

## COMMONWEALTH OF PENNSYLVANIA

## PUBLIC UTILITY COMMISSION

1  
 2  
 3 ----- x  
 4 Pennsylvania Public Utility Commission :  
 versus Metropolitan Edison Company and : Docket Nos.  
 5 Pennsylvania Electric Company, Respondents. : I-79030320  
 6 ----- x  
 7 Operating agreement among Jersey Central :  
 Power and Light Company, Metropolitan Edison : G-80060098  
 8 Company, Pennsylvania Electric Company and :  
 GPU Nuclear Corporation. :  
 9 ----- x  
 10 Affiliated interest agreement between :  
 11 Metropolitan Edison Company and Pennsylvania : G-80070101  
 Electric Company, relating to the proposed :  
 12 combined management of the two companies. :  
 13 ----- x  
 14 Petition of JARI, Incorporated, et al., for :  
 an injunction to enjoin Pennsylvania Electric : P-80100242  
 15 Company and Metropolitan Edison Company, and :  
 for hearings. :  
 16 ----- x  
 17 Pages 1070 through 1168.

18 Hearing Room 3  
 North Office Building  
 19 Harrisburg, Pennsylvania

20 Wednesday, January 7, 1981

21 Met, pursuant to adjournment at 10:00 a.m.

22 BEFORE:

23 EDWARD CASEY, Administrative Law Judge

24  
25 8102120385

## 1 APPEARANCES:

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C O N T E N T S

| <u>WITNESSES</u>               | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|--------------------------------|---------------|--------------|-----------------|----------------|
| Frank R. Budetti<br>(Recalled) | 1078          | 1107         | 1146            | 1148           |

E X H I B I T S

| <u>NUMBER</u>          | <u>FOR IDENTIFICATION</u> | <u>IN EVIDENCE</u> |
|------------------------|---------------------------|--------------------|
| <u>JARI's</u>          |                           |                    |
| JARI Statement No. A-1 | 1078                      | --                 |
| JARI Exhibit No. 6     | 1162                      | 1163               |

P R O C E E D I N G S

JUDGE CASEY: At this time we will call the hearing to order.

This particular hearing and tomorrow's hearing is being held pursuant to notice sent by the Commission to all parties of record on December 19, 1980, informing them that we would be meeting on January 7th and 8th, 1981, at 10:00 a.m.

According to my calculation, this is the sixth evidentiary hearing in the series of hearings that we've been holding.

Now, at the time of the previous hearing, the last hearing in the case, which was December 19, 1980, I published a bench decision and order pertaining to the extended schedule in the case, and it's been called to my attention that there's a blaring error in the order.

I think some newspaper reporter called in to inform us that February 22, 1981, apparently falls on a Sunday.

In the order I may have said, when I was dictating it to the Court Reporter, February 27th, but what I intended to say, on the first page of the December 19th transcript -- and this is down at the very bottom of the page, 995-B, where I was talking about continuing the deadline for completion of the case for approximately 30 days from January 24, 1981, or at least until the Commission's public meeting to be held on Thursday, February 22, 1981 -- that's in error; that should



1 have been February 26, 1981.

2 So I don't think that's a critical error, but I'm  
3 amending it as of this time. I think the Public Information  
4 Office of the Commission has been so notified.

5 That's why I have had no feedback at all from the  
6 Commission as to whether our requested extension has in fact  
7 been approved.

8 The Commission did not meet during the week preceding  
9 Christmas and the week between Christmas and New Years; so I'm  
10 just assuming, and we will all proceed under the assumption  
11 that extended 30-day period will apply.

12 I really don't see how they could turn us down,  
13 because we have to have the time which would include today's  
14 hearing and tomorrow's hearing.

15 Now, at the last hearing, Mr. William Budetti, the  
16 expert witness who appears on behalf of JARI, Incorporated,  
17 had filed his prepared testimony and testified under preliminary  
18 cross-examination by the opposing parties.

19 Since then, Mr. Budetti has filed a few pages of  
20 supplemental testimony -- and I think everyone should be in  
21 possession of that information.

22 MR. SHILOBOD: Yes.

23 JUDGE CASEY: I actually two copies. Number 1 was  
24 the supplemental testimony which, apparently, Mr. -- I'm sorry;  
25 I called him "William Budetti," and it's Frank R. Budetti --

1 Mr. Budetti, you apparently made a direct mailing to some of  
2 the parties; is that correct?

3 MR. BUDETTI: Yes, sir.

4 JUDGE CASEY: Which is your supplemental testimony.

5 MR. BUDETTI: Yes, sir.

6 JUDGE CASEY: And I have the date that it was  
7 received in my office as date stamped December 29, 1980.

8 I also received the same testimony, with a cover  
9 letter and some additional reference and source material  
10 attached which Mr. Shilobod sent under date of January 2, 1981,  
11 and copies were actually sent to Mr. Russell, with copies for  
12 myself and the various other counsel of record in this proceed-  
13 ing, and that contains the same testimony.

14 So do we all have the desired information, so that  
15 Mr. Budetti can proceed this morning?

16 Mr. Russell, does this comply with your request,  
17 the reference material that Mr. Shilobod has provided?

18 I think you asked for information --

19 MR. RUSSELL: I asked him to be a little more  
20 explicit in what he considered in the preparation of his testi-  
21 mony.

22 Now, I have this list and have a number of questions  
23 with respect to it, which I'll have to direct to the witness.

24 JUDGE CASEY: All right, that's satisfactory. You do  
25 have the information?

1 MR. RUSSELL: I have a copy of it, yes.

2 JUDGE CASEY: All right. Unless there are any pre-  
3 liminary statements or informational matters to be raised by  
4 Counsel at this time, we would recall Mr. Budetti.

5 MR. RUSSELL: I have a matter.

6 JUDGE CASEY: All right.

7 MR. RUSSELL: I don't see Mr. Morrison here. At the  
8 hearing on December 19th, he indicated that he would be here at  
9 this session, and at least Mr. Wheaton would be here.

10 I'd like to see what --

11 JUDGE CASEY: Well, Mr. Morrison was in the building  
12 this morning. Apparently, he knows about the hearing and does  
13 not plan to attend.

14 It's my recollection that Wheaton, the Theodore  
15 Barry and Associates member of the audit team, indicated that  
16 he would be in London or Liverpool --

17 MR. RUSSELL: That was Wicker.

18 JUDGE CASEY: Oh, Wicker; I'm sorry.

19 MR. RUSSELL: Harry Wheaton --

20 JUDGE CASEY: Harry Wheaton, he's the head of the  
21 team.

22 MR. RUSSELL: Yes.

23 JUDGE CASEY: Perhaps you're correct. I think we'd  
24 better touch base with Mr. Morrison and find out whether he  
25 intends to have Wheaton here either today or tomorrow.

1 MR. RUSSELL: We have come here today explicitly with  
2 the point of view of finishing the cross-examination of Mr.  
3 Budetti and calling Mr. Wheaton as for cross, because it was  
4 represented that at least he would be here from the TB&A team.

5 JUDGE CASEY: Was that your understanding, Mr.  
6 Shilobod?

7 I'll have to go through the records and see what we  
8 do have --

9 MR. SHILOBOD: Well, Mr. Russell indicated to me this  
10 morning. I was a little surprised because I wasn't aware Mr.  
11 Wheaton was supposed to be here.

12 My understanding is that he would have been available  
13 had anyone wanted him. My perception was that we were supposed  
14 to let someone know if we needed him as of cross. I had no  
15 idea that there was going to be cross-examination of Mr.  
16 Wheaton and, as a result, I didn't even review his testimony  
17 before coming.

18 JUDGE CASEY: And you had no personal inclination to  
19 call him on cross?

20 MR. SHILOBOD: No.

21 JUDGE CASEY: Well, subject to check -- it may be in  
22 the record, but I think we should --

23 MR. RUSSELL: Well, I'm not sure whether it was on  
24 the record or off the record, but a clear representation was  
25 that at least Mr. Wheaton was going to be here.

1 JUDGE CASEY: Well, after Mr. Budetti testifies, do  
2 you still have additional witnesses for JARI?

3 MR. SHILOBOD: Mr. Russell asked for three people to  
4 be called as of cross-examination -- and I've spoken with Mr.  
5 Russell about this -- they will be here in the morning.

6 JUDGE CASEY: Tomorrow morning.

7 MR. SHILOBOD: Tomorrow morning.

8 JUDGE CASEY: Well, we could either declare a short  
9 recess right away, so that we could contact Mr. Morrison.

10 Mr. McClaren, would you do that --

11 MR. MCCLAREN: I'll do that.

12 JUDGE CASEY: -- get ahold of Mr. Morrison and have  
13 him come in?

14 MR. MCCLAREN: Would you like me to do it at this  
15 time?

16 JUDGE CASEY: I think we might as well.

17 MR. RUSSELL: I think we might as well, too.

18 JUDGE CASEY: It would make starting easier; so we'll  
19 take a five-minute recess.

20 (Recess.)

21 JUDGE CASEY: Back on the record.

22 Whereupon,

23 FRANK R. BUDETTI

24 having been previously duly sworn, testified as follows:

25 JUDGE CASEY: Mr. Shilobod.

1 MR. SHILOBOD: If Your Honor please, I request that  
2 there be marked for identification purposes as JARI Statement  
3 Number A-1, the Supplementary Testimony of Frank R. Budetti,  
4 which is comprised of three pages. May it be so marked?

5 JUDGE CASEY: Yes, it may be so marked for identifi-  
6 cation.

7 (Whereupon, the document was  
8 marked JARI Statement No. A-1  
9 for identification.)

10 DIRECT EXAMINATION

11 BY MR. SHILOBOD:

12 Q Mr. Budetti, do you have a copy of your supplemental  
13 testimony before you that has been marked as JARI Statement  
14 Number A-1?

15 A Yes, I do.

16 Q Did you prepare that document?

17 A Yes, I did.

18 Q Are the statements contained therein true and  
19 correct according to your personal knowledge, information and  
20 belief?

21 A Yes, they are.

22 MR. SHILOBOD: If Your Honor please, my understanding  
23 is that when we moved for the introduction of Statement A,  
24 there was a request made that we refrain from that until after  
25 cross-examination was completed.

JUDGE CASEY: That's correct.

1 MR. SHILOBOD: In light of that, I will refrain from  
2 so moving with respect to Statement A-1.

3 I'm giving three copies of the statement to the  
4 Reporter. Copies have been served on other counsel.

5 Mr. Budetti is available for cross-examination at  
6 this time.

7 JUDGE CASEY: Very good.

8 Mr. Russell?

9 MR. RUSSELL: If Your Honor please, I have some  
10 further information on cross-examination which I might get  
11 into, which I would expect to get into in the event that cer-  
12 tain motions are not sustained, but in the interest of getting  
13 on with matters, I would like at this time to make several  
14 motions to strike, with respect to Mr. Budetti's testimony.

15 JUDGE CASEY: All right, we will hear those motions  
16 for the record.

17 MR. RUSSELL: All right. The motion is made to  
18 strike the testimony of Budetti, in its entirety, as being  
19 irrelevant and incompetent testimony.

20 In support of that motion, I point out that the  
21 testimony is predicated, in its entirety, upon a legally  
22 erroneous premise which Mr. Budetti describes as a special  
23 perspective -- which is not the required public interest  
24 standard established by Section 2102 of the Public Utility  
25 Code, but, rather, a partial fragmented viewpoint; namely, the



1 viewpoint of Penelec, only, rather than the required standard  
2 of what is, in fact, in the public interest, so far as this  
3 affiliated interest contract is concerned.

4 So because of that totally erroneous legal premise,  
5 which permeates the entire testimony, we move to strike it, in  
6 its entirety, as incompetent and irrelevant.

7 JUDGE CASEY: Mr. Shilobod, do you want to respond  
8 to that?

9 MR. SHILOBOD: If Your Honor please, the relevancy  
10 of the statement is clear on its face, certainly, dealing with  
11 the issue before Your Honor, whether or not it is in the public  
12 interest, whether or not the affiliated interest agreement  
13 should be approved.

14 With respect to competency, I submit that Mr.  
15 Budetti's statement of his qualifications speaks for itself.  
16 We don't need to address that in any further response to Mr.  
17 Russell.

18 I submit that there is no basis for any conclusion  
19 that there is any error in viewing the public interest from the  
20 standpoint of the interests of each utility involved -- and  
21 this is what we're speaking about here.

22 The mere fact that someone uses words such as  
23 "special perspective" does not change the facts of the situa-  
24 tion; the semantics doesn't change the substance of Mr.  
25 Budetti's testimony.



1 MR. McCLAREN: Judge Casey, if I might add an addi-  
2 tional comment with respect to the Trial Staff, it appears to  
3 us that the basis for this motion to strike -- that is that  
4 there's some improper legal standard or premise raised here --  
5 simply focuses on one of the issues before Your Honor, and  
6 that, in fact, is one of the things being contested among the  
7 parties; therefore, it does not constitute a proper basis to  
8 strike the testimony.

9 JUDGE CASEY: I think there's something in my file  
10 that may have a direct bearing on the motion.

11 "Special perspective," you say, is a term of art used  
12 in the statute?

13 MR. RUSSELL: No, no. That's Mr. Budetti's charac-  
14 terization --

15 JUDGE CASEY: Oh, you're characterizing --

16 MR. RUSSELL: -- his own testimony.

17 JUDGE CASEY: -- his own testimony?

18 MR. RUSSELL: Yes.

19 JUDGE CASEY: Well, Mr. Budetti, you must remember,  
20 is a so-called expert witness. He is not a party with an  
21 interest of his own to protect in this matter. He has been  
22 called by the JARI interests and the industrial concerns to give  
23 an expert opinion as a management consultant -- at this time  
24 a former employee of Touche Ross, which we all know performs  
25 similar work as Theodore Barry & Associates -- to give another

1 opinion of the proposed management combination and the nuclear  
2 corporation, and how it might impact adversely on not only the  
3 customers, the ratepayers, of Pennsylvania Electric Company,  
4 but on the future conduct of business and operations at that  
5 utility itself.

6 Now, I don't see how you can say that because Penelec  
7 is simply one company in the GPU system, along with Jersey  
8 Central and Metropolitan Edison Company and the parent holding  
9 corporation, General Public Utilities Corporation, that a  
10 change in operations and management direction of a single com-  
11 pany is not either for or against the public interest, that it's  
12 so splintered or remote that it would not have an impact on the  
13 public interest.

14 As I recall -- and I should have an excerpt from an  
15 opinion -- the test with respect to management combinations and  
16 mergers, and so forth, has changed substantially under the law  
17 since, I think, the Northern Gas Decision, where at one time  
18 the party proposing the change or the merger simply had to  
19 prove that there would not be any adverse impact on the public  
20 interest, either ratepayers, stockholders or the company.

21 That test has changed substantially. I think the  
22 burden of proof on the party proposing the agreement is to  
23 show that the changes will result in a positive benefit to the  
24 public interest.

25 I think the testimony from the corporate officers,

1 who may in fact be experts in this area, both the corporate  
2 officers of GPU, Mr. Verrochi and others who may qualify as  
3 experts by virtue of their experience, but I think they are  
4 identified with the case as a party.

5 The other side could challenge their so-called  
6 expert testimony about the potential benefits as being biased  
7 or self-serving declarations.

8 I think, in order to serve the public interest in  
9 connection with this investigation in this proceeding, we'd  
10 have to have another opinion.

11 Your side of the case did not call Theodore Barry &  
12 Associates. The Commission Administrative Staff did present  
13 their testimony.

14 So we have their opinion, in report form, and that  
15 report was ordered by the Commission; however, the report was  
16 done with the cooperation of the officials of the various com-  
17 panies and, with very few qualifications, it supports almost  
18 the entire proposed move, both the affiliated interest agree-  
19 ment, as well as the reorganization provisions within the two  
20 utilities.

21 So, at this time, unless you wish to take an appeal,  
22 I would deny that motion.

23 Now, you apparently have a right to an interlocutory  
24 appeal, but I --

25 MR. RUSSELL: We have no desire to get into that,

1 Your Honor.

2 JUDGE CASEY: All right.

3 MR. RUSSELL: We just want to note this for the  
4 record.

5 JUDGE CASEY: All right.

6 MR. RUSSELL: In light of the ruling with respect to  
7 the testimony in its entirety, we have some specific motions  
8 with respect to specific portions of the testimony.

9 I refer to Page 7 of Mr. Budetti's testimony which is  
10 JARI Statement A, and move to strike the first numbered conclu-  
11 sion appearing on Lines 8 through 12 on that page.

12 The motion to strike, Your Honor, is on the proposi-  
13 tion that that conclusion represents a conclusion of law which  
14 this witness is incompetent to address.

15 JUDGE CASEY: Mr. Shilobod?

16 MR. SHILOBOD: If Your Honor please, the contract  
17 for Theodore Barry to perform the management audit -- which  
18 we're going to move for introduction into evidence later on --  
19 specifically requires them to perform this management audit  
20 according to the standards in the trade with respect to similar  
21 audits.

22 Now, this is an issue in and of itself with which  
23 Mr. Budetti has dealt with to some degree. It is an issue  
24 before Your Honor, whether or not that standard and that con-  
25 tractual obligation was met.

1 JUDGE CASEY: Well, I think what Point Number One  
2 says -- and I think it's emphasized more in JARI Statement  
3 A-1, that is the supplemental testimony of Mr. Budetti -- is  
4 that in his analysis of the Theodore Barry & Associates report,  
5 it appears to be devoid of any findings or conclusions as to  
6 how the proposed management combination would benefit Penelec,  
7 in particular, as a company.

8 Now, that perhaps is a conclusion of law stated in  
9 its final form, but I believe something I saw in his supple-  
10 mental testimony -- and maybe it's on a different point -- it's  
11 in the first answer starting on Line 7 of Statement A-1 -- "The  
12 majority of the TB&A analysis and report in the areas called  
13 nuclear, financial and energy appear to be supported by  
14 independent analysis. However, the financial analysis in the  
15 management organization area is non-existent " -- that's based  
16 on his review.

17 Now, that's a slightly different observation than  
18 that contained in Paragraph A, Sub 1, which says there's no  
19 reference as to whether the combination will be in the best  
20 interest of the public of Penelec.

21 Now, I don't know what the public of Penelec is,  
22 unless he's using the "public of Penelec" in a broad generic  
23 sense, meaning the ratepayers or the customers of Penelec; that  
24 you would have to ask him.

25 Perhaps the management audit of Theodore Barry &

1 Associates did not intend to point out what benefits would  
2 accrue to any single company within the GPU system; maybe that  
3 was not the intent of the report. It is an overview of how  
4 the management combination would benefit the entire system --  
5 I'm just speculating, but I think there's enough of a connec-  
6 tion.

7           It may be a legal conclusion, but he's stating what  
8 he perceives to be a fact, that that TB&A report does not con-  
9 tain any specific language or discourse about how this manage-  
10 ment combination would benefit the public of Penelec.

11           What did you intend to say, Mr. Bugetti, in that?  
12 Who is the "public of Penelec?"

13           THE WITNESS: It's the ratepayers, the customers in  
14 the area.

15           MR. RUSSELL: Well, if it will simplify matters, I  
16 have several objections or motions to strike, and I have the  
17 same motion to make, then, with respect to the first sentence  
18 in Paragraph 2 on Page 7 of Statement A, that it, likewise,  
19 represents a conclusion of law.

20           Perhaps you could rule on both of them together.  
21 They involve the same basic concept.

22           JUDGE CASEY: That I find a great deal more confus-  
23 ing, in Number 2, "The plans submitted by Penelec."

24           I'm not aware that any plans prepared or offered by  
25 Penelec, as an individual member company, are in evidence.



1           Who are the proponents of the affiliated interest  
2 agreements, either both utilities or the parent, or all three,  
3 in combination?

4           So I can't really understand what you mean by "The  
5 plans submitted by Penelec."

6           THE WITNESS: Your Honor, the material I received  
7 from the company, the majority of it was written by Penelec  
8 executives; so my assumption was that they were the ones who  
9 did that.

10          There was a memo from Mr. Verrochi. I assumed that  
11 he was the President of Penelec and, therefore, it was Penelec  
12 material.

13          It seemed to emanate out of the Penelec group of  
14 management, if you will. It may be more than that; I don't  
15 know.

16          JUDGE CASEY: Mr. Verrochi is the current President  
17 of Penelec, as we all know, and perhaps his reports were so  
18 identified. He is, in fact, the proposed President of the new  
19 management combination team, and perhaps this information was  
20 submitted either in that potential capacity or a member of the  
21 GPU management structure.

22          MR. SHILOBOD: If Your Honor please, this comes back  
23 to the issue we raised at the very outset about confusion as to  
24 who is who in these proceedings, and our raising of issues of  
25 conflicts of interest.

1 I indicated that I wasn't making a great deal of  
2 fuss over that, however it was a problem that was going to  
3 follow us throughout this case, as to where does the respon-  
4 sibility of an officer from Penelec lie; does it lie with that  
5 particular company or does it lie with an affiliated interest.

6 JUDGE CASEY: Right. I don't see any great harm in  
7 those statements. They are summary statements.

8 I'll deny the motion as to Subparagraphs 1 and 2. I  
9 do think that these are appropriate matters for legal argument,  
10 where you can certainly attack Mr. Budetti's statements as  
11 being conclusory and groundless or confusing because they are  
12 focusing on Penelec improperly when we're dealing with the two  
13 companies who have entered into affiliated interest agreements  
14 and the parent.

15 Beyond that, I will permit it to stay, and to the  
16 extent that he may have supported them in the remaining narra-  
17 tive portions of his prepared testimony.

18 MR. RUSSELL: All right. I turn to Page 9 of State-  
19 ment A, and I move to strike numbered Paragraph 9 as consti-  
20 tuting sheer speculation, totally unsupported by any evidence  
21 in this case submitted by any party in this case. It's specula-  
22 tion and it's also totally irrelevant to this proceeding, Your  
23 Honor.

24 MR. SHILOBOD: If Your Honor please, this goes to the  
25 heart of the issue.



1           This man is a management consultant. He's done a  
2 considerable number of similar studies for other companies.

3           This is the issue that the whole management combina-  
4 tion agreement revolves around.

5           MR. RUSSELL: Mr. Budetti is in no position to  
6 speculate as to what Penelec would do as an alleged stand-  
7 alone company.

8           JUDGE CASEY: Well, I agree, that's true; he doesn't  
9 know exactly.

10           He's saying, though, as a management consultant, that  
11 if he were advising a company, or in his experience of company  
12 management were to act in that fashion, it would be contrary  
13 to their best interest.

14           There is an element of speculation, I agree, but it  
15 goes to the basic issue as to whether if this was an indepen-  
16 dent company -- which is not; I mean, we can't read things  
17 into the record that aren't there, but we know that they are  
18 controlled to a large extent by the holding company, and  
19 absent the initiative supplied by GPU, would they embark on  
20 this course of action.

21           I think that's the basic issue before the Commission,  
22 really.

23           It also applies to Met-Ed, except Met-Ed, as we  
24 know, is in a different posture and in different financial  
25 scrapes than Penelec.

1           So I'll deny that. I realize this is opinion testi-  
2 mony. That might be said of practically all the evidence in  
3 the record to this point.

4           We are not dealing with a large mass of hard factual  
5 information which has already occurred, except the accident at  
6 Three Mile Island -- which is beneath the surface.

7           MR. RUSSELL: All right. I turn to Page 13, the  
8 bottom of Page 13, and the top of Page 14, and move to strike  
9 numbered Paragraph 5, on the basis that this is sheer specula-  
10 tion.

11           Mr. Budetti is no expert in bankkruptcy; he is in  
12 no position to predict what's going to happen in the event of  
13 bankkruptcy, about bankkruptcy constraints, or otherwise.

14           Plus the statement is absolutely unsupported by any  
15 evidence in this record that Penelec will become a \$1.3 billion  
16 division of Met-Ed.

17           It's speculation and it's totally improper testimony.

18           JUDGE CASEY: I'll agree to have that stricken.

19           MR. SHILOBOD: All of it, Your Honor, or which --

20 I'm not sure, because as I read this, there's a number of  
21 things there -- it says, "In the event of bankkrupcty, which  
22 act may be outside the control of either the PUC or the com-  
23 pany."

24           Now, that's certainly a fact that has been established  
25 in some degree on the record, where there was inquiries with

1 respect to those issues with Mr. Diekamp.

2 JUDGE CASEY: Right.

3 MR. SHILOBOD: GPU will lead a consolidated manage-  
4 ment with Met-Ed.

5 The whole plan now is to put into effect this con-  
6 solidated management now, and no plans to back off of that at  
7 some later date.

8 So that certainly is factually established under the  
9 record.

10 JUDGE CASEY: But there are some inaccuracies in  
11 those characterizations.

12 MR. RUSSELL: Yes.

13 JUDGE CASEY: The consolidated management with  
14 Met-Ed, you know, it presumes that Met-Ed is going to be a  
15 surviving company if these affiliated interest agreements are,  
16 in fact, going to be approved.

17 The company's position -- and when I say "company,"  
18 I'm talking about GPU -- is that there will be a single com-  
19 bined management group; there will be a single board of direc-  
20 tors running both companies; there will not, in fact, be a  
21 financial merger, because no assets will be combined or  
22 exchanged.

23 The impact or the thrust of the statement, there may  
24 be some merit or some truth in it, but the way it's presented,  
25 that Penelec is not going to be a division, we'll have two

1 companies, apparently, Penelec East and Penelec West, and  
2 whether that is practicable and feasible is the basic issue  
3 before the Commission.

4 I think the way it's presented, it might be deceiv-  
5 ing to --

6 MR. SHILOBOD: Well, the issue has been whether or  
7 not there's a de facto merger. If there is a de facto merger,  
8 then I submit that the argument that Met-Ed and Penelec as  
9 divisions of the same company certainly would have some factual  
10 basis.

11 There's been considerable testimony that if there is  
12 a bankruptcy, that management is going to have to handle  
13 problems in both -- we don't want to use the word "divisions" --  
14 companies.

15 The choice of the word "division" goes toward Mr.  
16 Budetti's view that this is opening a Pandora box when you  
17 create this management combination, because that may very well  
18 be exactly what it is.

19 I submit that that is a factual issue that is based  
20 upon his view of the situation, not as an attorney but as a  
21 management consultant in the field.

22 He is qualified to --

23 JUDGE CASEY: I see your point there.

24 I have difficulty with the language. Perhaps if it  
25 was rephrased -- he's not a bankruptcy expert, I know, but

1 testimony has indicated that all of the common stock of the  
2 three companies are pledged as collateral security in the  
3 Revolving -- what's the title?

4 MR. RUSSELL: Credit Agreement.

5 MR. SHILOBOD: Revolving Credit Agreement.

6 JUDGE CASEY: -- Credit Agreement, and without being  
7 experts in the bankkrptcy field, I think we can all envision  
8 what the consequences would be if there was a general default  
9 in the --

10 MR. SHILOBOD: Well, the --

11 JUDGE CASEY: Go ahead.

12 MR. SHILOBOD: The problem that you have is with the  
13 management merger, it goes beyond that.

14 It's one thing to lose the ownership of stock in  
15 Penelec. It's quite another to expose the assets of Penelec  
16 through the claims of creditors. That's part of the problem  
17 that has been brought up in this issue of potential for the  
18 piercing of the corporate veil. This is part of the danger  
19 involved.

20 MR. RUSSELL: There's not a scap of evidence in the  
21 case which would support any such proposition.

22 MR. SHILOBOD: Well, that is in legal issue --

23 MR. RUSSELL: Well, it --

24 MR. SHILOBOD: -- whether or not it would achieve a  
25 piercing of the corporate veil; however, the factual issue is

1 whether or not, in someone's opinion, at least from a manage-  
2 ment consultant's viewpoint, that there was a merger into one  
3 entity as a result of this action that is proposed to be taken.

4 I think that's something that the Commission, if it  
5 closes its eyes to it, is going to be burying its head in the  
6 sand.

7 MR. RUSSELL: Well, a management consultant doesn't  
8 have a license to ignore the rules of evidence.

9 JUDGE CASEY: Well, we do have some evidentiary  
10 problems, I think. You can make a blanket statement to the  
11 effect that you have a de facto merger, but just to leave it at  
12 that, without presenting testimony or court decisions to that  
13 effect, where similar things have happened in the past with  
14 creditors and others have been able to pierce the corporate  
15 veil, and you treat the combined as all a single entity, or  
16 single company, I think you have to go a little further.

17 You can raise that in your legal argument in your  
18 briefs, if you will, but I --

19 MR. SHILOBOD: Well, that's further clarified in  
20 Mr. Budetti's supplemental testimony on Page 2 --

21 MR. RUSSELL: We get to that in due time.

22 MR. SHILOBOD: -- the question and answer beginning  
23 on Line 24 on Page 2.

24 The issue --

25 JUDGE CASEY: All right. I would like to hear the

1 testimony in cross-examination.

2 How many more motions to strike do you have with  
3 reference to specific --

4 MR. RUSSELL: I have about a half-dozen more.

5 JUDGE CASEY: All right. I have ruled on all except  
6 the last one which was under discussion, which appears to be  
7 Subparagraph 5 on -- is that Page 13?

8 MR. RUSSELL: Bottom of Page 13, top of Page 14.

9 JUDGE CASEY: -- bottom of Page 13. We will reserve  
10 the ruling on that until one of the rests, so that I can check  
11 it.

12 MR. RUSSELL: All right. At Page 38 --

13 JUDGE CASEY: That's the next one after Page 13 --

14 MR. RUSSELL: Yes.

15 JUDGE CASEY: -- Page 38?

16 MR. RUSSELL: Right, Lines 10 through 16, inclusive.  
17 Sheer and absolute speculation. It's improper testimony.

18 JUDGE CASEY: Lines -- what is it?

19 MR. RUSSELL: Starting with the question on Line 10,  
20 running through the answer on Line 16.

21 JUDGE CASEY: That's his view.

22 I think we're getting into a dangerous area here.

23 As an attorney representing the other side, through cross-  
24 examination, you can discredit the testimony of this witness;  
25 you can attack his credibility, within the realm of propriety,



1 but to strike all of his opinion testimony, or substantial  
2 portions of it -- and that's what it is, opinion testimony,  
3 based not only on his past experience and advice to clients,  
4 based on his observations of what's happening in this case, the  
5 testimony already presented -- I think there's an element of  
6 unfairness.

7           The testimony stands on its own merits; it's either  
8 weak or it's strong. Through cross-examination, it can be  
9 attacked in wholesale fashion.

10           I think to say it's conclusory -- well, what is  
11 opinion evidence except a number of conclusions based on  
12 imperical data of some kind.

13           I'll be very frank. I don't like where we're headed  
14 here.

15           Now, I may quarrel with that statement as a finder  
16 of fact just as much as you do, Mr. Russell, but I think,  
17 having been qualified as an expert in this area, he has a right  
18 to make these statements, whether improvident, unwise, ill-  
19 founded, or what-have-you.

20           MR. SHILOBOD: If Your Honor please, there's another  
21 issue of circumstantial evidence that surrounds this whole con-  
22 cept of why they are doing this management combination now,  
23 that has to be taken into consideration, also.

24           JUDGE CASEY: For instance?

25           MR. SHILOBOD: Well, this question and answer is just



1 part of that.

2 JUDGE CASEY: Well, we have testimony in the  
3 record -- and I recall distinctly -- I think I may have asked  
4 a question or two myself along those lines when, perhaps Mr.  
5 Diekamp -- or maybe it was Mr. Verocchi -- as to what were the  
6 underlying considerations when the two Jersey companies  
7 embarked on a management company and then, some 13 years later,  
8 entered into a true merger.

9 And I think we had some early testimony from Mr.  
10 Budetti that there may be some distinctions.

11 I made a statement and you corrected me, where I said  
12 something about Penelec's service territory being comparable  
13 to Met-Ed's, or closer in size, Met-Ed and Penelec, than Jersey  
14 Central and Jersey Power and Light were.

15 I understand one company in Jersey was a relatively  
16 small operation at the time of the management combination, and  
17 it may not have made sense to GPU officials to continue that  
18 company in existence, so they started out gradually with the  
19 management combination and then moved to the merger 13 years  
20 later.

21 You corrected me and you said Penelec's service  
22 territory is three times as large as that of Met-Ed's, or a  
23 remark to that effect.

24 So I think we have a basic strain or background of  
25 this type of testimony which, in Mr. Budetti's mind, apparently

1 supports a statement of that nature.

2 MR. McCLAREN: Judge Casey, I might add, as well,  
3 that I think both of these motions to strike illustrates  
4 expert testimony of this type requires some judgment and inter-  
5 pretation in weighing it.

6 In the first instance, Mr. Budetti may mention  
7 bankruptcy law, but he's obviously not holding himself out as  
8 an expert in bankruptcy law or in making a legal judgment.

9 Now, here we are expressing an opinion why it's not  
10 clear why the merger wasn't undertaken previously.

11 From my perspective, I don't think that's, of course,  
12 an implication of any wrongdoing or any questioning of motives,  
13 but simply that this man is unable to state why.

14 In each case it requires some interpretation of what  
15 it is he is in fact reporting.

16 MR. RUSSELL: Well, if he's unable to state why,  
17 why is it proper for him to have testimony as to why the events  
18 may or may not have happened?

19 That's the point of the whole motion to strike; it is  
20 totally speculative.

21 MR. SHILOBOD: Well, it's not speculative in the  
22 sense that he said they had experience in merging at that time  
23 and the didn't merge the Pennsylvania corporations. That's not  
24 speculative.

25 JUDGE CASEY: Well, you know, you could take it --

1 from your point of view -- that they may have had good and  
2 compelling reasons not to at the time. That's left up in the  
3 air, as well.

4 You can't necessarily read in a derogatory connota-  
5 tion -- well, an unfavorable, I should say, not derogatory --  
6 an unfavorable connotation, "Why didn't they merge?"

7 He's not attempting to say why. They may have had  
8 an excellent reason for not merging the two Pennsylvania com-  
9 panies.

10 MR. SHILOBOD: Your Honor, more importantly, you have  
11 to read that question and answer together with the following.

12 What it shows is over that period of time when con-  
13 cepts of management consolidation may have been considered  
14 whenever Met-Ed wasn't having their problems, that neither the  
15 company, who had experience in the field, try to merge these  
16 companies, nor did Booz Allen suggest that it should be done,  
17 as recently as 1978.

18 What it really does is introduces a little bit of  
19 historical background that -- you know, here we are now, with  
20 Met-Ed in this condition, and we're trying to consolidate  
21 management, and why? Is it a good idea.

22 The third question then is the follow-up, if anything  
23 happened since 1978 which would have caused management to  
24 change. That's the third question.

25 You can't just take one of these things and pretend

1 like the rest of the testimony doesn't exist.

2 JUDGE CASEY: What may be very difficult for myself  
3 and the Commission to discern -- and I think I've asked a  
4 question along those lines -- removing TMI-2 from the whole  
5 picture, would this proposed management combination in the  
6 formation of the nuclear corporation be beneficial to the com-  
7 panies, individually and collectively. I think we received  
8 some kind of answer along those lines.

9 It may well be that the company feels that with the  
10 TMI-2 circumstances and the problems that they're faced with,  
11 it just might be a good move that, for one reason or another,  
12 which they would hesitate to have considered to TMI, with TMI  
13 out of the picture.

14 I think you have to look at it from several different  
15 angles. There's a lot of theoretical speculation and judgmental  
16 considerations involved.

17 That's his opinion, and whether it's well supported  
18 or not I think is up to Counsel to argue and for me to decide.

19 MR. RUSSELL: All right. Well, I have one other --  
20 well, I'll make two separate motions, but I'll give the same  
21 reason in support of the two of them.

22 Page 48 of Statement A, Lines 6 through 9, the ques-  
23 tion and answer, I'd move to strike that, and I would also  
24 move to strike the portion of the testimony appearing on the  
25 supplemental testimony at Page 3, Lines 5 through 8, which

1 relate also to the alleged piercing of the corporate veil.

2           The piercing of the corporate veil has nothing to  
3 do with management consultation expertise. It's purely and  
4 simply a legal issue, and this witness has absolutely no quali-  
5 fications to indulge in legal conclusions as to what would  
6 happen in the event of the alleged piercing of any corporate  
7 veil.

8           MR. SHILOBOD: If Your Honor please, this was an  
9 issue that we brought up in cross-examination of TB&A witnes-  
10 ses and, if I'm not mistaken, some of the company witnesses,  
11 about this concept of piercing the corporate veil, where the  
12 subsidiary might become exposed to be responsible for debt,  
13 and every individual indicated some understanding of that, all  
14 indicating that they were not attorneys.

15           Mr. Budetti here has expressed his understanding of  
16 what the piercing of the corporate veil would be.

17           This is an issue that we raised questions as to  
18 whether or not TB&A took this into consideration. It is a  
19 factual issue that somewhere this Commission is going to have  
20 to consider.

21           Mr. Budetti has never made a conclusion as to the  
22 success of a company that pierces the corporate veil. What he  
23 has done is he has elaborated on the concept and the danger --  
24 and whenever you do that you're putting some wood on the fire.

25           That's what the testimony is.

1 MR. RUSSELL: Well, to point out --

2 MR. SHILOBOD: In some respects --

3 MR. RUSSELL: I'm sorry.

4 MR. SHILOBOD: -- I would agree with you that on Page  
5 48, you can argue that is a legal conclusion, but "to their  
6 obvious detriment" is not just a legal conclusion. It's a  
7 factual financial decision as to whether or not there's a  
8 financial detriment to Penelec customers, if potentially they  
9 could be exposed to the debts of the parent.

10 MR. RUSSELL: Are you finished?

11 MR. SHILOBOD: Yes.

12 MR. RUSSELL: To point out the further outrage of  
13 this portion of the testimony, there's talk about an undesigned  
14 piercing of the corporate veil, and then a conclusion that  
15 Penelec's customers would bear the debts of both GPU and  
16 Met-Ed, to their obvious detriment.

17 This witness, who has no legal background, is pur-  
18 porting to tell you and this Commission that this alleged  
19 piercing of the corporate veil would not be a piercing of a  
20 veil, but would go through Penelec's veil, Met-Ed's veil,  
21 GPU's veil, and that all those debts would be socked on  
22 Penelec's customers.

23 It's such an obvious speculative legal conclusion  
24 and I think, really, it shouldn't be permitted to stand in  
25 this record.

1 MR. McCLAREN: Judge Casey, if I may link, from  
2 my perspective once again, Mr. Budetti has had to use words of  
3 art, legal words, because those are some of the constraints  
4 that management must deal with.

5 I think Mr. Budetti, in his testimony beginning at  
6 the bottom of Page 47, recognizes and qualifies his statement  
7 there, and in following statements and answers, where he states  
8 on Line 25 of Page 47, the following:

9 "From my understanding of the law, as a lay person,  
10 this process construed a first attempt..." and so on.

11 In discussing the corporate veil, he himself recog-  
12 nizes, in the testimony, he's a lay person. He's taking what  
13 understanding he has of the law, and one would have to inter-  
14 pret his statements in that light.

15 MR. JOLLES: I'm not sure that Mr. Budetti's recog-  
16 nition of his limitations increases his competency to testify  
17 on such matters.

18 MR. RUSSELL: And you look at what he says on the  
19 bottom of Page 47 and the top of Page 48 -- "This alleged  
20 activity may allow creditors of Met-Ed and GPU to attempt to  
21 pierce the veil."

22 Then the next question, he gives his conclusion as  
23 to what would happen in there.

24 It's speculative and it's a legal conclusion and  
25 totally improper testimony.



1 MR. SHILOBOD: What you're quarreling with is the  
2 choice of words, that really should be more properly clarified  
3 through cross-examination.

4 Perhaps we should be --

5 MR. RUSSELL: I'm under no obligation to clarify the  
6 Witness' verbal language.

7 MR. SHILOBOD: Well, I --

8 MR. RUSSELL: It's improper testimony.

9 MR. SHILOBOD: I don't think that's necessarily true.  
10 It's a question of whether or not the Witness properly indi-  
11 cates the factors that he thinks are important in arriving at  
12 a decision, from a management standpoint, on whether or not he  
13 should proceed.

14 Necessarily, at any time you're speaking, you don't  
15 say everything that you're taking into consideration with every  
16 sentence that you make.

17 You have to read the entire testimony in its  
18 entirety, and take the testimony in that light.

19 He's made it clear that there's a danger and talks  
20 of exposure. That doesn't mean liability; we're talking about  
21 exposure, risk.

22 JUDGE CASEY: Yes. That's the point that I was going  
23 to make. The language on Page 48, as you've already have  
24 said, says "In the event of the successful piercing of the  
25 corporate veil ..."



1 MR. SHILOBOD: Yes.

2 JUDGE CASEY: You're assuming a set of circumstances  
3 that goes beyond more exposure.

4 MR. SHILOBOD: If that were to happen --

5 JUDGE CASEY: I think the exposure to vexatious liti-  
6 gation which -- I'll be very frank. If I was an attorney  
7 representing a general or a secured creditor, after this  
8 management combination took place -- and I'm using the old  
9 negligence lawyers' ploy, in looking for -- it's the "Shotgun  
10 Approach," looking for potential target defendants -- of course  
11 you would argue that the assets of all the companies should be  
12 subject to claims of credit; it's just something that flows  
13 naturally from a holding company situation, and a holding com-  
14 pany situation by itself is further extended by a single manage-  
15 ment team over the Pennsylvania utilities.

16 I find the material on Page 48, beginning with Line  
17 6 and ending on Line 9, to be what a criminal lawyer would  
18 call inflammatory or too provocative to permit in the record,  
19 but the previous question, beginning on the bottom of Page 47,  
20 which deals with possible exposure, conjectural though it may  
21 be, I will permit that to stand; that's an opinion of a manage-  
22 ment consultant.

23 So at this point, without further discussion, I  
24 would permit Lines 6, 7, 8 and 9 to be deleted, or stricken.

25 MR. RUSSELL: You would what?

1 JUDGE CASEY: I would grant the motion to strike  
2 "In the event of the successful piercing of the corporate  
3 veil..."

4 MR. RUSSELL: All right. Having made these motions,  
5 we would, without prejudice to the motions that were made and  
6 the positions taken in connection with them, proceed with the  
7 substantive cross-examination of Mr. Budetti.

8 JUDGE CASEY: All right. I will make my final ruling  
9 now.

10 The motion to strike the testimony in its entirety  
11 is denied, and all specific motions to strike certain questions  
12 and answers in the testimony, with the exception of the ques-  
13 tion beginning on Line 6 of Page 48 and the answer beginning  
14 on Line 8 and ending on Line 9, that motion to strike is  
15 granted. All others are denied.

16 MR. MORRISON: Your Honor, if you would excuse me,  
17 I think perhaps I should attempt to contact Mr. Wheaton before  
18 lunch.

19 MR. RUSSELL: Should we take a short break?

20 JUDGE CASEY: We'll take a brief recess.

21 (Recess.)

22 JUDGE CASEY: On the record.

23 It appears as though we've disposed of the prelim-  
24 inary material and, Mr. Russell, you were about to begin your  
25 questioning of Mr. Budetti.

1 MR. RUSSELL: Yes, Your Honor.

2 JUDGE CASEY: You may proceed.

3 MR. RUSSELL: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. RUSSELL:

6 Q Mr. Budetti, you have distributed a seven-page list  
7 of various documentary materials; is that correct?

8 A Yes, I have.

9 Q Is this a list of documents which you have read in  
10 preparation for the giving of your testimony in this proceed-  
11 ing?

12 A I have looked at all of them. Some sections I've  
13 read, some I haven't. I haven't read every one of those,  
14 really.

15 Q Do you have those documents with you?

16 A No, I do not.

17 Q Do you have any of them?

18 A I have some.

19 Q Among the items on the list is the Statement of  
20 George A. Avery; what was the subject of Mr. Avery's testimony?

21 A I do not recall what the subject was.

22 Q As a matter of information, you have on the list a  
23 presentation by Jersey Central Power and Light Company to the  
24 New Jersey Board of Public Utilities. Do you recall what the  
25 subject matter of that presentation was?

1           A     My recollection is it was an annual report or review  
2 to the Commission, but I don't remember the details.

3           Q     You list the testimony of E. Newton, Jr.; do you  
4 recall what the subject matter of that testimony was?

5           A     No, I do not.

6           Q     You also list the testimony of Eugene F. Carter; do  
7 you recall what the subject of that testimony was?

8           A     No.

9           Q     At the bottom of Page 3 you list something, at the  
10 bottom, entitled "Observations about Theodore Barry & Associates  
11 management and operations study, September 6, 1980;" do you  
12 have that with you?

13          A     No, I do not.

14          Q     Who sponsored or produced that document?

15          A     I believe that was a letter from the JARI people to  
16 Mr. Shilobod.

17          Q     Well, it's nothing that originated with Met-Ed,  
18 Penelec, GPU?

19          A     Not that I'm aware of.

20          Q     And did not originate from Theodore Barry?

21          A     Not that I'm aware of.

22          Q     You also indicate that you read a statement by  
23 William G. Kuhns -- is that correct -- on Page 2 of your state-  
24 ment, or of your list of documents?

25                   (Witness perusing documents.)

1 THE WITNESS: Yes, sir.

2 BY MR. RUSSELL:

3 Q Do you recall, from Mr. Kuhns' statement, what the  
4 rather significant finding was that was made by the SEC in  
5 1951 with respect to the GPU system?

6 A No, I do not.

7 MR. SHILOBOD: Excuse me, Mr. Russell; what year  
8 was that? 1951?

9 MR. RUSSELL: Yes.

10 BY MR. RUSSELL:

11 Q You include in your list also the 1980 annual review  
12 by Met-Ed and Penelec before this Commission, do you not?

13 A Yes, I do.

14 Q Do you recall the major milestones in load manage-  
15 ment efforts that were described in that review?

16 A Do I recall it?

17 Q Yes?

18 A Not really.

19 Q You indicate on Page 1 of the list that you have  
20 included the statement by Met-Ed/Penelec Witness Harvey R.  
21 Miller; is that correct?

22 A Yes, sir.

23 Q And is it correct that Mr. Miller was an expert in  
24 the field of bankkrupctcy?

25 A I don't know if he's an expert.

1 JUDGE CASEY: Are these people who testified during  
2 the course of the I-308 proceeding, in front of the Commis-  
3 sion?

4 MR. RUSSELL: That is certainly part of it, and it's  
5 then a listing which includes, considerably, a number of other  
6 documents apart from those.

7 The testimony we have referred to so far, I think,  
8 has been -- well, I'm fairly certain, has been with respect to  
9 308 testimony.

10 JUDGE CASEY: And you, of course, would have obtained  
11 that material from Mr. Shilobod, who was an active counsel in  
12 that proceeding; is that correct?

13 MR. SHILOBOD: I believe that was obtained from the  
14 Georgetown Group, who was an active consultant, through the  
15 Office of the Consumer Advocate, in that proceeding. Some of  
16 the information came from them, whenever we made a request for  
17 all the relevant information with respect to the management  
18 combination, and what we got, we sent on to Mr. Budetti, also;  
19 so there were two different sources of information available  
20 to him.

21 JUDGE CASEY: Well, to interrupt for a moment, this  
22 all stems from the request made by Mr. Russell at the December  
23 19th hearing and, in the interim, you compiled this list of  
24 source information that you had reviewed at one time or  
25 another; is that correct?

1 THE WITNESS: That's correct, sir.

2 JUDGE CASEY: Did you have all of those individual  
3 items, testimony, articles, what-have-you, in front you as you  
4 made up your check list?

5 THE WITNESS: The way I do it to proceed through and  
6 if it looks like it's going to be relevant, then I note some-  
7 thing from there and put it on a piece of paper for inclusion  
8 in the testimony.

9 Of course, the majority of this material was really  
10 background for me in terms of the status of the utility,  
11 financial status, what people were arguing, what were some of  
12 the major issues in some of the past cases that were being  
13 raised, what really was at the crux of the Three Mile Island  
14 in-or-out-of-the-rate-base kind of thing, just so you can get  
15 a flavor and understand how TB&A uses the words, beginning with  
16 their process as the consultants uses that process also.

17 JUDGE CASEY: Did you have to meet with Counsel to  
18 prepare this list, or did you have sufficient material at your  
19 own office in the St. Louis area of Missouri, to put together  
20 the information that Mr. Russell requested?

21 THE WITNESS: No. I did all this myself, at my  
22 office. All this material sits stacked in my office.

23 JUDGE CASEY: Stacked in the office.

24 THE WITNESS: It's fairly voluminous.

25 JUDGE CASEY: Okay. I just wanted an understanding



1 on it.

2 THE WITNESS: Yes, sir.

3 MR. SHILOBOD: If Your Honor please, a lot of these  
4 things were identified because some of the 308 proceeding --  
5 most of the documentation and exhibits and statements were  
6 introduced before we were ever a party to that proceeding; so  
7 that I don't have those.

8 JUDGE CASEY: Does it include the internal memoranda  
9 and correspondence between the officials, that Mr. Shilobod  
10 was able to obtain through discovery, with Mr. Russell's  
11 insistence?

12 THE WITNESS: Yes, it does.

13 JUDGE CASEY: All right.

14 THE WITNESS: When I was hired, I asked Mr. Shilobod  
15 to make sure that he requested all relevant and pertinent infor-  
16 mation, and he then went and collected it and, if I remember  
17 correctly, he went to the office and he picked some of that  
18 material up and then sent copies of every bit of that material  
19 back to me for my review.

20 JUDGE CASEY: Continue, Mr. Russell.

21 BY MR. RUSSELL:

22 Q In the testimony of Mr. Miller, what conclusion did  
23 he reach regarding the ability of a reorganized company to  
24 obtain credit during and after reorganization?

25 MR. SHILOBOD: If Your Honor please, unless we are

1 just testing the Witness' memory with respect to these individ-  
2 ual things, I submit that if there's going to be cross-  
3 examination about these statements by other people, that he  
4 should be presented with a copy of them, since he doesn't have  
5 them here.

6 JUDGE CASEY: Well, the question -- he reviewed it.  
7 Does he remember what the conclusion was? Was Mr. Miller's  
8 conclusion an important consideration in formulating your  
9 opinion testimony?

10 THE WITNESS: I do --

11 JUDGE CASEY: Do you remember anything about his  
12 ultimate conclusion?

13 THE WITNESS: I remember Mr. Miller. I do not know  
14 whether he was an expert -- which was the first question he  
15 asked.

16 I do not know what his conclusions were. It was not  
17 relevant to the overall conclusion I've reached in my testi-  
18 mony.

19 JUDGE CASEY: That's the answer.

20 MR. SHILOBOD: And I must note, Your Honor, that when  
21 this Witness uses the term "relevant," he's using it in terms  
22 of his own perspective.

23 THE WITNESS: Right.

24 JUDGE CASEY: All right.

25 MR. RUSSELL: I'm just testing the Witness' knowledge

1 of the subject matter he says he reviewed.

2 JUDGE CASEY: You have a right to do that.

3 MR. RUSSELL: Thank you, Your Honor.

4 JUDGE CASEY: Let me interrupt for one second.

5 Mr. Morrison has rejoined us.

6 Did you have any success in reaching Mr. Wheaton?

7 MR. MORRISON: I spoke with Mr. Wheaton, and he is  
8 attempting to make arrangements, Your Honor, but I'll speak  
9 with him again this afternoon to see if any problems occurred.

10 JUDGE CASEY: All right. Just keep us posted.

11 MR. MORRISON: Yes.

12 JUDGE CASEY: Thank you.

13 Continue.

14 BY MR. RUSSELL:

15 Q Let's see -- was there an answer to the last ques-  
16 tion? I don't remember?

17 A Yes, there was.

18 Q Instead of going back for it, would you repeat it  
19 for me?

20 A My answer was that I did not recall specifically  
21 what Mr. Miller said, and I don't think that it was relevant  
22 to the overall conclusion I reached in my testimony.

23 I do not have my notes on his testimony, to know  
24 whether or not it was an issue area that I addressed out of  
25 Miller's context.

1 Q Do you recall what opinion Mr. Miller may have  
2 expressed as to the likelihood of a Met-Ed bankkruptcy and  
3 its relationship to the other companies in the GPU system?

4 A Not specifically, no.

5 Q You've also indicated, I believe, that you had  
6 reviewed the testimony of Thomas E. Dewey, Jr., in the pro-  
7 ceeding at 308; is that right?

8 (Witness perusing documents.)

9 MR. SHILOBOD: Is that referred to specifically?

10 BY MR. RUSSELL:

11 Q I think I'm in error, Mr. Budetti. I thought that  
12 was in the sequence of 308.

13 MR. SHILOBOD: The problem, Mr. Russell -- and I  
14 don't mean to interrupt -- is whether he's identified here as  
15 a TB&A witness or whether he's specifically identified.

16 MR. RUSSELL: I'm sorry.

17 BY MR. RUSSELL:

18 Q It appears on Page 6 of your testimony, Statement A,  
19 the testimony of TB&A Witnesses Wheaton and Dewey.

20 A Yes, sir.

21 Q What is your understanding was the relationship  
22 between Mr. Dewey and TB&A at the time he testified?

23 A He's a subcontractor.

24 Q And what if any conclusions did Mr. Dewey reach in  
25 his testimony with respect to Penelec's earnings and cash flow

1 for the 1980 and the future near-term picture?

2 (Witness perusing documents.)

3 BY MR. RUSSELL:

4 Q I'm asking you from your recollection, Mr. Budetti.

5 A I have it in front of me.

6 Q Well, I'm asking you from your recollection, what  
7 statement was made? Instead of looking at the testimony, I'm  
8 asking you what your recollection is?

9 MR. SHILOBOD: If Your Honor please, I object. I  
10 submit that the Witness has a right to refresh his recollec-  
11 tion. There's no basis in the law that he must memorize a  
12 witness' testimony.

13 MR. RUSSELL: Well, I'm --

14 MR. SHILOBOD: And it's irrelevant whether or not  
15 he recalls specifically what anyone said on such a general  
16 question.

17 I think he has a right to refresh his recollection.

18 JUDGE CASEY: Well --

19 MR. RUSSELL: It goes to the Witness' credibility.

20 JUDGE CASEY: -- yes.

21 MR. SHILOBOD: He's indicated that he's looking for  
22 it.

23 JUDGE CASEY: Mr. Budetti, you definitely read that  
24 information; is that correct?

25 THE WITNESS: I reviewed the testimony.

1 JUDGE CASEY: You reviewed this testimony?

2 THE WITNESS: Yes, sir.

3 JUDGE CASEY: Approximately how long ago did you  
4 review the testimony?

5 THE WITNESS: Months ago.

6 JUDGE CASEY: Do you recall --

7 THE WITNESS: September, possibly October, somewhere  
8 in there. I did not memorize it.

9 JUDGE CASEY: Well, I'm sure you did not.

10 THE WITNESS: Okay.

11 JUDGE CASEY: Did you make any notes or did you  
12 pick out any specific portions of that testimony to comment  
13 upon --

14 THE WITNESS: That's what I'm looking at right now.

15 JUDGE CASEY: I'll permit him to just thumb through  
16 it, generally, to help refresh his recollection.

17 (Witness perusing documents.)

18 JUDGE CASEY: I think you said the gentleman was a  
19 subcontractor.

20 THE WITNESS: Yes.

21 JUDGE CASEY: To Theodore Barry & Associates?

22 THE WITNESS: He's President of his own firm, if  
23 I remember correctly.

24 JUDGE CASEY: What's his field of expertise? Is he  
25 the Wall Street type, or --

1 THE WITNESS: Providing financial advisory services  
2 to client corporations.

3 JUDGE CASEY: All right.

4 THE WITNESS: He was retained by Theodore Barry to  
5 inquire into a study reporting the perspective of the financial  
6 community with respect to the current financial status of  
7 Met-Ed and GPU.

8 If I remember correctly, he was not looking at  
9 Penelec, specifically, but the Met-Ed/GPU situation. He  
10 reviewed materials.

11 JUDGE CASEY: Until you had the opportunity to thumb  
12 through that testimony, you didn't have any specific recollec-  
13 tion of what Mr. Dewey's conclusions were; is that correct?

14 THE WITNESS: I recall that the whole TB&A testimony,  
15 Your Honor, pretty much was fairly pessimistic about the  
16 financial viability of Met-Ed and the cash flow problem.

17 The reason I recall that is because I tried to trace  
18 what they said here back into the Theodore Barry report which  
19 came out a few months later, apparently, but I think his  
20 testimony was earlier than the September report -- in fact, I  
21 know it was.

22 So I saw what Wheaton had to say, and Dewey and the  
23 other fellows in there; I don't remember the names that asso-  
24 ciated with the people.

25 MR. RUSSELL: Well, to move along, I'll proceed with



1 another question.

2 JUDGE CASEY: All right.

3 BY MR. RUSSELL:

4 Q What methods did Mr. Dewey utilize in obtaining the  
5 factual information that he utilized in reaching his conclu-  
6 sions in that testimony?

7 A I don't recall.

8 MR. SHILOBOD: If Your Honor please, I think this  
9 witness previously indicated that the testimony they gave had  
10 to do with the financial community, and not about --

11 MR. RUSSELL: Well, he --

12 MR. SHILOBOD: I've been sitting here quiet. I do  
13 have some concern over the relevancy of this.

14 I don't mean to interrupt cross-examination. I pre-  
15 sume that this is preliminary.

16 JUDGE CASEY: Yes. I can pick up your thought  
17 process is if he were testifying about an impending bankkruptcy  
18 or the current financial positions of the companies.

19 In the abstract, we're not saying whether the manage-  
20 ment combination would do anything to alleviate that situation,  
21 improve it, help it, harm, so he wouldn't have been focusing  
22 in -- I don't think he would -- within the confines of his own  
23 task or analysis, on what the financial situation was and did  
24 not get into it in-depth.

25 MR. SHILOBOD: Well, the TB&A report is a summary of

1 the other testimony.

2 To cross-examine this witness on his memory of  
3 individual statements of people who may have contributed to  
4 the final report may be useful to Mr. Russell, but I have some  
5 problem with relevancy.

6 MR. RUSSELL: I can understand your discomfort, Mr.  
7 Shilobod, but I'm cross-examining this witness on some of his  
8 background work and the basis for his opinion, and what he  
9 knows about it.

10 MR. SHILOBOD: Well, I think --

11 MR. RUSSELL: It's a perfectly proper avenue of  
12 cross-examination.

13 MR. SHILOBOD: I think you're cross-examining him  
14 as to his present memory with respect to specific documents --  
15 which is something a little different.

16 MR. RUSSELL: Well, I beg to differ.

17 JUDGE CASEY: Well, I won't foreclose your right to  
18 do that, to make a record. You may proceed along those lines.

19 MR. RUSSELL: Thank you, Your Honor.

20 JUDGE CASEY: I think Mr. Shilobod's position also  
21 has some merit. Emphasis may not have been placed by this  
22 witness on certain witnesses' testimony, because it was back-  
23 ground information which was later on incorporated into a  
24 management consultant's report.

25 MR. RUSSELL: Okay.

1 BY MR. RUSSELL:

2 Q Mr. Budetti, you've referred, time and again, in your  
3 testimony, to a Revolving Credit Agreement, have you not?

4 A Yes, sir.

5 Q Is that one of the documents that you did read?

6 A Did I read that?

7 Q Yes.

8 A In total?

9 Q Yes.

10 A No, I did not read that in total.

11 Q And you think it was unnecessary to read through that  
12 document in connection with the preparation of your testimony,  
13 which does touch upon it and its consequences?

14 A I read through portions of it that were important.

15 JUDGE CASEY: Is it listed? Was it available to you?

16 THE WITNESS: Yes, sir.

17 JUDGE CASEY: It's on the list?

18 MR. SHILOBOD: If Your Honor please, I had intended  
19 to request later on incorporation by reference of the Revolving  
20 Credit Agreement. I think this would be a good time to do it.

21 It had been introduced in the 308 proceedings as  
22 Met-Ed/Penelec Exhibit A-1, and if we are permitted to incor-  
23 porate it by reference, I'll give Your Honor a copy of it.

24 I see no reason to burden the record here with  
25 another duplication --

1 MR. RUSSELL: Unless I'm mistaken, this is cross-  
2 examination, Your Honor.

3 MR. SHILOBOD: Well, I think whenever the issue is  
4 brought up in cross-examination --

5 MR. RUSSELL: You can have him on redirect and do  
6 whatever you want.

7 JUDGE CASEY: Yes. I think, technically, that's the  
8 way to handle it.

9 MR. SHILOBOD: Well, it's not really an issue of  
10 direct/redirect; it's a question of there's been continual  
11 reference to this particular document, and if we're going to  
12 examine on it, let's have it at least in by reference.

13 JUDGE CASEY: Well, you can renew that, if you want  
14 to, at the close of cross-examination, and ask the Witness  
15 whether he has in fact reviewed it or dealt with the conclu-  
16 sions.

17 Go ahead, please.

18 BY MR. RUSSELL:

19 Q Mr. Budetti, as you understand it, what is the term  
20 of the Revolving Credit Agreement? How long does it run?

21 A I don't recall.

22 Q All right. Do you know whether or not there have  
23 been any amendments to the Credit Agreement?

24 A I have the final execution copy here. I don't know  
25 whether you have any additional amendments to it, and I don't

1 know whether this was amended relative to the initial copy?

2 Q Well, do you know whether there was any amendments  
3 subsequent to the copy to which you refer -- and I'll use the  
4 language that you included on your list --

5 JUDGE CASEY: Would you point out where it is on the  
6 list.

7 MR. RUSSELL: All right.

8 JUDGE CASEY: Admittedly, it's not in evidence. I  
9 don't know what it contains, either. I don't know how much  
10 of a --

11 MR. SHILOBOD: It's the first item, Your Honor, on  
12 the supplemental list that was sent to the various parties.

13 BY MR. RUSSELL:

14 Q You refer to it as a final execution copy of a  
15 Revolving Credit Agreement, dated as of June 15, 1979.

16 A Yes.

17 Q That's the one you looked at?

18 A Correct.

19 Q All right. And we will stipulate, if you will, that  
20 that is the Credit Agreement as executed and in final form?

21 MR. SHILOBOD: Your Honor, rather than having a  
22 stipulation, why don't we incorporate it by reference? This is  
23 my whole point.

24 MR. RUSSELL: This is cross-examination.

25 MR. SHILOBOD: Well, you're asking for a stipulation,

1 and that's my point.

2 MR. RUSSELL: I'm just trying to help the Witness.  
3 I'm not trying to trap him. I'm trying to identify it for him,  
4 for his own use.

5 We will accept that the Credit Agreement was the  
6 document that he inspected.

7 JUDGE CASEY: I think it's neater and preferable,  
8 from your point of view, to have it offered as an exhibit,  
9 really.

10 MR. SHILOBOD: Well, I didn't bring enough copies,  
11 but I'll --

12 JUDGE CASEY: I mean after cross-examination.

13 MR. SHILOBOD: -- certainly --

14 JUDGE CASEY: Well, we'll see how many people  
15 already have it available to them.

16 MR. SHILOBOD: Our concept was that the degree of  
17 relevancy of it would not justify the full document, because  
18 there's a lot of things here that have nothing that have  
19 nothing to do with this case.

20 JUDGE CASEY: All right, we will get to it.  
21 Proceed, please.

22 BY MR. RUSSELL:

23 Q Mr. Budetti, to get back to the cross-examination,  
24 do you know whether or not there were any amendments in the  
25 Credit Agreement in the form of final excution copy form which

1 A In addition to the final execution?

2 Q Yes?

3 A I asked for all relevant data and, up until the time  
4 you submitted that to me, I doubt that -- I don't know whether  
5 there were some additional amendments.

6 Q We submitted it to you?

7 A We asked for all relevant data dealing with issues  
8 in this case, and I don't have any additional documents or  
9 amendments.

10 Q A copy was furnished to you by Mr. Shilobod, was it  
11 not?

12 A It may have been, either he or the Georgetown Group.

13 JUDGE CASEY: What he means is that it originally  
14 came from the people in -- it's your clients --

15 MR. RUSSELL: Mr. Shilobod.

16 JUDGE CASEY: Well, Mr. Shilobod obtained it, but it  
17 was a document that originated --

18 MR. RUSSELL: He obtained it some time ago --

19 JUDGE CASEY: -- with your company.

20 MR. RUSSELL: -- in 308.

21 JUDGE CASEY: In 308?

22 MR. RUSSELL: Not in this proceeding.

23 THE WITNESS: It looks like a Met-Ed/Penelec Exhibit;  
24 that's what it says. I don't know whether it is or not.

25 JUDGE CASEY: Is Mr. Shilobod aware that there may



1 have been amendments subsequent to the 308 proceeding, to the  
2 Master Revolving Credit Agreement?

3 MR. SHILOBOD: Your Honor, I got the document in the  
4 deposition of Mr. Kuhns and Mr. Diekamp.

5 JUDGE CASEY: That was in April of last year; is that  
6 correct?

7 MR. SHILOBOD: That is correct. At that time we were  
8 making inquiries as to how Penelec's credit arrangement was  
9 affected whenever this incident occurred. This was given to  
10 me. This is one agreement that was given to me. I have no  
11 knowledge of any others.

12 I think, normally in discovery, when there is a  
13 request for documentation, if there is any updating, all counsel  
14 have an obligation to provide other counsel with any updating;  
15 and I think that goes with respect to all discovery.

16 MR. RUSSELL: Well, I'm not aware of any such request,  
17 Mr. Shilobod.

18 MR. SHILOBOD: Well, that is a rule of law, Mr.  
19 Russell. If I make a request in interrogatories, or by other  
20 means, and you give it to me, and then you have additional  
21 information and withhold it or not update it, your answer to  
22 the interrogatory is improper.

23 MR. RUSSELL: I'm not aware of your request that had  
24 anything to do with any amendments to the Revolving Credit  
25 Agreements. You made no such request of me.

1 MR. SHILOBOD: Well, I didn't know it existed --  
2 and that's the whole purpose of the principle.

3 JUDGE CASEY: Well, the point is, if you're talking  
4 about a document such as a contract and parties are basing  
5 their case or their position on the contents of a certain  
6 document and sometime thereafter, before the proceedings are  
7 commenced or concluded, there's a material change, by amend-  
8 ment or some type of change, what he's saying is that under  
9 discovery rules, the other party, that the request has been  
10 made, has an obligation or duty to provide that new material.  
11 That's his position.

12 Does this Witness know whether there has been any  
13 amendments?

14 Have there been any amendments or changes --

15 MR. RUSSELL: Yes, sir.

16 JUDGE CASEY: -- in the Revolving Credit Agreement?

17 MR. RUSSELL: Yes.

18 JUDGE CASEY: And who, outside the companies, are  
19 aware of this development?

20 MR. RUSSELL: Nothing could be done with respect to  
21 the Credit Agreement without numerous regulatory authorizations,  
22 including the authorizations of this Commission, and every one  
23 of the amendments is the subject of public information here  
24 before this Commission, as well as the SEC.

25 MR. SHILOBOD: Well, it may be public information,

1 but it certainly doesn't require other parties in litigation  
2 to maintain a surveillance force in our regulatory bodies to  
3 see whether something is filed.

4 It's one thing to call it a public document; it's  
5 another thing to indicate that it's a matter that was available  
6 to all the attorneys of record.

7 MR. RUSSELL: It's a matter of public record in the  
8 rate cases, which Mr. Shilobod has followed with some care.

9 MR. SHILOBOD: I have not. I'm not a party to that  
10 case.

11 MR. RUSSELL: You're not a party, but you've followed  
12 it with some care.

13 MR. SHILOBOD: I did not. To the best of my  
14 knowledge, I don't get statements, I don't get the exhibits.  
15 The only thing I get are letters advising me of when the hear-  
16 ing dates occur.

17 I have none of the documentation.

18 MR. RUSSELL: You're in consultation with the  
19 Georgetown Group and have gotten any number of the documents  
20 that --

21 MR. SHILOBOD: I did not --

22 MR. RUSSELL: -- Mr. Budetti has used.

23 MR. SHILOBOD: I did not get anything from the  
24 Georgetown Group. The Georgetown Group did not give me that --  
25 and Mr. Budetti never said that.

1 JUDGE CASEY: Who is the Georgetown Group?

2 MR. SHILOBOD: Mr. Rothchild, Mr. Matthews, and a  
3 number of people who are in Connecticut who were retained as  
4 expert witnesses or as consultants -- I'm not sure -- in the  
5 308 proceedings.

6 JUDGE CASEY: Retained by what party in the case?

7 MR. SHILOBOD: The Consuler Advocate.

8 MR. RUSSELL: Consumer Advocate.

9 MR. SHILOBOD: That we had any facet at all in the  
10 rate proceeding is simply incorrect; my appearance has never  
11 been entered; I've never been there; Mr. Russell has never  
12 served me with any document, never sent me even the initial  
13 request. He's never served me with anything.

14 If he sees me as a party, I'd like to know why he  
15 didn't give that to me.

16 JUDGE CASEY: Well, I think we're getting off on  
17 a bit of a tangent here.

18 Whatever impressions Mr. Budetti formed with respect  
19 to the Credit Agreement are based on that earlier document that  
20 Mr. Shilobod obtained in April when he was deposing Mr. Kuhns  
21 and Mr. Diekamp, and to the extent that his observations may  
22 now be inaccurate or obsolete, you know, you may raise that in  
23 your positions, but I think we know what his source of infor-  
24 mation was and when he obtained it, and how he obtained it.

25 BY MR. RUSSELL:

1 Q Mr. Budetti, do you know when any of the first mort-  
2 gage bonds issued by any of the GPU companies under the Revolv-  
3 ing Credit Agreement matures?

4 A No, I do not.

5 Q Have you reviewed the terms of either the Met-Ed or  
6 Penelec first mortgage bond indentures?

7 A No. They were not important to my analysis.

8 Q Have you reviewed the terms of either one of those  
9 debenture indentures?

10 A No. They were not important to my analysis.

11 Q Have you reviewed the terms of the capital stock of  
12 either one of those two companies?

13 A No. They were not important to my analysis.

14 Q Have you reviewed any of the Penelec or Met-Ed  
15 monthly or quarterly reports issued by them and filed with this  
16 Commission during the year 1980?

17 A No. They were not relevant to my analysis.

18 Q Have you reviewed any of the GPU quarterly reports  
19 issued during 1980?

20 (Witness perusing documents.)

21 THE WITNESS: Not that I'm aware of, not relevant to  
22 my analysis.

23 BY MR. RUSSELL:

24 Q Have you reviewed the Penelec or Met-Ed 1979 annual  
25 report?

1 (Witness perusing documents.)

2 THE WITNESS: Not that I'm aware of.

3 JUDGE CASEY: If it's on the list, then I think we  
4 entitled to proceed under the assumption that he reviewed, at  
5 some time or another, all the documents, even if it was just  
6 light reading for background.

7 MR. RUSSELL: Well, these are not on the list. I'm  
8 asking him whether there's any other things that he has done.

9 JUDGE CASEY: Well, you know, I don't see the point  
10 in the questioning. He's told you what he has reviewed.

11 Now, whether that's adequate for him to make a judg-  
12 ment is the ultimate question, but I don't think you can ask  
13 him whether he has reviewed the company's reports -- you can  
14 ask him, but I don't know what the point of your questioning  
15 is.

16 BY MR. RUSSELL:

17 Q During the questioning on December 19th, Mr. Budetti,  
18 I asked you what dates were the most recent balance sheet and  
19 income statement you had reviewed with respect to Met-Ed,  
20 Penelec and GPU; have you determined what the most recent dates  
21 of those tables may have been?

22 A No, I did not -- whatever was filed in the I-308,  
23 whatever that hearing number was, was the last information,  
24 unless there was some existing in your reports and analyses  
25 for this Commission.

1 Q And the I-308 record closed in approximately April  
2 of 1980?

3 A Subject to check. I don't know when it closed,  
4 really.

5 Q Are you aware of what Penelec's interest coverage  
6 ratio was as of a recent date in 1980?

7 A I have no reason to be aware. It's irrelevant to  
8 my analysis.

9 Q And would the Met-Ed recent interest coverage ratio  
10 be, likewise, of no interest to you?

11 A It's of no interest to the management combination.

12 Q Would the Met-Ed or Penelec recent preferred stock  
13 coverage ratio be of any interest to you in your analysis?

14 A Coverage ratio, or ability to pay? I read material,  
15 at least in the TB&A report and in some of the cross-  
16 examination in this proceeding, wherein there are indications  
17 of potential inability to pay --

18 Q I'm not --

19 A -- the dividends.

20 Q I'm not referring to ability to pay preferred  
21 dividends; I'm preferring to the preferred stock coverage ratio  
22 under the charters of the two companies. Are you familiar with  
23 those, or --

24 A The charter information -- no, I'm not; it's  
25 irrelevant to my analysis.



1 Q Would you agree, Mr. Budetti, an electric utility's  
2 interest coverage ratio is the most important single test  
3 utilized in judging the financial condition of that facility?

4 A Would I agree to that?

5 Q Yes, sir?

6 A You want my opinion as a financial expert?

7 Q I'm interested in whether or not you would agree with  
8 that statement?

9 A As a utility regulatory expert, no.

10 As a bonding expert -- which I am not, but you asked  
11 the question -- it would have a significant bearing, yes, sir.

12 Q But you did not consider interest coverage in either  
13 of these companies in your analysis; is that correct?

14 A As to whether I would put the management together,  
15 how much the interest was?

16 Q What the interest coverage of the two companies was?

17 A No, I did not.

18 Q Would the ability of either of the companies to  
19 issue permanent securities interest you in your analysis?

20 A Ability to finance -- I considered whether or not  
21 this merger; for instance, would have an impact or potentially  
22 save Met-Ed from bankruptcy.

23 It's my opinion, it's not going to save Met-Ed from  
24 bankruptcy.

25 To the extent ability to finance is required to keep

1 Met-Ed from bankkruptcy, then I considered it.

2 Q Did you make any investigation, Mr. Budetti, as to  
3 what additional long-term debt financing capability Penelec  
4 has at the present time?

5 A I made no independent investigation.

6 Q Did you make any investigation as to the additional  
7 preferred stock financial capability which Penelec has at the  
8 present time?

9 A Independently, no. I understand that from a pre-  
10 ferred stock or debt point of view, Penelec still has capa-  
11 bilities, as they do within the RCA, to go out and get  
12 additional funds.

13 Q And have you any idea as to the quantification of  
14 those financing capabilities either with respect to long-term  
15 debt or preferred stock issuance?

16 A No. It was not relevant to this analysis.

17 Q Did you make any investigation as to the ability of  
18 Met-Ed to issue any additional long-term debt or preferred  
19 stock?

20 A I made no separate investigation.

21 Q Have you ever served as an officer or an employee  
22 of an electric utility?

23 A No, sir.

24 Q Neither in a management or a non-management capacity?

25 A If I haven't been employed, how can I be in either

1 one of them?

2 Q Is your answer, no?

3 A Yes, sir.

4 Q You made reference in your testimony to, roughly,  
5 \$2 billion of savings that might be achievable the so-called  
6 master plan of the GPU system, that master plan covering load  
7 management and conservation; is that correct?

8 A That's correct.

9 Q Could you give us your understanding as to the time  
10 frame within which such savings would be achievable?

11 A Ten to 20 years.

12 Q And can you give us any breakout among specific items  
13 of such savings within that time frame?

14 A It's contained in the report that I have, but I don't  
15 have it specifically in my head.

16 Q As you understand it, Mr. Budetti, what is the  
17 approximate size of the largest service territory of any  
18 electric utility in this country?

19 A The largest service area?

20 Q Yes?

21 A I don't know.

22 Q Pardon?

23 A I do not know.

24 Q Would you have any idea as to what the average size  
25 of the service territory of a large electric utility might be?

1 MR. SHILOBOD: If Your Honor please, I really don't  
2 mean to interrupt cross-examination, but I must object on the  
3 ground of relevancy. We're going far beyond the field of the  
4 man's direct testimony.

5 JUDGE CASEY: Well, that sails over my head, Mr.  
6 Russell. Are you talking about geographically, square miles  
7 of --

8 MR. RUSSELL: Geographically --

9 JUDGE CASEY: -- service territory?

10 MR. RUSSELL: -- the number of square miles, what  
11 is an average sized electric utility's service territory.

12 JUDGE CASEY: Well, I think the basic inquiry is  
13 is it important for him to know that in order to come up with  
14 any of the so-called expert witness conclusions he's made in  
15 his testimony.

16 MR. RUSSELL: To the best of his knowledge and infor-  
17 mation.

18 JUDGE CASEY: Well, you've already tested mine; I'm  
19 sitting here mentally trying to answer some of these questions,  
20 and I can't, either.

21 I could show you the map we have in the office of  
22 Pennsylvania, and I could tell you that Penelec has probably  
23 the biggest.

24 MR. RUSSELL: That was my next question.

25 JUDGE CASEY: It's contiguous -- go ahead and ask

1 him, but I think, within the United States, I don't know where  
2 that's going to take us.

3 BY MR. RUSSELL:

4 Q Could you give us your concept of the size, in terms  
5 of square miles, of Penelec's service territory?

6 (Witness perusing documents.)

7 THE WITNESS: I have that information available.

8 BY MR. RUSSELL:

9 Q All right.

10 (Witness perusing documents.)

11 MR. SHILOBOD: Mr. Russell, as I recall, that infor-  
12 mation is somewhere here in the record, that I can't find,  
13 either.

14 Unless you're testing this man's recollection as to  
15 the specific, maybe you'd want to refer him to the record?

16 MR. RUSSELL: Well, I am doing that.

17 JUDGE CASEY: The testimony, his and others, I think  
18 contains references, specific references, to the number of  
19 service customers, comparing Met-Ed with Penelec.

20 I think Penelec has 500-some odd thousand, or 600 --  
21 well, we're talking about geography now.

22 MR. RUSSELL: Well, I was asking --

23 JUDGE CASEY: I've also seen it referred to as a  
24 \$1.3 billion asset --

25 THE WITNESS: Division.

1 JUDGE CASEY: -- division -- well, asset corporation,  
2 I was going to say, which --

3 THE WITNESS: 17,600 square miles of Western,  
4 Northern and South-Central Pennsylvania, as of '78.

5 JUDGE CASEY: And what are you reading from? Where  
6 did you get that?

7 THE WITNESS: Booz Allen report.

8 JUDGE CASEY: Booz Allen report.

9 THE WITNESS: Yes, sir.

10 BY MR. RUSSELL:

11 Q All right. Now, directing our attention to --

12 MR. RUSSELL: I'm sorry; did you want to break at  
13 this point?

14 JUDGE CASEY: At your pleasure -- you know, if you  
15 feel a need for sustenance, we can break, or if you want to go  
16 to 12:30.

17 MR. RUSSELL: Must the record be limited to suste-  
18 nance?

19 JUDGE CASEY: Off the record.

20 (Discussion off the record.)

21 JUDGE CASEY: On the record.

22 Continue until an even time, like 12:30.

23 MR. RUSSELL: All right.

24 BY MR. RUSSELL:

25 Q Having landed in Penelec's service territory,

1 suppose we stay there for a little while, Mr. Budetti.

2 I direct your attention to Page 16 of your Statement  
3 A, and in that context, you make the statment of management  
4 being an integral part of the communities they serve; is that  
5 correct?

6 A There is a line for that. I talk about planning  
7 for a company is best accomplished by top management, as it has  
8 now and always have, detailed operating analysis.

9 That means from being in the service area, from being  
10 an integral part of the communities that serve; that's the  
11 context of this statement.

12 Q All right. That is in connection with planning; is  
13 that correct?

14 A Planning and operations of the company, yes.

15 Q In connection with execution, you refer to the con-  
16 cept of on-site top management; is that correct?

17 A That's correct.

18 Q As being desirable.

19 A Yes, sir.

20 Q And from the planning point of view, it's desirable  
21 that top management be an integral part of the community they  
22 serve; is that correct?

23 A Without reading the thing again, they should be on-  
24 site and an integral part, that's true.

25 Q Now, as you view the present Penelec situation, is



1 the Penelec top management an integral part of the community  
2 at Johnstown?

3 A I hope so.

4 Q Pardon?

5 A I would hope so, but I do not know.

6 Q Well, as you considered it in formulating your testi-  
7 mony, in your particular testimony starting on Page 16, how far  
8 out from Johnstown is the Penelec service territory would this  
9 concept of Penelec's top management being an integral part of  
10 the community extend?

11 A I didn't consider that.

12 Q Pardon?

13 A How many miles?

14 Q Yes?

15 A That was not important.

16 Q Well, in your judgment, top management of Penelec,  
17 would it --

18 MR. RUSSELL: I'm sorry; strike that.

19 BY MR. RUSSELL:

20 Q In your opinion, should top management of Penelec  
21 be an integral part of the community of Altoona, in its ser-  
22 vice territory?

23 A To the extent there are important aspects of growth  
24 and opportunities and/or problems associated in Altoona, then  
25 I would expect that the Penelec people would be spending some

1 time in Altoona visiting, talking with civic leaders, chamber  
2 of commerce, trying to get the feel for the pulse of the indus-  
3 trial growth or deterioration, depending on what Altoona is  
4 doing, and they should put their time and attention to doing  
5 that out of, I assume, the Johnstown office, wherever they  
6 happened to be located.

7 Q Well, is it your thesis that that visitation of the  
8 community of Altoona should be accomplished by top management  
9 in Johnstown, but should not be accomplished by top management  
10 in Reading?

11 A No, that's not my thesis.

12 Q Well, let's go a little further afield, geographi-  
13 cally.

14 Take the City of Erie.

15 A Well --

16 Q Is it your view that top management of Penelec should  
17 be an integral part of the City of Erie?

18 A -- you're confused in "integral part," and --

19 Q Well, I'll be glad to have you clarify the matter for  
20 me.

21 A Well, I'll read it one more time.

22 "Planning for a company is best accomplished by top  
23 management, as it has now and will always have detailed oper-  
24 ating knowledge gained from being in the service area and from  
25 being an integral part of the communities they serve.

1 Execution of top management level decision is more  
2 efficiently accomplished by on-site top management."

3 Now, you're talking about planning for Altoona or  
4 Erie, or are you talking about execution?

5 You can plan and execute from New York City. If you  
6 want to commute full time; if you want to be on the road; if  
7 you want your executives to be wasting their time on traveling,  
8 train and motels, it's not necessarily a good lifestyle, but I  
9 assume you can impose that on people.

10 Is that an efficient way of management? No.

11 That's my point here.

12 Q Well, I believe you have indicated, have you not,  
13 that Penelec's organizational structure has worked reasonably  
14 well for Penelec, as of the present time?

15 A I have conclusions from TB&A and Booz Allen that the  
16 type of organization Penelec has is sufficient throughout its  
17 region, in its service area, and has been effective in running  
18 the company.

19 It, obviously, is in better financial condition and  
20 operating condition than the other companies; so I'd have to  
21 agree that that's probably is a fair conclusion.

22 Q As you understand it, Mr. Budetti, how far is it  
23 from Johnstown to the furthest reach of Penelec's service  
24 territory?

25 A I have no idea. I'd guess, 150 to 200 miles.

1 Q On the issue of planning, Mr. Budetti, what is your  
2 understanding as to where planning on behalf of Penelec is done  
3 with respect to generating facilities -- and when I say  
4 "planning," I'm referring to such matters as determination of  
5 fuel types, sighting, et cetera.

6 A For that one specific area?

7 Q Yes?

8 A There may be a centralized -- I think that there's  
9 a service company, but I'm not positive.

10 Q And where, as you would understand it, would the  
11 planning take place for Penelec's bulk power transmission  
12 facilities?

13 A I don't know.

14 Q Where would you understand the planning on behalf  
15 of Penelec with respect to interconnections with other GPU  
16 companies would take place?

17 A I assume by a meeting -- where would it take place?  
18 It would take place in a meeting of people who are parts of  
19 each of the companies, wherever they may physically want to  
20 locate and talk about it.

21 Q And at what corporate level, as you understand it,  
22 would planning for Penelec with respect to interconnections  
23 with companies outside the GPU system be made?

24 A I assume that's at the GPU level -- I don't know.

25 Q In the present Penelec table of organization, there

1 is a Vice President of Technical; is that correct?

2 I think you made reference to it somewhere in your  
3 testimony.

4 (Witness perusing documents.)

5 THE WITNESS: I made reference to a Vice President  
6 of Technical?

7 BY MR. RUSSELL:

8 Q Yes.

9 (Witness perusing documents.)

10 BY MR. RUSSELL:

11 Q If you have no recollection of it, all right; I'm  
12 not pressing. I'm just asking as a matter of information, have  
13 you observed that office in Penelec's present structure?

14 A Yes, sir.

15 Q Well, what, at least, would be your understanding  
16 as to the areas of responsibility of that office?

17 A Well, I --

18 Q If you know?

19 A I don't know.

20 MR. RUSSELL: That's all the cross-examination we  
21 have for Mr. Budetti.

22 JUDGE CASEY: All right. Perhaps this would be a  
23 good time to recess for lunch.

24 Mr. McClaren, will you have any questions after the  
25 recess?

1 MR. McCLAREN: Does that complete all questions asked  
2 by Respondent?

3 MR. RUSSELL: Of Mr. Budetti?

4 MR. McCLAREN: Yes?

5 MR. RUSSELL: Yes.

6 JUDGE CASEY: Is an hour enough time, an hour and  
7 15 minutes, an hour and a half, whatever you need to take  
8 care of --

9 MR. SHILOBOD: Well, Your Honor, I might have one or  
10 two redirect questions.

11 JUDGE CASEY: Oh, you have something on redirect  
12 before we recess?

13 MR. SHILOBOD: Yes.

14 JUDGE CASEY: All right.

15 MR. SHILOBOD: I could take it after recess; I think  
16 that would be easier.

17 JUDGE CASEY: Okay.

18 MR. RUSSELL: Well, may we go off the record?

19 JUDGE CASEY: Off the record.

20 (Recess.)

21 JUDGE CASEY: Back on the record.

22 Mr. Shilobod, you may question Mr. Budetti on  
23 redirect examination.

24 MR. SHILOBOD: Mr. Russell, do you have any addi-  
25 tional cross, before I do the redirect?

1 MR. RUSSELL: No.

2 REDIRECT EXAMINATION

3 BY MR. SHILOBOD:

4 Q Mr. Budetti, in response to cross-examination, you  
5 indicated that the time frame of the \$2 billion savings which  
6 you referred to was around 10 to 20 years.

7 A Yes.

8 Q Do you have any information about the proposed time  
9 frame of savings from the management combination?

10 A Well, my readings show that they would happen within  
11 between two and three years, and up to five years, depending  
12 on the combination of additional costs, such as systems costs,  
13 that were not put in in that time frame.

14 Q When you made statements concerning the relevant  
15 financial conditions of Met-Ed -- and I'm saying particularly  
16 with respect to your statements a major bankruptcy -- upon  
17 what did you rely?

18 A Well, I relied on the TB&A reports. I relied on  
19 indications in the testimonies that I read, not specifically  
20 about what the interest coverage was or what the balance sheet  
21 looked like, et cetera.

22 I certainly relied on general knowledge, if your  
23 will, about the financial condition of the company's invest-  
24 ments, publicized in the press, in some of those that are  
25 listed.



1 And, finally, in the cross-examination, if you will,  
2 of some of the witnesses during this hearing, it was stated  
3 again the precarious, if you will, financial position that  
4 Met-Ed was in.

5 Q When you indicated that you did not particularly  
6 rely upon Mr. Miller's testimony, who was identified -- when  
7 you were questioned as to whether or not he was a bankruptcy  
8 expert, and you mentioned that you had his testimony from the  
9 308 investigatory proceedings, why did you not rely upon Mr.  
10 Miller's testimony?

11 A Well, his conclusion was not unlike, and probably  
12 was the founding for Theodore Barry's, the one that said  
13 we really don't know what happens in a bankruptcy situation  
14 because the law is changed -- and I allude to that in my  
15 testimony, where I say, "Given the fact that there is no real  
16 knowledge about bankruptcy and what conditions exist under  
17 the new law, that it's not something you want to test with a  
18 consolidated management as opposed to a separated management.

19 He didn't come to any stronger conclusion, if you  
20 will, than Theodore Barry did.

21 Q And there was also inquiry as to your memory about  
22 the contents of the Revolving Credit Agreement; was there any-  
23 thing significant about the Revolving Credit Agreement, to you?

24 A I used the Revolving Credit Agreement in my analyses  
25 of the financial process, to point out that it was an

1 initiating start of using Penelec as a mechanism to attempt  
2 to help, or retrieve, if you will, Met-Ed and GPU get out.

3 I read in cross-examination of one of the company's  
4 witness' response in this hearing, which simply that the RCA  
5 did, in fact, hurt the financial -- well, not rating, but hurt  
6 Penelec.

7 Q Are you referring to the borrowing powers of Penelec?

8 A Correct.

9 MR. SHILOBOD: I have no further redirect.

10 JUDGE CASEY: Mr. McClaren, do you have any questions?  
11 Have you reconsidered?

12 MR. McCLAREN: I have none.

13 JUDGE CASEY: You have none.

14 MR. McCLAREN: No, Your Honor.

15 JUDGE CASEY: Any re-cross?

16 RECROSS-EXAMINATION

17 BY MR. RUSSELL:

18 Q Am I correct, Mr. Budetti, that you said that the  
19 testimony on behalf of Met-Ed and Penelec is that the Revolving  
20 Credit Agreement hurt Penelec?

21 A That's my recollection, yes, sir.

22 Q Can you identify what testimony that was?

23 A Yes, I can. I'll give you the quote out of there --  
24 I can't right now, but I can send it you or give it to the  
25 Commission, but we have --

1           Q     I think the record is closing tomorrow.

2           MR. SHILOBOD:   Perry Wheaton's cross-examination  
3 contains that statement.

4           MR. RUSSELL:   Well, that's not what the Witness said;  
5 the Witness said testimony of Met-Ed and Penelec made this  
6 statement.

7           THE WITNESS:   I'm sorry.

8           BY MR. RUSSELL:

9           Q     This statement was not by Met-Ed or Penelec witnesses?

10          A     You're correct.

11          Q     Okay.

12          A     It was made in this hearing.

13          MR. RUSSELL:   That's all we have, Your Honor.

14          JUDGE CASEY:   All right. Mr. Budetti, at the beginn-  
15 ing of Statement A, when you're describing your general back-  
16 ground -- and I don't want to go into that area too thoroughly,  
17 but you refer to yourself as a Certified Management Consultant;  
18 is there such an official designation? Is there a board that  
19 certifies management consultants?

20          THE WITNESS:   There is a board that was initiated,  
21 Your Honor, probably six or seven years, under the Institute  
22 of Management Consultants, which has attempted and is continu-  
23 ing to attempt to upgrade, if you will, the quality of con-  
24 sultants, by forcing a test not unlike the CPA examination,  
25 although that's much more technical and quantitative than would

1 be the test for a Certified Management Consultant, but there  
2 are a set of requirements relative to being in the consulting  
3 arena four or five years, a whole series of tests about the  
4 basics of consulting that are associated with it, plus in-depth  
5 review with clients you are to work with, five, about the  
6 quality of the work that has to be written and testimonials,  
7 if you will, from five clients, major clients, back to the  
8 Institute of Management Consultants, before they are handed  
9 out.

10           There are probably 2,000 --

11           JUDGE CASEY: Did you have to go through that  
12 process as you've just described? And how many years ago was  
13 that?

14           THE WITNESS: Probably five years ago. I was one of  
15 the first ones in that.

16           JUDGE CASEY: This was after the time that you had  
17 been employed by Touche Ross, or were you still an executive  
18 with their organization?

19           THE WITNESS: I was with Touche Ross. I was a Part-  
20 ner with them. I think I may have been a Manager when I  
21 finally joined, when I became a Certified Management Consul-  
22 tant. It was within the first year of IMC, Institute of  
23 Management Consultants, opening up.

24           JUDGE CASEY: When did you form your own business  
25 in the St. Louis area?

1 THE WITNESS: In November of 1979.

2 JUDGE CASEY: '79.

3 THE WITNESS: Yes, sir.

4 JUDGE CASEY: Now, with respect to the testimony,  
5 the recent cross-examination of Mr. Russell's, about Johnstown,  
6 whether that's important to the Penelec operations, in review-  
7 ing the company's testimony, was it your understanding that if  
8 the proposed management combination were to be approved and the  
9 management team moved to Reading, Pennsylvania, that they  
10 would, at frequent intervals, be commuting back to the City of  
11 Johnstown, for some reason or other?

12 Do you recall --

13 THE WITNESS: That was my impression in Mr. Kuhns'  
14 and Mr. Diekamp's deposition. It may have only related to  
15 Verrochi, but I assumed that all management would have to go  
16 back to the field at some point in time.

17 With respect to that, Your Honor, it doesn't matter  
18 whether you combine them and put them in Met-Ed's area or you  
19 combine them leave them in Johnstown.

20 JUDGE CASEY: Well, I was just wondering if they  
21 closed corporate headquarters in Johnstown, except for, perhaps,  
22 a division operation or something, what would be the need for  
23 the high executives -- the President and the various Vice  
24 Presidents -- to travel, periodically, back to Johnstown?

25 Johnstown wouldn't be the center of the Penelec

1 operation any longer, would it, after the management combina-  
2 tion?

3 THE WITNESS: I think they'd have to go back to  
4 Johnstown as often as they go back to Altoona and Erie or any  
5 of the other towns.

6 It really depends on where the next layer of manage-  
7 ment is associated.

8 I think the only reason they'd go back to Johnstown  
9 is, in my understanding, that there still would be a signifi-  
10 cant amount of lower-level management in the Johnstown area.

11 They could not plan to decentralize all of the com-  
12 panies out into the service area. That would finally make it  
13 the division that I've characterized it as.

14 JUDGE CASEY: As a management consultant, in your  
15 experience, do you find that utilities, as well as business  
16 corporations, are identified with a corporate headquarters at  
17 a particular locale, sometimes?

18 THE WITNESS: There is usually a physically location,  
19 an attractive building, whatever you have that identify with  
20 the company in the location of a utility or a company.

21 Most people can tell you where the majority of the  
22 top 500 companies -- well, not top 500, but top 100 compa-  
23 nies are probably located.

24 JUDGE CASEY: That's sort of a psychological thing,  
25 is it not?

1 In this case, we know that GPU is a Parsippany, New  
2 Jersey, company, the corporate headquarters is there, and we've  
3 heard that Met-Ed is Reading and Penelec is Johnstown -- and  
4 that is in the past.

5 Is there any detrimental impact by changing corporate  
6 headquarters to a different community?

7 THE WITNESS: My impression is that there were,  
8 relative particularly to the regulatory process. I think the  
9 people in the Penelec area lose a voice, from a regulatory  
10 point of view -- they lose their identity, because you then  
11 start trying to make decisions that are uniform for everybody.  
12 That's the reason to combine management; you want to take and  
13 standardize, if you will, everything that you do, which is  
14 much easier to manage if you standardize it.

15 So there will be something lost.

16 From a financial point of view, I don't know what  
17 the banks, if you will, or financial lending institutions in  
18 Pennsylvania would view as the Johnstown company called  
19 Penelec, or the Reading company called Met-Ed.

20 Now, there may be some identification, I would  
21 assume.

22 JUDGE CASEY: Mr. Russell also asked a question con-  
23 cerning the distance between the furthestmost regions of the  
24 service territory from the corporate headquarters of Penelec  
25 in Johnstown; and you said, "Well, I would estimate perhaps



1 150 to 200 miles.

2 Now, that may have been a fairly accurate guess,  
3 but my question is would a person living way up in the north-  
4 eastern corner of Pennsylvania, say, in Pike or Susquehanna or  
5 Waynetown, really identify or relate to the Johnstown head-  
6 quarters of his electric company?

7 THE WITNESS: Probably not. My comment was that it  
8 doesn't -- and that was the one I made earlier -- it doesn't  
9 matter whether you're in Johnstown or whether you're in Met-Ed.  
10 There's a presence required at some point in time, somewhere,  
11 to glean and pick up information, from a management point of  
12 view, that he uses to make decisions.

13 To the extent you have people up there and you want  
14 to go up there, then it's important that the management get  
15 there.

16 I would think the people in that town do understand  
17 who their electric company is. It may be at a lower level.

18 They may say, in Altoona, wherever that happens to  
19 be, they know where Penelec is. They know who is there. They  
20 know who the division manager is, if he happens to be located  
21 there.

22 He sits on a chamber and they usually put him into  
23 some kind of public sphere -- which makes an awful lot of  
24 sense, because you need to get the pulse of the community that  
25 you're in, to be able to set the pace of the particular or

1 peculiar requirements of that area, from an industrial point  
2 of view, or the kinds of customers you have.

3 There's a whole series of important things to under-  
4 stand.

5 JUDGE CASEY: All right, one final question on my  
6 part, and then we'll wind up and excuse you.

7 Mr. Russell asked you a number of questions dealing  
8 with the financial condition, the bond interest coverage, and  
9 so forth; would your overall view of the proposed management  
10 combination differ if Penelec and Met-Ed were in a presently  
11 favorable financial position, as opposed to Met-Ed's current  
12 financial crisis?

13 THE WITNESS: If Met-Ed --

14 JUDGE CASEY: Would that -- go ahead.

15 THE WITNESS: If Met-Ed was in much better financial  
16 condition?

17 JUDGE CASEY: Yes. If, for some reason or other,  
18 they were -- you know, even though Three Mile Island has  
19 happened, that by some fortuitous set of circumstances, they  
20 were rather healthy financially at the present time, would that  
21 change your opinion of the proposed management combination,  
22 whether it would be beneficial or whether the company should  
23 preserve its status quo, so to speak?

24 THE WITNESS: Your Honor, my position would be if they  
25 were financially in a better position, they wouldn't even be in

1 here asking to do that.

2 I, facetiously -- well, not facetiously, but put in  
3 a section in my testimony that said if it makes sense whe. they  
4 are both financial strong, to merge two, why wouldn't they  
5 merge three, why wouldn't they merge four.

6 There's a whole series of reasons as to why you don't  
7 do that.

8 You physically, with peoples' intensity and the time  
9 they have to spend on problems coming here, can't add companies  
10 forever; you just can't keep adding electric companies to your  
11 string, but you're going to continue to manage and manage and  
12 manage.

13 JUDGE CASEY: But since there are rather serious  
14 financial problems and the company has seen fit to merge at  
15 least the higher-level management and the board of directors,  
16 for reasons that they have testified about at length -- but  
17 you think that is not the proper thing to do at this point?

18 THE WITNESS: It is not the proper time to be doing  
19 that, no.

20 Now, if you were going to do it in the future, and  
21 they both were financially sound companies, I would think that  
22 you would spend a considerably larger amount of time and have a  
23 much more in-depth financial analysis, for instance, that  
24 showed true benefits of merging those two companies, as opposed  
25 to attempting to rush into the thing the way they are doing it

1 right now.

2 At some point in the future it may make sense, given  
3 all the organizational system area development kind of problems  
4 having been resolved, then it may be an easy thing to merge --  
5 I think we're talking 10 to 20 years until we start thinking  
6 about things like that.

7 JUDGE CASEY: Could they proceed with the tentative  
8 division reorganization plans, without the management combina-  
9 tion?

10 THE WITNESS: Yes, I think they can, and they  
11 probably should. And it's going to take an awful lot of top  
12 management time as exists in Penelec and Met-Ed to do that,  
13 alone. Never mind trying to combine the others --

14 JUDGE CASEY: Well --

15 THE WITNESS: -- but I think it's time for somebody  
16 to figure out what the Met-Ed organization should look like.

17 Now, if Mr. Verrochi is the guy to help that company  
18 out, then he ought to go over there and see whether he can keep  
19 that thing from going under; but I think if he does, they've  
20 got to put a new president back in Penelec.

21 One of the issues that hasn't been addressed here at  
22 all is that in light of not doing this, with no management  
23 consolidation, what are you going to do about the management  
24 of Met-Ed?

25 There is no president there at the present time; it's

1 the Chairman of the Board, or Mr. Kuhns or Mr. Diekamp, whoever  
2 it is.

3 JUDGE CASEY: If the two separate and distinct  
4 Pennsylvania utilities in the GPU system were to proceed with  
5 a division reorganization plan, could it be done separately  
6 and efficiently, as well, or would they have to share their  
7 combined expertise in putting together their division struc-  
8 ture?

9 THE WITNESS: I think there's some sharing of  
10 systems and procedures but, given the nature of divisions --  
11 by that I mean the physical and geographical kind of loca-  
12 tions -- there's no reason to try to merge the management.

13 By definition, you don't merge management; you change  
14 the structure and you put it in Altoona or here in Johnstown,  
15 wherever you're going to do it, and you reorganize at much  
16 lower levels and put in different information reporting  
17 systems, such as scheduling systems.

18 There's a whole series of things that happen that  
19 reduce costs and, hopefully, increase efficiency over those  
20 crews in the areas out there, and all that can be done at much  
21 lower levels without any major -- well, as we've said here,  
22 they're going to have to put together a 12 or 13-man organiza-  
23 tion just to get the divisions together.

24 When they happen to be under one combined management,  
25 we'll have to change that figure slightly.

1           Again, if you try to deal with what's happening at  
2 Met-Ed, it may make sense right now to try to isolate Met-Ed  
3 and take most of the management out of there; in other words,  
4 don't leave any divisional management there.

5           I don't know what you'd do, but there's a whole  
6 study that says, "If this doesn't go through, what are you  
7 going to do with Met-Ed?" Who's the president?

8           JUDGE CASEY: Who's what?

9           THE WITNESS: Who's going to be the president? Who's  
10 going to spend full time running that company.

11           I assume GPU needs a a full-time president, also, and  
12 I thought he was working in both areas.

13           JUDGE CASEY: Well, that's true -- and I may not  
14 fully understand the holding company setup, where the presi-  
15 dents of the separate utilities take all of their marching  
16 orders anyway from the parent, or whether they have a con-  
17 siderable amount of autonomy that would permit them to handle  
18 the affairs of their own individual companies, if that impacts  
19 upon the situation.

20           Could you leave Met-Ed without an operating head,  
21 with somebody acting doing his --

22           THE WITNESS: No, no, you cannot do that. There's  
23 a policy -- and you talk about whether they have autonomy; Mr.  
24 Verrochi has autonomy, within a certain set of constraints,  
25 that comes out through GPU and the board, and his responsibility

1 is to -- well, he gets paid to make things happen, to imple-  
2 ment, to worry about policy levels at the next layers; in other  
3 words, those that would affect only Penelec.

4 Now, that's a full-time, I assume, job, to this point  
5 in time and will continue to be sufficient will \$2 billion  
6 worth of opportunities, which, I assume, afterwards, would  
7 go to Penelec, to be used for them.

8 JUDGE CASEY: Well, I think you need somebody over  
9 Met-Ed, also.

10 THE WITNESS: Yes.

11 JUDGE CASEY: That completes my questioning. I  
12 don't know whether it's raised any other desires.

13 MR. RUSSELL: Could we have just a minute?

14 JUDGE CASEY: Go ahead.

15 (Counsel Russell conferring.)

16 MR. RUSSELL: I don't believe we do.

17 JUDGE CASEY: All right, fine.

18 Mr. Budetti, Thank you very much for your testimony.

19 THE WITNESS: Thank you, Your Honor.

20 JUDGE CASEY: You're excused at this time.

21 (Whereupon, the Witness was excused.)

22 MR. RUSSELL: If Your Honor please, I might st  
23 mention one other thing.

24 JUDGE CASEY: Go ahead.

25 MR. RUSSELL: Assuming that the arrangements can be



1 worked out, we're going to endeavor to have Mr. John Graham,  
2 Treasurer of GPU, here as a rebuttal witness with respect to  
3 credit agreements and certain other financial matters that have  
4 been touched upon in the testimony.

5 JUDGE CASEY: He's going to be here tomorrow?

6 MR. RUSSELL: Yes, Your Honor.

7 JUDGE CASEY: In the morning?

8 MR. RUSSELL: Well, tomorrow sometime. I'm not sure  
9 what his arrangements are, but it we'll have him here tomorrow.

10 JUDGE CASEY: Well, we have our work cut out for us  
11 tomorrow, obviously.

12 While we are all here, what do you think about moving  
13 up the time to start the hearing, or would you prefer to leave  
14 it at 10:00?

15 MR. RUSSELL: I'd have no problem with 9:00.

16 JUDGE CASEY: Nine o'clock?

17 MR. SHILOBOD: All right.

18 JUDGE CASEY: You can pass that information on to  
19 Lee Morrison.

20 MR. McCLAREN: I will.

21 MR. SHILOBOD: If Your Honor please, I have two  
22 exhibits that I'd like to have marked and introduced into  
23 evidence, if I'm permitted.

24 JUDGE CASEY: Well, wait a minute. You haven't  
25 offered -- I'll have remind you of the fact you haven't

1 offered Statement A or --

2 MR. SHILOBOD: I was going to do all of that at the  
3 end; that's the way I'd presumed it was done, Your Honor.

4 JUDGE CASEY: At the end of your case you're going to  
5 offer all your exhibits at once?

6 MR. SHILOBOD: Yes, if --

7 JUDGE CASEY: Well, that's permissable, sure.

8 MR. RUSSELL: I think everybody can make their offers  
9 at that time.

10 JUDGE CASEY: Sure, all right.

11 Now, what was the other matter?

12 MR. SHILOBOD: If Your Honor please, I'd request that  
13 there be marked for identification purposes as JARI Exhibit  
14 Number 1, Management Audit Contract Number D-79M00200, which  
15 is the management audit contract employing TB&A to audit  
16 Met-Ed, Penelec and GPU Service Corporation. May it be so  
17 marked for identification -- Exhibit Number 6; I'm sorry.

18 JUDGE CASEY: Exhibit Number 6, right.

19 MR. SHILOBOD: May it be so marked?

20 JUDGE CASEY: Yes, it may be so marked.

21 (Whereupon, the document was  
22 marked JARI Exhibit No. 6  
for identification.)

23 JUDGE CASEY: And you're offering it at this time?

24 MR. SHILOBOD: Yes, I am, Your Honor.

25 JUDGE CASEY: All right. Any objections?

1 MR. RUSSELL: To Number 6, no; it's already been  
2 substantially covered by --

3 JUDGE CASEY: It's in the testimony; that's correct.

4 MR. SHILOBOCD: I would like to point out to Your  
5 Honor that the document isn't very clear on the first page,  
6 but the handwriting there refers to GPU Service Corporation.

7 GPU itself is stricken out and GPU Service Corpora-  
8 tion has been inserted.

9 JUDGE CASEY: It may be admitted.

10 (Whereupon, the document here-  
11 tofore marked for identifica-  
12 tion as JARI Exhibit No. 6  
was received in evidence.)

13 MR. SHILOBOD: I also request that there be marked  
14 for identification purposes and introduced into evidence as  
15 JARI Exhibit Number 7, the Conemaugh Operating Agreement. This  
16 was the agreement that there was cross-examination about with  
17 Mr. Verrochi concerning the fact that Penelec does provide ser-  
18 vices to operate some generating stations which it does not own.  
19 May I have the document marked as JARI Exhibit Number 7 for  
20 identification purposes and introduced into evidence?

21 MR. RUSSELL: Well, I would say I have great diffi-  
22 culty with cluttering up this record with respect to an oper-  
23 ating agreement with respect to a coal-fired station which is  
24 operated by Penelec and which is owned a whole slew of other  
25 electric utility companies, of which one is Met-Ed. Met-Ed,

1 it's my recollection, has 16.45 percent interest in the  
2 station, but I don't see where that has any relevancy in this  
3 case.

4 JUDGE CASEY: Well, make an offer of proof.  
5 Are you using it to --

6 MR. SHILOBOD: It is specifically for the purposes  
7 that were discussed with Mr. Verrochi; namely, that there is an  
8 alternative method to achieve or to utilize the skills of  
9 Penelec if that is really required by some other company.

10 There is an alternative method, other than the  
11 management combination such as is being proposed.

12 JUDGE CASEY: Well, maybe I missed a point in the  
13 beginning, but I thought you said that Mr. Verrochi had testi-  
14 fied that in this situation, Penelec was an operator, but had  
15 no ownership interest at all; is that correct?

16 MR. SHILOBOD: That's correct.

17 JUDGE CASEY: And the agreement, as you see it, is  
18 consistent with Mr. Verrochi's testimony?

19 MR. SHILOBOD: Yes, it is, Your Honor.

20 JUDGE CASEY: But, in fact, Met-Ed, a sister company,  
21 has a 16 percent interest, along with other utilities?

22 MR. SHILOBOD: That's correct. Met-Ed is utilizing  
23 that scale now, under this operating agreement, along with the  
24 other utilities.

25 JUDGE CASEY: And your point was the fact that they

1 could operate a generating station on behalf of these owners  
2 would, in some way, supplant the proposed management combina-  
3 tion as a --

4 MR. SHILOBOD: That's correct, if the management  
5 combination is being implemented for purposes of providing  
6 Penelec services with respect to coal generation facilities.

7 There was testimony that with the creation of GPU  
8 Nuclear, if that is approved, that there will be only a few  
9 remaining generating stations at Met-Ed that were coal-fired,  
10 and that Penelec had particular skills in this area.

11 This is one of the factors that was important for  
12 purposes of the management combination.

13 MR. RUSSELL: Well, Your Honor, I have no problem  
14 with the substance of the agreement. I have no discomfort  
15 with the agreement. It's just one of a number of agreements.

16 There's a Keystone Operating Agreement, which is the  
17 same format.

18 There's a Homer City Operating Agreement, in which  
19 Penelec has a 50 percent interest in the unit.

20 New York State Electric Gas is another.

21 JUDGE CASEY: All right.

22 MR. RUSSELL: There's operating agreements with  
23 Three Mile Island - 1, Three Mile Island - 2.

24 Just as a matter of principle, I am troubled by  
25 cluttering up the record with another document that I don't

1 think is relevant.

2 MR. SHILOBOD: If Your Honor please, I think we've  
3 clarified what is the purpose for which JARI Exhibit Number  
4 was being introduced.

5 I would agree with Mr. Russell that the particular  
6 detail of the agreement really isn't crucial to this case,  
7 and I think, in light of Mr. Russell's comments, the record is  
8 clear enough that maybe we don't need it as a separate exhibit.

9 JUDGE CASEY: I don't think it's any problem for  
10 either side.

11 If you're offering it to show that Penelec has  
12 demonstrated expertise in operating coal-fired generating  
13 stations, that might even support part of their case, which  
14 says that the Penelec organization would benefit from the  
15 combined management because they are coal-fired experts and  
16 can put more emphasis with Met-Ed on coal.

17 So it doesn't hurt either side; I'll let it in or  
18 keep it out.

19 What's your pleasure?

20 MR. SHILOBOD: Well, Your Honor, I think Mr.  
21 Russell's concern about the volume of the record -- I don't  
22 care -- is probably correct. I think that the issue that we  
23 had presented it to establish is now clear on the record; so  
24 I don't have any objections to not offering it.

25 MR. RUSSELL: Perhaps I can fully the record on the

1 point that Penelec also has one operating agreement with  
2 respect to a pump storage unit, in addition to coal-fired --

3 MR. SHILOBOD: That's all right.

4 MR. RUSSELL: -- so we can put that in the record,  
5 also.

6 JUDGE CASEY: We will then admit into evidence  
7 JARI, Incorporated Exhibit Number 6.

8 Exhibit Number 7 has been offered for purposes of  
9 identification, but has not been offered into evidence, so we  
10 will keep it out of the record.

11 By consent of all Counsel of record, we will meet  
12 tomorrow at 9:00 a.m., instead of 10:00 a.m.

13 This hearing is now in recess until 10:00 a.m.  
14 tomorrow morning.

15 Thank you very much.

16 (Whereupon, at 1:24 p.m., the hearing was adjourned,  
17 to reconvene at 9:00 a.m., Thursday, January 8, 1981.)  
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C E R T I F I C A T E

I hereby certify, as the Stenographic Reporter,  
that the foregoing proceedings were taken stenographically by  
me, and thereafter reduced to typewriting by me or under my  
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