties to have an
21 opportunity to understand the cross-examination, we have, of
22 course, to read and understand the direct testimony.

23 This schedule would not provide for that, nor does
24 it provide for any other of the aspects of maintaining a
25 hearing schedule and haircuts, even.

1 (Laughter.)

2 CHAIRMAN SMITH: I think it is just -- it might be
3 possible for a week or two weeks. But in the many months
4 that this proceeding has lasted and is going to last, I do
5 not think it is close enough to be realistic to even use it
6 as a starting point for discussion.

7 I invite any other comments on it.

8 (No response.)

9 CHAIRMAN SMITH: We will constantly take under
10 advisement a motion at any particular time, any particular
11 week or session, to go late, to go extra sessions. We have
12 done it many times. We spent many evenings here.

13 When you mention a three and a half day hearing
14 week, as you have, as I read in the trade press, I would not
15 want to have to put in such days and still be given credit
16 for three and a half days. I mean, we have put in more
17 hours than your comment suggests, Mr. Tourtellotte. And the
18 only time we have failed to do that is when the staff or the
19 Licensee has failed to present witnesses as scheduled.

20 Mr. Tourtellotte?

21 MR. TOURTELLOTTE: I hope that nowhere in there
22 does it suggest that the Board has not put in -- the Board
23 or the parties have not put in the time, because I think all
24 of us who have been here know that we have given up holidays
25 and, as the Board points out, we have gone in the evenings

1 several times until 6:00 or 7:00 o'clock.

2 And there are obvious -- I mean, the obvious
3 advantage of doing that is that in terms of total time
4 during a given week, why, you are going to hear a great deal
5 more and compile more of a transcript. The down side of it
6 pretty much is as Mr. Pollard has explained: It is very
7 difficult to prepare for a case simultaneously with going to
8 hearings six days a week. And the consideration
9 particularly of going in the evenings sometimes, it is not
10 without disadvantages.

11 However, I would point out that in one proceeding
12 I was in for three months we did this only three weeks per
13 month, and we had a one-week break. But the one-week breaks
14 were not to recover from the six days a week, although that
15 is what I used it for mostly. But they were necessary
16 breaks because of the other commitments of the Board.

17 And it is a very exhausting thing. I know when I
18 was asked the question out in California last week, I said,
19 yes, it can be done, but you have to remember that this is a
20 very complex and very long hearing. It can only be done so
21 long as the health of the parties hold out. And it is a
22 very difficult and taxing thing.

23 I think it is a perfectly reasonable approach of
24 the Board to suggest that if there are times and places in
25 the proceeding where we might reap some benefit that

1 outweighs the burdens by extending the proceeding, that I
2 think that is the time and place to do it. Nevertheless, I
3 felt compelled at least to suggest that this is an idea, and
4 it is one that has been used and one that is possible to be
5 implemented perhaps, if only from time to time.

6 CHAIRMAN SMITH: I appreciate your balanced
7 explanation of this suggestion.

8 I would like to also comment, however, that in my
9 view it is not only the physical limitations of the Board
10 and the parties, but given very strong health and very
11 strong energy and everything else, it is not possible to
12 read the papers that we have to read to prepare for hearings
13 in any schedule like this. I mean, just the reading time is
14 important.

15 I am not familiar with the hearing to which you
16 refer. But I know in this hearing and the issues in this
17 case that it would not have been possible to maintain a
18 schedule like that and know anything about the testimony
19 when it is presented.

20 And I think we have a direct mandate by the
21 Commission regulation, by law and by the order of this
22 hearing, to thoroughly understand the issues, because our
23 decision will have to depend upon our understanding of the
24 issues.

25 DR. JORDAN: I think perhaps Mr. Pollard was

1 looking at me. I'm sure he was, as a matter of fact. And I
2 find that it is -- I just always feel covered, that I do not
3 have enough time. It is not just a matter of reading the
4 testimony; it is a matter of understanding it, of going to
5 other sources, doing the best you can with it. And still
6 there is never enough time.

7 So I just do not see how we could go any further.

8 CHAIRMAN SMITH: The use of special master -- is
9 there any more comment on the hearing time?

10 (No response.)

11 CHAIRMAN SMITH: Use of special masters. I have
12 no particular observation about that. It is a new process
13 that has been used in the past on procedural matters at the
14 Commission, on privilege, for example. We have used a
15 portion of new rule 2.722, where we have a panel member come
16 to the hearing and recommend to Dr. Jordan and the Board
17 areas that the Board might inquire into before witnesses
18 appeared. So we have used that.

19 We have not identified any issue which we felt
20 that the special master provision would be appropriate or
21 efficient. But we welcome comments on that point.

22 MR. TOURTELLOTTE: Mr. Chairman, incidentally,
23 that citation at the outset should be 2.722(a)(2), rather
24 than (a)(1).

25 CHAIRMAN SMITH: Mr. Trowbridge?

1 MR. TROWBRIDGE: Mr. Chairman, I had earlier given
2 some thought to the possibility of using the special master
3 provision, particularly in connection with financial
4 qualifications. Financial qualifications tend to be, by the
5 nature of the people who understand it and -- it is rather
6 complicated.

7 You get source and application of funds tables and
8 lots of footnotes, and it is possible to go through those.
9 It takes a long time, and to distill them into fairly
10 discrete factual findings.

11 But in this case, I note to begin with, under the
12 Commission's regulations, as was said in Mr. Tourtellotte's
13 memorandum here, the use of a master to take testimony is
14 permitted by the regulations only where no party objects.
15 That is rather a bit of deterrent, to my thinking,
16 particularly as we face this situation.

17 I think, where there could be a master's
18 proceeding going on at the same time as the hearing process,
19 I personally think that some of the Intervenor concerns over
20 having to double up in preparation for an issue, preparation
21 of findings, I think those things could be accommodated. It
22 would take extra work.

23 But it is true, you cannot be in two places at the
24 same time. So I had not -- also, the special master
25 proceeding here does contemplate a master's session, a

1 report by the master, the Board consideration of it. I am
2 not at all sure, but --

3 CHAIRMAN SMITH: And an opportunity to address the
4 report, too.

5 MR. TROWBRIDGE: Yes.

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1 MR. TROWBRIDGE: Yes.

2 CHAIRMAN SMITH: Mr. Adler.

3 MR. ADLER: This suggestion, of course, presumes
4 that all parties have more than one counsel, which -- well,
5 in fact, many of the parties have no counsel, and in fact
6 the only issues where we would not object to it would be on
7 the financial issues where we have indicated that we will
8 not participate.

9 CHAIRMAN SMITH: Any further comments on that? I
10 don't encourage comment, because absent the context of a
11 particular situation the recommendation does not have --

12 MR. POLLARD: The only comment I was going to
13 make, Mr. Chairman, is looking back at the Commission's
14 memorandum of January 22, where they want -- they suggest
15 that perhaps the Commission could decide some open issues.
16 So rather -- why couldn't the special master be the
17 Commission, which really wouldn't be that same regulation?
18 But my point being why couldn't the Commission hear some of
19 these issues?

20 It would not necessarily mean that you would have
21 concurrent hearings. This Board could finish up with what
22 issues it was going to hear, retire, starting doing the
23 proposed findings. In the meantime, the Commission could
24 then conduct the hearing perhaps on financial qualifications
25 or some other area.

1 UCS does not have any further suggestions. I just
2 make the short comment to you that it seems to me here is a
3 place where the Commission might actually be able to do
4 something that would expedite the hearing. But it also
5 might be possible to work it out such that it is not a
6 burden on the Intervenor, because we could have finished
7 one area, then the Board could start working on its decision
8 on the issues it has, and let the Commission pick up on the
9 rest.

10 CHAIRMAN SMITH: Thank you.

11 Anything further on this point?

12 (No response)

13 CHAIRMAN SMITH: Now, Item Number 7 is Licensing
14 Board action to number of witnesses. I think that this is
15 the first time that we have had presentations which would be
16 subject to a challenge of being too many. I think in the
17 past the particular Contentions and the issues have been
18 represented by a single panel or a single witness.

19 Do you have, other than the management issues, do
20 you have any issues in mind where you felt that would have
21 been appropriate relief, Mr. Tourtellotte?

22 MR. TOURTELLOTTE: No.

23 CHAIRMAN SMITH: So this is the one you have in
24 mind? It would eliminate some of these?

25 MR. TOURTELLOTTE: Yes.

1 CHAIRMAN SMITH: I think that this is a matter
2 that we should put directly then to the Commonwealth and the
3 Intervenor.

4 MR. TROWBRIDGE: Do we get a chance to comment on
5 it, Mr. Chairman?

6 CHAIRMAN SMITH: Yes, sir. But I think that --

7 MR. TROWBRIDGE: I would remind you, first of all,
8 that there was a March 6th Commission order. It specified a
9 large number of questions which this Board -- testimony has
10 been fashioned around those individual pieces of testimony
11 for the questions. And we have tried to present people who
12 could answer the questions. If it took two different people
13 to answer two different aspects of the question, then that
14 is what we did. On earlier plant design, we had the wrong
15 person on the stand at the time the Board was interested in
16 answers.

17 I also remind the Board that it was quite
18 deliberate on our part to produce a rather large number of
19 personnel from GPU. And I think the Board expressed
20 interest in seeing a substantial number of GPU management
21 personnel.

22 CHAIRMAN SMITH: What we said was: Are we going
23 to be able to see some of these people here?

24 MR. TROWBRIDGE: And I indicated at that time I
25 thought you would see most of the top management of GPU

1 Nuclear.

2 CHAIRMAN SMITH: Yes.

3 MR. TROWBRIDGE: And this was deliberate on the
4 part of -- enabling the Board to make a decision on the
5 management capabilities of the company.

6 Also, I would make this point: It is not --
7 introducing a witness and introducing his testimony does not
8 take very long. What does take long is cross examination
9 and Board interest in the testimony. If the Board has an
10 interest in the testimony, then we ought to spend the time.
11 But it is not numbers, pieces of testimony, or numbers of
12 witnesses that count.

13 CHAIRMAN SMITH: I think that is a good
14 observation here on this particular issue. The testimony
15 has been prepared, and the amount of attention paid to the
16 witnesses can be reflected in the interest in their
17 testimony.

18 Mr. Adler?

19 MR. ADLER: We feel that the management issues are
20 very important, and we believe that the amount of attention
21 given to management issues by Licensee is fully appropriate,
22 in light of the broad inquiry of the Commission's March 6,
23 1930 order. We agree with Licensee's position that it is
24 very desirable to show the Board a large number of
25 Licensee's top management officials.

1 CHAIRMAN SMITH: All right. We have not had an
2 opportunity to examine all the management testimony
3 submitted. Some came in last Friday, or was actually given
4 this morning. And then we have five -- four -- items we
5 have not seen.

6 There is no testimony I have seen that I regard as
7 superfluous. As a matter of fact, when we begin the
8 management section, which I hope will be in a few moments,
9 we are going to bring to your attention an area where we
10 feel additional witnesses should be presented.

11 With that observation -- Mr. Adler?

12 MR. ADLER: I just wanted to add that management
13 competence is probably the issue that is most unique to this
14 proceeding vis-a-vis other operating reactors around the
15 country. And that is the primary reason that we feel it is
16 one of the more critical issues before this Board.

17 CHAIRMAN SMITH: Yes. Thank you.

18 In view of those remarks, Ms. Smith, I think you
19 are already winning on this issue, so --

20 MS. SMITH: Okay. I would like to reiterate we
21 feel evacuation is equally important. Thank you.

22 DR. LITTLE: I just wanted to agree with Mr.
23 Trowbridge that we have wasted more time trying to get
24 information out of somebody who did not have than we have in
25 any other single way.

1 CHAIRMAN SMITH: Filing of proposed findings upon
2 completion of a major issue area, I think that has been very
3 well discussed this morning, except that I am reminded that
4 I think that the staff may have -- the staff memory of the
5 background of this is not in full harmony with the Board's
6 memory.

7 The introductory statement is: "Although the
8 staff and Licensing Board have proposed the filing of
9 proposed findings upon the completion of a major issue area,
10 the Licensing Board has not ruled on the suggestion."

11 We could do this in stages, and, in particular, we are
12 waiting for that report which I think may have been made
13 this morning, but there is still a part of it which has not
14 been provided. And that is the report upon our request that
15 there be consideration given to procedural proposed findings
16 being submitted in agreed-upon form.

17 MR. TROWBRIDGE: Mr. Chairman, one of my opening
18 statements makes reference to those procedural findings. We
19 are, in fact, working with the staff to try to see whether
20 we can come up with joint procedural findings.

21 CHAIRMAN SMITH: Mr. Tourtellotte, if we have
22 overlooked a pending proposal or motion from the staff to
23 the Board on that subject matter, I would welcome --

24 MR. TROWBRIDGE: There is, Mr. Chairman. Remember
25 the May 1-June 1 dates?

1 CHAIRMAN SMITH: Oh, yes, right. But --

2 MR. TROWBRIDGE: That is a specific proposal made
3 to the Board.

4 MR. TOURTELLOTTE: That is what I was referring
5 to. I was not making a general reference, but the reference
6 to the piece of paper which is filed almost simultaneously
7 with what we have here.

8 CHAIRMAN SMITH: At the time it was filed it was
9 on the face of it not ripe for fuling.

10 MR. TOURTELLOTTE: Correct.

11 CHAIRMAN SMITH: All right. I think we have
12 discussed --

13 MR. TOURTELLOTTE: Fine.

14 CHAIRMAN SMITH: Mr. Tourtellotte?

15 MR. TOURTELLOTTE: I was going to be repetitive,
16 so I won't.

17 CHAIRMAN SMITH: All right. Proposed findings be
18 submitted in the form of oral closing arguments. Is there
19 any sentiment for that approach?

20 MR. TROWBRIDGE: None for here.

21 (Laughter.)

22 MR. POLLARD: Strong opposition.

23 MR. SHOLLY: Here, here.

24 CHAIRMAN SMITH: Further limitations be placed on
25 cross examination?

1 MS. GAIL BRADFORD: I would like to comment on
2 that.

3 CHAIRMAN SMITH: I was just trying to refresh my
4 memory. Okay. It has been my practice -- I like to talk
5 first and last.

6 (Laughter.)

7 I have not heard any objections to the length of
8 cross examination in this proceeding. We have upon occasion
9 made recommendations that cross examination was not being
10 productive and should be on particular issues. The parties
11 are free to move to curtail cross examination when it
12 doesn't meet the standards of the Commission's rules, when
13 it is no longer being productive.

14 We would benefit from your instruction, Mr.
15 Tourtellotte, where we have failed to properly limit
16 cross-examination in the past.

17 MR. TOURTELLOTTE: It is very difficult to know.
18 The Board indicates you had cross-examination plans, and it
19 may be some of the cross examination was directed towards a
20 legitimate end. And since we do not know what those ends
21 were, why, we cannot take exception to that.

22 CHAIRMAN SMITH: You have had a representative of
23 the staff present at all the testimony.

24 MR. TOURTELLOTTE: We try to be fairly patient.
25 There is a great deal of cross examination that, in

1 retrospect, we just believed did not start anywhere and did
2 not go anywhere. That is not to say that it is
3 objectionable cross examination, because it may have been
4 directed towards a legitimate end consistent with the plan
5 filed with the Board. And to the extent that that sort of
6 thing can be guarded against, I am certain the Board will do
7 it.

8 CHAIRMAN SMITH: Yes. And I think that all the
9 parties should be encouraged to bring to our attention if
10 the purpose of cross examination is not apparent or if it
11 has become unnecessary, you bring it to our attention so that
12 we can make rulings.

13 Anything further?

14 MR. TOURTELLOTTE: I agree with that, too.

15 CHAIRMAN SMITH: Ms. Bradford.

16 MS. GAIL BRADFORD: Sir, as the Board knows, I am
17 inexperienced in cross examining, and I frequently have
18 trouble just -- well, I think that the witness just does not
19 answer the question. I think that the Class 9 testimony,
20 Mr. Levy's, was an example of a witness just refusing to be
21 clear on the answer.

22 CHAIRMAN SMITH: Did you have difficulty getting
23 an answer from Mr. Levy? We were available to assist you.
24 However, I think, when it was all done, you got the answer
25 that you were seeking.

1 MS. GAIL BRADFORD: I don't think I did.

2 CHAIRMAN SMITH: You feel free to call on the
3 Board for help if you feel the answers are not responsive.
4 And I think that we have made this point before. You may or
5 may not have been present, but we have advised pro se
6 Intervenorors that they are entitled to accurate, responsive
7 answers to appropriate questions. And if you are not
8 receiving them, you bring to the Board's attention and we
9 will assist you. That is your right.

10 MS. GAIL BRADFORD: If you look at the end of the
11 transcripts -- I do not receive transcripts; I have never
12 seen the transcripts. But if you look at the end of the
13 transcript, you asked me whether I was satisfied that he
14 answered my question, and I said I was not satisfied. But
15 then there was a comment from Mr. Cutchin that my cross
16 examination was argumentative and repetitive and that he had
17 had about enough of it. And I felt harassed and
18 intimidated. And I really could not continue it and get an
19 answer to my cross examination questions.

20 DR. LITTLE: Sometimes the answer is the witness
21 cannot answer it. And so you have to --

22 MS. GAIL BRADFORD: I understand that.

23 CHAIRMAN SMITH: You convinced the Board that he
24 could not answer your question.

25 MS. GAIL BRADFORD: I wanted to go beyond that and

1 the process of getting that far --

2 CHAIRMAN SMITH: There are limits --

3 MS. GAIL BRADFORD: -- precluded me from going
4 further.

5 CHAIRMAN SMITH: There are limits to how far the
6 Board can go and still assist the parties in cross
7 examination. One place we can go is to be assured that you
8 get as full a response to the question that you have,
9 appropriate question, that the witness is able to give.

10 And if that -- I know that we have made this clear
11 before, and I will make it clear again. If you do not feel
12 that you are getting the cooperation from the witness, if
13 you think you are getting evasive answers or nonresponsive
14 answers, you can come to the Board for help. And do not be
15 intimidated by Mister Anybody.

16 (Laughter.)

17 MS. GAIL BRADFORD: Yes, sir, I heard you say
18 that. And I just want to put it on the record that I did
19 not get that impression that day that my rights were being
20 protected.

21 CHAIRMAN SMITH: Well, I am sorry. I think it is
22 rather late for you to bring it to the attention of the
23 Board. You do that. If you feel your rights are not being
24 protected; you say so. And it does not have to be in any
25 particular way, just express your complaints.

1 Now, we cannot sit at the counsel table with you.
2 We are, after all, judges.

3 MS. GAIL BRADFORD: I am not asking you to do
4 that.

5 CHAIRMAN SMITH: You bring it to our attention if
6 you think that is the case. But you did not bring it to our
7 attention when Dr. Levy was on the stand.

8 MS. GAIL BRADFORD: I did.

9 CHAIRMAN SMITH: Then I am sorry. I just did not
10 perceive --

11 MS. GAIL BRADFORD: I asked you to help on that.

12 CHAIRMAN SMITH: I did not perceive that you
13 were. If I have overlooked it, if it passed, I am sorry. I
14 will try to be more attentive. But I was not aware that at
15 the end of your examination with him that you had not
16 accomplished what you had set out to accomplish. And that
17 was he did not seem to know the answer to your question.

18 MS. GAIL BRADFORD: Sir, I had more questions
19 beyond that.

20 CHAIRMAN SMITH: I do not know what else to say to
21 you. You did not ask the questions. If I can be of
22 assistance to you some other time and explain to what extent
23 the Board can go to help you -- I have had conversations
24 with you, I know, on other circumstances in which the Board
25 could help you -- we will do it. But I see no purpose in

1 holding this up. I think I made it clear. If I did not
2 give you the help that you thought you were entitled to
3 before, you make sure that we understand, after this, that
4 you are seeking help.

5 MS. GAIL BRADFORD: Yes, sir.

6 (Board conferring)

7 CHAIRMAN SMITH: I think one of the things you
8 were concerned about is when the witness says he does not
9 know and that has been established thoroughly, there is not
10 much more that can be done after that.

11 All right, let's move on. I think that completes
12 the staff suggestions. We will take them under advisement.
13 We may or may not respond to them, or even come back to
14 them. But we will take them under advisement.

15 Now let's take the afternoon break till quarter of
16 3:00, and then we will begin with Mr. Aamodt's testimony.

17 MR. TROWBRIDGE: We have, unfortunately, Mr.
18 Chairman, the Commonwealth's memorandum.

19 CHAIRMAN SMITH: Oh, yes, yes. It raised a
20 question that we have been wondering about, too.

21 MR. TROWBRIDGE: It raises several questions which
22 I would like to comment on.

23 (The document referred to, the Commonwealth's
24 memorandum, follows.)

25

1 CHAIRMAN SMITH: Would you begin, Mr. Trowbridge?

2 MS. LOUISE BRADFORD: Chairman Smith, before we
3 move on, there was one thing that I would like to ask about,
4 and I think that this is an appropriate place to do it.

5 TMIA has, I think, on two occasions asked that the
6 Board would provide for us an independent expert. So far, I
7 think, there has been no ruling. The reason I bring it up
8 here is because of the discussion that just went on about
9 the appropriate cross examination.

10 And as you know, we are without counsel, and I
11 feel that we at this point are in greater need of that
12 independent expert.

13 CHAIRMAN SMITH: Your predecessor, Mr. Theodore
14 Adler, filed a motion requesting the Board to appoint an
15 independent expert to testify on the issues of -- to advise
16 the Board -- and testify on the issues of deferred safety
17 maintenance. I do not know if the Board ruled upon it. I
18 have no memory.

19 But the Board has discussed it. And we have heard
20 the testimony, or substantially all of it. And applying the
21 tests that are required of us to apply by the Commission, we
22 have decided not to employ the Board's own expert. We
23 believe we will be able to make a decision based on the
24 record as it is presented.

25 I think we discussed the tests, too. The tests

1 are that we cannot, in furtherance of the interests of an
2 Intervenor, produce expert witnesses unless the Board on its
3 own initiative -- purely on its own initiative -- believes
4 that that is for the Board's needs to assure a complete
5 record. We cannot do it as a matter of assistance to an
6 Intervenor.

7 MS. LOUISE BRADFORD: Thank you.

8 CHAIRMAN SMITH: Mr. Trowbridge.

9 MR. TROWBRIDGE: Shall we do this one by one
10 again, Mr. Chairman? Although I see -- as I read the
11 Commonwealth's comments, 1 and 2 seem to go together. It
12 suggests that the parties and the Board should identify
13 those issues in the proceeding that are critical to
14 restart. These should include all issues that fall within
15 the short-term items in the August 9, 1979 order.

16 The second paragraph goes on to suggest that the
17 Board should render, following the close of the evidentiary
18 hearing, a partial initial decision on the critical restart
19 issues. This has been a puzzlement to me, Mr. Chairman,
20 from the beginning. I recognized from the beginning of this
21 proceeding there is a paragraph in the Commission's August 9
22 order which suggests that the Board might wish to give
23 priority first to those items which related to restart and
24 then put off and consider later items that were
25 longer-range.

1 I have not understood how that process could work
2 in the face of Contentions which we got from Intervenor
3 which wished to make, I think, virtually every long-term
4 item in the Commission's August 9 order into a short-term
5 item, which necessarily meant it had to be considered in the
6 restart proceeding, plus a great many more Contentions
7 adding additional short-term items or adding what
8 Intervenor considered should be pre-restart items.

9 And I do not know how the Board could have gone
10 about deferring something that the Board might consider, or
11 the parties or the staff or the Licensee might consider,
12 properly to be a longer-range item in the face of
13 Contentions that it should be short-range.

14 So I frankly am puzzled by 1 and 2, and I have
15 been puzzled all along. Those are my comments on 1 and 2.

16 CHAIRMAN SMITH: Mr. Tourtellotte?

17 MR. TOURTELLOTTE: We do not disagree with Item
18 Number 1. It seems to be more of an observation than
19 anything. And Number 2 suggests that the Board should
20 render a partial initial decision on the critical restart
21 issues identified.

22 I assume that what that means is the Board itself
23 will pick out what they deem -- what they believe the
24 critical short-term items are after sifting through what is
25 necessary and sufficient. And we have no objection to

1 that.

2 CHAIRMAN SMITH: No objections?

3 MR. TOURTELLOTT: No objections to the Board
4 issuing such a partial initial decision.

5 CHAIRMAN SMITH: I notice that the Notice of
6 Hearing, not only in the place referred to by the
7 Commonwealth in its statement, but several places, does
8 refer to the possibility of a partial initial decision. I
9 am looking at the Federal Register notice.

10 But there are at least three or four places where
11 the authority to issue a partial initial decision on a
12 finding that short-term items have or have not been complied
13 with is appropriate.

14 So the problem is no one yet has been able to
15 figure out how to employ that authority. And we will just
16 listen to the comments on it.

17 Mr. Sholly.

18 MR. SHOLLY: It might have been more reasonable to
19 have discussed this back around the beginning of the
20 hearing. It seems now that we are left with three groups of
21 issues, all of which are clearly identified as "short-term
22 issues." Perhaps the Licensee would disagree to the extent
23 that each of those issues are gone into. I do not know.

24 But certainly, each of those issues would have to
25 be heard under the Commission's order. And I am speaking of

1 emergency planning, management, and financial issues. So it
2 seems like there is no escape at this point.

3 It seems to me we are bound to hear evidence on
4 those issues, and only then could you render a partial
5 initial decision.

6 CHAIRMAN SMITH: Yes. I see some possibility,
7 however, after the record closes.

8 MR. SHOLLY: Yes, sir.

9 CHAIRMAN SMITH: It might be, for example, that
10 the Board determines that the Licensee has not demonstrated
11 compliance with a short-term item, it might be appropriate
12 to issue in initial decision to that effect immediately a
13 partial decision to that effect immediately to get the
14 appellant process rolling. And if there are no objections,
15 we will consider that possibility.

16 There is another thing, too, that is remotely
17 related. And that is I noticed in the Commission's Notice
18 of Hearing in the Indian Point proceeding, that the
19 Licensing Board was invited to report to the Commission when
20 they felt that the evidence was in equipoise. It may be
21 that the Notice of Hearing could be amended in this case to
22 invite the Board to do that if we make an early
23 determination that we just cannot decide on the record,
24 refer that fact promptly to the Commission, too.

25 I have not thought it through at all, but it would

1 have a potential for bringing it immediately to the
2 attention of the Commission those issues where we were
3 having -- unable to decide.

4 Anyone care to comment on that?

5 MR. TOURTELLOTTE: Mr. Chairman, along these
6 lines, I am not certain exactly mechanically and
7 managerially how the Board goes about writing its decision,
8 partial initial decision or its final decision.

9 But it does seem like if the Board does that
10 completely on its own as three members, say, divide up the
11 issues and specialize on the issues, and then meet and
12 consult on your first drafts and so on, it seems that there
13 would be a possibility that that could be -- that process
14 could be speeded up to some extent, could be completed in
15 parallel, if the Board were to employ legal clerks or law
16 clerks.

17 I am talking about qualified lawyers or even, for
18 that matter, engineers, where appropriate, to be working on
19 the drafts of the opinions simultaneously with the taking of
20 the evidence, and then the Board simply uses those first
21 drafts as something that they could work their ultimate
22 opinion into.

23 That would be one way, it would seem to me, that
24 we could get to the partial initial decision prior to the
25 close of the hearing or, for that matter, even if it is not

1 prior to the close of the hearing, it would perhaps expedite
2 the ultimate decision at the close of the hearing.

3 CHAIRMAN SMITH: We tried to bring on board a
4 clerk, and we were caught in the freeze, the employment
5 freeze, and those plans have been delayed. And now we are
6 trying to come up with alternative ways to get some
7 assistance in the decision writing. But that is a very good
8 recommendation.

9 Anything further?

10 MR. ADLER: Mr. Chairman, I would like to respond
11 to some of the comments, if I may. I fully understand Mr.
12 Trowbridge's problem with this concept. However, what I
13 envisioned was that the parties would submit to the Board
14 their recommendations as to what Contentions or issues fall
15 into the short-term categories and what fall into the
16 long-term categories.

17 Now, as I read the order, I think implicit in the
18 Commission's instructions that a partial initial decision be
19 reached was a vesting in the Board of authority to make the
20 decision as to which of the issues in the proceeding are
21 short-term and which are long-term. If that authority was
22 not given to the Board, then the whole concept of a partial
23 initial decision would not be possible.

24 Now, I agree with Mr. Sholly that it is not
25 practical at this point to divide the hearing. However, my

1 comments were directed more towards the findings of fact and
2 the writing of a decision by the Board.

3 CHAIRMAN SMITH: This is going to be another
4 opportunity to inform the parties that the Board indeed will
5 enforce the provisions relating to proposed findings. We
6 intend to rely very heavily upon proposed findings. If a
7 proposed finding is supported by the record and the Board
8 can agree with it, we may very well adopt it exactly as
9 submitted.

10 The parties who failed to file proposed findings
11 pursuant to the orders of the Board may find that they are
12 in default as to the issues on which they do not file
13 proposed findings. And unless the Board on its own decides
14 that the issue involved requires a full explanation in the
15 initial decision, we may do no more than just simply recite
16 the fact that there has been a default on the Contention
17 because of a failure to file proposed findings.

18 We mentioned several times this morning orally,
19 and we have said it in writing, and we wish to stress that
20 the Board is very serious about that requirement.

21 Anything further?

22 Our suggestion about going to the Commission if we
23 believe the evidence is in equipoise, it would be my view we
24 need no further authority to do that. That would be within
25 the authority to issue a partial initial decision. But I

1 think it could be debateable.

2 What is your view, Mr. Trowbridge? I think we
3 could do that now under the present order.

4 MR. TROWBRIDGE: Mr. Chairman, I am afraid I have
5 not --

6 CHAIRMAN SMITH: AN early certification to the
7 Commission after the close of the hearing that we believe
8 that the evidence is in equipoise and we cannot decide it,
9 it is so balanced that there is no preponderance of the
10 evidence.

11 MR. TROWBRIDGE: I think certainly the Board could
12 do that without orders from the Commission. I do not know
13 the Indian Point -- I am not familiar with that directive
14 from the Commission. However, if the Board is seriously
15 considering an equipoise as a possibility, I would rather
16 suggest the jury go back and try again.

17 CHAIRMAN SMITH: Okay.

18 Anything further, Ms. Bradford?

19 MS. GAIL BRADFORD: Sir, I would like to comment
20 on the Commonwealth's Number 4 point.

21 MR. TROWBRIDGE: I have not gotten to Number 3
22 yet. Mr. Chairman, I have a comment on 4 as well.

23 MS. GAIL BRADFORD: Thank you.

24 CHAIRMAN SMITH: All right, Number 3.

25 MR. TROWBRIDGE: On Number 3, I do not think it is

1 necessary to repeat the discussions we had this morning as
2 to whether or not we needed to answer Question 2 at this
3 time or discuss the answer to Question 2 in order to answer
4 the Commission's questions on expedition.

5 I do wish again to say that the expedition is not
6 a question which is simply dependent upon whether or not --
7 which is of no interest to us unless the Board is going to
8 recommend the plan. It is of equal interest and an equal
9 matter of due process for the Licensee to get through with
10 this hearing as expeditiously as possible, whichever way the
11 decision goes.

12 I also would like to comment on the request for a
13 complete report of the January 16 meeting between staff and
14 Licensee concerning NUREG-0737 requirements. That, I
15 believe, was the date on which we met with the staff. It
16 was a meeting that was noticed in the Federal Register. And
17 no one was there except the Licensee and the staff.

18 However, it was, in large part, just a rundown of
19 the list of 0737 items to, in some places, get clarification
20 as to what the item was. This is not an easy chore, by the
21 way, to go down the list of 0737 items. In fact, it is a
22 very complicated process before you get through.

23 We did get some explanations. We did a little
24 arguing. We did do a little bit of talking about what
25 schedule we were on, all in preparation for our filing, as

1 other Licensees have done, our response on 0737.

2 We now have communication back to the NRC which
3 will be distributed in this proceeding in due course, I am
4 sure, by the staff, but perhaps first by ourselves. That
5 was the purpose of that meeting.

6 We also discussed at that meeting, without having
7 actual words in front of us, the three modifications to the
8 August 9 order. They are in the subject of a motion today
9 that we filed with the Commission. That was also a topic of
10 discussion.

11 I see no need for a report on that meeting, which
12 was simply preliminary to our filing the 0737 response and
13 to our filing of our motion.

14 CHAIRMAN SMITH: Mr. Adler.

15 MR. ADLER: Yes. Prior to the January 16 meeting,
16 Mr. Trowbridge and Mr. Baxter informed me that the Ross and
17 Capra testimony was to be delayed until after the January 16
18 meeting. And the implication that I got from those remarks
19 was that the staff's testimony might in some way be modified
20 as a result of the January 16 meeting. That was the purpose
21 for my inserting this sentence in the filing.

22 And if in fact any of the staff positions as to
23 which of the 0737 requirements are going to be effective
24 prior to restart is changed in any way as a result of this
25 meeting, I feel that it is appropriate to have those results

1 on the record of this proceeding.

2 MR. TROWBRIDGE: I assume that if the staff
3 changes its position, it will be changed and on the record
4 before Messrs. Ross and Capra testify. If there are any
5 modifications to that testimony, they will file it.

6 CHAIRMAN SMITH: Anything further on Item 3?

7 MR. TROWBRIDGE: On Item 4, Item 4 is to me
8 extremely discouraging. The four questions that are put
9 here are exactly the four questions of which we had that
10 now-famous meeting among the parties, a several-hour meeting
11 between the staff, the Licensee, the Commonwealth of
12 Pennsylvania, and FEMA.

13 And we reported the next morning concurrence by
14 all four parties on the answers to exactly these four
15 questions. They were reported on pages 4225 roughly through
16 4268 of the transcript. They were accepted, as I already
17 mentioned, by the four parties that attended that session.

18 I thought the solutions were welcomed by the Board
19 the next day. We have heard nothing since that would
20 suggest that we were on a different course than presented at
21 the following day to this Board.

22 And to suggest now that we at this late date go to
23 the Commission for instructions on items which everybody had
24 reached an accommodation on, which seemed sensible at the
25 time and still seems sensible and which the Board has not

1 questioned, seems to me to do nothing but add time and
2 potential confusion to the hearing.

3 CHAIRMAN SMITH: Mr. Adler.

4 MR. ADLER: Yes, Mr. Chairman, I agree completely
5 with Mr. Trowbridge's summary of the meeting in October.

6 Now, my concern is simply that the agreement we
7 reached may not in fact be what the Commission had in mind.
8 Now, we do have some time before the hearing of the
9 emergency planning issues. We could report to the Board the
10 precise agreement that we reached back in October, and
11 simply ask if that in fact was what they had in mind in the
12 August 9 order.

13 CHAIRMAN SMITH: Before referring it to the
14 Commission?

15 MR. ADLER: Right. Rather than risking -- I think
16 we all agree that these issues were open in October and that
17 the Commission's order was not clear. Now, if we do not do
18 this, we risk the Commission coming back and saying, "No,
19 you misinterpreted our order," and either remanding or
20 taking some other action that would result in further
21 delay.

22 MR. TROWBRIDGE: Mr. Chairman, I appreciate Mr.
23 Adler's suggestion. And I apologize to him for seeming to
24 be belligerent on the subject. As far as the Commission, we
25 have had some experience with certifying questions to the

1 Commission. It has not been very good, either in terms of
2 the timetable or the results.

3 (Laughter.)

4 And to certify this to the Commission without a
5 very extensive discussion of what it is we are talking about
6 runs the risk of answers that are unresponsive to any of the
7 problems that we face here. And I for that reason -- it is
8 for that reason I would not try to seek that reassurance. I
9 would have the Board make its recommendations to the
10 Commission and bet on it that they would stick.

11 CHAIRMAN SMITH: Do you think, Mr. Adler, we
12 should give deference to the position of the Licensee on
13 questions such as the risks that are involved in delay?

14 MR. ADLER: I suppose that would be appropriate.

15 CHAIRMAN SMITH: Ms. Bradford -- I am sorry, we
16 have been taking the order of calling upon the Government
17 parties next.

18 Do you have a comment next, Mr. Tourtellotte?

19 MR. TOURTELLOTTE: I think I will just let it stay
20 where it is right now.

21 CHAIRMAN SMITH: You do not want to disassociate
22 yourself from --

23 MR. TOURTELLOTTE: I prefer not to comment any
24 further than my esteemed colleagues from the State and the
25 other parties might comment.

1 CHAIRMAN SMITH: Ms. Bradford?

2 MS. GAIL BRADFORD: Yes, sir. I would object to
3 Mr. Trowbridge's characterization that all the concerned
4 parties agree on these issues. I think if you examine them
5 -- I am sure he is probably right about it is those pages of
6 transcript, if you examine those pages of transcript you
7 will find that at least INGRY and, I think, other
8 Intervenor's had different -- completely different views as
9 to what standards we were looking for, especially on the
10 question of reasonable progress, whatever that may mean.

11 And I also disagree with his idea that -- his
12 apparent idea -- that the Licensee and the staff and the
13 Commonwealth and FEMA are the parties in this case who
14 determined what standards we are seeking are.

15 CHAIRMAN SMITH: Do you disagree with his
16 conclusion that we not go to the Commission for
17 clarification?

18 MS. GAIL BRADFORD: I do not know how to comment
19 on his reason for his conclusion. I do not have experience
20 in going to the Commission. I -- I would like clarification
21 from the Commission or from the Board on these issues. I
22 think that it was -- I was very surprised at that day when
23 we presented arguments about these issues, that the Board
24 never came back to us with a response. I was frankly
25 expecting a response, especially on the idea of what is

1 FEMA's role in this and what is the standard, are we seeking
2 reasonable progress or 100 percent compliance. And I would
3 like more clarification on that.

4 CHAIRMAN SMITH: All right. Not now?

5 MS. GAIL BRADFORD: You don't have to do it right
6 now, sir.

7 CHAIRMAN SMITH: All right. It may turn out that
8 we may not have the record upon which to make a
9 determination.

10 MS. GAIL BRADFORD: Yes, sir, and I think that is
11 also probably true at the Commission but -- but I do think
12 that it would in fact expedite the hearings if we knew what
13 we were shooting for in that whole area.

14 CHAIRMAN SMITH: Certainly.

15 All right, anything further on this item?

16 Mr. Aamodt?

17 MR. AAMODT: It is still up in the air. May we
18 request you to make a ruling or that you define these things
19 for us, tell us what the ground rules are.

20 CHAIRMAN SMITH: That we issue a declaratory
21 ruling on what the answer is?

22 MR. AAMODT: To the last question raised.

23 CHAIRMAN SMITH: To the A, B, C, and D.

24 MR. AAMODT: So we all know what the rules are.

25 CHAIRMAN SMITH: We will take your request under

1 advisement.

2 MR. AAMODT: I realize the limitations you stated,
3 but consistent with that, if you could, it would be helpful
4 to us.

5 CHAIRMAN SMITH: I imagine it would be helpful to
6 everyone. It may not be possible to do.

7 MR. AAMODT: I appreciate that.

8 CHAIRMAN SMITH: We will go back and look at the
9 transcript and see if we can give guidance on it.

10 (Board conferring)

11 CHAIRMAN SMITH: Dr. Little pointed out that we
12 might express an opinion on some of these issues, and it may
13 not parallel that of the Commission or FEMA. So -- but we
14 will take your request under advisement.

15 All right, does that conclude the discussion --
16 oh, no, we have Number 5. Mr. Trowbridge, Number 5 of the
17 Commonwealth suggestions.

18 MR. TROWBRIDGE: I overlooked it. Number 5, my
19 general comment is the Commission's March 6 order covers an
20 awful lot of waterfront and that the Board has been asked to
21 apply its judgment as well in getting answers to those and
22 other questions. And I think the start -- I dread the
23 prospect of starting over again now to get the Commission to
24 expand further on its management criteria. I think it would
25 not be likely to be an early or necessarily fruitful

1 response.

2 CHAIRMAN SMITH: I make this observation: that
3 your own footnote, the footnote that you cited, Mr. Adler,
4 quoting the Commission's order to the effect that -- let me
5 read it: "In proposing these questions, the Commission
6 recognizes that it has not established definitive standards
7 for management organization and operation of nuclear power
8 plants. The Board should apply its own judgment in
9 developing the record and forming its conclusions on those
10 questions."

11 So I think the Commission has already recognized
12 that it was not, at least then, in a position to comply with
13 your suggestion, and that is: Give us more precise
14 delineation of the standards.

15 Now, I think we should observe this: that the
16 Commission does seem to monitor this proceeding fairly well,
17 and when they perceived confusion about standards for
18 short-term or long-term, on their own they issued a
19 clarifying order. I would assume that if the Commissioners
20 were inspired to envision better standards, that they might
21 -- they might -- they probably would have done it. I know
22 that there is interest by the Commissioners on this issue.

23 I also know, from reading the testimony, that
24 standards for management are in the process of being
25 developed, which we will perceive in the course of the

1 testimony, as you are aware.

2 Anything further?

3 MR. SHOLLY: Mr. Chairman.

4 CHAIRMAN SMITH: Yes, Mr. Sholly.

5 MR. SHOLLY: Somewhat earlier, a portion of a
6 management issue was mentioned regarding health/physics, and
7 there was a question raised, I believe, as to whether or not
8 the Board wished to hear testimony on that. I think that is
9 a remnant of part of a Contention which I necessarily
10 dropped, and if the Board wishes to, I could explain very
11 briefly why I raised the Contention in the first place.
12 That will help the Board understand the reasons I raised it,
13 and perhaps would help the Board determine whether or not it
14 wished to hear the issue.

15 CHAIRMAN SMITH: Is this -- this was listed on
16 those Contentions that you were withdrawing?

17 MR. SHOLLY: Yes, sir.

18 CHAIRMAN SMITH: Did you make a particular
19 recommendation to the Board to adopt that one?

20 MR. SHOLLY: I am sorry, I do not recall.

21 (Board conferring)

22 CHAIRMAN SMITH: We decide -- we did decide to
23 adopt your Contention. And I --

24 MR. SHOLLY: I was not clear that that was the
25 case. That is why I brought it up.

1 CHAIRMAN SMITH: Isn't that the impression you
2 have, Mr. Tourtellotte?

3 MR. TOURTELLOTTE: As I recall, what occurred was
4 at least on one occasion I raised the question as to whether
5 that was going to be adopted by the Board. And the Board
6 simply indicated they wanted to hear testimony on
7 health/physics. And it was not clear to me as to why or
8 what the specific concern was of the Board. And I can
9 understand that the Board wants to hear what Mr. Sholly has
10 to say about why he did it. But I am more interested in
11 knowing why the Board wants to hear.

12 CHAIRMAN SMITH: Maybe Mr. Sholly will remind us
13 why we want to hear it.

14 (Laughter)

15 MR. SHOLLY: This first arose in my mind, I think,
16 when events soon after the accident indicated that there
17 were problems. And somewhat later, I think in September of
18 1979, Mr. Denton empaneled a special panel to look at the
19 health/physics program at Unit 2, which I took to be closely
20 related to Unit 1, because up until some point which I had
21 not been able to establish, health/physics organizations
22 were one. I understand that they have been separated since,
23 but they do share some functions.

24 More recently, there was a special health/physics
25 inspection, which the parties were served with the results

1 of that, and there were some violations or notice of
2 violations accompanying that, which indicated to me that
3 there still may be some problems. And, to my knowledge,
4 there has not been any resolution of those issues. And I
5 thought it was a continuing concern.

6 Had I been able to be here and pursue that, I
7 certainly would have. So I think there is continuing
8 evidence of a problem that needs to be resolved.

9 CHAIRMAN SMITH: Have you examined the proposed
10 testimony -- the SER supplement on the subject matter?

11 MR. SHOLLY: I have. But I do not recall it in
12 detail right now.

13 CHAIRMAN SMITH: You apparently feel whatever you
14 have examined is not adequate.

15 MR. SHOLLY: I think it would be to the Board's
16 benefit and to the parties' benefit for that testimony to be
17 presented. If all the problems have been ironed out, then I
18 think the Board and the parties are entitled to know that.

19 (Board conferring)

20 MR. TOURTELLOTTE: Mr. Chairman.

21 MR. ADLER: Mr. Chairman.

22 (Board conferring)

23 CHAIRMAN SMITH: The Board -- I am not referring
24 Mr. Swanson to anything in particular in the SER supplement,
25 but I think that your request to the Board is appropriate,

1 and we will, as soon as we have an opportunity, look at what
2 is available and tell you where we feel that the testimony
3 should be developed.

4 MR. TOURTELLOTTE: It is on page 24 of the
5 supplement.

6 CHAIRMAN SMITH: All right. Thank you.

7 MR. ADLER: Mr. Chairman.

8 MR. TOURTELLOTTE: The health/physics item is
9 still open in the SER and is so indicated on page 24.

10 CHAIRMAN SMITH: Yes. We have a rather long
11 lengthy list of questions that we will have on the open
12 items on the SER if they are not otherwise explained. But
13 we will address this one in particular and give you an
14 answer, give you an opportunity to inquire.

15 Anything further?

16 MR. TOURTELLOTTE: Mr. Chairman, could I inquire
17 as to why he dropped it if he felt it was this important?

18 CHAIRMAN SMITH: All right.

19 MR. SHOLLY: I am simply not going to be able to
20 be here to litigate it. If I had an unlimited budget, I
21 would certainly hire an attorney and a consulting firm and
22 pursue it. It is simply not possible.

23 CHAIRMAN SMITH: The --

24 MR. TOURTELLOTTE: I am certainly familiar with
25 this whole practice. But, you know, I cannot say that it

1 does not concern me that someone can raise a Contention and
2 can walk away with it -- from it -- on the grounds that they
3 do not want to come and prosecute it and simply leave it to
4 the Board to do their job for them. That really distrubs
5 me.

6 MR. SHOLLY: Mr. Chairman.

7 CHAIRMAN SMITH: I don't know how productive this
8 is. You will note -- you will recall, Mr. Tourtellotte and
9 Mr. Sholly, that the Board has gone both ways on these
10 issues. We have been requested to adopt many Contentions
11 which have been abandoned or which have been represented to
12 us that the Intervenor cannot successfully prosecute. And
13 we have, I think, taken each one up on its merits.

14 If the request is appropriate and provided for in
15 the Commission's tradition -- I don't know what can be
16 gained by a generic argument on it. However, you are
17 entitled to the information you are seeking. And if we look
18 at it and we can limit our area of interest, we will do
19 that, and as soon as possible. I perceive it is an
20 immediate problem; is that right?

21 MR. TOURTELLOTTE: That is correct.

22 CHAIRMAN SMITH: This invitation is open on any
23 item that the Board has expressed interest in. If you think
24 refinement and clarification is necessary, we have no desire
25 to hear witnesses talk about too broad testimony to assure

1 covering all particular points. I think we have tried to do
2 that in the past.

3 Anything further on the Commonwealth?

4 MR. ADLER: Yes, sir. The Commonwealth agrees
5 that the health/physics area is extremely from a health and
6 safety standpoint. In fact, if Mr. Sholly had not raised
7 the I&E report, we would have raised it.

8 We briefly reviewed the portions of the SER
9 supplement, and it appears to us there are significant
10 remaining open issues in this area that ought to be
11 addressed.

12 CHAIRMAN SMITH: Then you can perhaps be very
13 helpful in pointing out to the parties what those areas
14 are. I mean you can respond to Mr. Tourtellotte's request
15 in the same manner in which we are.

16 MR. ADLER: We will attempt to do so.

17 MR. BLAKE: Mr. Smith, I know the Board is anxious
18 for a break. But before we have a break, because it
19 pertains to the break, I did want to get one thing in. When
20 we come back, I anticipate that we will be starting
21 management capability portion of the hearing with the first
22 witness, M.. Arnold.

23 Since the Board's conversation with me last week,
24 which you reported on earlier, I worked with Mr. Arnold on
25 preparation of charts which will be helpful from an

1 organizational standpoint, an overview and recap of the GPU
2 Nuclear organization, how it melds together. And finally,
3 with particular attention to titles of individuals, what
4 they were before, what they have been in the GPU Nuclear
5 Group, and what we will have as titles in the GPU Nuclear
6 Corporation. Again, with charts as aids for people.

7 Today, I have spoken with each of the parties in
8 the proceedings, particularly those interested in the
9 management areas. All the parties have indicated that it
10 would be helpful for Mr. Arnold to go into this. This is in
11 the nature of additional direct, but I think, quite frankly,
12 if we get off in the management area, all with the same
13 footing and all with the same understanding -- and I have
14 appreciation for the wealth of testimony we have filed -- I
15 think in the end it would pay substantial dividends.

16 All of the parties have indicated that they think
17 it would be helpful to them, with the exception of Ms.
18 Bradford, Gail Bradford, who indicated she had no objection
19 to it. She did not know whether it would be helpful or not
20 until she heard it.

21 I raise this now because I would like to hand out
22 what we will use to track Mr. Arnold's presentation. And in
23 fact it would be almost easier for a visual aid for
24 everybody to follow. But I did not want the Board to come
25 back in after the hearing and be alarmed to find a screen up

1 ready to go and something. If you think that would be
2 helpful, that is what I would like to do during the break.

3 CHAIRMAN SMITH: Yes, I think that would be very
4 helpful. Will you have something to offer into evidence,
5 too, reflecting what is projected?

6 MR. BLAKE: What we have are adequate copies for
7 all of the parties and the Board of what he is going to
8 speak from. If in the end it turns out that we want these
9 as exhibits, we can certainly make them exhibits.

10 CHAIRMAN SMITH: I mean the graphics.

11 MR. BLAKE: Yes, we have copies of the exact
12 things he will use as graphics.

13 CHAIRMAN SMITH: Let's take 10 minutes and we will
14 return.

15 Ms. Bradford?

16 MS. GAIL BRADFORD: It is just a small thing. I
17 understand that parties are allowed to comment directly to
18 the Commission on, for example, Items 1 and 2 on the staff's
19 submission of today. And I am wondering what NUREG-0680
20 is.

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1 CHAIRMAN SMITH: NUREG 0680 is the safety
2 evaluation report.

3 MR. BRADFORD: Okay. I just was wondering if it
4 was something we have. I don't know what it was. Thank you.

5 MR. AAMODT: To whom do we respond on these four
6 documents that we have discussed this morning, should we
7 want to respond further?

8 CHAIRMAN SMITH: I am sorry. I do not understand
9 your question, Mr. Aamodt.

10 Ladies and gentlemen, we are still on the record.

11 MR. AAMODT: The two short -- what are they called
12 -- statements by the licensee addressed to no one, and the
13 statement by the NRC and the statement by the Commonwealth
14 addressed to the Board -- to whom should we address
15 additional comments? We have not had a lot of time.

16 CHAIRMAN SMITH: Today, to us, this is the whole
17 purpose of this afternoon, to discuss these. These were as
18 if they had stated the statements orally.

19 MR. AAMODT: And limited -- no further comments
20 are appropriate after now.

21 CHAIRMAN SMITH: Now is your opportunity, Mr.
22 Aamodt. This has been the whole purpose of today. Perhaps
23 I do not understand your question.

24 MR. AAMODT: Well for example, in the NRC staff
25 suggestions, item one, we were told not to discuss on the

1 substance -- we were not to make comments on the substance
2 of item one. Right?

3 For example, we were limited in our discussion on
4 that, and I think some comments remain in order. To whom
5 should they be made or can they be made?

6 CHAIRMAN SMITH: I forget what our ruling on that
7 was, but the review of the program, the Board has determined
8 that it will make no recommendation --

9 MR. AARODT: That is right.

10 CHAIRMAN SMITH: Because we do not have enough
11 information, so it is pointless to argue for or against it.

12 Now, it was left in abeyance. It is brought to
13 the attention of the Commission, and I suggested there may
14 be two alternatives; one, that we follow Mr. Sholly and Mr.
15 Pollard's viewpoint and simply ignore it.

16 However, it was suggested, on the other hand, that
17 we might also simply point out to the Commission that such a
18 suggestion has been made as a recommendation, but point out
19 that we specifically would not accept comments on it, that
20 we have no recommendation, and that the parties have had no
21 opportunity to comment on it.

22 Then it would be -- that alternative. Then it
23 would be up to the Commission to decide whether they wished
24 to take it under consideration and receive comments from the
25 parties.

1 You have to understand that the Commission in the
2 regular course of doing its business receives much
3 information from the staff level, and it does not -- it is
4 free by its rules and its practice to receive information
5 from whatever source is available to it, and in its
6 discussion decide whether it wants to treat it in an
7 adjudicative fashion or not.

8 So it is going to be up to the Commission entirely
9 as to whether they want to make their comments on it.

10 I cannot control what you file before the
11 Commission. My feeling about it is that the better course
12 of action, no matter what we do, is wait until -- and it the
13 Commission invites comments on it, because the Commission is
14 fully aware of the interested parties in this and the need
15 to hear from the parties on any such suggested
16 recommendation.

17 However, I do not want to control what you do.
18 When you see our handling of it, then you do whatever you
19 think is appropriate.

20 Do you understand? We do not decide who may file
21 papers before the Commission.

22 MR. AAMODT: I realize that. The reason I asked
23 the question, Mr. Chairman, was only that we had rather
24 complete discussion on all items after the first one. At
25 the first one we did not, and that had within it subject

1 material which many of us -- I am sure several of us would
2 have liked to have commented on.

3 CHAIRMAN SMITH: I am sure that is the case, but
4 you have to remember the most you could have prevailed on is
5 convincing the Board not to make recommendation to the
6 Commission, and we began with that, so you already won.
7 There is no point in hearing reasons why we should not make
8 such a recommendation when we already decided that we would
9 not make such a recommendation.

10 That was the reason for the Board's ruling.

11 MR. AAMODT: Thank you.

12 CHAIRMAN SMITH: Does that answer your question?

13 MR. AAMODT: Yes, sir, it does. I am assuming
14 then that this document does not go to the Commission.

15 CHAIRMAN SMITH: No. There are two alternatives.
16 We may just ignore it, not ever mention it again.

17 MR. AAMODT: Otherwise?

18 CHAIRMAN SMITH: Or we may simply bring it to the
19 attention of the Commission that the document exists, but
20 point out to the Commission that we make no recommendations
21 and we would not accept from the parties any comments on it,
22 that you have not had an opportunity to comment on this
23 recommendation.

24 It would be one or the other. Do you understand
25 that? Then I would presume if it was the second

1 alternative, the Commission would not take any action on it
2 in the adjudicative sense, without a full opportunity for
3 the parties to comment if they follow their own tradition
4 and rules.

5 MR. AAMODT: Would the Commission act on the basis
6 of this if we did not have an opportunity to comment?

7 CHAIRMAN SMITH: Legally, yes.

8 MR. AAMODT: It would be incumbent on us to
9 anticipate their action and response.

10 CHAIRMAN SMITH: I do not know.

11 MR. AAMODT: Otherwise we are lacking in a sense
12 -- you see my problem?

13 CHAIRMAN SMITH: Yes. The only thing I can assure
14 you is that if we decide to bring it to the attention of the
15 Commission at all, which we have not decided to do, it will
16 be surrounded by caveats that the intervenors in this
17 proceeding have views on the recommendation to which they
18 have not had an opportunity to address.

19 So the Commission will not receive this in a void.

20 MR. AAMODT: And I would like --

21 CHAIRMAN SMITH: Unless it goes up through some
22 other course, unless they read the transcript. You see,
23 there is a transcript of this proceeding, too, so that is
24 were you are.

25 I mean, I cannot really counsel you on how you

1 should really handle matters pending before the Commission
2 except to assure you in my experience that the Commission
3 does not decide adjudicative matters without an opportunity
4 for the parties to comment.

5 MR. AAMODT: Thank you.

6 (Board conferring.)

7 CHAIRMAN SMITH: We will take a 10-minute break to
8 return for Mr. Arnold's testimony.

9 (A brief recess was taken.)

10 CHAIRMAN SMITH: I think we are ready to proceed.

11 MR. BLAKE: Mr. Smith, I would like to observe for
12 the record that in attendance today, in addition to Mr.
13 Arnold, whom I am about to call and ask to be sworn, are
14 other senior members of management.

15 Mr. Herbein is here today, who is the head --
16 vice-president of Met Ed and currently director of the
17 nuclear group, Nuclear Assurance Division. Mr. Hukill is
18 here, a vice-president of Met Ed and in charge of Unit 1,
19 along with the other three members of his panel who will be
20 the next order of business for the Licensee's presentation.

21 Also, Mr. Wilson is here, currently the director
22 of a Technical Function Division, and Mr. Kazanas, manager
23 of quality assurance, as well.

24 Those individuals are all in attendance.

25 CHAIRMAN SMITH: Who was the last person?

1 MR. BLAKE: Mr. Kazanas, who is the manager of the
2 quality assurance department within Mr. Herbein's Nuclear
3 Assurance Division.

4 CHAIRMAN SMITH: He is not listed as a witness.

5 MR. BLAKE: He is not. Now I would like to call
6 Mr. Arnold as the witness.

7 Whereupon,

8 ROBERT C. ARNOLD
9 called as a witness by counsel for the Licensee, having been
10 first duly sworn by the Chairman, was examined and testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. BLAKE:

14 Q Mr. Arnold, state your full name and your current
15 address for the record.

16 A Robert C. Arnold. My business address is 100
17 Interpace Parkway, Partsipine, New Jersey.

18 Q Mr. Arnold, I show you a document which is dated
19 LIC-12-22-80. It is entitled, "Licensee's Testimony of Mr.
20 Robert C. Arnol Regarding CLI-80-5, issue (1), ANGRY
21 contention number 4, and Sholly contention number 14(a),
22 (Licensee's command and administrative structure)."

23 Mr. Arnold, was this document prepared by you
24 under your direct supervision?

25 A Yes, sir, it was.

1 Q And do you have any corrections to make to it?

2 A Yes, sir, I would like to make one correction on
3 page 19. In the first full paragraph starting about
4 one-third the way down the sheet --

5 Q If you can hold just a minute until we find it.
6 Okay.

7 A The sentence that starts out, "The fifth section,
8 materials technology," should be corrected to continue to
9 read, "is primarily an offsite section," as opposed to the
10 way it currently reads.

11 That is, insert between the words, "is" and "an"
12 the word "primarily."

13 Q Mr. Arnold, with that correction, do you adopt
14 this testimony, this document as your testimony in the
15 proceeding, and in particular, the statements on page one of
16 this document with respect to your educational background in
17 industry?

18 A Yes, sir, I do. I would like to add just one
19 qualification, and that is one that deals with the issue
20 that the Chairman brought up earlier, and that is the
21 consistency of titles through the testimony.

22 There are current titles in effect for people in
23 positions where the superseded title is used in the course
24 of my testimony, and I think that the presentation I will be
25 making in a few minutes will be able to provide the

1 necessary cost correlation between those.

2 Q And with the correction that you have made and
3 with that understanding, do you adopt this as your testimony
4 in the proceeding?

5 A Yes, sir, I do.

6 MR. BLAKE: Mr. Chairman, I move into evidence and
7 ask that it be physically incorporated in the record as the
8 red -- and this prepared written testimony of Robert C.
9 Arnold.

10 CHAIRMAN SMITH: Any objections?

11 (No response.)

12 The testimony is received.

13 (The document referred to, testimony of Robert C.
14 Arnold, follows.)

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1 MR. BLAKE: Mr. Chairman, next I would like to
2 proceed to have Mr. Arnold working from the viewgraphs, and
3 with the handouts that have been provided to the parties and
4 to the Board, give a brief summary overview of the GPU
5 Nuclear Corporation, the interplay of the various
6 organizational entities, and in particular, as well from
7 other parts, describe the titles and how they have changed
8 between the organizations.

9 If there are no objections to that, I would let
10 Mr. Arnold take over at this point and start.

11 CHAIRMAN SMITH: Mr. Arnold?

12 THE WITNESS: Mr. Chairman, I think it is probably
13 worth while for background purposes, as I start to identify
14 -- this presentation has been used internally as well as
15 externally, or at least the substance of it has.

16 I have made relatively minor modifications for the
17 purposes of today's discussion, and it may be helpful to
18 turn off the fluorescent lights.

19 If you could that for us? Perhaps the first
20 switch.

21 I will try to stay out of people's way, but the
22 GPU Nuclear group that currently is licensed -- authorized
23 by license to operate the Three Mile Island Unit 1 facility
24 is the forerunner of the GPU Nuclear Corporation. The
25 intent from the GPU Nuclear Corporation was announced by

1 General Public Utilities in January of 1980, and we have
2 formalized the statement of the purpose of the corporation,
3 as indicated here.

4 (Slide.)

5 That is first and foremost to identify that its
6 purpose is to manage and direct the nuclear activities, to
7 provide the required high level of protection for the health
8 and safety of the public and the employees.

9 It has as a corollary and subservient to that to
10 generate electricity from the GPU Nuclear station in a
11 reliable and efficient manner, in conformance with all laws,
12 legal and internal requirements.

13 The current status of the corporation is that of
14 the four approvals, regulatory approvals that are necessary
15 for it to function in its intended role, we have one in
16 place, and that is one of the Security and Exchange
17 Commission.

18 (Slide.)

19 As I identify my testimony, we have to have
20 approval from the two public utility commissions of the
21 cognizance of the governments of Pennsylvania and New Jersey
22 and there will have to be a modification to the TMI-1
23 license to authorize the GPU Nuclear Corporation to operate
24 TMI-1, as well as the other nuclear facilities in the system.

25 We did file about 10 days ago a request for a

1 change to the TMI-1 license to authorize GPU Nuclear to be
2 the operator. The directors and officers of the
3 organization have been established. We are, in fact, a
4 legal entity, but we are not authorized to act as a legal
5 entity at this point pending the approvals from the other
6 organizations I indicated.

7 And those approvals are pending. The status in
8 the State of Pennsylvania is that the administrative law
9 judge is expected to make a recommendation by the end of
10 this month at the completion of the hearings that have been
11 held on our request in the State of Pennsylvania for their
12 utility commission approval, and we would expect the
13 decision from the public utility commission following
14 shortly thereafter.

15 So within the next very few months, we expect the
16 timing in New Jersey to be similar, and we also submitted
17 the request to the NRC.

18 (Slide.)

19 The internal situation, the status is that the
20 structures, the organizational structure is established.
21 The key jobs have been filled within that organization. The
22 tech specs that permit the GPU Nuclear group, which is the
23 predecessor organization to operate the nuclear plants, has
24 been approved for all three units within the GPU system, and
25 the group functionally is equivalent to the Corporation.

1 The only difference really is going to be in the
2 reporting relationship that exists within the GPU system,
3 and I will identify that in more detail on a later
4 transparency.

5 The date for the nuclear group going into effect
6 was the middle of September, and we do of course have
7 additional staffing and organizational development to
8 accomplish before we fill up completely the proposed
9 organization.

10 (Slide.)

11 In deciding upon the organization and in
12 transmitting to our people what GPU Nuclear is all about, we
13 have identified these major elements to the organization.

14 First of all, that we wanted a full-time
15 organization within the GPU system dedicated solely to
16 nuclear generation. We believe that this is consistent with
17 a number of recommendations that came out of the accident.

18 We wanted increased onsite technical and
19 management resources. We wanted an organization that was
20 characterized by a very strong central control of technical
21 issues, and the technical integrity of the plants.

22 We wanted onsite, full-time management; that is,
23 senior management for plant operations and maintenance, and
24 that management onsite would be dedicated to operation and
25 maintenance in the sense that it would have primary

1 responsibility there, and we would provide other kinds of
2 functional activities in a support role, and for the example
3 there being administration, radiation control, and we will
4 see the other areas that we have specifically identified as
5 being lead responsibility of the divisions.

6 And I will also talk more about the interaction
7 between those support divisions and the operating divisions
8 when we get to the organization charts.

9 We wanted an independent nuclear assurance
10 division and by that, we were attempting to gather into a
11 division that has the same organizational status and of the
12 same visibility, the same strength within the total
13 organization as operations would have, and which would be
14 responsible for those activities which are extremely
15 important to the reliability and safety of operations, but
16 which can relatively easily become kind of secondary
17 importance if they are left as sort of a collateral duty for
18 people who have also assignment for line responsibilities.

19 We include in that training quality assurance, a
20 nuclear safety assessment department which I deal with at
21 some length in my testimony, and I will not repeat here, and
22 emergency preparedness.

23 We look for the advantage of the pooling of the
24 resources that are necessary for support of the several
25 generating units, including in that concept the advantages

1 that come from the cross-fertilization of ideas and the
2 cross-flow of information on operating experience.

3 We felt it very important that we had personnel
4 policies, procedures, practices and resources dedicated to
5 those areas that would be able to address the unique aspects
6 of those areas within the nuclear technology.

7 That is, that there are different requirements for
8 our nuclear plants and the supporting personnel than there
9 are for the traditional electric alterations.

10 (Slide.)

11 A number of these slides will be similar, and I
12 will be using them to illustrate slightly different points.
13 This is the currently authorized GPU Nuclear group
14 organization, and as provided for under the license of the
15 various units.

16 The group, which consists of an executive office
17 for the group in which I am the chief operating executive,
18 and Mr. Phil Clark, who was previously a witness in this
19 proceeding, is a deputy chief operating executive, report
20 directly to the President of the companies authorized by the
21 license to operate the plants.

22 And Mr. Clark and myself are officers in each of
23 Jersey Central Power and Light, Metropolitan Edison Company
24 and GPU Service Corporation. We have the nine divisions,
25 three operating divisions six support divisions and we also

1 have reporting to us a general office review board.

2 I would like to show how this transitions from
3 this into the GPU Nuclear Corporation.

4 (Slide.)

5 We currently have the nuclear group with Mr. Clark
6 and myself and the nine divisions that report to us, and we
7 report to the presidents of the companies for licensed
8 matters, and they are also members of a management oversight
9 committee formed within the GPU Nuclear system that has the
10 presidents of those three companies, plus the chief
11 executive officer of GPU.

12 Mr. Clark and myself and another very experienced
13 person in nuclear technology who is the vice-president of
14 the service corporation for corporate planning, they make up
15 the management oversight committee.

16 We will -- they are also the Board of Directors of
17 the GPU Nuclear Corporation as it is presently established,
18 and they will transition right into their role acting as a
19 Board of Directors upon approval by the NRC for GPU Nuclear
20 Corporation to be the operator of TMI-1.

21 In the meantime, the president of the operating
22 companies who have the responsibility for compliance with
23 the license are the direct reporting seniors of myself and
24 they assist in the supervision of our activities through
25 this participation in management oversight committee.

1 (Slide.)

2 Talking a little more specifically about the
3 organization itself, you see at Three Mile Island unit
4 number 1, Mr. Hukill has responsibility for three major
5 areas; that is, operations, maintenance and the plant
6 engineering. So he has an onsite engineering staff
7 reporting to him which provides support in operation and
8 maintenance, and that scope of effort is what his
9 responsibility is.

10 There are similar arrangements for the other two
11 operating units, and of course, Three Mile Island Unit 2
12 also has responsibility for conducting the decontamination
13 of that facility.

14 The structure provides management separation
15 between Unit 1 and Unit 2, as well as there being the
16 physical separation that has been discussed before.

17 CHAIRMAN SMITH: Is this Figure 3 on your
18 testimony? It seems to be except that you have chopped off
19 the Board of Directors.

20 THE WITNESS: I think that there is -- it is the
21 same except for the Board of Directors.

22 Yes, sir, it is the same with the same information
23 on it. There is no difference other than the absence of the
24 Board of Directors on this chart that I am aware of.

25 DR. JORDAN: I had one question, a slight

1 confusion on the chart. Under Mr. Wilson, vice-president of
2 technical functions, somewhere either in his testimony or
3 other places I found, I thought, six divisions under him.
4 Well, you show only five, and it looked like the engineering
5 service had been left out of your chart.

6 THE WITNESS: That is correct. He does have
7 another department, engineering services. It is technically
8 oriented, but it is to provide the management systems within
9 which the engineering work is accomplished, and I do not
10 want to downgrade that at all, but it is not the same
11 technical direction that I was trying to give this ability
12 to in this chart.

13 DR. JORDAN: I see.

14 THE WITNESS: It cuts across all five of these
15 activities, in fact.

16 I think rather than, you know, go through and read
17 off what is on each of the support functions, I would
18 recognize that you have had the testimony before, and I will
19 respond to questions.

20 But I think that the one area, one aspect of this
21 that I would like to take some time on is to note that each
22 of the six support divisions have full-time onsite
23 representation.

24 Perhaps the most demonstrative of that is in the
25 radiological and environmental controls, where all of the

1 field people necessary for those activities report offsite
2 into the corporate headquarters to Mr. Heward. The
3 technical functions have a licensing section on the site, as
4 well as licensing people offsite.

5 The same is true of project engineering. Systems
6 engineering has some fulltime onsite people, including the
7 shift technical advisors report into the systems engineering
8 department.

9 In the administration area, each of the functions
10 identified there, with the exception of legal services, also
11 has fulltime onsite representation.

12 I would move on, unless there were questions
13 specifically on that.

14 DR. JORDAN: Where did you say the shift technical
15 advisers reported?

16 THE WITNESS: A section in the systems
17 engineering, which is a department headed up by Mr. Keaten.
18 Bob Keaten was a witness in this proceeding earlier, and he
19 will also be testifying on subsequent issues, I believe.

20 CHAIRMAN SMITH: As I was reading the chart -- and
21 maybe I missed it -- but I do not recall you talking about
22 the onsite representation of nuclear assurance.

23 THE WITNESS: Well, the quality assurance
24 department has the majority or perhaps I should say, between
25 Unit 2, Unit 1 and Oyster Creek; they have between 60 and 70

1 percent, I would estimate, of their manning that are
2 fulltime onsite, and we can go to -- I did not bring a
3 transparency of it, but perhaps after we finish this we can
4 go to Section -- excuse me -- Attachment 2 to my testimony,
5 which shows the five sections.

6 If you look at Attachment 2 -- it may be just as
7 easy to discuss it now.

8 Starting from the left-hand side of Figure 2, the
9 quality assurance program development and audit have a
10 corporate staffing, but it has a fulltime, onsite staff, and
11 they provide auditing across the full range of activities,
12 subject to our quality assurance programs, including in
13 effect, auditing of the other areas of the quality assurance
14 department itself.

15 But the audit function is set off in a separate
16 function within the quality assurance department. So they
17 have fulltime, onsite people in the audit area. The QA
18 design and procurement is split between onsite people and
19 home office people; for example, specifically where it shows
20 construction documentation.

21 The verification that documentation required for
22 construction of modifications of the plant that must go into
23 the company's records are checked and verified for
24 completeness by onsite people in that area.

25 In the materials technical -- that is primarily

1 corporate staffing, but it has onsite people to provide
2 welding support, so there are onsite people in that
3 connection.

4 In the TMI quality assurance for modifications and
5 operations, that is 100 percent onsite.

6 CHAIRMAN SMITH: Is that in reference to Unit 1 or
7 Unit 2?

8 THE WITNESS: They provide the quality assurance
9 scope indicated there for both Unit 1 and Unit 2.

10 I might mention that between -- if we take all of
11 the people that are part of this department now that are
12 currently located on the site, I believe the number is about
13 68 people. Now, that may include some contractors who are
14 filling jobs that we would normally have our own employees
15 in, but it is in the range -- the normal onsite staffing of
16 this department will be about 60 people, and about
17 two-thirds of those for the next year are anticipated to be
18 working in the Unit 1 area.

19 CHAIRMAN SMITH: Okay. My question had been
20 directed to the entire nuclear assurance function headed by
21 Mr. Herbein, and you answered the quality assurance, but the
22 nuclear safety assessment is one of particular interest to
23 the Board.

24 THE WITNESS: Perhaps if I could take them in
25 sequence though, the training departments -- the training

1 staffing is probably about 85 percent onsite, so there is
2 within the training department onsite all of the management
3 structure, the instructors, the people who develop the
4 lesson plans, conduct the training, et cetera.

5 My recollection is that for Unit 1 and Unit 2,
6 that totals about 50 people at this point, and we can verify
7 those numbers if it is required.

8 In the nuclear safety assessment department, the
9 onsite people will be the group that we are calling the
10 independent onsite review group. They will consist of three
11 -- approximately three or four engineers who are onsite full
12 time, and then in the corporate office there will be some
13 additional staff of probably about three engineers, and they
14 will be visiting the site providing oversight, and review of
15 activities at the site, but they will also be performing
16 that function at the corporate offices, and they will be
17 performing that function at Oyster Creek, so they will be
18 roving, as it were.

19 But dedicated to Unit 1 will be a three or
20 four-man independent onsite review group.

21 CHAIRMAN SMITH: And they report to your manager
22 of nuclear safety assessment?

23 THE WITNESS: Yes, sir, and he is the
24 vice-chairman of the general office review board.

25 CHAIRMAN SMITH: I could not find a reference this

1 time to the PORC, plant operating review committee.

2 THE WITNESS: Right. As we have set up the
3 control activities within this organization, we have
4 provided -- and Mr. Clark will be providing the detail
5 testimony on this -- we have provided for review station
6 activities and the procedure changes, the modifications of
7 the plant either within one of the support functions, or
8 depending on the nature of it, within the operating division
9 itself.

10 I think that one of the things that has become
11 quite clear to us as we have developed this organization and
12 as we have looked back on our experience at prior times, is
13 that the tendency to put through a plant operating review
14 committee which is composed of the senior plant supervisors,
15 all of the material that they have been looking at
16 traditionally loads them up with an involvement that
17 detracts from their primarily responsibilities.

18 So we have looked at ways to structure the control
19 of those activities, procedure changes, modifications to the
20 plant, plant experience, plant upsets, other plants
21 operating, to have those things looked at by knowledgeable
22 people, not exclusive of the plant staff, because they also
23 have the opportunity and they also have mechanisms in place
24 to assure that they provide enough attention to those and
25 have enough knowledge of those things that people do not do

1 things to them that are not unacceptable to them in the way
2 of plant changes, for example.

3 But we have tried to remove from that kind of a
4 forum a tremendous amount of paperwork that flows through
5 there, and we think has been detrimental to the purpose of
6 the plant operating review committee.

7 DR. LITTLE: Let me clear something up early on.
8 When you use the term, engineer, does that mean a graduate
9 engineer, someone who is a registered professional engineer,
10 or is it a more general term?

11 THE WITNESS: It does not mean a registered
12 professional engineer unless it is someone who has become
13 registered and who does not have a degree. Then we would
14 count him as an engineer. Otherwise, it would indicate a
15 person who had a four-year technical degree or a four-year
16 science degree.

17 We sometimes have in our environmental areas
18 people called engineers.

19 DR. LITTLE: That is what I wanted distinguished
20 specifically because there are different programs that I
21 know some industries use the term, engineer, much more
22 broadly than others do.

23 THE WITNESS: No, we -- I have some data on the
24 number of professionals that we have at a later point in the
25 presentation.

1 Over the last few years we have tried to evolve
2 our way out of practice that previously existed of calling
3 people engineers who do not also have a professional license
4 or a four-year degree, with the exception of some science
5 areas where they work in engineering or closely related
6 engineering fields, and then we sometimes use that
7 terminology.

8 DR. LITTLE: So --

9 THE WITNESS: We do not take someone who has an
10 associate degree, for example, or no degree at all and put
11 them in a position that we call an engineer, nor do we, when
12 we talk about having engineering support, are we taking
13 credit for those people in describing what the engineering
14 support capability is.

15 DR. LITTLE: For example, if somebody had a B.S.
16 in environmental chemistry and worked in rad waste, would
17 that person be an engineer in job title?

18 THE WITNESS: That could very well be one that we
19 would have as an engineer job title, four or five degree,
20 and was working in an area that we would typically use an
21 engineer in.

22 DR. LITTLE: All right. Thank you. A lot of
23 engineers don't like that, you know. A lot of people with a
24 B.S. in engineering object very strenuously.

25 THE WITNESS: A lot of chemists don't like that

1 either.

2 Does that address the question on the nuclear
3 assurance -- excuse me -- on the nuclear safety assessment
4 department, Mr. Chairman?

5 CHAIRMAN SMITH: That addressed my immediate
6 question. However, we do have some general questions about
7 the staffing of those departments.

8 THE WITNESS: Fine. In the emergency planning
9 area we currently have two employees, onsite, fulltime, who
10 will remain there. The department head in that case for
11 this department, although he is currently fulltime at TMI,
12 but we anticipate that he will eventually relocate to the
13 corporate headquarters.

14 We are augmenting those people with outside
15 contractors in that case for the current intense level of
16 effort in that area. The system laboratory is located in
17 Reading and is not an onsite activity.

18 (Slide.)

19 I think in terms of kind of understanding where we
20 are, as well as where we have been, this is not in the
21 handout separately, but is the previous slide without the
22 bullets added, and then color-coded to identify which
23 individuals within the top management structure of the
24 organization are new to the organization since the accident.

25 Mr. Clark, Mr. Hukill in Units 1; Mr. Hovey in

1 Unit 2; Mr. Gifford in communications; and Mr. Mangano in
2 corporate maintenance and construction division -- I
3 discussed their background and experience in my prepared
4 testimony.

5 In addition to bringing in those new senior
6 people, a number of us, including myself, have had our scope
7 of responsibility redirected from primarily supported
8 construction activities, both nuclear and non-nuclear, to
9 strictly nuclear activities, and at this point, to just
10 operational activities if we include modifications of
11 current plans as part of the operational phase.

12 The third category, Mr. Finfrock and Mr. Herbein,
13 who was previously Vice-President of Generation in Jersey
14 Central Power and Light, and Metropolitan Edison Company and
15 had responsibility for all generating stations within their
16 respective companies whose span of responsibility in the new
17 organization is a narrow one inasmuch as the operation and
18 maintenance for Mr. Finfrock and onsite technical support
19 for Oyster Creek and Mr. Herbein for nuclear assurance, as
20 we have described.

21 And I think this is indicative of the additional
22 concentration of management capabilities which we have put
23 into place for control of the nuclear activities.

24 Mr. Thorpe has been on the general office review
25 board for Three Mile Island, I think, since it was probably

1 set up in about 1967 or very shortly thereafter, and he
2 continues as a fulltime chairman. That is his only
3 responsibility, chairman of the three general office review
4 boards.

5 They are slightly different composition for the
6 three boards, for the three units.

7 (Slide.)

8 This is a summary of the number of technical
9 professionals which we had in the organization as of the end
10 of 1980 and how they are distributed, and in this case the
11 416 are people with a four-year technical or science degree
12 who are in the operating divisions or the technical
13 activities of the support divisions.

14 So there are people who will qualify for that in
15 the two administration communication divisions. They are
16 not added into the total. It shows the distribution of them
17 as well.

18 For those 416 professionals, we have shown the
19 total number of professional years of experience. In
20 summary, that is the number of years since they received
21 their four-year degree.

22 We have also indicated the number of years that
23 they have been operating in the nuclear technology. The
24 other calibration we took is a different look at the
25 organization, and that is how many people received

1 certification for senior reactor operator on a power
2 reactor, not a test reactor, or its equivalent, which we
3 consider to be the chief reactor operator qualification in
4 the Navy's nuclear program, or something of similar vein.

5 That is 119 total. Some of that 119 are also part
6 of the 416, but there are some non-degree people who also
7 obviously have that qualification and make up the 119, and I
8 think a couple of things in review of this become important
9 to note.

10 One is that the profile across the three units is
11 fairly uniform, so that we have allocated the resources
12 across the operating divisions. I think a number of people
13 with operating experience that are part of technical
14 functions is important to us, and we also have substantial
15 operating experience represented in the people within
16 nuclear assurance.

17 To give you some context for this, as of the end
18 of December we had about 1925 total employees in the GPU
19 Nuclear group. About 900 of those or 45 percent are exempt
20 personnel; that is, they are in professional type positions
21 or supervisory type positions, and we probably could add to
22 this 416 with the people that are in administration,
23 communications, and that have non-technical degrees, about
24 another 80 or so, so that the total number of graduates,
25 people with four-year college degrees is approximately 500.

1 (Slide.)

2 CHAIRMAN SMITH: I was going to ask this later on
3 in your testimony, but I might as well as you now. Can you
4 give us assurance about the Oyster Creek plant is not being
5 overlooked or neglected pending the restart proceedings of
6 TMI-1?

7 THE WITNESS: I think I can, Mr. Chairman. I
8 think first of all one can note the resources that are
9 assigned fulltime to Oyster Creek. I think as others
10 testify we can look at -- and I do have numbers to indicate
11 what our 1981 plans are for staffing at Oyster Creek.

12 In nuclear assurance, we have information on the
13 allocation of technical resources to Oyster Creek, as well
14 as Unit 1 and Unit 2. I have that information available with
15 me, and the same thing would apply for the other support
16 divisions.

17 One thing I might mention is that I would say that
18 in terms of developing some of the staffing for nuclear
19 assurance and administration, those two divisions are
20 probably running about six months ahead at TMI-1 to where we
21 are at Oyster Creek, six to nine months.

22 In other words, we are taking the same approach at
23 Oyster Creek, but the timing of starting to build those
24 resources is slightly different.

25 CHAIRMAN SMITH: I don't want to go too far into

1 Oyster Creek. It is outside the scope of this proceeding.
2 I just wanted to be assured that you are not parading the
3 talent you have in the company through this proceeding in an
4 artificial way, and we should have assurance that your
5 efforts to get approval for startup at TMI-1 does not result
6 in neglect of other nuclear facilities.

7 THE WITNESS: Yes, sir. And as I say, I would be
8 glad to respond to that more specifically after this, if you
9 desire.

10 The particular numbers of people that are planned
11 for Oyster Creek, as well as TMI-1 --

12 CHAIRMAN SMITH: Certainly the figures you
13 demonstrated here were not prepared in anticipation of my
14 question.

15 THE WITNESS: I did bring information along that
16 can answer those questions, I think, with quantitative
17 numbers quantitatively.

18 (Slide.)

19 Now, we handed out the three sheets that look
20 similar to this. I will, unless there is a desire to look
21 at the other two, only put this one up and then explain what
22 the three of them represent.

23 I think that fairly predictably as the
24 organization has developed, the perception of what are the
25 appropriate specific functions to have, and appropriate

1 titles evolved along with that, and then we also got to the
2 point internally within the GPU system where there was a
3 desire and some advantages to having some consistency in how
4 we determined the titles for people who were at various
5 levels within the organization.

6 And the GPU Nuclear Corporation represents some
7 changes in titles which were nothing more than for
8 consistency across the total GPU system.

9 So what I have indicated in these three sheets are
10 the pre-accident positions for which there are close to
11 functionally equivalent positions in the present
12 organization, including in some cases where we have further
13 expanded the staffing for the particular functions, so that
14 there may be more than one position in the current
15 organization that is the counterpart.

16 So for example, the station manager, we basically
17 have director of TMI-1 and TMI-2 who are functionally
18 equivalent for their particular unit to the station
19 manager's function for both units before.

20 By and large these are the titles that are present
21 in the GPU Nuclear group, technical specification, and I
22 also indicated where I thought in some cases there may have
23 been another title used, perhaps in somebody's testimony,
24 that might lead to confusion, like supervisor of operations
25 I think in a couple of places may be referred to as the

1 operations supervisor.

2 We have no place that I am aware of where the same
3 title has been used for two different functional positions
4 in the organization. In other words, there is no ambiguity
5 that should come in because at one point in time a title was
6 used to identify one particular role in the organization;
7 subsequently that title is used for a different role.

8 It is only a case where a given function has had
9 the titling for that function undergo some development.
10 That, as I say, I would be glad to put the other two up, but
11 I think that that is what I hoped to accomplish by this
12 presentation.

13 This portion of the presentation is to provide you
14 the cross-reference and when in reading various prepared
15 testimony, the is uncertainty as to what particular
16 position is being talked about relative to other information
17 that may be available, I think this provides the cross
18 references that are needed, including going back into, for
19 example, I&E inspection reports that may have been written
20 based upon titles that were in existence prior to the
21 accident even.

22 CHAIRMAN SMITH: Okay. We do not seem to have
23 anyplace a table of organization chart which accurately
24 reflects GPU Nuclear Corporation titles for TMI-1 onsite. I
25 thought that we had, but I thought that the chart on page

1 nine of the SER supplement took care of that.

2 But just picking one at random, I see that the
3 chart on page nine is indeed intended to be the chart of GPU
4 Nuclear. But it has the title of Manager, TMI-1, renaming
5 which, as I read your latest submittal, that that is no
6 longer a current title. It has been replaced by Operations
7 and Maintenance Director.

8 THE WITNESS: Let me say a word about timing. The
9 GPU Nuclear Corp titles, as I identified them here, are the
10 titles that we are going to. In terms of, you know, kind of
11 the official switch, it will come with the distribution
12 which I expect to take place later this month of the GPU
13 Nuclear organization and functions.

14 This is a document that will provide down to the
15 section level, which is the next level below the
16 departments, the division department sections, a statement
17 of summary of responsibilities, their major functions, and
18 the organization, including the official titles.

19 What I have reflected in the right-hand column on
20 my chart are the titles that will be officially in place at
21 that time, and this is going to the last review at this
22 time, and I expect to publish it as the official document
23 about the middle of this month.

24 So that is why you still see that information in
25 the SER, which has that discrepancy or disparity, at least,

1 and this is intended to be able to provide you with the
2 corrolation between that title and what it will be
3 officially in the GPU Nuclear Corp.

4 CHAIRMAN SMITH: Have you read the testimony of
5 the panel that is to follow you, Mr. Hugo and his
6 colleagues? They apparently are not using the most current
7 projected titles either.

8 THE WITNESS: We checked to be sure. I think
9 there are seven titles specifically in his testimony which
10 in effect fall into this column and for which we have
11 provided the GPU Nuclear Corp forms here.

12 I do regret the inconvenience, and I know the
13 confusion this causes. We were struggling with what timing
14 we should do on making this changeover, and my feeling is
15 the sooner we get these things behind us, the better off we
16 are.

17 MR. BLAKE: Mr. Chairman, you have correctly
18 observed when we filed that testimony in December, that we
19 have since had -- taken in the right-hand column which Mr.
20 Arnold referred to, and it has different titles for
21 individuals.

22 And that is what throws us for a loop. For
23 example, when you compare it with the GPU Nuclear
24 Corporation amendment which we filed late in January, where
25 you find the most recent and what we intended as the final --

1 CHAIRMAN SMITH: Yes. The confusing aspect of it
2 was that the testimony and the charts were labeled GPU
3 Nuclear.

4 MR. BLAKE: I agree.

5 THE WITNESS: And it is only --

6 MR. BLAKE: Mr. Arnold can explain that.

7 THE WITNESS: Some of these titles, particularly
8 those that were modified to provide conformance with a kind
9 of prescription being used across the GPU system, were
10 changed in that manner only within the last couple of months.

11 That concludes what I intended to use the slide
12 presentations for. If Mr. Crocker would turn on the lights
13 --

14 MR. BLAKE: Mr. Smith, I offer to the Board -- the
15 time Mr. Hugo puts in his testimony, we add a chart at the
16 end, lest there be any confusion. It is on Unit 1's
17 organization and has the titles as they will be.

18 I will make that offer to the Board, and we will
19 make good on it by the time Mr. Hugo comes up.

20 CHAIRMAN SMITH: Fine. After you become familiar
21 with the organization, it is not difficult to follow it
22 through. But at the beginning it was difficult.

23 MR. BLAKE: I hope it has been helpful not only to
24 the Board, but to the parties as well. So once and for all,
25 you have a feeling for the organization as we go through.

1 I have no further questions for Mr. Arnoll. He is
2 available for cross examination.

3 CHAIRMAN SMITH: I have some questions that go
4 beyond the direct testimony of Mr. Arnold. I don't know.
5 Maybe I should inquire now, and then we can begin
6 Commonwealth cross examination with a background of the
7 questions that we have which expand the testimony, if you
8 don't mind.

9 I realize we just received today the written
10 testimony of Mr. DeCamp. While you are here, I would like
11 an opportunity for you to explain a budgeting process and
12 the financial support process for GPU Nuclear.

13 THE WITNESS: Yes, sir. Do you want to address
14 that now?

15 CHAIRMAN SMITH: Would you, please?

16 THE WITNESS: First of all, our budgets are broken
17 into two components. We have a construction budget which
18 represents the budget for new investments in plant, and we
19 have an operating and maintenance budget which represents
20 the items of expenditure which are handled as expense by the
21 accounting treatment.

22 The way in which the 1981 budget was put together
23 and which I think will be typical of the budgeting process
24 for the future is that we have each of the divisions at at
25 least a department and in some cases at a section level,

1 generate their forecast of requirements in both construction
2 and operation and maintenance for the following year, for
3 the budget year.

4 This process starts generally in about early
5 August, perhaps late July. Coincident with that is also the
6 development of what I will call a manpower budget, which
7 obviously is an important element of the budgeting process.

8 But it is not, I guess, quite the same nature of a
9 construction budget or an O&M budget. The department heads
10 in conjunction with the division heads, will review their
11 requirements as they see it, and they will generate a
12 division level forecast of their needs.

13 I would like to drop off at this point the
14 construction budget because it is treated somewhat
15 differently, and focus on the operation and maintenance
16 budget.

17 The operation and maintenance budget is then
18 reviewed by Mr. Clark and myself with the division heads,
19 and we include in that review their manpower planning as
20 part of what they have to have prepared for their budget
21 presentations at that time.

22 It is a scope of work that they intend to address
23 in the budget year, and the major assumptions that they are
24 making in preparing their budgets. So for example, in
25 TMI-1's budget, the assumption on what the schedule for

1 preparation for restart has to be made explicit in order to
2 have a meaningful insight into the budget.

3 That is reviewed by Mr. Clark and myself and we
4 attempt to provide at one time in the course of that review
5 a consistency in the level of effort across the total
6 system, and we also attempt to provide in the process a
7 correlation of the efforts of the various divisions.

8 I think I would have to point out that in the
9 course of the divisions coming up the point where they are
10 ready to review with us, there has to be a lot of
11 interaction between the various positions, particularly
12 between the support divisions and the operating divisions.

13 The radiologic controls department at TMI-1 cannot
14 develop a meaningful budget without a clear understanding of
15 what work Mr. Hukill intends his people to accomplish in the
16 following year, because otherwise they don't know the scope
17 of radiologic controls effort that they will have to provide
18 coverage for.

19 So there is that kind of cross divisional dialog
20 that takes place during that time. And at the time that it
21 comes up to us for the first iteration, we do focus
22 principally on two things. One is providing a total level
23 of expenditures that appear to us to be reasonable in terms
24 of the historical requirements for expenditures and in terms
25 of the anticipated increase in requirements, those things

1 that we can specifically identify.

2 We review the work plans of the people very
3 closely and we are moving in the direction of budgeting by
4 activity by specific work product rather than by level of
5 effort.

6 We can take more time talking about that if we
7 want, but as an example, a particular work product might be
8 like a turbine overhaul, which is fairly easy to understand
9 if you are going to overhaul a turbine, a turbine generator.
10 You can sort of isolate that effort of work and schedule and
11 cost estimate it fairly straightforwardly.

12 If you take something like the operation of the
13 plant, that tends to be very much a level of effort in past
14 budgeting practices. That is, you have so many operators
15 per shift and you have so many shifts and you are going to
16 spend so much money on payroll, for example, to maintain
17 that level of support.

18 To the maximum extent we can, we are trying to get
19 closer to, as I say, budgeting by work product, even in
20 those areas that have traditionally been forecast on level
21 of effort.

22 So I would say that the three key elements of our
23 review at that time are some reasonable total number across
24 the system, a consistency in initiatives and the level of
25 effort in particular kinds of work efforts from division to

1 division, and I will give some examples in a moment, and a
2 correlation between the divisions where there is an
3 interdependency between them on their required work.

4 For the second category, what I would perhaps find
5 an example there is the extent to which we are going to
6 attempt in 1981 to increase the training effort of
7 technicians, for example, maintenance personnel on TMI-1,
8 and the extent to which we are going to try to do that on
9 TMI-2 and Oyster Creek up to -- bears some relationship to
10 each other.

11 They ought to have some consistency between them,
12 and to the extent that they are different, we ought to have
13 some understanding as to why we are doing something
14 different at one unit than at the other.

15 So there is that type of cross-checking of the
16 plans between the various areas. At that point we are
17 usually ready to review the budget with the people who are
18 going to eventually have to make the budget recommendations
19 to the general public utility's board of directors.

20 That would be the chief executive officer and the
21 chairman of GPU, Mr. Coons. Mr. DeCamp, the President of
22 GPU and Acting President of Met Ed, the President of
23 Pennsylvania Electric Company, the President of Jersey
24 Central Power and Light, the chief financial officer for the
25 system, Mr. Condon, and usually at a minimum, the

1 controllers of each of the three operating companies, and
2 the controller of the GPU Service Corporation and GPU
3 systems.

4 So Mr. Clark and myself meet with that group of
5 people and review our scope of work and projected plans for
6 the budget year, and the level of expense that we foresee
7 being associated with that.

8 There is at that point, as there is throughout
9 each separate process, judgments made by management people
10 as to what is appropriate and as to whether the scope of
11 work and the costs associated with those -- with that scope
12 of work appears reasonable, appears well based.

13 And that in many cases, because of the known
14 restraints that exist on the total resources available to
15 the corporation, judgments are made as to priorities of
16 work, and some things are dropped out of the budget plans.
17 Throughout that process, various things are typically
18 dropped out.

19 In most cases at each of the levels, some things
20 are expanded or added, and that again, because of the sense
21 of priorities on things, that usually -- the meeting that I
22 referred to, we eventually get to where Mr. Clark and myself
23 met with a group I identified and did indicate in this
24 particular budget year, that what we are forecasting we
25 needed for the Nuclear Corporation was in excess of what the

1 corporation wanted from their financial planning standpoint.

2 We had been given at that time total dollar
3 targets which were somewhat in excess of -- I guess the best
4 way to describe it is out of that session, which I guess
5 really became kind of a lot of sessions, we eventually
6 received approval for the dollars, and the scope of work
7 which we proposed would constitute the 1981 budget year.

8 That is a very brief summary of a process that
9 really takes about three months, and I think I would be
10 remiss if I did not -- you know, if I did not make it clear
11 that there is a lot of interchange that goes on and a lot of
12 feedback that goes on throughout that process.

13 CHAIRMAN SMITH: And that was budget then-- the
14 budget then was submitted to the Board of Directors?

15 THE WITNESS: Yes, that is the operation and
16 maintenance budget.

17 CHAIRMAN SMITH: Yes.

18 THE WITNESS: In the capital budget area we handle
19 that differently.

20 CHAIRMAN SMITH: Perhaps you might tell us how you
21 succeeded with that budget then before the Board of
22 Directors.

23 THE WITNESS: I am sorry. That expenditure level
24 was approved by the Board of Director of GPU.

25 CHAIRMAN SMITH: So in essence you got everything

1 you asked for?

2 THE WITNESS: I would say 99 percent of it
3 anyway. We could probably go back and identify some things
4 that we agreed we would curtail.

5 The people whose names were shown on the chart, I
6 believe, we all felt as a group that we were given the
7 necessary resources to do the job that we felt we needed to
8 do in 1981.

9 CHAIRMAN SMITH: You mean, your division people?

10 THE WITNESS: Yes, as well as Mr. Clark and myself.

11 CHAIRMAN SMITH: What do you call the group at the
12 corporate level made up of Mr. Coons, DeCamp, Condon and the
13 three controllers? Do they have a formal group name?

14 THE WITNESS: Excluding the operating company
15 controllers, they are the Board of Directors of the GPU
16 Service Corporation. They effectively are functioning as a
17 system, top management or senior management committee
18 almost, or group. I guess I really should not say they are
19 functioning in a committee role, but they recognize that
20 they have to meet and discuss those issues and work those
21 things out in concert, that it is not something that they do
22 individually.

23 CHAIRMAN SMITH: They constitute the budget
24 committee for the Board of Directors?

25 THE WITNESS: They really constitute -- I would

1 characterize it that they are the senior management of the
2 company responsible for financial areas of the company: the
3 presidents, the controllers, and so that the budgeting
4 process is under their direction, and they are responsible
5 for developing the budgets for the individual operating
6 companies in the system.

7 CHAIRMAN SMITH: I did not understand. You used
8 -- I thought you suggested that they comprised the
9 membership of the Board of Directors, and I --

10 THE WITNESS: The GPU system, I guess, because of
11 its holding company complexion, becomes rather complicated
12 at times to understand, but if I could just perhaps provide
13 some background?

14 General Public Utilities is a holding company. It
15 is the owner of the equity of the three operating
16 companies. In addition, there is GPU Service Corporation,
17 which is also a subsidiary of General Public Utilities.

18 The GPU Service Corporation functions in many ways
19 like a corporate staff for the General Public Utilities
20 holding company. The holding company as such only has
21 about, I guess, 10 or 12 employees. It has six or eight
22 officers and a few secretarial positions.

23 All of the officers of the holding company,
24 General Public Utilities, chief executive, chairman,
25 president, financial officer, controller, secretary and

1 treasurer, have the same position in the GPU Service
2 Corporation.

3 So they really function in both roles any time
4 effectively, but they are functioning or they have both
5 roles for all practical purposes, and so the Service
6 Corporation, among other things, and not exclusively, does
7 particularly in the financial area I think perform as
8 corporate staff would perform for the GPU system.

9 So that when it comes to the budgeting process
10 underneath the GPU Service Corporation, officer group in the
11 financial area, the president, the chief executive officer,
12 along with the president and controllers of the operating
13 companies, they have effectively -- work as a group. They
14 are not working as a committee, but in their individual role
15 to develop the budget which will eventually be submitted for
16 approval to the Board of Directors of General Public
17 Utilities.

18 I perhaps misled you because the GPU Service
19 Corporation, as well as each of the individual operating
20 companies, have their own board of directors.

21 CHAIRMAN SMITH: In the budget review process, you
22 indicated that you received almost everything that you asked
23 for. Did your budget review people, Mr. Coons, Mr. DeCamp,
24 insist that you spend more money in any particular areas
25 related to health and safety that you had not felt necessary

1 when you presented it?

2 THE WITNESS: They agreed with us putting more
3 effort into a couple of areas which we wanted to do, even
4 though in order to do so we felt would require additional
5 spending or additional budget support, and we have another
6 item which is currently under review; as to whether or not
7 we will put it in the 1981 budget, because of its
8 relationship to safety, and that is a construction budget
9 item.

10 It really is a transmission line, but it is a
11 transmission line to feed into Oyster Creek, and it
12 increases the reliability of offsite power into Oyster Creek.

13 We are still in the process of evaluating whether
14 that project should be put back into the budget, should be
15 funded, because it has higher priorities than other items,
16 and we are doing that at their direction.

17 CHAIRMAN SMITH: My question would relate to the
18 operation and maintenance portion of your budget, and it is
19 just a summary question; that is, were there any areas
20 relating to health and safety in which your corporate budget
21 review people disagreed with your assessment of needs in the
22 direction of spending more?

23 THE WITNESS: I do not think so, but I should
24 provide some context to that area. I think the answer to
25 your question is no. But our planned staffing levels and

1 our planned programs in areas like health, physics and
2 providing analysis support of plant transient, for example,
3 providing training, providing increased staffing, operation
4 and maintenance onsite were the subject of extensive
5 discussions between Mr. DeCamp specifically and Mr. Clark
6 and myself, and Mr. Coons was frequently a party to those
7 discussions.

8 So there was a consensus, I think, between us, or
9 at least there was an understanding on Mr. Clark's part and
10 myself as to what the judgment was as to what the minimum
11 level of efforts in those areas would be.

12 I do not think that we ever disagreed with that.
13 In some cases we wanted to have more effort, and as I
14 indicated, that was always supported.

15 CHAIRMAN SMITH: I do not want to pursue it much
16 further, but I have not identified who yet for the Licensee
17 is going to testify on the management issues, number six,
18 whether the relationship between corporate finance and
19 technical departments is such as to prevent financial
20 considerations from having an improper impact upon technical
21 decisions.

22 The SER simply says that Mr. Condon comes at one
23 direction, and Mr. Arnold in another direction, and it stops
24 at DeCamp, which does not really tell us much.

25 It is naive to think that I would think that Mr.

1 Arnold is totally insulated from the consideration of, is
2 there going to be enough revenue to support his budget? I
3 have not seen such testimony which goes into that.

4 MR. BLAKE: I think, Mr. Smith, the DeCamp
5 testimony --

6 CHAIRMAN SMITH: The testimony I received today?

7 MR. BLAKE: Yes. It is on issue six.

8 CHAIRMAN SMITH: I assumed it would be. I wanted
9 to hear the process from Mr. Arnold's viewpoint.

10 MR. BLAKE: The DeCamp testimony was filed
11 yesterday, and it was the schedule which I outlined January
12 15. We are trying to follow that for future filings of
13 testimony. If you don't have it now I have some extra
14 copies I think I can provide for those others that are here
15 today.

16

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1 THE WITNESS: I would like to add one other
2 comment to my previous ones, though, which I think is
3 relevant to your question. And I want to bring it up
4 because of the way I view its importance in this area.

5 I identified in the presentation the existence of
6 the management oversight committee, which again is composed
7 of the presidents of the companies, Mr. Kuhns, Mr. Clark,
8 and myself and Mr. Cherry, who is the vice president of the
9 Service Corporation for corporate planning and has an
10 extensive nuclear background.

11 We meet monthly to review the performance of the
12 organization -- that is, the operating performance of the
13 organization -- and we also, in the course of that meeting,
14 which is typically a four- to six-hour meeting, review where
15 we are relative to our budget.

16 And I think that is one of the major mechanisms by
17 which that group, which eventually has to make decisions on
18 priorities within the total GPU system on the allocation of
19 resources, is kept intimately aware of what we are doing,
20 what we are planning, what problems we are having, and where
21 the organization is trying to go.

22 That is the same group that will eventually be or
23 is currently and will eventually function as the GPU Nuclear
24 Corporation board of directors. That group also -- or
25 stating it the other way, both Mr. Herbein as the vice

1 president for nuclear assurance and Mr. Thorpe as the
2 chairman of the general office review board have been
3 specifically explicitly given direct access to Mr. Dieckamp,
4 who is the chief executive officer of GPU Nuclear Corp. and
5 the chairman of our board and to the board as a whole.

6 And we will periodically include in the agenda
7 presentation of those meetings presentations by Mr. Thorpe,
8 for example, as a general office review board member.

9 At least two of those meetings each year take
10 place at Oyster Creek. At least two of them will take place
11 at Three Mile Island. So the meetings are not just held in
12 Parsippany and they lose touch with what is happening in the
13 field.

14 (Board conferring)

15 CHAIRMAN SMITH: Those were the two areas I had
16 outside the direct that I identify right now. There may be
17 others, but we can proceed then with the cross examination
18 on the direct.

19 Mr. Adler?

20 MR. ADLER: If either ANGRY or TMIA have cross
21 examination, perhaps it would be best for them to go first.

22 CHAIRMAN SMITH: Do you have cross examination?

23 MS. GAIL BRADFORD: Sir, we do not have cross
24 examination on its written testimony. I just have one
25 question on a chart in this new material.

CROSS EXAMINATION

1

2

BY MS. GAIL BRADFORD:

3

Q Mr. Arnold, on a page there you have people listed
4 in the category A, B, C, D, E.

5

6

CHAIRMAN SMITH: Have you thought about putting
this into the transcript?

7

MR. BLAKE: I hadn't. I had not really come to
8 grips with it. I thought I would take a look at the
9 transcript and see whether or not it made sense. If we can
10 be careful with our references, at least the option might
11 still be available to me. Maybe when I read the transcript,
12 I might say, "Goodness, we ought to have it for clarity, Mr.
13 Smith." I have no clear preference.

14

CHAIRMAN SMITH: He only covered the first -- he
15 did not cover all of it to begin with. He identified it. I
16 think it would be helpful if we had it bound into the
17 transcript at the place of his testimony.

18

MR. BLAKE: I can identify them now, and we can
19 put them in at this juncture.

20

CHAIRMAN SMITH: He identified it adequately.
21 Just simply bind it into the transcript following the direct
22 written testimony, if that will be satisfactory.

23

Are there any objections?

24

(No response)

25

MS. GAIL BRADFORD: Maybe Mr. Blake would identify

1 what page this is.

2 THE WITNESS: It is the next-to-the-last sheet I
3 believe you are interested in in the package.

4 MS. GAIL BRADFORD: Yes, it is the
5 next-to-the-last sheet.

6 CHAIRMAN SMITH: It doesn't work that way. You
7 can't just go up in the air. You were talking about --
8 could you identify the paper that you are referring to?

9 MS. GAIL BRADFORD: It is in the handout that was
10 given out today. It says "GPU Nuclear Group - Corporation
11 Organization." It is actually the last sheet in that
12 collection of papers. The heading is "GPU Nuclear." It is
13 a summary. It divides employees into four groups, A, B, C,
14 D.

15 CHAIRMAN SMITH: That explains some of my feeling
16 of -- okay, that is fine.

17 MS. GAIL BRADFORD: It was also --

18 CHAIRMAN SMITH: It was one of the things he
19 flashed on the screen, and Dr. Jordan and I somehow were
20 overlooked. We don't remember receiving it. I think the
21 matter is probably the case.

22 (Board conferring)

23 MR. BLAKE: Have you --

24 CHAIRMAN SMITH: This is a disease akin to
25 snow-blindness. After a while, the papers do not have high

1 visibility. I have it.

2 What are we going to do with this? Why don't we
3 do the same thing with this, if he is going to be testifying
4 on it, let's bind it into the testimony.

5 MR. BLAKE: That is what we just agreed to bind
6 in.

7 MS. GAIL BRADFORD: Does it have an exhibit
8 number?

9 MR. BLAKE: No. It is going to be right behind
10 his testimony, as I understood it. There are two items
11 which we have handed out to people, which are precisely what
12 Mr. Arnold spoke from on the screen. And it was these items
13 which I thought we just agreed to bind in right after his
14 testimony.

15 CHAIRMAN SMITH: That is right. Two items.

16 MR. BLAKE: Right.

17 CHAIRMAN SMITH: I was only aware there was one
18 handout. As long as the reporter knows about it.

19 MR. BLAKE: The reporter has copies of both of
20 these.

21 CHAIRMAN SMITH: You are going to bind both items
22 following the direct testimony.

23 I am sorry, Ms. Bradford.

24 MS. GAIL BRADFORD: Are we all on the same page?

25 MR. BLAKE: The last page, as I understand it, of

1 the document entitled "GPU Nuclear Group - Corporation
2 Organization."

3 BY MS. GAIL BRADFORD: (Resuming)

4 Q I guess I am not clear where certain people who I
5 know of as employees would fall into your scheme. And I am
6 wondering if you could tell us where, for instance,
7 operators, reactor operators who actually operate from the
8 control room, fall into the scheme?

9 A Reactor operators that operate the control room
10 are not included in the summary. This was a summary of the
11 professional people within the organization. Control room
12 operators are typically not degreed people. And they are
13 among the total 1925 employees I identified. But as they do
14 not have four-year degrees typically, they are not included
15 in the technical professions -- professionals. Items B and
16 C are experienced of the people counted in Category A. They
17 do not typically have a senior reactor operator license;
18 they have a reactor operator license.

19 So they are not included in the count in these.
20 So this does not provide for the total population within the
21 organization. We can do that, if that would be helpful.
22 But they are not covered in this summary.

23 Q Sir, I see some -- I have not added it up, but in
24 your summary there is 8000 or more in the total of A, B, C,
25 D. I understood you to say earlier that some of those

1 totals were not mutually exclusive.

2 A Yes.

3 Q What is that total?

4 DR. JORDAN: Isn't the 8000 -- those are
5 man-years, are they not?

6 THE WITNESS: Yes. They should not be totaled.

7 BY MS. GAIL BRADFORD: (Resuming)

8 Q I was wondering about that. Thank you.

9 A I apologize. That is part of the problem of using
10 visual aids, I guess, is you get involved in shorthand and
11 it is not a complete discussion in itself.

12 Category A are the 416 degreed people that have
13 the characteristics I described. B is a total number of
14 man-years of professional experience that those 416 people
15 have. It is the integrated number of years that those 416
16 have accumulated since they received their four-year
17 degree.

18 Category C is the portion of the 5039 man-years
19 which they spent in nuclear activities in the nuclear
20 technology. So that we have within the 416 people 3153
21 man-years of nuclear experience. That is a total of the
22 5000-plus years of professional experience; that is a
23 portion of that 5000.

24 Category D is just -- is a completely different
25 measurement of the organization's capability. It is a

1 measurement of the number in the organization who achieved a
2 very significant level of qualification in the operation of
3 nuclear facilities.

4 Q I understand. That helps a lot. I thought you
5 had an awful lot of people around there.

6 Can you tell me where, just as an example, which
7 one of these vice presidents or whoever on there would be in
8 charge of the control room operators?

9 A Yes. For TMI Unit Number 1, the control room
10 operators work for Mr. Hukill.

11 MS. GAIL BRADFORD: Okay. Thank you.

12 A THE WITNESS: Mr. Hukill's experience is set
13 forth in summary, at least in my testimony, and he will be
14 testifying later. And he provides a resume of his
15 experience as well in that testimony.

16 MS. GAIL BRADFORD: Yes, sir. I just really
17 wanted to understand the chart better. Thank you.

18 CHAIRMAN SMITH: I understand, Mrs. Bradford, that
19 you have no cross examination.

20 MS. LOUISE BRADFORD: I have no questions.

21 CHAIRMAN SMITH: Mr. Adler?

22 MR. ADLER: Thank you, sir.

23 BY MR. ADLER:

24 Q Mr. Arnold, in the first paragraph of your
25 testimony, you list a number of titles that you currently

1 hold. Now, when the transition takes place, you will be
2 president of GPU Nuclear Corporation. Which of the prior
3 titles, senior vice president of Met Ed and JCP&L, will you
4 still retain after you become president of GPU Nuclear?

5 A I do not anticipate I will retain any of them. My
6 only title would be president of GPU Nuclear Corporation.

7 Q All right. In your current duties with all those
8 titles, can you explain which of those duties overlap or
9 conflict?

10 A I do not think any of them overlap or conflict at
11 all. The reason for the rather extensive list of titles is
12 because with the current GPU Nuclear Group and its
13 authorization under the various licenses to operate TMI-1,
14 TMI-2, and Oyster Creek, it is necessary for me, in the role
15 that I have as the head of the GPU Nuclear Group, to be a
16 corporate officer in Met Ed and the Jersey Central and also
17 in the Service Corporation. So I am functioning with the
18 requisite level of authority within those three companies to
19 fulfill what is really an integrated role among the three
20 companies as the head of our system nuclear activities.

21 Q So it was merely what you might term
22 administrative necessity that required all those titles?

23 A Yes.

24 Q At the bottom of the page you say, "About one week
25 after the accident I was placed in overall charge at TMI."

1 I take it you were involved extensively in the cleanup and
2 recovery from the accident?

3 A Yes, sir. I arrived at the site Friday morning,
4 March 30, and I have been effectively full-time at the site
5 since then.

6 Q After you effectuate the transition to GPU Nuclear
7 Corporation, can you describe your continuing
8 responsibilities in terms of the decontamination at TMI-2?

9 A Mr. Gale Hovey, as the head of the TMI-2 division,
10 will have the management position which is solely dedicated
11 to supervision and management of the decontamination of Unit
12 Number 2. He will report to Mr. Clark and myself, and we
13 will be responsible for providing oversight and direction of
14 his management role in those activities.

15 So I will continue to be responsible under the
16 license at that point, I anticipate, as I am now, for
17 compliance with the license for the facility. I will
18 continue to be responsible for the development of the
19 financial planning, the technical planning, understanding
20 that that is executed through Mr. Hovey and the other
21 support divisions that will be supporting him.

22 Q But your on-site responsibilities will be
23 completely taken over by Mr. Hovey; is that correct?

24 A No, I do not think that is probably a good
25 characterization. My current role and responsibilities do

1 not require me to be on site. But over the last 22 months
2 the advantage of staying at the site and providing that
3 level of management attention to the activities on Unit 1
4 and Unit 2 from the site have been obvious to us.

5 But Mr. Hovey is currently functioning in the role
6 which I described. The communications between us as well as
7 between Mr. Hovey and myself are obviously facilitated by
8 the proximity that I have to the site.

9 Q Will you continue to spend a considerable amount
10 of time on site?

11 A Yes, I think so. My expectation is I will
12 typically be there one or two days a week.

13 Q Can you describe what your on-site
14 responsibilities will be? What will you be doing when you
15 are at the Island?

16 A Well, the responsibilities I will be carrying out
17 are not specific to being on the site. But since that is
18 where the activity is taking place and in my role within the
19 management of the organization, it is essential that I have
20 a good understanding of what is actually occurring on a
21 day-to-day basis at the site and that I have firsthand
22 visibility of that, that the people within the organization
23 that need to communicate with me and which I need to
24 interact with to form judgments and make decisions that I
25 have to do, those occur more readily if I am there a

1 substantial portion of time.

2 And that will be the reason for my spending a
3 large portion of my time at TMI, not because of what I will
4 specifically be doing in my interaction with Mr. Hovey and
5 the other staff members requires that it be done at the
6 site.

7 Q How much time do you anticipate that you will
8 spend at Oyster Creek?

9 A I will expect I will spend approximately one day a
10 week on the average at Oyster Creek. But I think that it is
11 probably fair to project when I am providing these averages,
12 I am not looking at the time in a given week, necessarily,
13 but perhaps the average on a month-to-month basis.

14 Q Will you be the official who is directly
15 responsible for any necessary coordination between TMI-1 and
16 2 and any necessary steps to separate the two in terms of
17 management?

18 A I will be the official that will be responsible
19 for ensuring that coordination. And a necessary separation,
20 in fact, occurs with Mr. Hovey and Mr. Hukill both on site.
21 I do not anticipate there will be a need for me to typically
22 get involved in that kind of activity. But it will be work
23 between them; should there be a need for a third-party
24 agreement or third-party input, certainly I am the one who
25 will provide that.

1 I might also mention that Mr. Clark, in his role
2 as deputy to me or executive vice president of the
3 corporation, will also have authority to act to the same
4 extent that I do. Mr. Hovey and Mr. Hukill have access to
5 him, and they can also interface with him on issues where
6 our judgment -- Mr. Clark's and myself -- need to be brought
7 to bear on particular issues.

8 Q Let's say there is an accident at Oyster Creek,
9 some significant occurrence at Oyster Creek which requires a
10 significant portion of your time present at Oyster Creek.
11 What plans do you have to assure yourself that your
12 responsibilities at TMI, both TMI-1 and 2, are fulfilled?

13 A I do not think there is any question if there were
14 serious accident at Oyster Creek, that I would go there more
15 or less immediately and that I would be spending a
16 substantial amount of time there.

17 I think that one of the strengths of the
18 organization as we are setting it up is the extent to which
19 there are resources dedicated to Unit 1, resources dedicated
20 to Unit 2, resources dedicated to Oyster Creek. This is
21 particularly the case with Three Mile Island Unit Number 2,
22 where even the technical functions resources that are needed
23 on sort of a baseload basis are assigned to Unit 2, located
24 at the site so even though they are a part of technical
25 functions they are dedicated to Unit 2, they are not part of

1 the corporate staff and they have to go back there and there
2 are possibilities of competition for their time.

3 But in the event that what you postulate were to
4 happen, I think that the organization clearly is -- has the
5 strength, has the capabilities that my presence for a matter
6 of days or a couple of weeks would not be essential to the
7 continued safe conduct of activities at those two sites.
8 And that would give us the opportunity to gauge the
9 potential impact of the diversion of my time and attention
10 to Oyster Creek and decide, probably between Mr. Clark and
11 myself, how we would subsequently align responsibilities to
12 deal with that problem.

13 I think that the availability of Mr. Clark gives
14 us the flexibility to deal with that type of a special
15 situation in a very acceptable way.

16 Q You indicated that if there were an accident at
17 Oyster Creek, it is almost certain or certain that you would
18 become available there. Would Mr. Clark necessarily stay in
19 Parsippany or at TMI, or would he go to Oyster Creek as
20 well?

21 A I think in the immediate hours after the accident,
22 why, he would go to Oyster Creek as well. But I think that
23 within that time period of a few days up to two weeks that I
24 was discussing, we would have to deal with the issue which
25 you bring up. And I do not think that we can prescribe

1 ahead of time exactly how we would do it.

2 Clearly, I have the responsibility to ensure that
3 there is sufficient management attention and sufficient
4 resources for the safe operations at TMI as well as the
5 addressing of any emergency conditions or accident
6 conditions at Oyster Creek. And we would have to ensure
7 that that responsibility was fulfilled.

8 I do not think that we would necessarily be in the
9 situation where we would require Mr. Clark and myself to
10 effectively stay full-time for a matter of many weeks at
11 Oyster Creek.

12 I think one or the other of us would become
13 available to return to more or less normal assignment at
14 Three Mile Island or we would have to make some provisions
15 that one of us did become available to that extent, I
16 think.

17 Q I recognize that each accident or each situation
18 at a plant is different and that you need to analyze a set
19 of circumstances and what resources and management personnel
20 actually need to be transferred to the site. But don't you
21 think that it would be wise, in light of the fact that GPUSC
22 now has responsibility for two operating plants and one
23 which needs to be decommissioned, to think about -- to come
24 up with some plan for which top management personnel at
25 GPUSC would go and which would be left in reserve?

1 A Well, I think we have done the initial thinking
2 that you describe. And I guess I would only say that we
3 came up with a somewhat different answer.

4 I think if we had an accident at one of the sites,
5 we clearly would concentrate the management and technical
6 resources on dealing with that accident. And I do not think
7 that the situation of the other plants is so precarious --
8 and in fact, I think we would be delinquent in performing
9 our responsibilities if we had a situation at the other
10 plants that was so tenuous that the specific attention of
11 Mr. Clark or myself, day by day, was necessary to keep those
12 activities adequately safe.

13 So I do not think we envision ourselves in the
14 situation where there is the kind of uncertainty associated
15 with the ability of those other activities to continue to go
16 and be conducted in a safe manner during the temporary
17 absence of either Mr. Clark or myself. We have the window
18 of time in which to make those judgments and see what is the
19 best way to address the ongoing activities at the plant or
20 plants not affected by the accident, in a way that is
21 acceptable.

22 CHAIRMAN SMITH: Mr. Adler, you began referring to
23 officials of GPUSC in your last two references.

24 MR. ADLER: I am sorry. I meant to say GPUNC.
25 Thank you.

1 THE WITNESS: The people involved would be
2 basically the same. So the answer remains the same.

3 (Counsel for the Commonwealth conferring)

4 BY MR. ADLER:

5 Q On page 6 of your testimony, Mr. Arnold, you say
6 in the second full paragraph: "Prior to the accident, the
7 management of GPU recognized that our nuclear activities
8 would benefit from expansion of our in-house technical
9 capabilities." You refer to a 1977 management audit.

10 I presume this came after this realization on the
11 part of GPU that you needed to expand your in-house
12 capabilities. And I wonder if you could identify when you
13 made this decision and decided that upgrading was necessary?

14 A Well, I guess those kinds of judgments,
15 perceptions, do not occur in time like switching on a
16 light. So I do not think I could say in that a specific day
17 at which that realization existed.

18 I think the important date in terms of the
19 development of those thoughts and the plans associated with
20 them for me, at least, was the time at which I went from
21 Metropolitan Edison Company to the GPU Service Corporation
22 to assume the position there of vice president of
23 generation. And in the course of talking with Mr. Dieckamp
24 about that position and what he expected from that position
25 and in the first few months within that position is when we

1 discussed in considerable detail the need for expansion of
2 our in-house resources and during which I developed my
3 proposals for how we would implement that both in scope of
4 resources and the timing for them.

5 It was that period in which this was taking place,
6 which was basically the middle six months of 1977, was
7 coincident with the time period in which the Booz, Allen &
8 Hamilton organization was in doing the management audit.
9 And my plans, in their more or less definitive stage, were
10 available to discuss with the Booz, Allen & Hamilton people
11 as they were finishing up their audit.

12 Q So your recommendations were independent of the
13 Booz, Allen -- of the management audit, the Booz, Allen &
14 Hamilton audit?

15 A Yes, they were. I had had some evaluations and
16 some studies done for me by some of our own staff and some
17 others to develop proposals or approaches we could use in
18 developing our in-house capabilities as far as what they
19 needed to be, what timetable we needed to develop them. And
20 those were finalized really independent of the Booz, Allen &
21 Hamilton audit.

22 Now, as the people were doing their audit, they
23 were discussing with me in mid-1977 what my plans are --
24 were at that time. They commented in the course of their
25 audit on the work that we were doing, and I do not think

1 there was anything in their recommendations that was
2 inconsistent with what my plans -- plans I had.

3 Perhaps I ought to correct that. They did
4 recommend that we do some things in the way of additional
5 in-house staffing, which my judgment was we should defer to
6 a lower priority than they were recommending.

7 Q Can you identify any specific operational
8 difficulties that you were encountering that led you to the
9 conclusion that you needed to upgrade your in-house
10 technical capabilities? And if not, what was the basis for
11 your conclusion?

12 A I would not say that it was based upon
13 identification of specific operating difficulties. The
14 genesis really goes back to before my time with GPU, I
15 think, in terms of the in-house capabilities for project
16 management of nuclear facilities or nuclear projects that
17 was developed within the Service Corporation or its
18 predecessors during the mid and late '60s and early '70s.

19 And we had a substantial in-house capability, but
20 we did realize, as the plants came to place, that there was
21 a greater need for the people who were involved with the
22 design and construction phase of the activity to play a
23 greater role during the operational phase of the activity.

24 I think that perhaps, somewhat restating my
25 earlier answer, our experience on Three Mile Island Unit

1 Number 1, with the need for engineering support, which we
2 basically got from the architect-engineer and B&W during the
3 first years of operation of that unit, certainly reinforced
4 or provided some of the experience base upon which we judged
5 that we needed more in-house capability.

6 We had during this time period a tremendous
7 increase in the amount of analytical work being requested by
8 the Nuclear Regulatory Commission on operating plants as
9 well as new plant design. We had the tremendous slowdown in
10 the nuclear industry in terms of new plants, so that there
11 was some concern with the availability in the long run of
12 the technical resources of the architect-engineers and the
13 nuclear steam supply system organizations.

14 And those considerations and our own judgment as
15 to what degree of complexity of technology we were involved
16 with, you know, led us to the conclusions that we wanted
17 more of that capability in-house.

18 Q Do you think your lack of adequate in-house
19 capability contributed either to the causes or the severity
20 of the Unit 2 accident?

21 A I am sorry, I did not hear the first part of that
22 question, Mr. Adler.

23 Q Do you think that the insufficient in-house
24 technical resource capabilities that you have described
25 contributed to either the causes or the consequences of the

1 accident?

2 A I think I would first of all like to take issue
3 that what I described were "insufficient in-house
4 resources." I think we were not trying to correct a
5 situation that we felt was insufficient, but was less than
6 optimum, less than desired.

7 And I do not think that the level of in-house
8 capability that we had, laying aside for a moment the
9 characterization of it, contributed any more to the accident
10 than it contributed to the general shortcomings within the
11 total industry nuclear efforts that were identified by the
12 various investigations into the accident; that is, that the
13 accident was not the direct result of the level of in-house
14 staffing that we had.

15 And I think that many of the investigations
16 concluded underestimation of the level of technical
17 resources that needs to be applied to a nuclear facility
18 such as Three Mile Island, which was characteristic of other
19 operators as well as ourselves was one of the ingredients of
20 the situation that existed, was one of the elements of the
21 situation that existed.

22 That, I think, did result in us having an accident
23 and would have resulted in an accident, in any event, at
24 some point in time unless those basic contributors to the
25 accident were corrected on a broad scale. And we were not

1 immune to that deficiency, any more than others were.

2 Q You state that your upgrading program was
3 envisioned to take approximately three years. Now, did you
4 feel that any of the upgrading was of such importance that
5 you ought to take interim measures to fill in the gaps in
6 technical resources; for example, by bringing in consultants
7 while you upgraded the in-house capabilities?

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1 Well, perhaps that identifies one of the
2 misunderstandings that has occurred. This is not a case of
3 applying a different level of technical resources to the
4 issues. It is a different -- it is a case of changing the
5 location, the organizational association of those resources
6 we have utilized for 20 years in the pursuit of our nuclear
7 activities, substantial outside consulting services,
8 technical resources and what we saw from the additional
9 units that we were bringing into place in the GPU system,
10 and the expansion of the technical effort that was part and
11 parcel of the design construction and operation of those
12 units, that the level of technical effort in a number of
13 disciplines that we typically utilized outside resources was
14 such that it made more sense to bring those resources
15 in-house.

16 Q Getting back to the Booz Allen report, can you
17 identify the reasons for that management audit as distinct
18 from the reasons for your proposal to Mr. DeCamp?

19 A I am sorry. From the first part of your question
20 I expected a different second part. Would you restate it,
21 please?

22 Q I think the second part was gratuity. What were
23 the reasons for the Booz Allen audit?

24 A The Booz Allen audit was done under contract with
25 the company, and my memory is not clear right now whether

1 that was done, say, at the informal encouragement of the
2 Public Utility Commission or that there may not even have
3 been an order from the Pennsylvania Public Utility
4 Commission, for example, to each of the electric operating
5 companies or electric utilities in Pennsylvania.

6 Q Have management audits conducted --

7 A It was an audit performed under contract with the
8 company, but the results of it were made available to the
9 Public Utility Commission of the two jurisdictions, which we
10 served with them.

11 Q Did they have any response to the Booz Allen
12 audit? Did they require you to take any actions as a result
13 of that audit?

14 A I do not recall anything that they required us to
15 do at the time that we provided the audit or shortly
16 thereafter; shortly after providing the audit reports to the
17 utility commissioners, we also provided them with our plans
18 for responding to the recommendations of the audit.

19 I am very sure that in the generation area for the
20 operating companies and the service corporation, none of the
21 responses that we intended to make to those audit
22 recommendations were a matter of issue with the Utility
23 Commission.

24 Q Can you provide the major recommendation for that
25 audit?

1 A I think as applied to the GPU Service Corporation,
2 the major recommendations were to increase the in-house
3 technical capabilities, to have the Service Corporation take
4 the lead in developing management systems for control of
5 maintenance in the operating plants to develop a more
6 sophisticated construction scheduling and cost estimating
7 systems, to develop in-house the capability to actually
8 manage construction projects in the sense of managing the
9 field effort itself.

10 Let me clarify that. For Three Mile Island Unit
11 1, for example, United Engineering Constructors were the
12 general contractors for the construction of the unit. Booz
13 Allen Hamilton recommended that we develop the in-house
14 capability to do that construction management ourselves, as
15 opposed to the project management, which we did do
16 ourselves, and that was an issue or an item which I felt was
17 of lesser importance to us.

18 I think that those recommendations and the other
19 one that would come to mind that I think that I would
20 consider a major recommendation, was that there be a greater
21 tie-in between the plant operators during the design phase
22 of the major generating stations; that is, that there be
23 better provisions made for the input of operator experience
24 and operator judgments in the design phase of new generating
25 stations.

1 Q So some of these recommendations were pertinent to
2 the safe operation of the plant and not just GPU's
3 management structure, as pertinent to a PUC type of
4 proceeding for issues?

5 A I think it is very difficult to separate any of
6 these kinds of technical and management systems from safety
7 considerations. I think, though, it would be a
8 misinterpretation of where Booz Allen Hamilton was coming
9 from to indicate their recommendations were based upon a
10 perception on their part as to the adequacy of the safety of
11 operations.

12 I think a review of the report would indicate very
13 clearly that they were principally looking at an efficiency
14 and economy and reliability of the system, and while they
15 would not downplay safety or take issue that all of those
16 things are -- have to be carefully considered in conjunction
17 with safety, and that they are closely interrelated to
18 safety.

19 They were not making their recommendations because
20 of the fact that what we were doing had an inherent
21 insufficient safety associated with it.

22 Q Do you feel that the criticisms and
23 recommendations of Booz Allen would assist this Board in
24 judging the adequacy of Licensee's current management
25 structure and technical resources?

1 A I think only if the Board feels that the
2 recommendations that have been provided by other efforts,
3 particularly the Kemeny report, and the recommendations that
4 came out of that, the Rogovin report needed reinforcing
5 because I think that they would find nothing inconsistent
6 with what we are doing here or nothing beyond what we are
7 doing here within those reports.

8 So I think that they would only be of value if the
9 uniformity of the recommendations or the consistency of the
10 recommendations would be helpful to them.

11 Q Is it true that the Pennsylvania PUC performed a
12 management audit of GPU recently?

13 A Yes, sir.

14 Q And can you describe the findings and
15 recommendations of that audit?

16 A Well, I think that without getting the audit
17 report I would want to restrict my comments to those as they
18 applied to the GPU Nuclear Corporation concept, and the
19 Theodore Barry Associates that conducted that audit endorsed
20 forming the GPU Nuclear Corporation, and they had a number
21 of other specific recommendations.

22 The ones that I can recall immediately are that we
23 expand our communications capability for providing
24 information to the public, elected officials and other
25 audiences.

1 They recommended that GPU take a leadership role
2 in identifying the means of determining funding for the
3 cleanup activities.

4 I would be glad to provide more details if it is
5 desired, and the report is available publicly I am sure, and
6 certainly we can make it available if desired. But I think
7 the major recommendation, as it applies to these proceedings
8 -- well, there probably are two of them.

9 The first one is the one I identified, that
10 thoroughly endorsed the concept of a GPU Nuclear
11 Corporation. The second is that with regard to the
12 financial viability of the company, they recommended to the
13 Public Utility Commission continued solvency of the company
14 was in everybody's best interest.

15 (Counsel for the Commonwealth conferring.)

16 Q Were there any recommendations from the original
17 Booz Allen audit that were repeated in the Theodore Barry
18 Associates audit? In other words, were there any
19 improvements recommended by Booz Allen that were not
20 corrected or that you had no plans to correct prior to the
21 PUC's audit?

22 CHAIRMAN SMITH: That is a complicated question.
23 I understood three conditions. The second time you stated
24 it you wanted to know two conditions.

25 Your first question was, were there any Booz Allen

1 recommendations not followed which were repeated by Theodore
2 Barry and Associates.

3 Your second question, however, only had the first
4 two conditions. That is, were there any Booz Allen
5 recommendations not followed by GPU?

6 MR. ADLER: Let me withdraw the question and take
7 it one step at a time.

8 BY MR. ADLER: (Resuming)

9 Q Were there any Booz Allen recommendations that you
10 know of that have not to date been corrected or that you do
11 not have plans to correct?

12 (Pause.)

13 A Well, the accident severely disrupted the efforts
14 we had underway within the Service Corporation and within
15 the operating companies for implementing the Booz Allen
16 Hamilton recommendations.

17 Most of them were recommendations, the
18 implementation of which took anywhere from a year to three
19 years.

20 So many of the projects that were underway in
21 early 1979, as a result of responses to the recommendations
22 of the Booz Allen Hamilton accident, were interrupted. I do
23 not think I am knowledgeable enough of the specific
24 activities in the operating companies to know whether any of
25 the recommendations for programs as they would apply to the

1 fossil plants have not been resumed.

2 With regard to our nuclear activities, I do not
3 believe that there are any recommendations in the Booz Allen
4 Hamilton report which would say we ought to be doing
5 something that would be germane to our nuclear activities
6 that we are not doing.

7 Many of the recommendations, though, I think need
8 to be clarified, would apply to a situation where we had a
9 new nuclear station under construction, and we clearly are
10 not pursuing recommendations that would apply to that
11 situation.

12 One of the things I am a little unsure of at this
13 point is whether their recommendations included one for a
14 more centralized control of the generation facilities. I
15 know in the course of the audit that that was discussed.
16 There may have been a recommendation to the effect that GPU
17 ought to study or review the desirability of a centralized
18 organization for support and operation of the generating
19 stations.

20 I just have to go back to the report and look.
21 That would be a substantial recommendation, I think, that I
22 did not mention before. If it was in there, I just do not
23 remember how it came out on the report. We were clearly
24 going ahead with doing that internally, independent of
25 whether it was in the report or not.

1 Q All right. Now, let me go back to my original
2 question. Are there any recommendations in the Theodore
3 Barry audit which are essentially similar -- which are
4 similar to the recommendations in the Booz Allen audit?

5 A One I would identify that is similar is that one
6 of the recommendations of the Theodore Barry audit is that
7 we agree with Bechtel Corporation on the project control
8 system that would be used for planning and budgeting and
9 tracking of the cleanup program.

10 I think that is an analogous recommendation to one
11 that we had out of the Booz Allen Hamilton for the
12 development of a more sophisticated project management
13 system. And we had that under development at the time of
14 the accident, and that specific activity was interrupted in
15 the system that we have initially used on the TMI-2 cleanup,
16 is one which Bechtel would prefer to have superseded by a
17 system that we are currently experienced with and they have
18 used on other projects.

19 And the Theodore Barry was saying, you know, you
20 ought to resolve that, and we have resolved that.

21 I would be glad to go back and review those audits
22 and see if there is something -- if you think it would be
23 helpful to the Board in providing a more detailed answer
24 after review of the audit reports, but I really do not
25 recall anything that I think is germane to this hearing, or

1 I do not recall anything of significance.

2 The nature of what I think you are saying --
3 suggesting perhaps Booz Allen Hamilton said we ought to do
4 and we are not doing it; Theodore Barry comes along and says
5 we ought to do it, and still we aren't doing it. I don't
6 think there is anything of that nature.

7 Q Let's focus for a minute just on the Barry audit.
8 You listed two items, and you said that you cannot give us
9 a complete listing of recommendations, but just looking at
10 those two, one was expanded communications to the community.

11 Now, would that include communications as to
12 aspects of plant operation that affect public health and
13 safety?

14 A Yes. All aspects of plant operations.

15 Q And the second, taking a leadership role in
16 getting adequate resources for the cleanup process? That
17 also impacts public health and safety, and might fall within
18 the jurisdiction of this Board.

19 Is that correct?

20 A I guess I am not qualified to answer that
21 question. I do not know.

22 Q Would you agree that the Barry audit -- I will ask
23 the same question as I asked for the Booz Allen audit.
24 Don't you feel that this more recent audit being provided to
25 the Board would assist the Board in judging Licensee's

1 management capabilities?

2 A I think it frankly would be much more helpful or
3 have much more potential for being helpful than the Booz
4 Allen Hamilton one because it represents an evaluation of
5 our capability that is much more current than the 1977
6 timeframe.

7 So that in that sense, I think it is helpful. I
8 think it was an evaluation done by someone independent of us
9 on the appropriateness and desirability of forming the GPU
10 Nuclear Corporation.

11 I would not contest that it may be of value to the
12 Board.

13 (Counsel of Commonwealth conferring.)

14 CHAIRMAN SMITH: We are waiting for the shoe to
15 drop.

16 (Laughter.)

17 It is after six. Are you going to make a request?

18 MR. ADLER: Those are my only questions for Mr.
19 Arnold concerning this topic. I was going to request that
20 he perhaps think about it overnight. Maybe he could look
21 for a copy and see what information there might be pertinent
22 to this Board, and I would request that Mr. Arnold and Mr.
23 Blake consider whether it would be useful to this Board.

24 I do not know if the Board is interested in
25 receiving this information.

1 CHAIRMAN SMITH: One question that I had was while
2 the discussion was going on, the report was produced at the
3 insistence of the Utilities Commission for the Commonwealth,
4 a party to the proceeding, and --

5 MR. ADLER: Mr. Levin is not here, and we are
6 independent of the PUC. I do not have the information.

7 CHAIRMAN SMITH: We would depend very heavily --
8 if the report were produced, we would depend very heavily
9 upon counsel directing us through the report and showing us
10 how it is valuable, and it seems to me that the Commonwealth
11 would have a leading responsibility.

12 Perhaps Mr. Levin isn't here, but it seems to me
13 that that would be something that the Commonwealth could
14 perform for us which would be helpful if you believe it is
15 necessary.

16 Again, we do not want a report put on our desk
17 which we have to wade through to find out what is relevant
18 and what is helpful.

19 MR. ADLER: I will contact Mr. Levin and see if we
20 can provide the information and determine if there is any
21 information that would be pertinent to the Board. No one in
22 my office or Mr. Dornsife's office has read it and is
23 familiar with the information.

24 I presume that Mr. Arnold had -- and that is why
25 we were asking the final questions.

1 CHAIRMAN SMITH: I would like to point out, you
2 might remind Mr. Levin that when they participate in the
3 proceeding under Section 2.715, that they stressed that the
4 Utilities Commission was not only interested in rates and
5 reliable economic supply of power, but also the safe supply.

6 And if they are going to make a contribution to
7 the proceeding, that their findings along that line in that
8 report would be helpful. If it is germane, it would be
9 helpful and now would be the time for them to do it.

10 If you could convey that message to Mr. Levin,
11 maybe we could get some assistance from them.

12 MR. ADLER: I will certainly do so.

13 CHAIRMAN SMITH: Not to mention the Consumer
14 Advocate, whom we have not seen since the hearing has
15 begun. But I think since it was a Utility Commission
16 report, that Mr. Levin should address it.

17 MR. BLAKE: I was introduced to a gentleman who is
18 here from the Consumer Advocate's office. He is not a
19 counsel of record, but he is here at least attending.

20 MR. HERMAN: My name is Andrew Herman. I am
21 observing the proceedings for the Consumer's Advocate. He
22 has been represented by counsel at this proceeding a number
23 of times.

24 CHAIRMAN SMITH: I don't think he has ever been
25 represented -- by counsel, nor by representation.

1 MR. ADLER: Mr. Chairman, I would propose we
2 resume in the morning.

3 CHAIRMAN SMITH: Okay.

4 MR. ADLER: I do have one final matter. We had
5 decided last week to determine how long we would go this
6 week. I think it might be helpful to the parties in
7 planning.

8 If we could --

9 CHAIRMAN SMITH: You would like to know that this
10 evening?

11 MR. ADLER: Maybe we should take it up in the
12 morning, first thing in the morning.

13 CHAIRMAN SMITH: If it would be helpful we will
14 discuss it.

15 Let's have a brief conference with the Board. We
16 will adjourn the hearing tonight, and the parties can go
17 their way. Anybody interested in our report can stick by.
18 We will give you a report.

19 MR. SWANSON: Mr. Chairman, one matter. I want to
20 note on the record we want to distribute at this time
21 advanced copies of the I&E inspection report that was issued
22 last week. It is a letter from Victor Stello to Met Ed
23 dated January 27, with the accompanying I&E inspection
24 report.

25 When the final complete copies with all the

1 appendices are printed out, it should be available at the
2 end of this week or next week. I will distribute them
3 formally, but I did want to note this.

4 CHAIRMAN SMITH: What are you doing now?

5 MR. SWANSON: It is in the nature of a Board
6 notification. I am distributing to the Board and parties
7 present here advance copies of a portion of an inspection
8 report that was sent out dealing with the management issue.

9 CHAIRMAN SMITH: Okay. Give us just a moment to
10 consult on the schedule for the week.

11 (Board conferring.)

12 CHAIRMAN SMITH: Gentlemen, you wanted our advice
13 as to what we thought the schedule for the week would be.
14 We think that we should adjourn as late Thursday evening as
15 possible to make it an efficient day all day. And then let
16 the Board prepare its report to the Commission on Friday.

17 If there are any objections, if that interferes
18 with any of our planned testimony, we will weigh heavily the
19 needs of continuing with the hearing against preparing a
20 report, but we think that that would be the amount of time
21 we need to give a reasonable report to the Commission.

22 Otherwise that means we are cutting out a half day
23 of hearing time out of the ordinary.

24 MR. BLAKE: I appreciate the dilemma the Board is
25 in with the Commission order and the need to respond to it

1 and the seriousness of the subject. On the other hand, I do
2 not have a particular witness scheduled for Friday.

3 We will go as seriatim as we can, and we will have
4 them available. It is a disappointment for the immediate
5 subject.

6 I understand the seriousness.

7 CHAIRMAN SMITH: That is tentative. As we think
8 about it, maybe we can change it and extend the hearing
9 time. That would be a safe amount of time, allowing us time
10 to meet the Commissioners' requests.

11 MR. BLAKE: I understand.

12 (Board conferring.)

13 CHAIRMAN SMITH: If there is nothing further, we
14 will adjourn until 9:00 a.m. tomorrow.

15 (Whereupon, at 6:17 o'clock p.m., the hearing in
16 the above-entitled matter recessed, to reconvene at 9:00
17 o'clock a.m., Wednesday, February 4.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

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

Date of Proceeding: _____ February 2, 1981

Docket Number: _____ 50-289 (Restart)

Place of Proceeding: _____ Harrisburg, Pa.

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

David S. Parker

Official Reporter (Typed)



Official Reporter (Signature)