

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

In the Matter of: PUBLIC MEETING

BRIEFING BY REGULATORY REFORM TASK FORCE

(LEGISLATIVE PROPOSALS)

DATE: October 7, 1982

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BRIEFING BY REGULATORY REFORM TASK FORCE
(LEGISLATIVE PROPOSALS)

PUBLIC MEETING

Nuclear Regulatory Commission
Room 1130
1717 H Street, N. W.
Washington, D. C.

Thursday, October 7, 1982

The Commission met, pursuant to notice, at
10:35 a.m.

COMMISSIONERS PRESENT:

- NUNZIO PALLADINO, Chairman of the Commission
- VICTOR GILINSKY, Commissioner
- JOHN AHEARNE, Commissioner
- THOMAS ROBERTS, Commissioner
- JAMES ASSELSTINE, Commissioner

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- L. BICKWIT
- J. ZERBE
- J. TOURTELLOTTE

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DISCLAIMER

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P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: Good morning, ladies and
3 gentlemen.

4 Today's meeting is a briefing by the Chairman
5 of the Regulatory Reform Task Force on the status of
6 legislative proposals to streamline the licensing
7 process.

8 On June 2nd, 1982, the Commission published a
9 request for public comments on the Nuclear
10 Standardization Act of 1982. A number of comments were
11 received from representatives of the nuclear industry,
12 public interest groups and other interested members of
13 the public. Today's meeting will address some of those
14 comments.

15 The Commission also requested and received a
16 report on the proposed legislation by the Ad Hoc
17 Committee For Review of Nuclear Regulation Licensing
18 Reform Proposals. We were briefed on that report in a
19 public meeting about a month ago.

20 I believe our next step is to integrate the
21 comments received from the public and the Ad Hoc
22 Committee and give guidance to the task force on the
23 necessary modifications to the proposed legislative
24 package.

25 The Commission will need to settle on what the

1 components of the legislation will be and how they shall
2 be formulated. I hope that we will be able to take some
3 steps today at today's meeting toward the needed
4 Commission guidance for the task force and we would look
5 forward then to the task force having a revised
6 legislative proposal available for Commission review.

7 At this point let's see if other Commissioners
8 have any comments they would like to make.

9 COMMISSIONER GILINSKY: Why don't we start
10 from the right.

11 (Laughter.)

12 CHAIRMAN PALLADINO: All right.

13 Tom, would you like to start.

14 COMMISSIONER ROBERTS: I am going to walk out
15 of here at 12 noon, and that shows no lack of interest
16 in the subject, but I have to catch an airplane.

17 (Laughter.)

18 COMMISSIONER GILINSKY: Commissioner Roberts
19 and I share an in lunch.

20 (Laughter.)

21 CHAIRMAN PALLADINO: Any other comments?

22 COMMISSIONER GILINSKY: I do have a question.
23 The Ad Hoc Committee was the outside committee, is that
24 right?

25 CHAIRMAN PALLADINO: Yes.

1 COMMISSIONER GILINSKY: Now there was also an
2 internal committee.

3 CHAIRMAN PALLADINO: The Senior Advisory Group.

4 COMMISSIONER GILINSKY: What has their role
5 been?

6 CHAIRMAN PALLADINO: When we got packages, I
7 have been convening them to get feedback.

8 COMMISSIONER GILINSKY: And they reviewed the
9 presentation we are going to receive here today?

10 CHAIRMAN PALLADINO: No. We did not
11 specifically convene the group to touch on 399.

12 COMMISSIONER GILINSKY: Are they out of
13 business?

14 CHAIRMAN PALLADINO: No, they are not and we
15 should undoubtedly get their input.

16 COMMISSIONER AHEARNE: I am not sure what we
17 are about to hear, but reading the package it seemed to
18 be more a summary of here are a large number of
19 positions that were taken by the people who have
20 commented and then some suggestions.

21 CHAIRMAN PALLADINO: Well, I would hope that
22 we could get some feedback on whether these are the
23 appropriate topics and whether we should be covering all
24 of them or whether we should be adding some to this list
25

1 and see if there are any comments that individuals might
2 have on the thrust of any of them.

3 COMMISSIONER AHEARNE: At some point this
4 morning do either you or Jim intend to cover what might
5 be called legislative strategy?

6 CHAIRMAN PALLADINO: That is an important
7 question and I would be willing to discuss it.

8 COMMISSIONER GILINSKY: Do we close the
9 meeting for that?

10 (Laughter.)

11 CHAIRMAN PALLADINO: Well, it depends. I will
12 raise questions. I am not sure whether we are going to
13 get answers, because I really don't know what the
14 answers are. We have our original Standardization Act.
15 We have these comments and we asked for comments on
16 other aspects of the reform package. I think we have to
17 decide are we going to send forward two packages or one
18 package.

19 COMMISSIONER AHEARNE: There is a third option.

20 (Laughter.)

21 COMMISSIONER ROBERTS: What's that?

22 COMMISSIONER AHEARNE: No package.

23 (Laughter.)

24 CHAIRMAN PALLADINO: Jim.

25 COMMISSIONER ASSELSTINE: I wonder also if at

1 some point you had planned to discuss the administrative
2 reform package and how that fits in with the legislative
3 package because I guess after hearing from the Ad Hoc
4 Committee one of the biggest questions I have in my mind
5 is how do we look at this all together in a coordinated
6 way so that we aren't going forward with a legislative
7 package that may be more than we need or, if for no
8 other reason, then putting us in the difficult position
9 of when we go to the Hill the first question I think is
10 going to be well what have you done to help yourselves
11 with the authority you have got and why do you have to
12 have this authority.

13 CHAIRMAN PALLADINO: Well, in my discussions
14 with Jim Tourtellotte we set as a target that we would
15 try to get at least a draft of the administrative
16 package to you at the same time we present this revised
17 package in the middle of November.

18 COMMISSIONER AHEARNE: Okay.

19 CHAIRMAN PALLADINO: Did I commit you to
20 something ---

21 (Laughter.)

22 CHAIRMAN PALLADINO: I agree with you that you
23 have to look at both of them together, but there are
24 some issues here that we may just feel we don't want to
25 have in the package or there are things that you may

1 feel should be added to the package. What I think the
2 task force is looking for now is Commission guidance on
3 the content and any comments you may have on the
4 substance.

5 Any more comments?

6 (No response.)

7 CHAIRMAN PALLADINO: Well, Jim, why don't I
8 turn the meeting over to you and we will see where we go
9 then.

10 MR. TOURTELLOTT: Today I would like to
11 review the timing and substance of the proposed 1983
12 legislation.

13 As noted in SECY-82-399, the objective is to
14 send a proposal to Congress no later than January the
15 31st, 1983. It is absolutely essential that we make
16 this early date if satisfactory results are to be
17 achieved.

18 Substantively the new bill will be
19 comprehensive rather than being limited to
20 standardization, or at least that is the plan now. This
21 approach is consistent with the weight of public
22 comments on the proposed Nuclear Standardization Act of
23 1982 and the report of the Ad Hoc Committee For Review
24 of Nuclear Reactor Licensing Reform Proposals.

25 Moreover, the task force will consider the

1 general thrust of all comments made on the 1982 proposal
2 in drafting the 1983 proposal. Those comments can be
3 summarized as follows:

4 1. The proposed legislation should also
5 address existing operating plants and plants currently
6 under review, that is in the pipeline;

7 2. Backfit standards should be revised now
8 and should apply to all facilities, not just those
9 involving standardized designs;

10 3. The proposed legislation should address
11 the hearing process in greater detail and clarity;

12 4. Appropriate state entities, rather than
13 FERC, should be relied upon regarding need for the
14 facility;

15 5. The National Standardization Act proposal
16 to eliminate completion of construction dates in CPs
17 should be adopted;

18 6. The NSA proposal to eliminate the
19 Commission quorum requirement should be adopted; and

20 7. There is a need for a better statutory
21 definition of standardized design.

22 The subjects we plan to consider initially are
23 listed on the second page of SECY-82-399. Today I
24 invite the Commission's comments on the qualitative and
25 quantitative sufficiency of that list.

1 Mr. Chairman, if you would like to discuss the
 2 items generally or one at a time, I would be pleased to
 3 respond to the suggstions and the questions of the
 4 Commission.

5 Before we get to that, I made a note or two.

6 One, on the Senior Advisory Group I would note
 7 that they generally do not review anything until the
 8 task force has met and come up with a product. What we
 9 are talking about here today is seeking the advice of
 10 the Commission as to what direction we should move to
 11 come up with a product. The Senior Advisory Group is
 12 scheduled to meet the latter part of this month, the
 13 22nd and 25th of October.

14 Also, on the administrative package, as the
 15 Chairman indicated, we have a target date of November
 16 the 15th, not only to present to you the legislative
 17 package, but practically all of the administrative
 18 package as well. When I say practically all, basically
 19 the administrative package has four parts to it. One
 20 part is the backfit rule, another part concerns
 21 administrative changes to 10 CFR Part 2 relative to the
 22 hearing process, a third part deals with the separation
 23 of functions ex parte rule and the revising the role of
 24 the staff as a party type of rule, that is the
 25 possibility of making the staff a party to a proceedings

1 only upon their exercise of discretion, and, fourth,
2 there was an attempt to draft rules dealing with
3 standardization in early site review that would update
4 the rules that we have and make them consistent with the
5 proposal we made on legislation for 1982.

6 That fourth package becomes no as pressing or
7 as important and actually requires quite a bit of work
8 in terms of making it suitable for consideration, but I
9 don't believe it has a tremendous impact on the
10 interplay between the Administrative package and the
11 legislative package. It certainly doesn't have the
12 immediacy of impact that the other proposals will have.

13 So everything but that segment on
14 standardization in early site review would be presented
15 to the Commission on the 15th of November.

16 CHAIRMAN PALLADINO: Well, for this meeting I
17 was going to suggest that we do go down this list and
18 see whether or not we want to have all of these covered
19 and then see whether or not there are other items that
20 should be added. For example, on the list on page 2 I
21 don't see an explicit item on the hearing process, and
22 particularly the fact that the hybrid would be coming
23 up. Is it there?

24 COMMISSIONER ASSELSTINE: No. 3 I think.

25 MR. TOURTELLOTTE: Three.

1 CHAIRMAN PALLADINO: I am sorry. Thank you.
2 Then it is there. Also there are a couple of them, when
3 we get to them, that I would question whether or not we
4 want to include them.

5 So you might go down the list and indicate
6 what you were thinking of in each one in a summary way
7 and then see what comments we have.

8 MR. TOURTELLOTTE: Well, as indicated in the
9 paragraph above, in a broad sense we are thinking about
10 legislation which is along the lines that was presented
11 by DOE in its licensing and siting bill in 1978 and also
12 more recently in the 1982 bill which the Commissioners I
13 believe received a copy of initially.

14 COMMISSIONER GILINSKY: Are you speaking about
15 some particular item or generally?

16 MR. TOURTELLOTTE: Generally. So the items
17 that we have here are in general the kinds of items that
18 were addressed in either of those two approaches of DOE
19 and which the NRC supported in 1978.

20 The combined CP/OL we had in the
21 Standardization Act, but we restricted it only to
22 standardized plants. The comments that were received
23 from the general public indicated that this should
24 really be applicable to all plants. So it was my
25 intention to, or at least currently, to try and draft up

1 something that would reflect those comments.

2 COMMISSIONER GILINSKY: Well, all plants which
3 supply sufficient information in their applications, for
4 example, would supply an essentially complete design.

5 MR. TOURTELLOTTE: Yes.

6 COMMISSIONER GILINSKY: Now let me ask you
7 further, is there anything in this idea that cannot be
8 accomplished under the current legislative framework,
9 and particularly in the CP/OL?

10 MR. TOURTELLOTTE: You mean in this list?

11 COMMISSIONER GILINSKY: No, no, on that
12 particular item.

13 CHAIRMAN PALLADINO: On, the CP/OL.

14 MR. TOURTELLOTTE: Well, of course you have
15 got the problem of the mandatory CP review which would
16 perhaps somehow get in your way and there are some other
17 little minor things in the legislation, but the answer
18 to your question is essentially under the present rules
19 it is my view that we could have what amounts to a
20 one-step procedure. It would not be a one-step
21 procedure because that isn't the way that the
22 legislation is currently set up.

23 If an essentially complete design were
24 submitted, it could be reviewed in a close enough series
25 so that it in effect would become a one-step. There is

1 a precedent for that, and it was Kewanee in 1967 where
2 an essentially complete design was submitted. It was
3 actually a replication and it was reviewed in a very
4 close series and the hearings for the CP were held one
5 week and the hearings for the OL the next week. The CP
6 issued and shortly after the OL issued. It was an
7 uncontested proceeding.

8 COMMISSIONER GILINSKY: Was an OL hearing
9 mandatory at that time?

10 MR. TOURTELLOTTE: I don't believe so, no.

11 COMMISSIONER GILINSKY: It seems to me that if
12 a CP application is sufficiently complete that one can
13 deal with the entire design at that point. Now even if
14 there were a one-step provision in the law, the fact is
15 there is always going to be a review before the plant
16 operates. I don't think we ought to kid anybody into
17 thinking that there wouldn't be. There would have to be.

18 COMMISSIONER AHEARNE: Vic, do you mean a
19 hearing review or an NRC review?

20 COMMISSIONER GILINSKY: It would have to be an
21 NRC review. You would have to review, first of all,
22 that the plant was built the way it was supposed to have
23 been built and you would have to review a number of
24 items that simply are not ready for review at the CP
25 stage, emergency planning, the adequacy of their QA

1 organization and a whole bunch of things. So I don't
2 think we ought to kid anybody that there is going to be
3 an approval and then you get the green light and from
4 then on you start building and operating with the plant
5 never again touched by NRC. It is just not going to
6 happen that way.

7 MR. TOURTELLOTTE: That is certainly true.

8 COMMISSIONER AHEARNE: I don't know of anybody
9 though, in talking about one-step, that has really
10 really proposed the concept of the NRC not doing the
11 kind of review you are talking about. It really was the
12 distinction between two hearings and one hearing.

13 COMMISSIONER GILINSKY: See, you are really
14 trying to deal with the hearings per se. Now it seems
15 to me under the current system, to the extent that
16 issues have been covered at the construction permit
17 stage and need not be dealt with at the operating
18 license stage, that one would simply be dealing with
19 those remaining issues that had not been covered
20 earlier. So it seems to me, so far as I can tell, that
21 everything in this concept can be handled under the
22 current framework.

23 CHAIRMAN PALLADINO: That wasn't the
24 impression I got from earlier discussions with the task
25 force. If we really wanted to go in the direction that

1 we spoke about of having this combined CP/OL, it was my
2 impression that the law would have to be changed.

3 MR. TOURTELLOTTE: Yes.

4 CHAIRMAN PALLADINO: You indicated it wouldn't
5 have to be changed and that sort of confused me.

6 COMMISSIONER GILINSKY: Well, if you want to
7 give out a single certificate that has the word
8 "operating" in it, then indeed you have to change the
9 law, but you cannot give out that sort of a certificate
10 which is not contingent on a further NRC review. So in
11 fact you would not be getting an operating license. It
12 would be an operating license so matter what conditioned
13 on a further NRC review.

14 MR. TOURTELLOTTE: Inspections and tests
15 usually.

16 COMMISSIONER GILINSKY: At a minimum, that is
17 right. You know, if you want to put the word
18 "operating" in the earlier piece of paper, well, indeed,
19 you have to change the law, but if you are willing to
20 wait with that until a later stage, then I think
21 everything can be accomplished under the present scheme.

22 MR. TOURTELLOTTE: Yes, I think that
23 substantially there are some nuances perhaps in the
24 legislation that would be touched by the combined CP/OL
25 that otherwise might pose some problems not terribly

1 significant. The fact is though when you think about
2 legislation you also have to think about what it is that
3 you want to accomplish, not so much from the standpoint
4 that you perhaps can accomplish the same approximate
5 result today, but you also have to consider what has
6 been the customary practice and are you seeking, for
7 instance, to establish a new procedure in very clear-cut
8 terms and often legislation helps you to do that even
9 though perhaps you might come close to achieving the
10 same result without the legislation.

11 COMMISSIONER GILINSKY: Well, I understand
12 what you are saying and you want to provide incentives
13 and, if nothing else, give a certain boost to a new way
14 of doing things and there may be some merit in that.

15 MR. TOURTELLOTTE: It is a way of injecting
16 more certainty into the process I think.

17 COMMISSIONER GILINSKY: Well, I guess what
18 concerns me about this point of view is it reflects an
19 attitude that you can drive the industry from here, and
20 I think that is wrong. I think the reason we haven't
21 had more standardization or more submission of
22 essentially complete applications has to do with
23 industrial practice.

24 What really needs to change is industrial
25 practice. We largely mirror the industrial system. If

1 they will submit essentially complete applications, we
2 will renew them at an early point. If they submit
3 standardized applications, we will set up to deal with
4 standardized applications. When they were submitting
5 individual customized designs, we set up to deal with
6 customized designs.

7 CHAIRMAN PALLADINO: I think one thing we are
8 trying to do is establish a climate that would assure
9 them that they were going to be treated in some given
10 way.

11 COMMISSIONER AHEARNE: I would agree with Vic
12 on this one. If we want to set up the climate to do it,
13 I think we can do that by our own regulations. I
14 suspect Jim and Len are more experienced on it than I,
15 but I would expect that if we got up to the Congress and
16 we got into a discussion about what have you done within
17 your own regulations and could you do something, and we
18 ended up saying well, yes, we could, but we didn't and
19 instead we are asking for the legislation. That would
20 be almost a certain failing.

21 On the other hand, if we do set up the
22 regulations to make it clear that could be done, I agree
23 with Vic that the driving issue on that is whether
24 industry is prepared to do that and wants to do it, and
25 not whether or not we try to force them.

1 If we got in front of the Congress and were
2 trying to make the argument that we want to force
3 industry to come in with a standard design and industry
4 doesn't want to do it, and industry came in and argued
5 that it was unwise and they didn't really think that
6 they could do it, that would also be a second failing.

7 CHAIRMAN PALLADINO: We are not trying to
8 force the industry to do anything, or at least that was
9 what I believe was behind the package. The one point
10 that I think was a very valid point is if we are going
11 to go for a combined CP/OL should we do it only for
12 standardized plants or for all plants and I think all
13 new plants ought to be eligible for it if we are going
14 to do it.

15 I do think if we are going to go along the
16 lines that were in at least the standardization package,
17 it is my impression we needed legislation. If it turns
18 out we don't after we look at our administrative
19 package, then I would be inclined to agree with you also.

20 COMMISSIONER ASSELSTINE: I certainly agree as
21 a general proposition with John's point, that I think we
22 ought to consider doing as much as we can
23 administratively first and look at those areas where we
24 really need legislation for one purpose or another.

25 I guess I had a question for Jim on this first

1 item. It appeared to me that the Atomic Energy Act was
2 a little less clear than perhaps you had indicated on
3 whether, given our existing authority, the way 189A and
4 185 are written now, we could in essence combine both
5 the construction permit and the operating license
6 proceedings together at the outset. It looks to me like
7 there is some uncertainty about whether we could do
8 that, and specifically whether we might not end up being
9 forced to say whatever we do preconstruction we still
10 have to offer an opportunity for hearing before we can
11 issue the operating license after the plant has been
12 substantially completed.

13 It also struck me that there is some
14 uncertainty about the extent to which we can resolve
15 design issues even with a substantially complete design
16 at that earlier stage and not have to relitigate those
17 issues again.

18 MR. TOURTELLOTTE: That is precisely the
19 point. I mean the question is asked in the abstract can
20 we do this, and the answer is yes, it has been done and
21 yes, we probably could, but it is a very uncertain
22 process and you are talking about how many people are
23 going to come up and put a billion dollars on the table
24 for a process that is relatively uncertain. The
25 legislation would give it the degree of certainty that I

1 think is necessary to make it meaningful.

2 Now from a practical standpoint, as I
3 indicated, it has been done. You mentioned the combined
4 hearings and I don't really envision that. What I am
5 talking about is that the hearings would be in such a
6 close sequence that they would be tantamount to one.
7 You would actually conduct one set of hearings for a CP
8 and one set of hearings for an OL. The technical review
9 could be conducted in a very close sequence as well as
10 the hearings could be conducted in a very close sequence.

11 The hearing on the CP and the results of that
12 hearing would probably have to come out before the
13 hearing was conducted on the OL and the results, or at
14 least the CP would have to issue before the OL issued.

15 COMMISSIONER ASSELSTINE: I think it is still
16 fairly clear that we could conduct the OL hearing and
17 issue the OL before construction had begun because it
18 looks to me like there is some uncertainty.

19 COMMISSIONER GILINSKY: You can't issue an
20 operating license before ---

21 MR. TOURTELLOTTE: No, I don't think you can
22 do that today.

23 COMMISSIONER GILINSKY: I don't think our ad
24 hoc committee would suggest that you could do it.

25 COMMISSIONER AHEARNE: For example, what

1 happens now is that the Board makes the decision that as
2 far as the issues they have addressed there is no hold
3 on issuing the operating license, but the operating
4 license doesn't issue at that stage. It issues in the
5 current situation after Harold has concluded that it is
6 acceptable and then we agree.

7 MR. TOURTELLOTTE: That is usually after final
8 inspections and tests.

9 COMMISSIONER AHEARNE: The hearing doesn't
10 issue the license. The hearing is a step that has to be
11 completed.

12 CHAIRMAN PALLADINO: Jim, on this CP/OL what
13 are you gaining in this concept? As I view it, it seems
14 like what you are proposing is that you really have only
15 one hearing and all the other things still would have to
16 be done.

17 MR. TOURTELLOTTE: Yes. I think you are
18 gaining two things. One, you are gaining certainty
19 which we discussed before, and you are probably going to
20 enhance the utilization of resources to review the
21 entire process. I think the process will move a little
22 swifter and it will probably use your resources a little
23 better.

24 COMMISSIONER GILINSKY: What is your standard
25 for reopening issues on the basis of new information?

1 MR. TOURTELLOTTE: Well, we have a whole set
2 of law on the standard for reopening.

3 COMMISSIONER GILINSKY: In other words, you
4 would not eliminate that aspect of the present system?

5 MR. TOURTELLOTTE: No. There was a suggestion
6 for a standard for reopening by the Ad Hoc Committee and
7 I agree with that standard generally. I agree with the
8 standards that exist right now, the Commission
9 practice. Those would not be changed.

10 Incidentally, the question that was also posed
11 which you all discussed among you relative to what about
12 the industry and what are they interested in doing, I
13 have contacted the industry about what I have come to
14 term as sequential one-step licensing.

15 As you will recall, what I sought to do from
16 the outset was to have a two-prong approach to the
17 reform issues. One approach is the legislation and the
18 other is administrative, and we should do as much as we
19 can administratively to accomplish what has to be
20 accomplished and we should also seek to do that through
21 legislation because the legislation may not get through
22 and we want to have some way of proceeding
23 administratively if that legislation does not get
24 through.

25 Now in keeping with that I wrote a memo to

1 Dircks sometime last spring or last summer requesting
2 that they consider the possibility of a sequential
3 one-step process and we had a meeting. I had a meeting
4 with him and his senior staff to discuss this issue.
5 Particularly it was concerned with specification of
6 detail because that was important not only in the
7 one-step licensing but it is important in
8 standardization.

9 The outcome of that was that they said they
10 would be happy to meet with members of the industry to
11 work on it. I contacted members of the industry and
12 they have a group currently working on this very item.
13 So they are interested in possibly proceeding, whether
14 the legislation goes through or not. I wanted to just
15 report that to you because the question was posed and I
16 have made that communication.

17 COMMISSIONER GILINSKY: Let me return to your
18 point about certainty. You are talking about the
19 operating license stage. I understand that it is not
20 pleasant to through a hearing and it can be a pretty
21 agonizing experience, it ties up people and so on, and
22 we don't want to conduct these proceedings in a way that
23 doesn't get at the real issues or goes beyond what
24 really needs to be done. But at the same time, I don't
25 know of any plant that was held up by one of these

1 hearings whose operation was prevented or delayed by the
2 hearings just running on.

3 The case that was most often cited as being in
4 that category was Diablo Canyon and we discovered that
5 that had to be held up for other reasons. Now I just
6 don't know of any plant recently. There was a plant 10
7 years ago I think, but I don't know of any cases
8 recently where a plant was held up certainly to any
9 significant degree. I don't know of any that were held
10 up at all actually.

11 CHAIRMAN PALLADINO: Some are still projected.

12 COMMISSIONER GILINSKY: So where is this
13 uncertainty factor?

14 MR. TOURTELLOTTE: You are talking about two
15 different issues, but the uncertainty that we are
16 talking about in this case is proceeding under the
17 statutes as they exist to try and effect what might be
18 close to a one-step license process without changing the
19 statute versus changing the statute to give clear
20 legislative direction that there is a one-step process
21 that would make it very clear to the industry that they
22 could go ahead with the one-step process. It has
23 nothing to do with hearings per se.

24 COMMISSIONER GILINSKY: Well, let's see, I
25 thought the whole point, as the Chairman was saying, was

1 to eliminate the second hearing in order to increase,
2 and I thought that is what you were saying, too, "the
3 certainty of the process."

4 CHAIRMAN PALLADINO: I was identifying what I
5 thought the difference was, but I think Jim is correct
6 that what this would do if it went the legislative route
7 is make it more difficult for us to change and give more
8 certainty therefore to the industry.

9 COMMISSIONER GILINSKY: But it seems to me if
10 we deal with an application which is an essentially
11 complete one and we come to an agreement over that
12 submittal, then that, is necessarily a very much firmer
13 arrangement than one that we have been used to in the
14 past where we deal with a pretty sketchy application and
15 the applicant is not sure what the plant is going to
16 look like and we are not sure what the plant is going to
17 look like and inevitably they make changes and we make
18 changes and so on.

19 MR. TOURTELLOTTE: I agree with that
20 observation.

21 COMMISSIONER GILINSKY: So the key, it seems
22 to me, is for them to come in with a pretty firm
23 proposal and for us to decide what we think about it and
24 come to a view and hold it firmly.

25 COMMISSIONER ASSELSTINE: I think where the

1 uncertainty come in, at least in my own mind, Vic, is
2 the extent to which our present process will allow a
3 decision on those elements, assuming we get a fairly
4 complete package at the outset to remain resolved absent
5 some specific showing that they ought to be reopened
6 again. I think that is where the uncertainty comes in,
7 and I guess at least in my own mind I am not all that
8 clear that we could get away with holding the two
9 hearings together at the very outset.

10 COMMISSIONER GILINSKY: I wasn't proposing
11 that.

12 COMMISSIONER ASSELSTINE: I think that is what
13 Jim was saying.

14 COMMISSIONER GILINSKY: That gets to the
15 standard that we are going to apply for opening issues,
16 what we regard as sufficiently significant, and that has
17 to do with Commission policy and practice rather than
18 any particular words in the law.

19 COMMISSIONER ASSELSTINE: I think the idea
20 behind the Commission's construction permit and
21 operating license proposal was that if you could
22 encourage the development of a more complete package
23 early on and resolve the issues early on that it would
24 benefit everyone.

25 COMMISSIONER GILINSKY: Well, I am certainly

1 all for that. I always have been and I think it is a
2 good idea. What we are talking about here is whether
3 one needs to change the law.

4 CHAIRMAN PALLADINO: There were two comments
5 that I recall included in the summary made by industry.
6 Some of the commenters said even if you have the
7 one-step process you should also keep available for
8 those who want it the two-step process. The only
9 problem I see with that is just the logistics of keep
10 which is which and questions about switching from one to
11 the other.

12 Then I think there was another comment where
13 several of the vendors indicated, well, they are not
14 sure they wanted such complete designs as we had spelled
15 out.

16 COMMISSIONER AHEARNE: What they seemed to be
17 saying, and, Jim, you read all of them, is that instead
18 of getting this permit approval for the whole plant, why
19 don't we consider giving it for sections of the plant.

20 CHAIRMAN PALLADINO: Well, there was another
21 one, but they also did talk about well, we are not sure
22 we want to be up front with such a detailed design as
23 what appeared in the FSAR. They said something less
24 than the FSAR but more than the PSAR.

25 COMMISSIONER ASSELSTINE: I gather there may

1 be some practical difficulties in doing that, but until
2 you actual purchase some of the components you can't
3 provide quite as detailed a package as you get in an
4 FSAR.

5 COMMISSIONER GILINSKY: Well, down to the name
6 plates.

7 COMMISSIONER ASSELSTINE: Yes, that is right.

8 COMMISSIONER GILINSKY: But I think one can
9 have something just short of that. I frankly think we
10 ought to require that now and just say that any further
11 applications have to be substantially complete. Now we
12 would have to define what we mean by substantially and
13 one has to make some allowance for practicalities.

14 COMMISSIONER ROBERTS: I think those
15 allowances for practicalities would eliminate the
16 substantailly complete.

17 (Laughter.)

18 COMMISSIONER GILINSKY: Well, I don't think so.

19 CHAIRMAN PALLADINO: I viewed that as an
20 important part of standardization following the concept
21 of approving an airplane. The design has to be fairly
22 complete. It may have individual components that are
23 not necessarily specified by vendor, but there are
24 specifications that have to be met.

25 COMMISSIONER AHEARNE: I thought it had to be

1 pretty close to build. I thought the certification is
2 they build the airplane and they get it certified.

3 COMMISSIONER GILINSKY: I think that would
4 lead to better design, better construction and a sounder
5 and safer plant.

6 CHAIRMAN PALLADINO: Let's see if I have got
7 the sense of your comments. If we are going the CP/OL
8 route we ought to look first at our administrative
9 capabilities. I am little concerned that administrative
10 capabilities are not as great as we think. I am not
11 sure if the question that was raised here was answered.
12 I can answer for myself that if we go this route, it
13 should apply not only to standardized plants but for all
14 new plant proposals with the caveat that the design be
15 essentially complete and that we would like to see what
16 the administrative capabilities are alongside of those
17 that are legislated.

18 COMMISSIONER GILINSKY: It seems to me if
19 someone came in with a substantially complete design it
20 would in effect have a combined process by that very
21 fact because you would have relatively few issues left
22 to deal with at the other end.

23 CHAIRMAN PALLADINO: But I think there is a
24 difference between an effective plan, so called, and one
25 that is well characterized if you want to have this

1 one-step license.

2 COMMISSIONER GILINSKY: But it wouldn't be
3 one-step licensing because he would have to come back
4 and get approvals, and I would say not only a staff
5 approval but a Commission approval.

6 COMMISSIONER AHEARNE: One hearing process is
7 probably what he is saying.

8 COMMISSIONER GILINSKY: What you are talking
9 about is one hearing process, and maybe that is a
10 reasonable idea and maybe it isn't, depending on the
11 standards you have for reopening issues and so on.

12 COMMISSIONER AHEARNE: You are right, I don't
13 think it ought to be described as one-step licensing.

14 CHAIRMAN PALLADINO: That is why I think he
15 has used CP/OL. But there is a difference between
16 licensing and having your plant in shape to start up. I
17 have a license for my car, but if I don't pass my
18 inspection I am not allowed to drive it even though I
19 have a license for it.

20 COMMISSIONER GILINSKY: Well, I wouldn't put
21 it in that category.

22 (Laughter.)

23 CHAIRMAN PALLADINO: But you are not allowed
24 to put that car on the road until you get it corrected.

25 MR. TOURTELLOTTE: The combined CP/OL concept

1 is about a little over ten years old. It is not any
2 great new invention of this task force. The CP/OL
3 approach has been generally term as a one-step license
4 ever since its inception.

5 CHAIRMAN PALLADINO: I agree that the word
6 "one-step" is misleading. So even though I cited my
7 other example, I agree with you.

8 COMMISSIONER AHEARNE: Could I ask you a more
9 general question because it would help me as you go down
10 your list to get a better understanding of the focus you
11 have. I see there are three possible foci and perhaps
12 all of them are in use.

13 One is for the future, what we were just
14 talking about, a combined CP/OL. That really is an
15 issue to be addressed in the future and it is at the
16 moment hard for I think any of us to really forecast
17 either when that might be needed or whether and how
18 often.

19 A second would be the operating licenses that
20 over the next two or three years will be in hearings and
21 to what extent the legislation is going to focus upon
22 changes that would apply to those hearings.

23 Then the third, and as I gather from much of
24 the comments great interest, to what extent will it
25 focus upon policies or the practices that the NRC will

1 apply to operating plants, and with that comes the whole
2 backfit issue.

3 Now when you started out this morning you said
4 there is more comprehensive legislation. Do you intend
5 to have as a focus any one of those three?

6 CHAIRMAN PALLADINO: Well, let me speak as I
7 see it. I think we have got the problem of creating a
8 climate that might approved for the future and we do
9 have a problem of facilitating the safe construction of
10 the plants and operating them that way.

11 So if I were to pick the ones out of here that
12 I think are important, and I will start at the bottom
13 because I stressed standardization and I still believe
14 that. I think early site approval for plants would
15 assist in the future climate. I think picking up one
16 that I think is very important is settling our
17 backfitting provisions for current and future plants.
18 The other one is a question of facilitating hybrid
19 hearings for development information that is not trying
20 to settle disputes.

21 COMMISSIONER AHEARNE: Would your focus on
22 hybrid hearings be for the plants that are currently in
23 the operating license pipeline?

24 CHAIRMAN PALLADINO: I think somewhere along
25 the line I would go back and see if we couldn't ---

1 COMMISSIONER AHEARNE: My conclusion would be
2 that for the future and for the backfitting we could
3 probably do much of that through administrative
4 modification and management within the agency, and that
5 you do want to get a legislative change that would have
6 a significant impact and it would be on the hearing that
7 are going to be held in the next two or three years.
8 Those are the ones, which even if you could do it
9 administratively, you are much wiser to get Commission
10 approval.

11 CHAIRMAN PALLADINO: You see, the
12 standardization and early site approval were in the
13 original package. I think the backfitting provision is
14 something we are trying to address by our administrative
15 rules. Whether or not we need anything in legislation
16 there, I would have to defer to the task force. I do
17 think we need something for the hybrid hearings.

18 The combined CP/OL, if we are to have it, it
19 would be for all plants. I am not sure that it is going
20 to do much for us in the end.

21 That is where I would come down on the major
22 issues. Then there are a couple of other administrative
23 issues that we ought to address and that I think will be
24 in the administrative package.

25 MR. TOURTELLOTTE: Once again I would

1 emphasize that virtually everything that we are seeking
2 to do by legislation we are also seeking to do in the
3 administrative package. Even in Section 189A we are
4 talking about changing to hybrid hearings.

5 The way the hybrid hearings are set up is that
6 it is sort of a two-stage process where the public is
7 allowed to come in and to submit written materials and
8 to have oral examination of those materials to determine
9 whether there is a genuine issue of fact in dispute and
10 therefore whether a formal hearing will be held. The
11 first hearing theoretically is more of what they have
12 come to call a legislative type of hearing, that is not
13 with formal adjudicatory processes. Then if it is
14 warranted you move on into that area.

15 The administrative package can accomplish
16 roughly the same thing.

17 COMMISSIONER GILINSKY: You are talking about
18 No. 2?

19 COMMISSIONER AHEARNE: Three.

20 MR. TOURTELLOTTE: Three. It can accomplish
21 roughly the same thing under the existing law and we can
22 develop a framework administratively and that is what we
23 have done. It has yet to be reviewed by the Senior
24 Advisory Group and it has yet to be presented to you,
25 but that is the way it will go.

1 COMMISSIONER GILINSKY: Can I return you to
2 No. 2?

3 MR. TOURTELLOTTE: Yes. Obviously we can't do
4 anything administratively about the venue provision
5 which is 4, but early site review, backfitting,
6 discretionary ACRS review and standardization we can do
7 something about without legislation. I would say Items
8 2, 4, 8 and 9 cannot be done without legislation.

9 CHAIRMAN PALLADINO: But I wonder, in view of
10 the fact that all of these are controversial, I wonder
11 if we should try to dwell on every one of them even
12 though maybe there might be some advantage to them. For
13 example, elimination of the quorum rule, I wonder if
14 that is not going to cause a lot of debate on the
15 next ---

16 COMMISSIONER GILINSKY: You mean the present,
17 don't you?

18 COMMISSIONER ASSELSTINE: The present, yes.

19 CHAIRMAN PALLADINO: Yes. I wonder if the
20 discretionary CRS review is an issue that I would cover
21 in the package because it is again another area where
22 you can get a lot of argument and it gets you off some
23 of the important steps that I think we ought to be
24 taking.

25 I also question, or at least have a question

1 in my own mind, and I haven't come down firmly on it,
2 but fixing the venue in a circuit court where the plant
3 is issued or to be built. I think we are going to have
4 a lot of controversy on that.

5 COMMISSIONER ASSELSTINE: Not to mention
6 guaranteeing an automatic referral of this bill to two
7 more committees.

8 (Laughter.)

9 CHAIRMAN PALLADINO: Yes, two more committees.

10 (Laughter.)

11 MR. BICKWIT: And it will probably die.

12 CHAIRMAN PALLADINO: Well, this is what I was
13 trying to get out of the committee, but I was trying not
14 to lead you, but nevertheless I am going to try.

15 No. 2, I am a little more open on. I am sort
16 of willing on No. 1, but I am not sure it is going to
17 buy us all that much. So I think getting expressions on
18 some of these would be worthwhile so we don't come back
19 with a bill that has them all in and then we cross them
20 out. That is why I thought maybe we could go down this
21 list and see whether any of you share opinions such as
22 mine. The reason for going down was so that I could
23 keep tabs on how the Commission was feeling.

24 COMMISSIONER AHEARNE: It might be easier if
25 we just gave you our feelings.

1 CHAIRMAN PALLADINO: All right, why don't you.

2 COMMISSIONER AHEARNE: In the first place, I
3 have a very strong feeling of I don't want to put in
4 legislation unless I think it is absolutely needed and I
5 can really defend the need for it. So wherever there is
6 a place where we can essentially get it done by
7 administration, that is where I would come out.

8 COMMISSIONER ROBERTS: May I interrupt and ask
9 a question. Why is the General Counsel smiling at that
10 or reacting to that? I just don't understand.

11 (Laughter.)

12 MR. BICKWIT: I have just heard it so often.

13 (Laughter.)

14 CHAIRMAN PALLADINO: Can I modify yours a
15 little bit. No matter what we do by administration we
16 are going to have those steps that have a high risk of
17 not being endorsed in the long run either by the courts
18 or by the legislators and then there are those that have
19 the low risk of running that. So even though one says
20 we can do it by administration, I think there are
21 various risks.

22 COMMISSIONER AHEARNE: Sure, but many of these
23 are not that much risk.

24 CHAIRMAN PALLADINO: I would agree that some
25 of them are not that much risk.

1 COMMISSIONER AHEARNE: For example, on No. 1,
2 as I already said, I really believe I agree with Vic,
3 and it is a combination of what we can do and what the
4 industry is interested in. So I would not be
5 particularly interested in trying to push that.

6 CHAIRMAN PALLADINO: You are not pushing it on
7 legislation?

8 COMMISSIONER AHEARNE: Right. I would be very
9 interested in it administratively but not in legislation.

10 On No. 2, that seems to me to be one that we
11 could spend years arguing. A proper request, I think
12 what that really would probably end up meaning is that
13 people are interested in contesting it and I find it
14 hard to believe that if there are CP permits that people
15 aren't going to want to contest them. So I think that
16 is of not much interest.

17 No. 3 I am very interested in. I don't know
18 to what extent we can go ahead and do it. If we can get
19 some steps toward that, I think it would be very useful
20 for us to try, but that one I am very interested in.

21 No. 4, changing the venue, I would have no
22 interest in trying to argue that one. It obviously
23 would be described as we don't like the courts that we
24 are in and we can't carry the case there, so we are
25 going to try and find a friendly court. I wouldn't want

1 to try to be up there arguing that one.

2 CHAIRMAN PALLADINO: I agree with you on that
3 one.

4 COMMISSIONER AHEARNE: Early site approval for
5 all plants, it seems to me that we have a lot of
6 flexibility within our current regulations to be able to
7 push early siting and I don't think that has been much
8 of a hold up. There seem to be other concerns of why we
9 are not flooded with requests for early sites.

10 CHAIRMAN PALLADINO: Can I make a comment on
11 that?

12 COMMISSIONER AHEARNE: Sure.

13 CHAIRMAN PALLADINO: Here we are not looking
14 to the past. I would be looking to the future. The
15 number of available good sites is rather limited I think
16 in various areas and if there is an opportunity to get
17 early site approval I think it would be beneficial.

18 COMMISSIONER AHEARNE: Well, I think there are
19 opportunities to get early site approval, but there
20 hasn't been that much interest in trying to get them.

21 COMMISSIONER GILINSKY: There is a formal
22 process which we have set up. The only thing which our
23 process does not have, which this and previous
24 legislation would introduce, would be the possibility of
25 having non-applicants apply for sites.

1 COMMISSIONER AHEARNE: Right.

2 COMMISSIONER GILINSKY: In other words, a
3 state could apply or a locality or whatever.

4 COMMISSIONER AHEARNE: Right.

5 COMMISSIONER ASSELSTINE: Doesn't it get to
6 the issue of the extent to which you can raise these
7 issues later on in the construction permit proceeding
8 rather than resolving them earlier?

9 COMMISSIONER AHEARNE: Jim, the difficulty I
10 have on that argument, and it is a thread that has run
11 through as far as I can tell, at least when I first
12 started looking at these issues about five years ago, is
13 that the described problems never can find supporting
14 evidence to show that that is really the problem. I
15 have never tracked to where a utility has said yes, we
16 didn't go for early site approval because. So I would
17 like to understand what the failing is with the current
18 system, the real failing, that we would solve this way.

19 CHAIRMAN PALLADINO: Can they ask for an early
20 site approval even though they haven't specified their
21 plant at the present time?

22 COMMISSIONER GILINSKY: Well, they have to be
23 a perspective applicant and they would have approval for
24 certain plant characteristics on that site and they
25 would go through the hearing and everything.

1 COMMISSIONER AHEARNE: The backfitting
2 provisions for all plants, I think the backfitting
3 question is a very serious one and we do have to address
4 it. I don't understand why it is a legislative issue.
5 I think it is one that we have to address to understand
6 what kind of regulations to put in place.

7 The discretion of the ACRS review, I think
8 that is a loser also, and I think it is a loser on
9 legislation because recently the ACRS has even said they
10 weren't really willing to support getting rid of the
11 statutory provision. I think at that stage we would be
12 very hard pressed to argue why it is very important to
13 get rid of it.

14 Elimination of the quorum rule, I think that
15 would be very nice.

16 COMMISSIONER GILINSKY: The present.

17 COMMISSIONER AHEARNE: Yes. Requiring people
18 to show up at this table, I think the affirmation
19 sessions are ridiculous. It is a set of hoops we have
20 to jump through. But as far as trying to argue that
21 this is a terrible burden on us and that its elimination
22 would make great steps forward in effective management,
23 I think that is absurd on its face. If that can be put
24 in, that is fine, but it certainly wouldn't be a big
25 issue.

1 Interim licensing authority, I am not really
2 sure what more is needed other than the one that
3 apparently we are going to get from the authorizing
4 legislation.

5 Standardization, that I think falls back to
6 No. 1.

7 CHAIRMAN PALLADINO: No, I don't think No. 1
8 and standardization ---

9 COMMISSIONER AHEARNE: Unless you mean by
10 standardization mandatory standardization.

11 COMMISSIONER GILINSKY: I think it must mean a
12 provision for proving a standard design, is that not it,
13 through a separate proceeding.

14 CHAIRMAN PALLADINO: Making a commitment for
15 some period of time.

16 COMMISSIONER AHEARNE: I guess I am sort of
17 neutral on that.

18 COMMISSIONER GILINSKY: What we have now is an
19 internal process that provides a staff approval.

20 COMMISSIONER AHEARNE: I guess on that one if
21 there was a strong industry interest in that, then I
22 would be willing to go for it.

23 CHAIRMAN PALLADINO: I think that is under
24 development.

25 COMMISSIONER AHEARNE: But to go through a lot

1 of effort on something that there is no interest in ---

2 CHAIRMAN PALLADINO: Well, I think there is
3 considerable interest developing. I am not saying there
4 aren't people that are opposed to it. Several of the
5 vendors have come to feel that they have got to get
6 control of the whole plant, including the balance of
7 plant, and make sure that ---

8 COMMISSIONER AHEARNE: Now I have heard
9 General Electric's position on that.

10 CHAIRMAN PALLADINO: So there is at least to
11 that extent.

12 COMMISSIONER AHEARNE: That is the kind of a
13 thing which I don't think we can sell.

14 CHAIRMAN PALLADINO: No, all we create is a
15 climate.

16 COMMISSIONER AHEARNE: So that is where I come
17 out.

18 CHAIRMAN PALLADINO: That is valuable because
19 there are a number of places where at least you and I
20 are concurrent in our positions. I didn't want to say
21 this is my position and therefore do it that way because
22 when it comes back if we are going to debate these
23 issues it would be better not to put them in here.

24 Tom, do you have any feelings?

25 COMMISSIONER ROBERTS: Well, I am not going to

1 go down the list and specifically address each one, but
2 I think in general if we are going to make any changes
3 and if they can be done administratively rather than by
4 legislation, that is the way I would prefer.

5 I am nervous about hybrid hearings. I missed
6 the meeting and I understand there was considerable
7 input by an attorney from one of the special interest
8 groups on hybrid hearings and I would like to read that
9 transcript.

10 COMMISSIONER GILINSKY: Which meeting is this?

11 COMMISSIONER ROBERTS: I don't know. I was
12 out of town.

13 COMMISSIONER ASSELSTINE: Wasn't it the Ad Hoc
14 Committee and probably Tony Roisman?

15 MR. TOURTELLOTTE: Tony Roisman.

16 COMMISSIONER ROBERTS: Yes, that's it. I
17 think the backfitting issue is the most significant
18 issue we have to deal with.

19 CHAIRMAN PALLADINO: Incidentally, the waste
20 management package I think had something on hybrid
21 hearings.

22 COMMISSIONER ASSELSTINE: That is right, the
23 Senate version of the bill.

24 CHAIRMAN PALLADINO: What is that?

25 COMMISSIONER ASSELSTINE: The Senate passed a

1 bill to have a hybrid hearing provision.

2 CHAIRMAN PALLADINO: Let's see, I forgot what
3 that was. Was that on ---

4 COMMISSIONER ASSELSTINE: It was on
5 applications to expand spent fuel storage capacity at
6 reactor sites.

7 CHAIRMAN PALLADINO: Now does that apply to
8 all hearings or just for those?

9 COMMISSIONER ASSELSTINE: No, just for those.

10 CHAIRMAN PALLADINO: I found that interesting
11 and it may be a good basis for task force
12 consideration. All right, let me write down backfitting.

13 COMMISSIONER ROBERTS: I was quite interested
14 to hear Commissioner Ahearne's comments about our
15 affirmation sessions.

16 (Laughter.)

17 COMMISSIONER GILINSKY: I would say, you know,
18 on that point, it is an annoyance often to have to go
19 through the formality of sitting here and responding to
20 Mr. Chilk on a lot of minor items after we have approved
21 them. I would say when it comes to a reactor license,
22 which is the most important decision this Commission
23 makes, I think there ought to be a requirement that
24 there be a quorum here present to make that decision.

25 COMMISSIONER AHEARNE: I would agree with

1 that, but most of the items we deal with though don't
2 rise to that level.

3 (Laughter.)

4 COMMISSIONER GILINSKY: I agree with that.

5 CHAIRMAN PALLADINO: Maybe that word
6 "elimination" of the quorum rule is a misnomer.

7 COMMISSIONER GILINSKY: I think that is the
8 wrong word. It is really the present requirement, the
9 requirement that Commissioners be here looking at each
10 other.

11 CHAIRMAN PALLADINO: To affirm their votes.

12 MR. TOURTELLOTTE: Let me offer one comment
13 because this has come up over and over and I want you to
14 know at least the comments that I have received.

15 One of the things that has been said when I
16 have made the remark that we can do something
17 administratively and therefore there is no need for
18 legislation, there is a considerable concern I think
19 throughout the industry anyway that the legislation is
20 necessary even if it can be done administratively in
21 order to fix for the long term what the process is going
22 to be.

23 Frequently they say they don't care what the
24 process is as long as it is fixed and that some of the
25 problem that they have at least is that if we do it

1 administratively we can of course fix our regulations
2 this year but next year it may be a different
3 Commission, a different political situation and it
4 fluctuates up and down. So that in order to get the
5 certainty that they feel is necessary for them to be
6 interested they would rather have it through legislation
7 in many instances. I just bring that up.

8 What I am also saying is that the industry is
9 going to be out there making that argument if we leave
10 certain things out which might otherwise inject
11 stability into the system.

12 COMMISSIONER AHEARNE: Jim, it is certainly
13 true what you just said, but I suspect that they have an
14 additional reason, which they may not be telling you but
15 they will I am sure be telling others. It is more than
16 just they would like it legislatively to give stability
17 to Commission change.

18 I think an underlying theme of at least all
19 the nuclear bills that I am familiar with has been that
20 if they get passed they get the Congress and then later
21 the President, but the whole Administration, the
22 Executive and the Legislative, is now stamped with
23 approval of this kind of an approach and that perhaps in
24 the sense of stability is even more valuable.

25 MR. TOURTELLOTTE: Yes.

1 CHAIRMAN PALLADINO: Do you want to speak
2 further or should I go to Jim.

3 COMMISSIONER GILINSKY: I have got some more
4 thoughts.

5 CHAIRMAN PALLADINO: All right, go ahead.

6 COMMISSIONER GILINSKY: Ever since I came here
7 in 1975 I think there is no subject on which we have
8 spent more time to less purpose than reform
9 legislation. I regard this effort as being a continuing
10 of that. I frankly don't think it is worth continuing.

11 I wouldn't pursue it. There are a few things here and
12 there that you could tune up through legislation, but
13 what we really ought to address ourselves to is how we
14 can deal with these problems by administrative means.

15 I agree that the most important of these is
16 the question of backfitting, but that is not a problem
17 to be solved by lawyers. That is a problem for us to
18 deal with and it has to do with what our safety policy
19 is and you got to decide and set some sort of reasonable
20 standard for going back and fixing things up when
21 problems are severe enough and taking into account what
22 it cost to do it and so on, and we need to give clearer
23 guidance to the staff on that. It isn't something that
24 is going to be fixed by changing the word from
25 significant to something else. That isn't the way to go

1 about that one.

2 On the matter of hearings I am not absolutely
3 wedded to doing the things the way they are being done.
4 What I would do is try to adopt some different hearing
5 procedures where we think we have that flexibility and I
6 think we do at least outside of the major reactor
7 licenses and to try out some other approaches.

8 CHAIRMAN PALLADINO: What do you mean by
9 outside the major licenses?

10 COMMISSIONER GILINSKY: I think we have a
11 certain degree of flexibility in the way hearings are
12 organized apart from, say, the CP and OL licenses which
13 by long practice I think are firmly accepted to be the
14 kinds of hearings we have now.

15 CHAIRMAN PALLADINO: The legal opinions I get
16 vary some, but our practice has been a certain type of
17 hearing and the practice being so continuous is over the
18 history of the Commission would give a high risk if we
19 departed from that and we could run the risk on a
20 particular case where this case by legislation you could
21 settle that it is allowable.

22 COMMISSIONER GILINSKY: Well, I didn't think
23 what I was saying was at odds with what the General
24 Counsel has said in the past. I thought that apart from
25 the major reactor licenses we had more flexibility.

1 MR. BICKWIT: I think we have more
2 flexibility, but I agree with the Chairman that in the
3 case of most proceedings that you might want to apply
4 this to you are going to run significant risks if you
5 don't get legislative authorization.

6 COMMISSIONER GILINSKY: Well, it is something
7 to think about.

8 MR. BICKWIT: By the way, as far as hybrid
9 hearings are concerned, I think even in the major
10 licensing proceedings there is authority to move into
11 that area, depending on how you construct the hybrid.

12 COMMISSIONER GILINSKY: Well, it really comes
13 down to which issues you choose to adjudicate with the
14 full system, so to speak, and I would think we would
15 have a certain amount of flexibility in that.

16 MR. TOURTELLOTTE: Of course, the major
17 criticism that the Commission has had in the past is not
18 with all the other little things. It is with the major
19 licensing cases.

20 COMMISSIONER GILINSKY: That is right, but I
21 am talking in terms of trying to get a little experience
22 with a different approach. I wouldn't go leaping into
23 it.

24 MR. TOURTELLOTTE: My view is I would agree
25 with Len as well that under the present law we could

1 devise hybrid hearings because if you really examine
2 what the hybrid hearing is all about, it really is
3 fundamentally, the first part of the hearing is to
4 determine whether there is a genuine issue of fact is
5 dispute and they do that in a sort of a legislative
6 way. We could probably follow the same course of action
7 without legislation.

8 But, again, one of the things that you are
9 talking about is injecting greater certainty into the
10 system and departing from the customary practice of the
11 Commission, which I don't happen to agree with on a very
12 gut level, but ---

13 COMMISSIONER GILINSKY: Well, you know, there
14 is certainty in certainty. I get a little bothered when
15 you talk about greater certainty. When one talks about
16 there ought to be a certainty that you are not going to
17 get hung up on extraneous and irrelevant matters, then I
18 would say yes, you ought to have that kind of certainty.

19 But there is another kind of certainty that
20 people are looking for which is an automatic approval
21 and I don't think we want to be talking about that. I
22 know that is not what you mean, but the word keeps
23 coming up.

24 MR. TOURTELLOTTE: The certainty deals with
25 legal risk. I mean any lawyer who is out to protect his

1 client realizes that if there is a long-established
2 custom, even though that custom may not have been
3 properly justified in the beginning, if it has been
4 pursued over a long period of time you run a very high
5 risk of involving yourself in protracted litigation and
6 even if you win the litigation ultimately, you may have
7 lost the war that you are in.

8 COMMISSIONER GILINSKY: Well, in any case,
9 since this is sort of my occasion to give my views on
10 this list, I guess what I am saying is I am not prepared
11 to go forward at this point with the legislative remedy
12 in the hearing area.

13 Incidentally, on the matter of backfitting we
14 had an interesting conversation with the ACRS the other
15 day, with Commissioner Roberts and I holding the fort.
16 I asked if they had some sense for how much backfitting
17 there had been aside from just hearing comments here and
18 there about people being annoyed about it and did they
19 have any assessment of how much had been improperly done
20 and how much was necessary and so on. None of them
21 seemed to be able to respond to that and they said there
22 simply wasn't any data on that.

23 I wonder whether you have anything to base
24 your concerns about backfitting on?

25 MR. TOURTELLOTTE: Well, I certainly have

1 something to base them on, but there is no hard data.
2 One of the reasons is that no one bothered to keep a
3 record of what went on and how it went on and
4 particularly in the way that much of the backfitting was
5 done it was done on a very informal basis and in a
6 jawboning, arm-twisting way.

7 COMMISSIONER GILINSKY: You know, there are a
8 lot of complaints about this backfitting and I suspect
9 some of them are valid, that it was not done in a
10 uniform and consistent way. But at the same time, we
11 forget that we backfit emergency cooling into these
12 reactions and we backfit a whole bunch of other things
13 that are just absolutely necessary. Without backfitting
14 we would have very different and very much less safe
15 reactors. We started off in this industry with a bunch
16 of designs which were based on as it now turns out
17 relatively sparse information and without an
18 understanding of some of the safety problems. Those who
19 got into this business got into it on the understanding
20 that what would have to be done would be done later and
21 they agreed to that. That was the basis of going
22 forward with construction and AEC approval in those days.

23 It seems you can't then turn around and say
24 wait a minute, if it was safe then, it is safe now and
25 so on. I think a lot of the complaints are overdrawn.

1 Having said that, I do think we want a
2 reasonable and sensible approach to this and we do need
3 to give more guidance. It is I think the most important
4 area, but I think it is something that the Commission
5 needs to address and decide what the Commission's policy
6 is on this subject.

7 COMMISSIONER AHEARNE: I would agree with much
8 of what Vic just said, but the one area where at least
9 the concerns I have heard expressed and I have found
10 they were valid, the concerns weren't on the sense of
11 emergency cooling systems or any of those principal
12 features, but the concerns were more of asking the NRC
13 to establish a procedure so that the staff goes through
14 a series of requests of the licensees in a more formal
15 fashion if they are going to be making changes.

16 A case, for example, that they point out that
17 you and I are familiar with is the fire protection area
18 in which over a series of years the staff has leaned on
19 a number on a licensees to take certain steps and had
20 said yes, this is what was going to be needed and some
21 of the licensees went ahead and did that at some expense.

22 When the Commission finally took a firm
23 position, we went beyond that and in some cases were
24 essentially telling licensees that it doesn't make any
25 difference what the staff told you you had to do, that

1 doesn't count, and you are going to have to do this
2 other thing. The concerns that were expressed were more
3 in that form of it wasn't that the NRC was forcing them
4 to do something, but they would just like to make sure
5 the NRC spoke with one voice.

6 COMMISSIONER GILINSKY: Well, I think that is
7 a perfectly reasonable request and I think your point is
8 a good one. A lot of these difficulties stem from the
9 fact that some of these decisions were made at too low a
10 level in the organization. The senior people did not
11 take responsibility for major backfitting decisions.

12 COMMISSIONER AHEARNE: So it is that concern
13 that I think is a valid one.

14 COMMISSIONER GILINSKY: But that is something
15 that has to do with our internal management.

16 COMMISSIONER AHEARNE: Right. It is not a
17 legislative problem.

18 MR. TOURTELLOTTE: Your one point that you
19 make I think is a very good point. No one I believe
20 should make the mistake of saying that backfitting is
21 bad per se. There have been good backfits and there
22 have been bad backfits and there have been some that are
23 probably fairly inconsequential one way or the other.

24 There is an important point though, as made
25 here, and that is that frequently staff action is

1 required with no rational basis. At least the
2 fundamental principles that guide my thinking on this
3 issue is that there has to be a rational basis for the
4 staff to make a backfit requirement. There is not a
5 move afoot to create some insurmountable barrier for the
6 staff, but rather the move is simply to require the
7 staff to say why they want to do something and to be
8 able to justify it perhaps on a cost-benefit basis or on
9 a health and safety basis.

10 COMMISSIONER GILINSKY: I agree with you in
11 general, except I think we ought to understand that when
12 we say that something has to be justified, the fact is
13 we are not going to have a precise estimate of the
14 health and safety benefits and we are only going to have
15 a slightly better estimate of the cost. Well, we might
16 be able to get a decent estimate of the cost, but we are
17 having difficulty in estimating the health and safety
18 benefits with any precision and there is a limit to what
19 you can expect people to come up with in terms of a
20 rationale.

21 Ultimately you are going to have to depend to
22 a large extent on the judgment of your senior people.
23 The important thing is that the senior people have in
24 fact addressed the question in a rational and sensible
25 way and have made a decision.

1 CHAIRMAN PALLADINO: Vic, since you and Tom
2 want to leave at 12, I wonder whether we might not give
3 Jim a chance so that we can all hear what Jim has.

4 COMMISSIONER ASSELSTINE: From my own
5 standpoint, it seems to me that legislation could be
6 useful in at least two ways. The first of those is
7 where there is at least some substantial uncertainty
8 about our ability under our present legal authority to
9 accomplish some of the things that we want to accomplish.

10 The second is to provide some greater
11 predictability for how the process will work over the
12 coming years, because I think in at least some areas,
13 particularly with regard to standardization, there has
14 to be a fairly significant up-front commitment of money
15 by the industry if they are going to do certain things
16 and it seems to me that legislation can be helpful in
17 providing the predictability that the process in fact is
18 going to work the way we intend it to work over that
19 period of time so that the commitment of money up front
20 will be justified.

21 So from at least those two standpoints that
22 guides my own views on the areas that we ought to
23 address by legislation.

24 Second, on the three questions that John
25 raised a little earlier on the areas of to what extent

1 we ought to address via the legislative package future
2 applications of near-term operating licenses and
3 operating plants, it seems to me legislation is going to
4 be most helpful on the first two of those.

5 CHAIRMAN PALLADINO: On the first ---

6 COMMISSIONER ASSELSTINE: The first two, on
7 how the system and the process will work for future
8 applications and, second, in the area of the hearing
9 format and hearing procedures for near-term operating
10 licenses as well. My own view is that the legislation
11 is not going to be that useful for the operating plants
12 problem.

13 Now in terms of the list of items that are on
14 Jim's paper, I guess my own feeling is that I would be
15 willing to consider a legislative provision on the
16 combined construction permit and operating license
17 provision. I am still concerned that there is more
18 uncertainty in our ability to resolve the hearings early
19 on than perhaps Jim sees there. So I have a feeling
20 there that there is some uncertainty in our authority to
21 accomplish as much as we might like to accomplish
22 there. So that is where I think a legislative provision
23 would be helpful.

24 On abolishing mandatory construction permit
25 hearings, I would support that one as well simply

1 because it doesn't seem to me that the uncontested
2 construction permit proceedings are a very useful
3 exercise. I suspect that if we have future construction
4 permit applications, many, if not most of those, and
5 perhaps all will be contested proceedings, but
6 nonetheless as long as you provide an opportunity, the
7 same kind of opportunity you provide for an operating
8 license hearing in the construction permit stage, it
9 seems to me that it's appropriate. So I would support a
10 provision addressing that issue as well.

11 On the hybrid hearings, that is one where it
12 seems to me that even though we maybe able to do some
13 things administratively given the long-standing practice
14 of this agency, I would support a legislative provision
15 on the hybrid hearing provisions and I guess my own
16 personal standpoint, and it is certainly not a
17 disinterested one, something along the lines of the
18 provision in the Senate-passed waste bill I think would
19 be fairly appropriate.

20 On the fourth item, I would not put that in
21 the legislative package. There is legislation pending I
22 think in both Houses and certainly in the Senate. On
23 the venue question in general, it has been a very
24 controversial and highly charged issue. In any event,
25 if that legislation goes through it will affect us as

1 well as a number of other agencies and I would not put
2 it in here. I think it is one more burden that any
3 legislative package that we come up with doesn't need.

4 The fifth item, that falls into the category
5 in my own mind of something that would be useful in
6 terms of predictability for the future process, and I
7 guess I would favor a provision dealing with the early
8 site approval even though I suspect we probably have the
9 administrative authority and probably have already
10 exercised the administrative authority to do a large
11 portion of that work.

12 Sixth, the backfitting, I would deal with
13 administratively and not in a legislative package. It
14 seems to me the backfitting area is one where we are
15 going to want to do some experimenting and where there
16 may well need to be some refinement over time, and I am
17 not sure in my own mind where the right balance is on
18 that one. I think there legislation would have a real
19 disadvantage because it would lock us in and it would be
20 very difficult later on to go back and make some
21 adjustments or refinements to it if those prove to be
22 necessary. So I would deal with backfitting
23 administratively, plus I think we have all the authority
24 we need to deal with that administratively.

25 Discretionary ACRS review, I suspect that if

1 we ever get to the point where there are substantial
2 numbers of applications this may well turn out to be a
3 problem again. It was certainly a problem in the minds
4 of many of the ACRS members a number of years ago, but I
5 think given the present situation I would leave that out
6 of the legislative package. I don't really don't think
7 that at this point in time, particularly given the
8 present view of the ACRS, that that is a useful
9 provision to pursue legislatively.

10 The eighth one, elimination of the quorum
11 rule, I would not put in the legislative package. I
12 know that when the Commission went to the Congress the
13 last time around with this provision it was not warmly
14 received and I think we ought to leave it out.

15 Interim licensing authority, No. 9, I think
16 that there are many elements of the industry that
17 basically want the short-term provision made a permanent
18 provision. My own view is that I am not persuaded that
19 there is a need for that at the present time. I believe
20 that the interim operating authority was a necessary
21 short-term solution to a specific problem. It may well
22 be questionable now whether there is even a short-term
23 problem in that area. So I would not include that in
24 the legislative package and I certainly would not make
25 it permanent.

1 The standardization area is another one where
2 I think, given the benefits of predictability for the
3 process over time, that it would be useful to have a
4 statutory provision on standardization.

5 So that covers I guess in a nutshell my own
6 thoughts on those individual items.

7 CHAIRMAN PALLADINO: Well, I think these
8 comments have been very valuable and provide important
9 guidance.

10 I am not going to try to say all the things
11 that are in, but I did see some consensus on things that
12 we probably should not have the task force spend a lot
13 of time on and I will identify those in a moment.

14 I think the comment I want to make is that
15 recognizing that there are options, both
16 administratively and legislatively, we probably want to
17 look at both aspects of them on the items that remain.
18 I did not hear strong support for the interim licensing
19 authority to be in the legislation.

20 Elimination of the quorum rule, not a strong
21 support for that in legislation.

22 Discretionary ACRS review, not great support
23 for legislation.

24 The venue of the Circuit Court where the plant
25 is sited to be built, I don't think we heard any strong

1 support by the Commission.

2 I think with regard to the others we heard
3 varying degrees of support and I think enough so that we
4 ought to proceed to include them in the legislative
5 package as well as the administrative.

6 (Laughter.)

7 CHAIRMAN PALLADINO: Did I say something wrong?

8 COMMISSIONER ASSELSTINE: You did miss No. 6.

9 (Laughter.)

10 CHAIRMAN PALLADINO: Oh, my Lord.

11 (Laughter.)

12 CHAIRMAN PALLADINO: I did hear that
13 backfitting should be handled administratively.
14 However, I am not sure all of it can be handled
15 administratively.

16 COMMISSIONER GILINSKY: What you are saying is
17 one or more Commissioners was interested in the ---

18 (Laughter.)

19 CHAIRMAN PALLADINO: That is why I said let me
20 take the ones where I think I found a consensus. I
21 didn't mean to point out that backfitting that a number
22 of you had indicated administratively.

23 (Laughter.)

24 CHAIRMAN PALLADINO: You misinterpret what I
25 am getting at.

1 COMMISSIONER GILINSKY: This is the
2 legislative part of our proceeding.

3 CHAIRMAN PALLADINO: No, I agree there is a
4 lot of room for administrative action. I don't know
5 whether there is any room or desire for legislative
6 action. So I would be willing to listen to it, but I do
7 agree that the major move will be on the administrative
8 practices.

9 MR. TOURTELLOTTE: As I understand then, we
10 would eliminate items 4, 7 8 and 9.

11 COMMISSIONER GILINSKY: Let's see, why would
12 we not eliminate item 6?

13 CHAIRMAN PALLADINO: Incidentally, I was
14 listing items that you would address either in the
15 legislative package or administratively or both because
16 I think there is room in a number of these areas to go
17 both ways.

18 MR. TOURTELLOTTE: Incidentally, one comment
19 that was made relative to item No. 1, although I believe
20 that there is room for accomplishing what we can
21 accomplish administratively, I believe that that should
22 be done legislatively because of the uncertainty that is
23 involved under the present system.

24 CHAIRMAN PALLADINO: From a personal
25 standpoint, I think you have to address 1, 2, 3, 5 and

1 10 in legislation. I think the backfitting will
2 probably primarily be administrative, but I would be
3 willing to listen to anything else you have on
4 administrative.

5 MR. TOURTELLOTTE: The question is should I
6 include backfitting in the legislative package or not?

7 (Laughter.)

8 COMMISSIONER GILINSKY: The answer is no.

9 (Laughter.)

10 CHAIRMAN PALLADINO: We have got three
11 Commissioners who have said it should be, but I am
12 willing to listen.

13 (Laughter.)

14 COMMISSIONER AHEARNE: The Chairman has to
15 have some prerogative to go ahead with the legislative.

16 CHAIRMAN PALLADINO: I would just like to hear
17 what it is that you feel needs to be in the legislation.

18 COMMISSIONER GILINSKY: I will tell you what I
19 would like to see.

20 MR. TOURTELLOTTE: Let me explain the basis
21 for doing that. The simply fact is that we have had the
22 backfit rule in our rules for 12 years and we have not
23 enforced it and we have actually used other regulations
24 to get around the use of 50.109.

25 COMMISSIONER GILINSKY: Do we understand why

1 that is the case?

2 MR. TOURTELLOTTE: Yes. Obviously it is a
3 management problem, and obviously if you have a new
4 backfit rule that solves all the old problems, it is
5 still going to be a problem if you don't have the
6 management to enforce it. There is no question about
7 that. But if you have legislation that tells the NRC to
8 enforce it, it has a greater amount of stability than
9 the administrative provision. I simply bring that to
10 your attention because that is the argument that is out
11 there and no one has mentioned it so far.

12 COMMISSIONER AHEARNE: If that is the base
13 argument, then I have to be adamantly opposed to it.

14 COMMISSIONER ASSELSTINE: Me, too. I would
15 not want to be in the position of going to the Congress
16 and saying we have got this rule and we know what we
17 want to do but we can't manage the agency and get it
18 done. So what we need for the Congress to do is to tell
19 us that we have to do it.

20 MR. TOURTELLOTTE: But, on the other hand, the
21 argument that is going to be made the other way is that
22 the NRC cannot manage the rule themselves, they cannot
23 do it administratively, so you have to do it
24 legislatively. That is the argument that someone else
25 is going to make.

1 COMMISSIONER ASSELSTINE: That is a perfectly
2 legitimate argument for other people to make.

3 (Laughter.)

4 COMMISSIONER GILINSKY: That is not the
5 argument we want to make.

6 I have an alternative to all this which is
7 that we ask Jim to flesh out his proposals on these
8 points. I have not discussed it with him, but he
9 certainly has a good deal of experience in drafting
10 legislation. I mean Jim Asselstine.

11 MR. TOURTELLOTTE: Well, I would hope that
12 each of the Commissioners if they have any suggestions
13 at all would bring them to us early on and let us know.
14 Actually in order to get this process done and to get it
15 to you, the Commission, by November the 15th, I have to
16 take it to the task force within the next week and a
17 half and that is a very, very difficult tight schedule.
18 We can do that, but we need your suggestions as early as
19 possible so that when the measure does come before you w
20 are not faced with the added delays attendant to
21 amending and changing.

22 COMMISSIONER GILINSKY: I don't know you would
23 feel about taking on something like this, but I would
24 like as a Commission to ask Jim to do that.

25 CHAIRMAN PALLADINO: Well, I am sure he is

1 going to be doing it as part of his Commission duties
2 anyhow. I think the important point is that we all have
3 got to do it.

4 COMMISSIONER AHEARNE: If Jim has specific
5 ideas he ought to pass them on so he fold them in
6 earlier.

7 COMMISSIONER ASSELSTINE: This is an area of
8 special interest to me so I think I will be spending a
9 good deal of effort on this. So why don't I just do
10 that.

11 COMMISSIONER AHEARNE: But it is important to
12 give them early because we have set up a process where
13 Jim has these two groups that he deals with to get their
14 comments on it, and to make that whole process useful it
15 makes sense to have in hand any concrete suggestions we
16 might have so he can incorporate them. It doesn't do
17 much good to go through that whole process on something
18 that turns out not to be the items which the imposed.

19 MR. TOURTELLOTTE: Well, I had envisioned the
20 first draft being done somewhere around the 18th of this
21 month and I had on my calendar to see Jim about the
22 20th. I think his experience and background would be
23 very helpful and we need all the help we can get.

24 CHAIRMAN PALLADINO: Well, Jim, I think we
25 have helped some by identifying the areas where we don't

1 think you ought to be putting your time and we have
2 emphasized one area where we think particular attention
3 ought to be given from the administrative standpoint and
4 that is backfitting.

5 Okay, anything more to come up before us?

6 COMMISSIONER GILINSKY: But, you know, on that
7 point, if I can hold you up for one moment, I would like
8 to emphasize that I don't think this is something that
9 is going to be solved by lawyers drafting a different
10 rule. I think backfitting is basically a safety
11 question and it is a question for Commission policy to
12 be dealt with by a different means, it seems to me. I
13 think it is a very important thing to address.

14 CHAIRMAN PALLADINO: I think we have to
15 address the process by which we are going to get some
16 control on backfitting and that may be something like,
17 and I hate to mention this, the CRGR and there may be
18 other approaches.

19 COMMISSIONER ASSELSTINE: I was going to say I
20 think we ought to when we look at the backfitting
21 question take into account some of the things that have
22 already been done to see how we think those are working
23 and the extent to which, if this is a management
24 problem, those kinds of actions are addressing that
25 problem.

1 MR. TOURTELLOTTE: As sort of a preview of
2 coming attractions, I would say that our approach to
3 backfitting on the administrative side was also
4 two-pronged. One is to come up with a new rule and a
5 new set of procedures to implement backfit. The other
6 is to come up with a policy paper that says while we are
7 considering rulemaking enforce the rule that is on the
8 books and enforce the rule on the books in this way.
9 The policy paper sets that out. There has been
10 considerable comment on the backfit as we have
11 circulated it that indeed the rule on the books is good
12 enough if we would just enforce it.

13 COMMISSIONER GILINSKY: Well, there is
14 something wrong with it.

15 MR. TOURTELLOTTE: My view is that if you get
16 the proper result, it doesn't make any difference
17 whether you use the old rule or come up with a new
18 rule. The result is important.

19 COMMISSIONER GILINSKY: Well, it is not clear
20 what the proper result here is, and with all due
21 respect, Jim, I think this is kind of out of your area.

22 It is, as I said, a very important question
23 for us to address, and I would like us to try and get
24 some data on the subject and see if we can get some
25 firmer understanding beyond knowing that there are a lot

1 of complaints and there has been unevenness in the way
2 the thing has been carried out and try to go beyond that
3 and see if we can get an understanding of the extent of
4 backfitting, how much has been in retrospect unnecessary
5 or unreasonable or whatever and try to get a better
6 understanding and talk with the staff of why in fact the
7 backfitting rule is not being used.

8 I think it is a little more subtle than we
9 have let on here and take it from there.

10 MR. TOURTELLOTTE: I agree with checking it
11 out with the staff and trying to get information. I
12 will point out that I have tried desperately to get
13 information and the staff doesn't seem to want to
14 present the information and probably for good reason.
15 The industry doesn't want to provide the information
16 because they are afraid of retaliation by the staff.

17 The other point that I would make is that I
18 don't really agree with you that it isn't in my area
19 because the real problem in the past has been that the
20 staff has not been required to demonstrate that they are
21 following the rules and that is a legal question. It
22 uses scientific facts as a basis to reach a conclusion,
23 but it is nevertheless a legal question.

24 CHAIRMAN PALLADINO: Okay. Any other comments?

25 (No response.)

1 CHAIRMAN PALLADINO: Well, thank you very
2 much, Jim, and we will look forward to what comes out.

3 We will stand adjourned.

4 Whereupon, at 12 10 p.m., the meeting
5 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
COMMISSION MEETING

in the matter of: PUBLIC MEETING - Briefing by Regulatory Reform Task
Force (Legislative Proposals)

Date of Proceeding: October 7, 1982

Docket Number: _____

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)