

ORIGINAL

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

In the matter of:

PHILADELPHIA ELECTRIC COMPANY

(Limerick Generating Station,
Units 1 and 2)

Docket No. 50-352

50-353

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Date: Tuesday, October 18, 1983

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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 In the matter of: :
 :
 PHILADELPHIA ELECTRIC COMPANY : Docket Nos. 50-352
 : 50-353
 (Limerick Generating Station, :
 Units 1 and 2) :
 :
 -----X

Municipal Building
Council Room
140 Church Street
Phoenixville, Pennsylvania

Tuesday, October 18, 1983

The prehearing in the above-entitled case
convened at 9:00 a.m., pursuant to notice.

BEFORE:

LAWRENCE BRENNER, ESQ.
Chairman, Atomic Safety & Licensing Board

RICHARD F. COLE,
Member, Atomic Safety & Licensing Board

PETER A. MORRIS,
Member, Atomic Safety & Licensing Board

-and-

STEVEN F. CROCKETT,
Legal Clerk to the Board

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On behalf of Friends of the Earth.

ROBERT ANTHONY

On behalf of Air and Water Pollution Patrol:

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On behalf of Pennsylvania Emergency
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On behalf of Intervenor CEPA:

STEVEN HERSHEY, ESQ.

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P R O C E E D I N G S

1
2 JUDGE BRENNER: Good morning.

3 We're on the record.

4 We want to continue the discussion of LEA
5 Contention 1-42 involving environmental qualification.

6 In looking at the Staff's answer to the
7 contention -- the Staff response is dated August 1st, 1983 --
8 at page 11, there's a footnote 8 that we'd like to get an
9 explanation of from the Staff. I'm not sure we understand
10 it, given some of the Staff's positions expressed
11 yesterday.

12 And that footnote reads:

13 "As indicated above, the general concern
14 expressed by LEA with regard to the treatment of
15 the possibility of the operators being misled is
16 appropriate at this early stage and provides an
17 adequate basis at this time."

18 MS. HODGDON: Excuse me. Would you like me to
19 explain what that means?

20 JUDGE BRENNER: Well, it sounds you're not
21 opposing that portion of the contention.

22 MS. HODGDON: It's because at this time we don't
23 know whether there will be justifications for interim
24 operation.

25 The Applicant has represented that there

1 probably will not, because it's his intention to have -- to
2 be fully environmentally qualified at the time the plant
3 goes into operation.

4 And so the point would be that insofar as we're
5 talking about justifications for interim operation, this is
6 an appropriate contention.

7 JUDGE BRENNER: All right. We didn't understand
8 it, because the "general concern expressed by LEA" is not
9 limited to that aspect.

10 But you've explained it.

11 MS. HODGDON: It could have been better phrased.

12 JUDGE BRENNER: Another question for the Staff.
13 As we understand it, part of the Staff's position expressed
14 here yesterday is that the contention is broad and that it
15 encompasses, in essence, the whole review of environmental
16 qualification of electrical equipment under Regulation
17 10 CFR Section 54 and 49; is that correct?

18 MS. HODGDON: That's correct.

19 JUDGE BRENNER: Yet, the Staff, in the written
20 response, states it has no objection to the admissibility
21 of the fourth paragraph of the A section of the basis of
22 LEA's contention.

23 MS. HODGDON: Would you direct me to that fourth
24 paragraph of the A section, the basis is --

25 JUDGE BRENNER: Well, it's your reference, and I

1 had to count it, also.

2 It's the paragraph that begins "Without the
3 documentation" -- in fact, I'll read the whole thing.

4 "Without the documentation, that the Applicant
5 has included all necessary, non-safety-related, but
6 important to safety equipment, in its EQ program,
7 and without the analysis required by Section 50.49(i),
8 Applicant cannot assure that post-accident failure
9 of non-safety-related equipment will not degrade any
10 safety function or mislead the operator, pending
11 completion of qualification."

12 MS. HODGDON: Yes.

13 JUDGE BRENNER: Isn't that the entire review
14 being encompassed by that regulation?

15 What's left out is the contention, if you
16 don't object to that paragraph of the contention.

17 MS. HODGDON: The (i) -- I can't find my copy
18 of the regulation, and so I'm behind a little bit here.

19 That is with regard to justification for interim
20 operation.

21 JUDGE BRENNER: You'd better take a look at that
22 paragraph of the contention. It's not limited to that.
23 That's only one phrase.

24 MS. HODGDON: The reference is specifically to
25 "without the analysis required by 50.49(i), Applicant cannot

1 assure that post-accident failure will not degrade any
2 safety function," and so forth, "pending completion of
3 qualification."

4 And so our point was that, once it's qualified,
5 misleading the operator shouldn't be a problem, because you
6 qualify the equipment in such a way that misleading the
7 operator doesn't make -- well, so that it can't mislead
8 the operator I suppose is the best way to -- to say it.

9 JUDGE BRENNER: Putting aside the debate as to
10 inclusion or lack thereof of the factor of misleading the
11 operator for a final qualification, putting that aside,
12 doesn't this paragraph, in microcosm, summarize the scope
13 of the contention?

14 MS. HODGDON: No.

15 JUDGE BRENNER: Why not?

16 MS. HODGDON: Because what, it seems to me, the
17 scope of the contention is methodology. LEA is saying:
18 Show me how you did it, and you should have done it
19 differently. And if you'd done it right, you would have
20 found things you didn't find.

21 And I think that basically that's not litigable.
22 And so the broadest -- that's the broadest reading of LEA's
23 contention. And I do think it's broader than this paragraph
24 -- what was focused on yesterday, the methodology contention
25 of how do you go about qualifying electrical equipment or

1 deciding what equipment is to be qualified.

2 Well, you say, first of all, we're looking at
3 electrical equipment. And they you say we're looking at
4 electrical equipment that has to survive and remain
5 functional in a harsh environment.

6 And so, how do you get your list and how do you
7 go about deciding what's to be qualified. And that's an
8 interest of LEA's; and I think that's very interesting, too,
9 but I don't see how it could be litigated. And I don't
10 really know exactly how the Staff goes about that. You
11 asked me that yesterday, I believe.

12 JUDGE BRENNER: Well, my question --

13 MS. HODGDON: Is the methodology included here?
14 And I'm saying not per se in the rule, although
15 it assumes a reasonable method of determining what's to be
16 qualified.

17 JUDGE COLE: Ms. Hodgdon, if they don't know they
18 go about it, how do they know when they get there?

19 MS. HODGDON: I didn't say they didn't know how
20 they went about it.

21 JUDGE COLE: I thought you just said that.

22 MS. HODGDON: You're putting words in my mouth.

23 I said they don't -- they don't impose a
24 methodology. There's no requirement that you go about it in
25 a certain way.

1 JUDGE COLE: They must know how they do go about
2 it though.

3 MS. HODGDON: Do I know how the Staff goes --

4 JUDGE COLE: But the Staff must know how they do
5 go about it, in fact.

6 MS. HODGDON: Well, I know that they have -- they
7 have said that certain things have got to be qualified and
8 how they know that -- I mean, for example, Squibb valves,
9 which we said yesterday, agree with you, Squibb valves have
10 got to be qualified. Those are safety-related though, so --
11 so, you're talking about how they go about determining what
12 important-to-safety but not safety-related items have got to
13 be qualified.

14 And I suppose it's -- it's an ordered way. They
15 look at what was done and see whether it looks reasonable
16 or whether the method that was used failed to turn up
17 something.

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1 JUDGE MORRIS: Isn't it true that there is no
2 guidance by the Staff as to how to go about it, and that it's
3 a situation parallel to some others the Staff reviewed where
4 the Applicant proposes something or other, and the Staff then
5 decides?

6 MS. HODGON: That's true.

7 JUDGE MORRIS: In other words, the Staff deems
8 for them to give detailed guidance would be going too far.
9 In fact, one can draw an analogy to Criteria 1 in Appendix A
10 with a question of importance to safety. The Staff feels
11 that they should not be spending their time giving guidance
12 in that area because those items are less important than
13 those which are termed to be safety related.

14 MS. HODGON: 1 --

15 JUDGE MORRIS: Did you follow me?

16 MS. HODGON: Yes, I did follow you exactly, and I
17 agreed with you right up to the very end when you said those
18 things were less important than safety related.

19 And I think that you have to conclude that they
20 are probably as important, and the reason they don't get
21 detailed guidance on that is that that there the guidance
22 would be specific. I mean that it would be more plant
23 specific than the safety related things and, therefore, they
24 need everybody to come up with his own way of qualifying it.
25 And, say, if you proceeded in a reasonable way and you see what

st 2-2

1 you have done seems reasonable, then we conclude that you
2 probably found everything unless we look over and see that
3 there is something that should be on there that isn't.

4 I'm saying it's not an exact science. There is no
5 check list. There is nothing you can tick off against, be-
6 cause on the importance of safety items those would vary plant
7 to plant more than the safety related.

8 Mr. Wetterhahn is asking to speak.

9 JUDGE MORRIS: Just let me interject a comment
10 first. I am not sure it's important to our discussion at
11 the moment but I think there may have been a possible dif-
12 ference of opinion between us. Would you agree that the
13 class importance to safety is larger than the class safety
14 related?

15 MS. HODGDON: You mean, as regards the number of
16 items in it?

17 JUDGE MORRIS: Correct.

18 MS. HODGDON: In electrical environmental qualifica-
19 tions of electrical equipment?

20 JUDGE MORRIS: Any category.

21 MS. HODGDON: I think important to safety but not
22 safety related is thought to be in the newest plants -- in
23 the newest plants would be a null set. There is nothing in
24 it, or possibly. But safety related, that everything would
25 have been safety related and that, therefore, there might not

st 2-3

1 be any items that are important to safety.

2 JUDGE MORRIS: Well, aside from a specific examina-
3 tion of a specific plant, is it your understanding of the
4 so-called Denton memorandum, which defines the terms, that
5 the class important to safety is larger than the class safety
6 related?

7 MS. HODGDON: I think we are still talking about
8 two different things. And I'm narrowing it always to this
9 rule. Yes, I'm familiar with the Denton memorandum.

10 JUDGE MORRIS: Is the meaning of important to
11 safety different in 50.49 than it is in the Denton memorandum?

12 MS. HODGDON: No, it is not different. It's just
13 talking about a specific item. It's talking about electrical
14 equipment. And the GDC is talking about all equipment,
15 whether or not electrical.

16 JUDGE MORRIS: So, if I'm understanding you, I
17 think you agree that if we are talking Appendix A, that the
18 class important to safety is larger than the class safety
19 related.

20 MS. HODGDON: I suppose it is, yes.

21 JUDGE MORRIS: But you are also saying in fact it
22 may not be for that class which is the smaller class within
23 50.49?

24 MS. HODGDON: That's what I'm saying. I'm saying
25 that in a particular plant there may well not be any items at

st 2-4

1 all that are important to safety, beyond safety related.

2 JUDGE MORRIS: I understand.

3 JUDGE BRENNER: All right, Mr. Wetterhahn.

4 MR. WETTERHAHN: I think the definition is dif-
5 ferent in the two examples that you gave. I think that you
6 are correct in saying safety related is, under the Denton
7 memorandum, a sub-class of important to safety. But if you
8 look at 50.49(b)(1) defines safety related as one class and
9 (b)(2) as non-safety related electrical equipment. I don't
10 believe that definition includes (b)(1) also.

11 So there are mutually exclusive rather than covering
12 safety related being a sub-set of important to safety. So the
13 definition is different as utilized, I guess, under the Denton
14 memorandum and as utilized under 50.49.

15 I would like to add, too, that the Staff has
16 given some guidance, be it in draft form, as for defining how
17 important to safety will be utilized in examining which equip-
18 ment must be qualified under 50.49. And I read into the
19 record the draft regulatory guidance yesterday.

20 JUDGE BRENNER: Yes, but I ask you, perhaps not in
21 these words, what does it tell you, in essence? And my
22 recollection is it's very nonspecific.

23 MR. WETTERHAHN: Certainly the Staff never gives
24 a cookbook that one can go down the line and say without
25 any interpretation, without engineering work, that this is

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1 important to safety. important to safety is a very subtle
2 concept, and you cannot -- if one could define it that
3 easily, I guess we wouldn't be sitting here and worrying about
4 it. But it does give guidance as to what is acceptable or not.

5 Yes, there may be -- there may have to be supple-
6 mentary interpretations and evaluations to determine it, but
7 this is definitional in nature.

8 JUDGE BRENNER: Can you summarize in -- I'm sorry.

9 JUDGE MORRIS: I just wanted to thank Mr. Wetterhahn
10 for that distinction. A couple of the members of this Board
11 have concerned themselves with the definitions, as you are
12 fully aware.

13 MR. WETTERHAHN: Yes.

14 JUDGE MORRIS: And I was trying to probe whether
15 there was a real difference between 50.49 and the definitions
16 which the Shoreham Board, for example, and the Appeals Board,
17 and Indian Point came up with.

18 JUDGE BRENNER: Well, I don't know if I agree with
19 his distinction, as he stated it, as mutually exclusive
20 categories but it's not necessary to pursue it.

21 JUDGE MORRIS: No, he perceives a difference and I
22 think that is important.

23 JUDGE BRENNER: Can you summarize in a sentence or
24 two, or three, what that guidance tells the Applicant to do
25 in terms of how to develop the list of important to safety

st 2-6

1 equipment or how to form the analysis to see what equipment
2 should be included? And I don't want it restricted to post
3 accident monitoring. We are talking about the whole area
4 encompassed by 50.49.

5 MR. WETTERHAHN: That's a little difficult to do
6 in three sentences, particularly when the Applicant's defini-
7 tion and the Applicant's methodology with regard to important
8 to safety is -- takes up ten or fifteen pages. But it's --
9 it looks at outcomes and says one must do an analysis to
10 determine whether an outcome is acceptable or not, depending
11 if a piece of equipment is postulated to fail, one which is
12 not safety related. Because all safety related equipment
13 would be qualified.

14 So, it's an organized approach to looking at each
15 piece of equipment and seeing whether that affects a safety
16 function. I can only speak in those generalities.

17 JUDGE BRENNER: Does it include consideration of
18 misleading the operator, at least for analyses purposes, even
19 as to final qualification?

20 MR. WETTERHAHN: I --

21 JUDGE BRENNER: If you don't know --

22 MR. WETTERHAHN: I can think of an example, but I
23 can't -- I can think of an example where a position indicator
24 of a valve which was not safety related was qualified as
25 important to safety, such that an operator would know the

st 2-7

1 position of the valve. So, in that sense, yes, there are --
2 could be important to safety, electrical equipment which could
3 mislead the operator and, therefore, have to be qualified.

4 JUDGE BRENNER: In accordance with -- as the
5 Applicant reads, the dictates of the rule in that instance?

6 MR. WETTERHAHN: Yes.

7 JUDGE BRENNER: It sounds like the way LEA is
8 reading the rule. I don't know about the Staff.

9 Ms. Dorsey, we were discussing the fourth para-
10 graph of your small a bases action with the Staff. I don't
11 know if you want to add anything to the Staff's characteriza-
12 tion of what was encompassed in that paragraph.

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1 MS. DORSEY: Only that I do think it is meant to be
2 a broader -- probably mis-shorthanded it, and didn't have the
3 actual wording. I think it is broader than MS. Hodgdon indicated.

4 JUDGE BRENNER: I think Ms. Hodgdon excluded the first
5 phrase from the discussion in my personal opinion.

6 MS. DORSEY: I agree with that.

7 JUDGE BRENNER: One detail in contention, Ms. Dorsey,
8 with respect to the basic section Number C.2, both the Staff
9 and the Applicant don't understand what LCA is seeking, because
10 they argue that there is a plan, an action plan provided as to
11 how to handle equipment where the qualified life does not equal
12 forty years. General plans which would have to be applied to the
13 equipment for maintenance programs and the like, and they don't
14 understand what else you want or what you think is inadequate.

15 MS. DORSEY: Well, without my first review of the
16 EPA Report, the EQRR didn't have a section in them for taking care
17 of that kind of problem, as far as indicating something is
18 going to be replaced, that is going to be repaired, or what is
19 going to be done to it.

20 It is my assumption that those decisions will be made
21 before the plant goes on line. Maybe they don't need to be, but
22 it would be my assumption that the decisions about whether you
23 are going to try to repair something or replace it. For instance,
24 those decisions would be made and indicated.

25 JUDGE BRENNER: Well, I think the Applicant's position

gw 3-2 1 is according to the general report in the answer. In other words,
2 I am asking your reply did not pick up this point -- did not discuss
3 this point.

4 MS. DORSEY: Right. I guess I feel a little fuzzy
5 about that. If we can assume that those decisions are made and
6 that the appropriate actions will be taken when they are necessary
7 to be taken, then I don't have a problem with it. It is just not
8 clear from the report that that is the case.

9 MS. BRENNER: You don't have particular equipment
10 in mind that you are worried about. You are worried about the
11 general approach, even to that one Section C-2.

12 MS. DORSEY: Right. Although there were -- I did list
13 in some cases. I list specific ones using samples where the
14 qualified life was not equal to forty years, and there wasn't
15 an indication of whether equipment would somehow be repaired or
16 something would be otherwise done to it, or whether it would just
17 be replaced. And I admit that this is a relatively small detail
18 compared to the main thrust of the contention.

19 JUDGE BRENNER: We are going to admit the contention
20 as it is stated. We have had a lot of discussion among the board
21 members, as I stated yesterday, on the written submissions. We
22 didn't consider helpful comments yesterday from all the parties,
23 and we appreciate them also. We find that the basis and
24 specificity are present in the contention given the available
25 information. However, there is no problem with lack of information.
The possibility of some details. The alleged lack of information

gw 3-3

1 relates to the methodology of just how this important requirement
2 to qualify environmentally electric equipment is going to be
3 accomplished.

4 The area involves some difficult questions of application
5 and judgment, and the contention is specific enough with adequate
6 basis to put into litigation those areas of judgment. The only
7 close call on the contention, if you will, was paragraph C-2, which
8 we just discussed. We are going to leave it in, with the contention
9 as pleaded now.

10 We expect that the discovery process will assist in
11 focusing the case for all the parties and when we approach the
12 time, or get to the time of voluntary redrafting of the
13 contention, we expect the nature of the discovery at that time
14 will result in the contention being modified to conform to the
15 discovery.

16 Now, maybe the result of the discovery will be such that
17 the contention would not be changed at all. It is not a requirement.
18 But we hope that it will be. In addition to that main point, we
19 think some redrafting could avoid some overlaps between the
20 structure of the contention and some of the same thoughts are
21 expressed in slightly different ways in different portions of the
22 contention. We think it could possibly be organized a little
23 more efficiently for purposes of litigation. The parties we think
24 will be assisted by continuing discussion and negotiation on the
25 draftings so that the issue is expressed as clearly as possible,

gw 3-4 1

2 but at this point we understand the issue, and we think it is an
3 admissible issue. We certainly paid attention, we believe, careful
4 attention to the Staff's position yesterday that it doesn't believe
5 misleading the operator could come into play for final qualification,
6 in essence, because there would be nothing which would fail in a
7 harsh environment which could mislead the operator, and also result
8 in a failure to accomplish the safety related functions. That
9 may be the case, but we will take a look at it on the merits. It
10 is not a matter of legal interpretation of the regulation. There
11 is no doubt that the criterion for final qualification is that
12 those safety functions would not be defeated if any such equipment
13 would fail.

14 And it would be a matter for the proof in the merits
15 to show the extent, or lack thereof, that misleading the
16 operator could come into play for that fact. So, the Staff's
17 argument may prove to be correct, but it is not one of legal
18 interpretation. It is one of the merits.

19 And we have to see what the analysis will be to show
20 the consideration of that factor, or expert testimony as to
21 why that factor need not be considered. And I will leave it
22 at that.

23 Mr. Hershey, I saw you here, and we can interrupt
24 the proceedings to give you an opportunity. You were not here
25 yesterday, and we have an explanation from Ms. Dorsey that you
may, unfortunately, have received our Order somewhat belatedly. I

gw 3-5

1 don't know why that occurred. You can speak now if you wish.

2 MR. HERSEY: As a matter of fact, Your Honor, I still
3 have not received the Order for some reason. I am apparently
4 not on the service list of at least some of the parties. And I
5 found out about the hearing only by accident from Ms. Dorsey,
6 and I am here, really, to ask your indulgence --

7 JUDGE BRENNER: Let me check one thing, but a beside
8 from the service list, my secretary sent the Orders out directly,
9 and we sent it to you, Community Legal Services, North Central
10 Building, 3701 North Broad Street, Philadelphia.

11 Is that your address?

12 MR. HERSHEY: No, it is not.

13 JUDGE BRENNER: Did you ever change your address with
14 us?

15 MR. HERSHEY: I was on a leave of absence for a period
16 of about a year, and it was apparently during that time that
17 some things got confused, and that is why I am asking your
18 indulgence of some time to straighten out that matter at
19 Community Legal Services, and discuss with my client what they
20 want to do in this proceeding.

21 JUDGE BRENNER: Well, we will give you -- yesterday
22 we gave you ten days, and we will give you the same ten days
23 unless you have a problem with that.

24 MR. HERSHEY: ; What am I to do within ten days?

25 JUDGE BRENNER: Inform us as to whether CEPA intends
to continue to participate in this proceeding, and as of now there

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1 are no -- this isn't a penalty or sanction as I explained yesterday
2 in your absence. It is a mere recognition of the possible present
3 status of the participation by CEPA. That is, as of now there
4 are no admitted or pending issues on which CEPA is a party. We
5 understand that way back at the beginning, CEPA also had emergency
6 planning contentions, and the status of the off-site emergency
7 planning contention is that the interveners who had timely expressed
8 the interest through the general contentions would be given an
9 opportunity with the Limerick Ecology Action as the lead
10 intervener to file at a future time off-site emergency planning
11 contentions and other parties can fill you in on the details.

12 But it is a time keyed to an event that has not yet
13 occurred. And if CEPA comes back through counsel, or other
14 representative, tells us that yes, they intend to participate in
15 contentions in the off-site emergency planning subject area, that
16 would be sufficient for CEPA to remain a party.

17 MR. HERSHEY: Thank you. Ten days then should be
18 sufficient. Thank you.

19 JUDGE BRENNER: If we don't hear one way or the other,
20 CEPA is out. So we appreciate hearing one way or the other.

21 MR. HERSHEY: Thank you.

22 JUDGE BRENNER: So that would be ten days from yesterday,
23 if that is all right, October 27th. And you -- we better get the
24 corrected address for you if you are going to continue, and if you are
25 not going to continue, proper authorizations for counsel.

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MR. HERSHEY: I will supply all that one way or another
before the 27th.

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JUDGE BRENNER: Okay. Thank you very much.

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MR. HERSHEY: Thank you.

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JUDGE BRENNER: If my secretary sent the Order
out or not, I want to make that clear, and make it clear
in my own mind. I wasn't sure what occurred until just
now.

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1 I should add for the record that she doesn't make
2 too many mistakes.

3 MR. HERSHEY: I don't believe the mistake, if
4 there is one, was her fault.

5 JUDGE BRENNER: Okay. We understand the situation
6 now. Thank you.

7 All right. We're ready to proceed to LEA
8 Contention 1-41.

9 JUDGE COLE: Ms. Hodgdon, I note in the Staff
10 response of October 13th that, in your conclusion on page 9,
11 that the -- no such requirement that the analysis be
12 performed and contention is not sufficiently specific.

13 MS. HODGDON: Excuse me. Someone was rattling
14 something, and I didn't hear the last part of that.

15 On page 9?

16 JUDGE COLE: Yes. Well, your conclusion on page
17 9, you indicate the conclusion of the Staff that the
18 interactions analysis is -- is not required by regulations
19 and, furthermore, that it's not sufficiently specific.

20 And I note, in the Staff response, you do refer
21 to River Bend and North Anna. And you also have some
22 reference to Shoreham.

23 With respect to the unresolved safety issues that
24 are really part of this contention, I guess we're all in
25 agreement that the criteria that is set forth in North Anna

1 are fairly clearly set forth and that -- and I gather, from
2 reading your statements here, that the specific unresolved
3 safety issue is resolved here on the basis of one or more
4 of the three criteria of North Anna, otherwise you would feel
5 differently about this contention, is that not so,
6 Ms. Hodgdon?

7 MS. HODGDON: Yes. But it's -- yes, that is
8 certainly in this paper. But that is resolved on the basis
9 of North Anna and that the Intervenor should show that it's
10 not, as with reasonable specificity, in order to have a
11 contention that would be admissible.

12 JUDGE COLE: All right, Ms. Hodgdon.

13 Which of the criteria from North Anna are
14 satisfied in the view of the Staff?

15 It's not clear to me, from this document, which
16 of those three : the Staff opines are satisfied?

17 MS. HODGDON: Excuse me. This is not -- let me
18 take a minute. This is not my paper. I mean I didn't write
19 it, although it was -- and so I have read it, of course.
20 But let me find the North Anna criteria here and --

21 JUDGE COLE: It starts on page 6.

22 MS. HODGDON: -- and address it.

23 I am generally familiar with Contention I-41.
24 It starts on page 6.

25 Thank you.

1 All right. Yes, I knew it was here somewhere.

2 (Pause.)

3 JUDGE COLE: On page 7, in the middle of that page,
4 also, you refer to "The Staff believes it has met the
5 justification for operation." And I assume you're talking
6 about the three criteria that are mentioned on page 6 and
7 are contained in North Anna?

8 MS. HODGDON: Yes. Yes, I don't believe -- that
9 this paper does not go through an analysis of the three
10 criteria and say each of these criteria is met.

11 Actually, I don't think these criteria are --
12 that they don't fit that -- the problem that well. So, you
13 can just merely -- the "issue" I should say, not the
14 "problem."

15 JUDGE COLE: Well, I thought they could be
16 separated fairly well. If you look at them on the bottom
17 of page 6, you meet any one of these, I think you could --
18 that's my reading of it anyway -- you'd satisfy the
19 requirements.

20 MS. HODGDON: Yes, that's true, any one of these
21 satisfied the requirement.

22 And you're asking me which one I think is met?

23 JUDGE COLE: Yes.

24 MS. HODGDON: Number one -- the paper says that
25 number one is met, that the SER addresses it and that, in

1 addition to that, the PRA gives some additional confidence
2 that there aren't any systems, interactions of concern.

3 So, I'm -- that would go to number one.

4 The problem is resolved to the Staff's satisfac-
5 tion is my response to number one. : So, number one is
6 thereby met.

7 Number --

8 JUDGE MORRIS: Excuse me, Ms. Hodgdon. I'd like
9 to understand that conclusion, that it has been met.

10 If I understand the USI and the Task Action Plan
11 for USI-A-17, systems interaction, the goal is to develop a
12 methodology to systematically apply systems interaction
13 analysis for plants.

14 MS. HODGDON: That is true.

15 JUDGE MORRIS: Is your conclusion that that
16 systematic methodology has been developed and applied at
17 Limerick?

18 MS. HODGDON: No. The answer is that the
19 methodology is being developed, and we're talking about
20 justification for operation of plants prior that being
21 resolved.

22 And so the answer to that is the concern about
23 Limerick is the general concern that gives rise to the USI.
24 It's an unresolved safety issue, because it generically is
25 an issue with regard to all plants, and it has not yet been

1 resolved.

2 With regard to Limerick, we have less concern
3 about Limerick than we might have about other plants,
4 because -- the Staff has less concern about Limerick.

5 Therefore, we don't think that the operation of
6 Limerick needs to await the resolution of the unresolved
7 safety issue.

8 MR. HERSHEY: So, that's -- that's not item
9 number one then?

10 MS. HODGDON: It's somewhere between one and two.

11 That's why I said that -- that they don't fit
12 that well. I couldn't decide whether I wanted to go with
13 one or two. This goes to construction permits, I believe,
14 the North Anna decision.

15 MR. HERSHEY: No. It's operating license --

16 MS. HODGDON: Okay. It's a numbering license.

17 But it has -- is there a basis for interim
18 operation -- and that means prior to the resolution of the
19 unresolved safety issue.

20 And it sort of goes the other way. I mean, it
21 doesn't fit, because it goes the other way.

22 The unresolved safety issue will be resolved, but
23 when, into the operation of the -- the planned operation of
24 the plant, we just -- we don't know. I mean, I don't know
25 what the plans are for -- I mean, I know that the work is

1 being done and the contracts have been let, and so forth.
2 I don't know what the time scale is.

3 JUDGE COLE: Ms. Hodgdon, you indicated that you
4 had less concern for Limerick. And I wonder what the basis
5 is for that?

6 MS. HODGDON: I believe somewhere in this paper
7 there is an indication that the Staff feels that the PRA
8 gives added confidence that there won't be systems
9 interactions of concern.

10 I can't find the place right now. It says
11 "high-level systems interactions" or "systems interactions
12 of concern." That is right after the place where it
13 addresses what the SER says.

14 Just one second. I'll see if I can find.

15 JUDGE BRENNER: Assuming that's the reason,
16 Ms. Hodgdon, this, of course, is a pleading by counsel.
17 Where is that supported by anything in the SER writeup on
18 unresolved safety issue A-17 which the Staff references?

19 MS. HODGDON: I believe the Staff writeup is in
20 here, isn't it?

21 It's on page 4, footnote 8.

22 Well, the SER says that the plant has been
23 looked at and reviewed against the standard review plan.

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JUDGE BRENNER: The excerpt from the SER.

MS. HODGDON: Yes.

JUDGE BRENNER: The SER has more than that on it.

MS. HODGDON: Yes, the SER has several pages on it.

JUDGE BRENNER: Yes. My question is where in that SER write-up is there any conclusion, let alone the basis, for the proposition that the Staff feels differently or has less concern with respect to systems interaction at Limerick than other plants?

MS. HODGDON: Well, the SER says that the plant has been looked at and reviewed against the standard review plan, and that with regard to this A-17, it has been found that the plant can operate pending the resolution of that unresolved safety issue. That's what it says. It doesn't say that comparatively that -- that comparatively with other plants is "and by the way, in addition to that, they did a PRA," and that gives us some additional -- additional -- gives additional reason to believe that this would not be a problem at Limerick."

JUDGE BRENNER: But where is that technical analysis with respect to systems interaction presented by the Staff, if anywhere?

MS. HODGDON: The technical analysis is -- I just said what the SER said, and I believe that's a fair characterization of what it says. It does not go through a

1 technical analysis.

2 JUDGE BRENNER: Where does t' SER rely on a PRA
3 for that proposition?

4 MS. HODGDON: The SER does not.

5 JUDGE BRENNER: I thought you said that was a fair
6 characterization.

7 MS. HODGDON: No, I didn't. I said the paper
8 says in addition to the SER, the Staff feels that the PRA
9 gives adequate -- gives additional reason for believing
10 that there aren't systems interaction --

11 JUDGE BRENNER: You mean the pleading from counsel
12 said that?

13 MS. HODGDON: Excuse me?

14 JUDGE BRENNER: You mean from counsel, it says
15 that? You said the paper. I don't know what you mean.

16 MS. HODGDON: I mean this pleading from counsel
17 says --

18 JUDGE MORRIS: At the top of page 7.

19 MS. HODGDON: At the top of page 7, top of page 8.

20 JUDGE BRENNER: Now where is the technical support
21 for that statement of the Staff's position?

22 MS. HODGDON: Which provides comprehensive,
23 analytical method for checking facility safety.

24 (Pause.)

25 Which provides another comprehensive, analytical

1 method for checking facility safety.

2 Do you mean to say that it would have been
3 appropriate to attach an affidavit, perhaps?

4 JUDGE BRENNER: No, I'm asking where in the SER
5 analysis of Unresolved Safety Issue A-17, which we are
6 ordered by Commission precedent to examine in terms of
7 deciding the status of unresolved safety issues, where in
8 that is there, or anywhere else in that Staff analysis is
9 there any indication that the Staff is relying in part, at
10 least, on the analyses at Limerick, the PRA or anything else,
11 for the systems interaction issue, and whether or not the
12 North Anna criteria that Judge Cole discussed a moment
13 before have been met?

14 I'm not going to take a one-sentence assertion
15 from counsel in a pleading as the basis for excluding a
16 contention, given the strong dictate of River Bend and
17 North Anna, and the fact that there is a write-up in the
18 SER which is silent on that particular subpoint.

19 MS. HODGDON: The SER -- you're correct, the SER
20 does not reference the probabilistic risk assessment with
21 regard to USI A-17.

22 JUDGE BRENNER: Well, is it a fact that the Staff
23 has reviewed that and found something in the PRA with
24 respect to systems interaction which forms part of the
25 Staff's basis for deciding that the North Anna criteria have

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1 been satisfied by Limerick for A-17?

2 MS. HODGDON: Yes. There is no document at this
3 time that supports that, as you no doubt know, or as the
4 Board has been told. The Staff is preparing a document
5 concerning its review of the probabilistic risk assessment,
6 and that schedule is -- since it's not really technically a
7 licensing document, except possibly for this purpose, as you
8 pointed out to me, it's -- its schedule is such that it's
9 going to be done after after things that need to be done
10 first.

11 Therefore, I cannot point you to a Staff document
12 that says that this probabilistic risk assessment relates
13 in any way to A-17, because there just isn't one in existence
14 at this time, except in draft.

15 This document will not be published until after
16 DES-2 is out, and that document's requirements and scheduling
17 came first, and that is why there is no document that
18 addresses this matter, even though it exists in draft,
19 and that's why the Staff is making an unsupported assertion
20 there about what the Staff thinks about something which is
21 not available in a Staff document.

22 JUDGE BRENNER: They are not supported, how does
23 counsel at this time even know whether it's correct or not,
24 given the status that you just indicated?

25 MS. HODGDON: Whether it's -- whether the Staff

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1 correctly -- whether Staff counsel correctly states the
2 Staff position, or whether the Staff is correct as to its
3 assertion about the value of the PRA?

4 JUDGE BRENNER: You, or in combination, all Staff
5 Counsel, in writing and orally, are trying to tell us, as I
6 understand it, that there is an added basis for making the
7 North Anna finding on an unresolved safety issue for A-17
8 as applied to Limerick due to something in the PRA analyses,
9 and we say fine, where is it, what form is it in, and you
10 tell us, well, it doesn't exist yet.

11 So I don't understand how the Staff can assert
12 that there is support and the Staff is making the North
13 Anna findings in part based on that, if that review doesn't
14 exist.

15 I'm confused. Because you're asking us to
16 exclude a contention partly based on that argument.

17 MS. HODGDON: Well, skip the argument, then. I
18 agree that we have not given you the draft RER, as they call
19 it, that would support this, nor would it have been
20 appropriate to do that, because it's only draft, and the
21 document will come out some day, and as of now it is not out.

22 Therefore, it is the Staff position that's not
23 supported by any document nor -- you're correct, nor is it
24 in the SER, although it was originally planned it would be.
25 It's because of the requirements that another document,

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1 namely the DES, be gotten out on schedule that this document
2 is not out now.

3 Therefore --

4 (Counsel conferring.)

5 JUDGE BRENNER: All right. Thank you, Ms.
6 Hodgdon.

7 JUDGE COLE: Ms. Hodgdon, just one more point
8 on this contention.

9 On page 7 and 8, footnote 17 starts on page 7
10 and runs over to page 8, it's an excerpt or they are excerpts
11 from the Long Island Lighting Company-Shoreham decision.

12 MS. HODGDON: Yes.

13 JUDGE COLE: And there's a section that's left
14 out at the bottom of 17, and then you pick up with another
15 part of the decision on page 17, and also at the end of the
16 paragraph at 17, after the words for that sentence "anything
17 more of LILCO on this USI at this time," there is a footnote
18 in the decision on the Shoreham decision, page 162.

19 Are you familiar with the paragraph that is not
20 in the footnote that follows the section on page 7 and the
21 footnote after the sentence that I just read at the bottom
22 of page 8? Are you familiar with the content of that
23 paragraph and the footnote that are not contained here?

24 MS. HODGDON: I should say that I am generally
25 familiar with the Shoreham decision. I would not purport to

1 have read all of it. I have read this section, but I could
2 not tell you at this time precisely what is left out there.

3 JUDGE COLE: So you couldn't tell me whether the
4 insertion of those might change the flavor of the content
5 of the stated sections?

6 MS. HODGDON: I should hope not.

7 JUDGE BRENNER: You should hope that the omission
8 would --

9 MS. HODGDON: Would not change the flavor of what's
10 there. But it doesn't qualify in any meaningful way.

11 JUDGE COLE: Well, let me read the paragraph
12 on the top of page 62 that follows the section at the bottom
13 of page 7:

14 "As a practical matter, the systems interaction
15 analyses performed by LILCO are an important aspect of its
16 overall safety evaluation of the Shoreham design. To the
17 extent that the NRC regulations and the Standard Review
18 Plan permit much less, the importance of timely resolution
19 of USIS A-17 and A-47 is emphasized."

20 Do you recall that, Ms. hodgdon?

21 MS. HODGDON: Yes.

22 JUDGE COLE: Is it your opinion that that doesn't
23 change any --

24 MS. HODGDON: Yes, I do think so, but I think
25 that the person who wrote this response probably thought that

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1 that was plant-specific in that it mentions --

2 JUDGE COLE: But because it was plant-specific
3 and the decision was plant-specific, and it was part of the
4 reasoning behind the Board that wrote that decision, so it --

5 MS. HODGDON: I agree with you. I'm saying that
6 I think that the -- I'm certain that it was not intended
7 to distort the meaning of the passage, and that possibly
8 what -- it was an attempt to get to the last paragraph, and
9 possibly should have just summarized the paragraphs before.

10 JUDGE COLE: Thank you.

11 JUDGE BRENNER: Ms. Dorsey, I wanted to ask you a
12 question about that contention.

13 The last paragraph of your contention as it is
14 proposed in your filing of September 28th, 1983 is denoted
15 (b). It states simply, and in my mind superficially -- and
16 I'm going to give you an opportunity to tell me why that's
17 an incorrect characterization --

18 "Unresolved Safety Issue A-47 is in fact a
19 subset of systems interaction. A systems interaction
20 analysis at Limerick will reveal most of the effects of
21 control system failures."

22 Our preliminary perspective, to help you respond,
23 is that unlike the write-up on A-17, the SER write-up with
24 respect to Unresolved Issue A-47 does discuss the analyses
25 performed for A-47, both directly and more fully by cross

1 reference to SER sections. If you read the section's
2 cross reference, it describes the analyses.

3 Given all that which is available, is it not
4 incumbent upon an Intervenor who seeks to litigate A-47
5 to very specifically set forth what the Intervenor believes
6 is wrong with the analyses being performed?

7 MS. DORSEY: Well, this is a poor attempt, I
8 guess, to indicate that we don't want to litigate A-47; that
9 if A-17 is done properly, we don't think that A-47 needs to
10 be dealt with separately.

11 JUDGE BRENNER: All right. I may delete --

12 MS. DORSEY: I'm sorry, I wasn't clear about that.
13 You can delete the paragraph. It may be easier to do that.
14 I thought about doing that, but I felt that it would make it
15 even more confusing.

16 JUDGE BRENNER: I think we're on the verge of
17 doing it for you, in any event, now we've had a meeting of
18 the minds.

19 We'll take a 10-minute break and talk about
20 this contention and possibly have our ruling for you after
21 the break. We'll be back at 10 after 10:00.

22 (Recess.)

23 end Take 4

24 Sue's.

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(Resumed session at 10:10 A.M.)

2 JUDGE BRENNER: We are back on the record. We
3 are admitting Limerick Ecology Action contingent 1-41 as
4 it has been pleaded in the September 28th, 1983 filing by
5 LEA, of course, with the exception of Paragraph B as we
6 previously discussed.

7 The reason for our admitting it is that under
8 River Bend and North Anna, the contingent of pleads without
9 adequate basis and specificity, given the nature of un-
10 resolved safety issue A-17, an allegation that the Staff
11 has not shown why the Limerick reactor can receive an operat-
12 ing license during the pendency of that unresolved safety
13 issue.

14 We have looked at the cases cited principally by
15 the Applicant and also in part by the Staff. The one Appeal
16 Board case cited, Diablo Canyon, in the matter of Pacific
17 Gas and Electric Company, is not inconsistent with our ruling.

18 That case points out that there is no specific
19 requirement in the regulation for systems interaction analysis.
20 That is clearly correct. The case goes on to state in language
21 not quoted in the pleadings before us that nor is it inconsis-
22 tent with meeting the regulations and the general design
23 criteria to assure that there are no improper systems inter-
24 actions. That is that improper systems interactions can
25 prevent the goals of the general design criteria and/or the

st 5-2

1 other regulations from being met.

2 Another sideline that is unnecessary to detail
3 here is that the Diablo Canyon case dealt with the contention
4 on a motion to reopen, and part of their point -- it's hard
5 to say how much, but part of their point related to the
6 fact that the late-filed contention in the context of a
7 motion to reopen on systems interaction did not assert a
8 nexus to the change in circumstances purportedly giving rise
9 to the motion to reopen.

10 That is the problems with respect to construction
11 in accordance with the design of the Diablo Canyon facility.

12 We looked at the other Licensing Board cases which
13 did not admit a similar contention cited by the Applicant,
14 and I guess we disagree with the observations in those
15 cases, that there is no nexus pleaded in accordance with
16 River Bend and North Anna to the reactor in question. Some
17 of us here have a little bit of history in the River Bend
18 proceeding.

19 And the problem in River Bend was that intervenors,
20 in effect, listed a laundry list of what were then past action
21 plans and said: Have you taken care of these fifty or seventy-
22 five items for this reactor? Some of the things on the list
23 had nothing to do with the boiling water reactor, in fact,
24 which was what River Bend was. And the case properly points
25 out that in the absence of a nexus to the reactor, there was

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1 certainly no adequate contention. The North Anna case later,
2 in perhaps clearer form, listed the criteria for satisfaction,
3 satisfaction of which is required in order to say that pendency
4 as an unresolved safety issue need not preclude licensing, be
5 it construction permit or operating license of a reactor.

6 Implicit in that is the problem addressed by
7 the River Bend Appeal Board; that is, you had to show it
8 pertained to the reactor and that the analyses performed
9 for the reactor were not sufficient, with some specificity
10 when an analyses is, in fact performed.

11 Perhaps it can best be explained by pointing to
12 Paragraph B of the contention that has now been deleted. In
13 that case, unresolved safety issue A-47 clearly relates to
14 Limerick. However, clearly there have been analyses performed
15 and described. And, therefore, it was incumbent upon the
16 intervenor to do more than just say you haven't done it.
17 And we have so ruled. And the intervenor I guess, in effect,
18 agreed.

19 As to A-17, the situation is different. There is
20 no debate that the concern in USI A-17 relates to Limerick,
21 as it does to all other reactors. And as we have discussed
22 with the Staff today, we have looked at the unresolved safety
23 issue A-17 write-up in the SER, and it does not disclose to
24 us how or why the Staff believes the criteria are met.

25 Now, admitting the contention does not mean, of

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1 course, that on the merits we believe that it is necessary
2 that an analysis that stands on its own and is labeled systems
3 interaction analyses need be performed. But we will examine
4 on the merits how the problems of systems interaction is, at
5 the present point in time, being resolved for Limerick by
6 the Applicant and by the Staff's review.

7 And in addition what the status of unresolved
8 safety issue A-17 -- what the effect of the status of un-
9 resolved safety issue A-17 might or might not be on that
10 determination. In addition, it's in effect stated by Judge
11 Cole, the paragraph omitted in the quotation from the
12 Shoreham Licensing Board proceeding did indeed relate to the
13 reactor in question there, and the whole point was that on
14 the merits the Board found that many studies in their totality
15 did give reasonable assurance that that reactor could receive
16 an operating license, notwithstanding the pendency of the
17 systems interaction problem.

18 It wasn't a legal finding by that Board; it was
19 an extensive litigation on the merits. And there is no
20 basis here presented as to why the analyses have been per-
21 formed for Limerick.

22 Furthermore, we are now later in time than the
23 Staff's analyses on unresolved safety issue A-17 was in the
24 context of the Shoreham proceeding. Although the decision
25 came out recently, the litigation was sometime in advance of

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1 the decision. And there is no indication in the SER -- and
2 we have looked for it -- as to what the Staff has done
3 lately, to put it bluntly. And, speaking for myself, there
4 is a footnote in the Shoreham partial initial decision that
5 also was omitted from the Staff's quotation without any in-
6 dication that the footnote had been omitted, I might add.

7 And I meant what I said there. All right.
8 We can turn to emergency planning.

9 MR. WETTERHAHN: Mr. Chairman, as a preliminary
10 matter on emergency planning, as a housekeeping matter, I want
11 to make sure that the Board is aware of a recent amendment
12 to the emergency plan. It's Revision 6 of the emergency plan.

13 I did not have an opportunity to forward pleading
14 specifically identifying the page changes that were made.
15 Some of these page changes are responsive to the original
16 contention, a few of the original contentions. I discussed
17 this matter, I believe, last Thursday or Friday with LEA to
18 make sure that they were aware that these page changes had
19 been made in the emergency plan.

20 For the information of the Board also, an addi-
21 tional more comprehensive -- this page change involved half
22 a dozen pages. Moreover, a more comprehensive modification
23 of the emergency plan which takes into account additional
24 material on organization in other matters of the plan and
25 the off-site plan had been developed -- is developing -- is

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1 scheduled for submission in December.

2 JUDGE MORRIS: When is it scheduled? I didn't
3 hear you.

4 MR. WETTERHAHN: In December.

5 JUDGE BRENNER: Well, we discussed the general
6 subject of the timing of consideration of different contingents
7 yesterday. We were sensitive to the Applicant's complaint
8 that as long as the Applicant was still working on its
9 analyses we should not admit a contingent too early, pre-
10 maturely, in the Applicant's words, which would later be
11 shown to have no bases if we gave the Applicant an opportunity
12 to supply its information.

13 By the same token, we had to balance the rights
14 and interests of intervenors in having to put forward timely
15 contentions and we discussed the effect of the Catawba
16 decisions by the Commission also. It's our view, Mr.
17 Wetterhahn, that we are at the point in time where we should
18 rule yea or nay on these contentions.

19 And if other information is developed that will
20 come out in the discovery process, and will help scope
21 things for the future. So I just want to make sure you are
22 not asking us to defer --

23 MR. WETTERHAHN: No. I'm in agreement. We also
24 believe that it would be appropriate for a ruling on emergency
25 plans. This is not a case where there is no information

st 5-7
1 in the record. We are supplying information.

2 But I just wanted to alert the Board to the
3 fact that additional information, mostly small changes, have
4 been recently submitted. And I will endeavor to bring that
5 to the attention of the Board and to the intervenors, since
6 we didn't have an opportunity to discuss this as we go along.
7 And perhaps that will result in the elimination of a few
8 of the sub-parts.

9 But I'm not for a minute asking that the Board
10 defer a ruling on these emergency plan contingents.

11 MS. FERKIN: Mr. Chairman, may I ask counsel
12 for Applicant just a quick question?

13 JUDGE BRENNER: Yes.

14 MS. FERKIN: This additional information you
15 referred to, Revision 6 --

16 MR. WETTERHAHN: Yes.

17 MS. FERKIN: -- has that been submitted to PEMA?

18 MR. WETTERHAHN: It has been sent to all the
19 parties. I believe it has been sent to PEMA, as part of
20 the service list.

21 MS. FERKIN: Thank you.

22 JUDGE BRENNER: The Board has a lot of opportunity
23 to study the so-called on-site emergency planning contentions,
24 and the pleadings by the party; that is, the Applicant's
25 Answer, the Staff's Answer, and LEA's Reply to the Answer.

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1 Indeed, were we not here for other business, we
2 might have been prepared to rule on most of them without
3 the need for a prehearing conference. There are some that
4 we think some clarification to us would be useful.

5 The Applicant finds none of the contentions ad-
6 missible. It is our view that these contingents are good
7 examples in general -- I'm speaking generally now -- now
8 in general are quite well pleaded contentions. They conform
9 to our advice, shall we say, that where possible and feasible
10 and reasonable the contentions should cite the particular
11 portions of the plan about which inadequacies are contended,
12 and also the particular requirements which LEA believes are
13 not met.

14 And that is done. We think, in general, we
15 understand the issues being contended in each of these. Much
16 of the Applicant's lengthy response is a discussion of the
17 merits, well beyond any possible color of a claim that
18 there is no basis for the contention. Again, I'm speaking
19 generally. There are some particular exceptions.

20 I also want to remind the parties that when we
21 call these on-site contentions, that is a shorthand. And
22 what we really are addressing are all contentions that would
23 be within the scope of 10 CFR Section 50.47(d); that is, the
24 aspects of emergency plans which have to be examined prior
25 to any possible fuel loading or low power operation.

st 5-9

1 I know the parties understand that. In fact,
2 you can tell from the contingents that LEA understands.
3 Indeed, there are one or two contentions, or parts thereof,
4 that may relate to matters that could be deferred until the
5 off-site stage. But I'm not sure I will ask about those
6 unless we get to them.

7 And I make a general comment, because we are
8 prepared to admit most of these contentions. And we have
9 been through the arguments. I will make my speech at the
10 end about organization, which all parties have heard before.
11 It applies to some of these contentions also.

12 Similar subject matters are raised in different
13 sub-parts of different contingents. And we think through
14 the discovery process LEA can reorganize those. So, that
15 is a preparation for litigation. Similar subject matters
16 will be litigated together. And it might even resolve
17 the elimination by combination of some of the contingents,
18 or sub-parts.

19 We don't have any questions on Roman VIII-1. And
20 we are going to pause because if there are things that have
21 occurred that we should know about from any party since the
22 filing of your written positions, you can inform us of that.
23 Anything on VIII-1?

24 This is Roman VIII-1. All right. That one is
25 admitted.

st 5-10

1 With respect to VIII-2, LEA in its response has
2 deleted some of the contentions, and I want to -- I guess
3 I will ask LEA to go through those again for me. I have
4 some notes on them. And inform us whether anything else
5 has chanced since the LEA reply.

6 MS. DORSEY: No. As far as I know, nothing has
7 changed in this contention since this reply.

8 JUDGE BRENNER: All right. Could you list the
9 portions which you have deleted for the record here?

10 MR. ELLIOTT: I think 3b is deleted. That is
11 3b. The actual contention is sub-part --

12 JUDGE BRENNER: I'm sorry, Mr. Elliott, I'm having
13 a little trouble hearing you.

14 MR. ELLIOTT: The contention b-1, the reference
15 to example initiating condition 3b is deleted. In sub-2,
16 example initiating conditions 4, 8, 9, 12, and 14 and 20
17 are deleted.

18 JUDGE BRENNER: So, actually that whole first
19 sentence in b-2 is deleted, correct?

20 MR. ELLIOTT: Well, 16, 17-b, 18-a, b, c, e are
21 still in, I believe. And 10. Right.

22 JUDGE BRENNER: I'm sorry. I was reading from
23 your reply rather than the original contention.

24 All right. Proceed.

25 MR. ELLIOTT: In sub-b-3, 1, 2, 10 and 12 are

st 5-11
1 deleted. I think that's the only --

2 JUDGE BRENNER: All right. Those are the only
3 ones I have noted also. All right. With those deletions,
4 we are prepared to admit this contention.

5 And any party should attract my attention if
6 there is information since the written pleadings that you
7 want to tell us about that you think bears on the admissibility
8 of that contention.

9 We don't have any questions on VIII-3. That
10 contingent is admitted.

11 On VIII-4, I wanted to check the status. LEA,
12 in its reply, was looking into the aspect of whether the
13 general emergency is a criteria.

14 MS. DORSEY: I'm not clear what your question is.
15 I'm sorry.

16 JUDGE BRENNER: The contention -- I'm paraphrasing
17 now is that there was a failure to specify in the plan the
18 criteria for when direct recommendation should be made. And
19 the Answer of either the Applicant or the Staff, I forget
20 which, or maybe both, stated that the criteria is spelled
21 out; it's only in the event of a general emergency. And
22 that there are criteria for general emergency.

23 And in your reply I thought -- maybe I'm incorrect --
24 that you said you would look into it.

25 MR. DORSEY: Well, what -- they, in fact, did

st 5-12

1 answer and correct it in one of the Answers to the Staff
2 questions. But the plan itself has not been changed.

3 So, on the assumption that the plan will be
4 changed to reflect the Answer, then it can be dropped. It
5 has not been changed yet.

6 JUDGE BRENNER: Mr. Wetterhahn, what is the
7 status of that?

8 MR. WETTERHAHN: I would assume that would be one
9 of the changes made to the physical plan. It's correct,
10 that appears in one of the Answers to the questions.
11 It will be changed in the next amendment, in December.

12 JUDGE BRENNER: All right. We will leave it
13 at -- we will not admit this contention, without prejudice
14 to LEA coming back and demonstrating that what the Applicant
15 said it was going to do is not in fact done. And, of course,
16 when the plan is amended we expect a cover pleading from
17 Applicant or a copy of some correspondence to LEA pointing
18 that particular portion out.

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JUDGE BRENNER: Roman VIII-5, that contention
2 appears admissible to us. One question we have is whether
3 it needs to be litigated as part of the low power aspect
4 of the proceeding, or whether it could be deferred to full
5 power. And I recognize that is not an easy question as
6 applied to certain contentions.

7 It the parties are unsure at this point -- well,
8 I guess I would like to hear whether the parties are sure
9 or unsure.

10 MR. WETTERHAHN: I would like to review the
11 criterion contained in the regulations and submit our
12 response in a written manner. I am not prepared to
13 address this specifically against the criteria for low
14 power operation at this time.

15 JUDGE BRENNER: Let's do it this way. In terms
16 of meeting the admissibility requirements for contentions
17 in the proceeding, without regard to which phase of the
18 proceeding it need be litigated in, we will admit the
19 contention as pleaded. We will leave it up to the parties
20 at future time to advise us, presumably after discovery,
21 as to whether this contention need be litigated in the
22 low power phase, and if there is a difference of opinion
23 we will decide the difference.

24 But for now it is admitted, and open for discovery
25 as any other contention.

gw 6-2

1 The judgment consideration is this, in case you
2 have further negotiating discussions of this during or
3 after discovery. It clearly relates, or apparently relates
4 to the Applicant's plan. However, it is an aspect of the
5 Applicant's plan that may only come into play once the
6 off-site plans are developed. And, in fact, the decision
7 as to which phase of the proceeding to litigate it in,
8 if it need be litigated after discovery, may be just the
9 practical one of whether the information is available
10 so litigation can proceed. So it is not a very complicated
11 legal question so much as a practical question at this
12 stage. I think. You may apprise us of why those
13 preliminary observations are not right.

14 Putting together the answers in LEA's reply
15 on contention VIII-6, we believe an update is in order
16 as to what has occurred, if anything, on this contention.
17 There was a debate, or at least a suggestion I think by
18 the Applicant in its pleading that maybe there was just
19 a semantic difference, particularly with respect to sub-
20 part C, and LEA, at least in its written pleading, said no,
21 it is a real difference, and I have the impression that
22 further discussion was going to take place. Maybe that
23 was wrong.

24 MR. WETTERHAHN: Further discussion has not
25 taken place, sir.

gw 6-3

1 JUDGE BRENNER: All right. Well, we think it is
2 a real difference also, given LEA's reply. There is a
3 real difference of opinion between LEA and the Applicant,
4 and not just a semantic difference.

5 Ms. Dorsey or Mr. Elliott, I want you to clarify
6 with respect to sub-part A, talking about notice to
7 response organizations, given the phase of the proceeding
8 we are talking about, the Board is inferring you are talking
9 about the organizations that would augment the on-site
10 resources, and not off-site response organizations. Is
11 that right?

12 MS. DORSEY: Yes.

13 MR. WETTERHAHN: I lost track of that. Which
14 --

15 JUDGE BRENNER: Subsection VI-A, and it states,
16 response organizations, and I would add the phrase if
17 I can do some quick draftsmanship, response organizations
18 with responsibilities for on-site augmentation, or words
19 to that effect.

20 MR. VOGLER: Excuse me. How would that read.
21 VI-A.

22 JUDGE BRENNER: Probably poorly. But I will give
23 it a shot. The plan does not yet demonstrate that the
24 basis established for the Applicant's notification of
25 response organizations with responsibilities for on-site

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augmentation are mutually agreeable.

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I will just leave it like that and you have the thought. We are going to have an opportunity for voluntary rephrasing of these contentions after discovery, and if there is any need to patch up that language we can get it at that time.

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MR. WETTERHAHN: Let me try to understand the Board's intent. I wonder if someone could close the door, too. Off-site organizations which respond on-site are such things as fire companies and ambulance companies, and those are the only two I can name right away. There are other off-site organizations which may come to handle part of the off-site analysis, but I think the Board is limiting the ruling to organizations such as fire companies and ambulance services at this point in time, is that correct.

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JUDGE BRENNER: That is the type of organizations we had in mind. We are not limiting it to those two. Maybe there are others with on-site augmentation responsibilities. Ms. Dorsey, which ones did you have in mind?

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MS. DORSEY: Those are the two obvious ones, but I wouldn't want to limit it to them.

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MR. WETTERHAHN: Yes. But that is opposed to an organization that comes on-site to promote the off-site response. I just wanted to make that distinction clear.

gw 6-5 1

JUDGE BRENNER: Correct. That is our distinction, and that is our understanding in the contention, particularly given this phase of the proceeding. Is that right?

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4 MS. DORSEY: Yes.

5 JUDGE BRENNER: Okay. All right. With that
6 slight adjustment in language for sub-part A then, this
7 contention is admitted.

8 We are going to ask LEA, in consultation with
9 the parties when we are done, to refile the contentions
10 -- refile the admitted contentions as they have been
11 admitted. Now, maybe that in large part will just involve
12 cutting and pasting what you have already filed, but in
13 some cases you will have to adjust language and delete
14 some paragraphs and so on, and then we will be able to
15 refer to that pleading as a comprehensive listing of the
16 contentions for on-site emergency planning. But do it --
17 we won't set a time frame. Do it in the near future,
18 and do it in consultation with the Staff and Applicant
19 so there are no areas of miscommunication at least between
20 the parties in the case.

21 MS. DORSEY: Is that something you want filed
22 in the normal way with the whole service list, or is this
23 just something you need for your benefit.

24 JUDGE BRENNER: In the normal way of full service.

25 MS. DORSEY: Thank you.

MF VOLGER: In other words, it will be a pleading.

1 JUDGE BRENNER: Yes.

2 MR. VOLGER: Fine.

3 JUDGE BRENNER: But I don't care who puts it in the
4 mail, it is going to be in consultation with the three
5 parties I just indicated.

6 MR. WETTERHAHN: Mr. Chairman, with regard to
7 contention, VIII-7E, there is a change brought about by
8 revision VI, and that is on page 5-5, right before the
9 section beginning 5.2.1.3. The sentence prior to that
10 indicates which functions of the emergency -- interim
11 emergency director, or emergency director are not
12 delegable to other segments of the emergency organization.

13 JUDGE BRENNER: Well, did you discuss this with
14 LEA?

15 MS. DORSEY: Well, LEA has already responded
16 to that, and that is a change that had been indicated that
17 would be made, and we find it unacceptable. They are
18 delegating the -- it seems to me the things they should
19 not be delegating.

20 JUDGE BRENNER: All right. We saw that in your
21 reply, and that is the change you refer to?

22 MS. DORSEY: Yes, that is the same change.

23 JUDGE BRENNER: What is the status of sub-part B,
24 involving the travel time of the Peach Bottom Station
25 superintendent, since there was an indication that might

jw 6-7 1 be changing, and LEA, I think, said they would be looking
2 at it.

3 MR. WETTERHAHN: That is another item to be
4 included in the December submittal.

5 Can we delete subsection (b) for now, then, on
6 the same basis as we deleted Contention VIII-4? That is,
7 without prejudice to LEA, stating that what Applicant said
8 would be done was not in fact done, or is there more to it
9 than that?

10 MR. ELLIOTT: With respect to that, the matter
11 may not quite as simple as the other one. My understanding
12 of the Applicant's case is that they're going to change
13 that position to an individual who will be stationed at
14 Philadelphia headquarters, and if that is the case, then
15 LEA has the very similar problem with respect to travel
16 time from Philadelphia to the Limerick site.

17 (Pause.)

18 JUDGE BRENNER: Is that the change, Mr. Wetterhahn?

19 MR. WETTERHAHN: That individual fulfilling that
20 function does not go to Limerick. That individual goes
21 to the EOF, which is at Plymouth, which is much closer to
22 Philadelphia than Limerick.

23 JUDGE BRENNER: All right. Let's do it this way.
24 We'll leave subpart (b) out for now with the anticipation --
25 not the anticipation, with the requirement that we will

jw6-8

1 hear further from LEA as to whether the information -- the
2 change removes the concern or whether it in fact gives
3 rise to a similar concern which now has to be expressed
4 differently. Given the change, it will not be a late
5 contention if it comes in, because it's the same contention
6 that we have before us, as adjusted.

7 Now we may decide there's no basis for the next
8 contention, but we'll look at it. I won't set a particular
9 time frame, but let's hear reasonably promptly after you
10 receive the change from the Applicant, and then we'll get
11 responses to any filing, if responses are necessary on the
12 normal time frame.

13 (Pause.)

14 With respect to subpart (c) of the same
15 contention, in putting together the reply and the positions,
16 I wrote a note to myself that I'm not sure I fully recall
17 at this time, but I'll give you my note, and then you can
18 try to set me straight.

19 My note to myself is what's left of this subpart (c)
20 beyond the 30-minute augmentation dispute?

21 (Pause.)

22 And I key that to LEA's reply, because there were
23 things in the reply that LEA was going to look at, and
24 maybe LEA should tell me what the status is as applied to
25 subpart (c).

1 MR. VOLGER: Mr. Chairman, are you referring
2 VI now? Have you gone back?

3 JUDGE BRENNER: 7c. Roman --

4 MR. VOLGER: Thirty minute notification is VI-c.

5 JUDGE BRENNER: I was referring to the first
6 sentence of C-3 of contention VIII-7, and I guess I am
7 at the -- I guess I meant all of subpart 3 of c, thirty
8 and sixty minute augmentation.

9 MS. DORSEY: As far as we know, there are no
10 changes.

11 JUDGE BRENNER: No changes as to --

12 MS. DORSEY: No.

13 JUDGE BRENNER: Mr. Wetterhahn?

14 MR. WETTERHAHN: I thought our answer demonstrated
15 why there was no specificity considering the detail that
16 was then in the plan. I don't understand the reply
17 to add any additional specificity.

18 JUDGE BRENNER: Well, if you read the reply,
19 LEA assumed the inconsistency would be corrected in the
20 plan with respect to the use of two control room operators
21 and two assistants, and the question is: Is that right,
22 has that been done, or is it wrong, and it will not be done?

23 MR. WETTERHAHN: Philadelphia has more than
24 the minimum on shift complement. Yes, we don't augment
25 those individuals, at least from the thirty minutes of the

gjw 6-10 1

2 HP technicians, because there is one on shift. So that
3 is different than the ordinary plant that the on-shift
4 complement as indicated in the plan, and therefore, there
5 is no plan to augment it.

6 So, I am unclear whether c is stating that
7 the on-shift complement is inadequate, or what the
8 contention reads.

9 MS. DORSEY: I may be able to clarify that. In
10 those cases where you already had enough people on shift
11 such that at the point where you needed augmentation you
12 have the people you needed, we didn't put that in. This
13 is only directed towards inadequacies beyond that point.

14 JUDGE BRENNER: C-2 seems very simple to us.
15 Maybe deceptively so. The contention is that Table B-1
16 requires two health physics technicians to be on shift,
17 and the figure in the plan only shows one. I thought
18 from the answer that it was stated that that figure,
19 5-5 in the plan is incorrect, and in fact there ought
20 to be two.

21 And LEA said fine, if that is the case, then
22 change it. So my question is, has that been changed?

23 MS. DORSEY: Nothing has been changed.

24 JUDGE BRENNER: So we are back to Mr. Wetterhahn.

25 MR. WETTERHAHN: The answer is that change has not
yet been made.

gw 6-111

JUDGE BRENNER: It is going to be made?

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MR. WETTERHAHN: Yes.

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JUDGE BRENNER: There are going to be two health physics technicians on shift?

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MR. WETTERHAHN: The answer is yes, and it is already on Table I-1. Let's turn to that for a second. Appendix I-1, under HP technicians, it says minimum LGS on shift. It should be shifted upward about a quarter of an inch, but there is an indicator that there are two such individuals on shift, so it is indicated in the plan that there are two individuals on shift, and that will be reflected in figure 5-5.

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1 JUDGE BRENNER: All right.

2 Now, what about the other apparent inconsistency
3 with respect to that figure on that table -- same figure,
4 same table -- with respect to two control room operators and
5 two assistants?

6 See, I don't want to litigate typographical
7 errors. And I'm kind of annoyed that we're even spending
8 this much time with it on the record.

9 And that's what the parties were supposed to be
10 doing, talking to each other, before talking to us --
11 especially --

12 MS. DORSEY: Well, I think we --

13 JUDGE BRENNER: -- after the reply.

14 MS. DORSEY: -- we understand that there's a
15 typographical error there. It has not been corrected.
16 Apparently they intend to correct it.

17 JUDGE BRENNER: All right. If those errors are
18 corrected, then nothing remains of Parts 1 and 2 of
19 Subpart C, is that right, Ms. Dorsey?

20 MS. DORSEY: Right. That's correct.

21 JUDGE BRENNER: All right.

22 For the moment, we're not admitting Parts C-1
23 and C-2 of Contention VIII-7. And it will be the same
24 treatment as the others. It's without prejudice to LEA,
25 saying that the change was not made or the understanding they

1 had of what the change would be is not, in fact, what the
2 change was.

3 And of course the Applicant, when the change is
4 made -- and in this one, it looks like a real simple one --
5 we'll point out in a cover communication of some sort so
6 that everybody's attention is directed to change, with
7 reference to the contention which was deleted based on that
8 change.

9 Yes.

10 JUDGE COLE: With respect to C-1 and 2, what do
11 the words "on shift" mean?

12 MR. WETTERHAHN: There will -- there will be
13 coverage of that position 24 hours --

14 JUDGE COLE: Okay.

15 MR. WETTERHAHN: -- a day.

16 JUDGE COLE: So, when?

17 MR. WETTERHAHN: When the plant is running.

18 JUDGE COLE: Okay. Thank you.

19 That's what I thought --

20 MR. WETTERHAHN: As far as licensed operator, there's
21 at least one licensed operator there at all times.

22 Okay.

23 JUDGE BRENNER: Part 3 of Subsection C still
24 still remains in contention; is that right?

25 MS. DORSEY: Yes.

1 JUDGE BRENNER: All right.

2 Now, Part D of Contention VIII-7 is similar to
3 C-1 and C-2. It's purportedly a typographical error which
4 is going to be corrected, and we'll put it in that same
5 category -- that is, we're not going to admit subpart D at
6 this time without prejudice to being told the situation
7 turned out not to be what everybody thought it would be.

8 All right. With those exceptions -- that is,
9 C-1 and C-2 and Subpart D -- Contention VIII-7 is admitted
10 as its pleading -- has been pleaded.

11 Now, I'll draw everyone's attention to the fact
12 that the Commission's recent decision in the Three Mile
13 Island proceeding might affect the requirements applicable
14 to Subpart E with respect to the responsibilities of
15 emergency directors and the emergency coordinator.

16 But we'll wait for the merits.

17 I mention it so that the parties can keep it in
18 mind during discovery and fruitful negotiations.

19 (Pause.)

20 On Contention VIII-8, Subpart A seems like
21 something we shouldn't have to be burdened with litigation on
22 -- without regard, for the moment, as to whether it's
23 technically admissible or not. It's simply talking about
24 what records should be kept at the technical support center.
25 It doesn't seem to be a matter subject to much debate.

1 Am I misunderstanding the complexity of this most
2 serious issue?

3 Ms. Dorsey.

4 MS. DORSEY: I don't think so. We just find it
5 very confusing, about what is going to be where. And it
6 seems to us that it ought to be all in one place.

7 And it's difficult for us at this time to tell
8 exactly what's going to be where.

9 JUDGE BRENNER: Well, the --

10 MS. DORSEY: And there is apparently additional --

11 JUDGE BRENNER: I'm sorry.

12 MS. DORSEY: -- information coming, which we don't
13 have yet.

14 JUDGE BRENNER: Well, the Applicant's response
15 did attempt to describe it. And I know that LEA had a reply
16 to that response.

17 But why do you only talk to each other in
18 written pleadings? At least why did you stop talking after
19 the last written pleading?

20 And reading that exchange of pleadings, I would
21 have thought it could very quickly be cleared up.

22 MS. DORSEY: I guess it's just a matter of not
23 making the time to do it, considering that we were all then
24 getting involved in other things. We just haven't sat down
25 and discussed these again, and we should have.

1 JUDGE BRENNER: Well, you know the time you spend
2 now can redound to your benefit in time saved later, when
3 you're talking about litigation.

4 Litigation time is kind of precious resource,
5 and there are some issues that can only be resolved through
6 litigation. This is not one of them, we don't believe.

7 We're going to leave A out for now. And I don't
8 know what category to put it in. We're not ruling on
9 whether it's technically admissible or not. I guess we're
10 putting it in a category of we'll be shocked if it's not
11 readily settleable. And if there's some problem, you can
12 come -- come back to us.

13 And I won't preclude the fact that a problem may
14 arise. So, if a legitimate problem arises, no party should
15 feel that we are prohibiting further relief. It's just
16 given what we think the situation is, it should not be
17 necessary.

18 You've been nodding, Ms. Dorsey. I guess, as a
19 good lawyer, I should ask to --

20 MS. DORSEY: I'm sorry.

21 JUDGE BRENNER: -- nod your assent for the record.
22 Is that all right with LEA?

23 MS. DORSEY: Yes.

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1 JUDGE BRENNER: Could you give the Board a little
2 insight as to what LEA is looking for and the description
3 of the EOF and the TSC, the Technical Support Center or the
4 Operational Support Center.

5 MS. DORSEY: Well, there's almost nothing there.
6 So, anything would be helpful.

7 JUDGE BRENNER: Well, do you have reason to
8 believe that some particular essential functions are --
9 will not be accommodated given the design or equipment in
10 the facilities?

11 MS. DORSEY: I would make a broader statement.
12 And that is that it is our sense that this plan was put
13 together very hurriedly, with very little thought. And it's
14 not at all clear to us -- I mean, somebody may know what
15 each of these is going to be, but the plan doesn't reflect
16 that. It looks to us like it's a very hasty attempt to put
17 a plan together and that things have not really been thought
18 out.

19 I'm sure there's continued planning going on.

20 I think that applies to a lot of portions of the
21 plan and not just this one. It's a general concern that
22 somebody hasn't done their homework.

23 JUDGE BRENNER: Well, the Staff agreed with you,
24 at least to the extent that it would be admissible for now;
25 is that right?

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MR. VOGLER: Yes.

MR. WETTERHAHN: Mr. Chairman, I think I was a little hasty in agreeing to the fact that all of these contentions relate to on-site plans. And if I didn't reserve the right to at least argue in case a low-power license were necessary, that some of these functions need not be completed as part of the on-site planning.

I notice that the EOF, the Emergency Operations Facility, is included.

And while we would hope that we could get rid of this contention or litigate it early, that particular off-site facility is aimed at supporting the off-site response.

JUDGE BRENNER: I never understood you or any other party conceding that all these contentions related to the on-site category. And what I meant to say is, in essence, what you just stated --

MR. WETTERBAHN: Okay.

JUDGE BRENNER: -- even after admissibility, we could expect the parties to take a look at certain parts which may be -- legally need not considered in the on-site, low-power phase of emergency planning.

However, the judgment, as I also indicated, may turn on practicalities as much as anything else. If the issue is going to be litigated anyway and everyone is ready, why not go ahead and do it?

1 As to this particular one, I'm not ready to agree
2 or disagree that the EOF falls in one category or the other.
3 It may be some aspects of the EOF fall in one category and
4 certain other aspects of the EOF fall in other categories.

5 All right. With the exception of Subpart A,
6 Contention VIII-8 is admitted.

7 (Pause.)

8 Incidentally, this is one example -- and I won't
9 mention it each time -- still speaking about Contention VIII
10 -- of a contention which is really several different
11 contentions. That is, the subparts don't have an immediately
12 apparent relationship -- strong relationship to each other,
13 as distinguished to the relation between separate
14 contentions. These contentions will have to be reorganized
15 in order to have to be reorganized in order to have matters
16 in related subject areas and nonrelated subject areas -- in
17 whatever fashion is convenient. But we won't worry about
18 that until the end of discovery.

19 (Pause .)

20 Contention VIII-9, I'll make the general comment
21 that some of this contention may be off-site. For example,
22 the mobile teams being referred to in C -- the mobile
23 medical support facilities. But it depends on what aspect
24 is being talked about. Is it the aspect going to -- out to
25 the public? Or are we talking about medical support for

1 on-site personnel?

2 But I'll just leave that thought for now.

3 Is there any change in the status of the subject
4 of Subpart B with respect to communications between the EOF
5 and the Radiological Monitoring Team assembly area?

6 MR. WETTERHAHN: While we believe that the
7 present plan adequately describes the function and where
8 this team would assemble, we are -- we have discussed this
9 with LEA, and it's easier to fix the description and put it
10 in one place than to argue about it.

11 I don't know if the Board wants to leave it in
12 until the December filing or take it out, with the proviso
13 that it would be inserted in case the agreed-upon change
14 would not be made.

15 JUDGE BRENNER: Well, if LEA agrees that it's just
16 a relatively simple matter, as the others, we'd like to treat
17 it as we did the others and leave it out for now --

18 MS. DORSEY: That's fine.

19 JUDGE BRENNER: -- without prejudice.

20 That's all right?

21 MS. DORSEY: Uh-huh.

22 JUDGE BRENNER: With respect to (d), LEA's reply
23 is "well, we looked at the details in the Applicant's response
24 and we'd like to see it in the plan."

25 I infer that if -- from LEA, that if all those

1 details are actually put in the plan that it will be
2 satisfied with respect to Subpart (d)?

3 MS. DORSEY: Yes.

4 JUDGE BRENNER: Mr. Wetterhahn, what's the status
5 of that?

6 MR. WETTERHAHN: Again, the clarification will be
7 in December.

8 I might state that the communications system has
9 also been augmented, and that will also be described in
10 December.

11 JUDGE BRENNER: All right. Let's put (d) in the
12 same category, then, of not admitting at this time.

13 Now, your last comment also relates to Subpart (c),
14 I believe, Mr. Wetterhahn.

15 MR. WETTERHAHN: Yes.

16 That's --

17 JUDGE BRENNER: Ms. Dorsey, can we treat (c) the
18 same way?

19 MS. DORSEY: Yes.

20 JUDGE BRENNER: I guess I already did that.

21 MS. DORSEY: We did that one.

22 JUDGE BRENNER: I'm sorry.

23 (Pause.)

24 So, we have (b), (c), and (d) in the same class.

25 And that leaves only (a), which we would admit.

1 So, Contention VIII-9 -- Part (a) is the only part
2 being admitted.

3 (Pause.)

4 Contention VIII-10, Subpart (a) -- LEA complains
5 about the inadequate description of services to be provided
6 in the letters of agreement with agencies providing local
7 support services.

8 Applicant has referenced examples of such letters
9 of agreement in the plan as it existed at the time of
10 Applicant's answer.

11 I guess we'd like to know what type of information
12 LEA still believes should be in the letters of agreement.

13 MS. DORSEY: Well, the letters, to us, don't
14 indicate that these off-site agencies really know what's
15 going to be expected of them. They look like very
16 superficial agreements. And we're not at all convinced that,
17 for instance, the fire companies and the ambulance services
18 and so on really know what they're getting into, who has what
19 responsibility, what happens if they don't show up, and so
20 on.

21 And I think the regulation itself at least puts
22 out the minimum requirements that have to be met in the
23 letters, as we indicated. And it's just not there.

24 I mean, most of these letters are -- are less than
25 a half a page long.

1 And they'll simply say, you know, we'll show up
2 if and when the time comes. I just don't think that these
3 folks know what they're getting themselves into.

4 JUDGE BRENNER: Again, for (a) of this contention
5 -- the question I asked you about another contention -- are
6 you talking here about the augmentation of on-site resources?

7 MS. DORSEY: Yes.

8 JUDGE BRENNER: Mr. Wetterhahn, did you want to
9 respond?

10 MR. WETTERHAHN: Yes, I did.

11 I think letters of agreement are just that. They
12 don't reflect the totality of the discussions, negotiation
13 and other aspects of assuring that response organizations
14 are sufficiently trained to perform the function that is
15 required in the emergency plan. That is a function of
16 training which is required by 50.47 -- 50.47 and the guidance
17 of 0654.

18 So, I think your LEA is putting too much emphasis
19 on a letter of agreement that demonstrates that are willing
20 to perform a function under the emergency plan. I think that
21 agreement is sufficient under the Commission's rules, as
22 augmented by training and response to exercises in drills.

23 MR. MORRIS: Would there be implementing procedures
24 under those agreements, Mr. Wetterhahn?

25 MR. WETTERHAHN: Yes, there will be implementing

1 procedures, as well as a specific -- and training program
2 on a periodic basis.

3 MR. MORRIS: Would the procedures define the
4 responsibilities, requirements, the performance that would
5 be expected?

6 MR. WETTERHAHN: Yes -- as any procedure would,
7 yes.

8 MR. MORRIS: And these are not yet available; is
9 that correct?

10 MR. WETTERHAHN: I am told that the procedures
11 will be available at the end of this year.

12 MR. MORRIS: Thank you.

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14 end 7a
15 7b fls
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1 JUDGE BRENNER: Ms. Dorsey, I agree with Mr.
2 Wetterhahn, that a letter of agreement is not the place to
3 spell out what subpart (a) of this contention is apparently
4 seeking.

5 Don't you have other particular contentions
6 which relate to the augmentation of onsite resources where
7 you have concerns as to the abilities of those resources
8 to perform what is required of them?

9 MS. DORSEY: We do, but I believe that those
10 are largely related to either equipment deficiencies, that
11 kind of -- other responsibilities, that kind of thing.

12 The letters, as I said, I don't know whether
13 the Board has had a chance to look at those, but they don't
14 include what the regulation specifically requires that they
15 include. I don't want implementing procedures in here, I
16 don't want the training laid out and all that kind of thing.
17 That is not what we are asking for.

18 I want to make sure that these organizations
19 understand what their responsibilities are, and that they
20 have agreed to those, and I think the letter of agreement
21 is required to reflect that, according to the regulation.

22 (Board conferring.)

23 JUDGE BRENNER: We're going to admit the contention
24 as pleaded. It may be that the evidence will show that
25 these organizations have made the commitment with full

1 knowledge of what their commitment is, and the commitment
2 as required by the regulation is spelled out in some other
3 appropriate form in the nature of an agreement, if not
4 the same letter of agreement. But we'll leave that for the
5 merits.

6 But the gravamen of LEA's complaint is not just
7 that the responsibilities of these organizations be spelled
8 out somewhere in the plan, but rather that the organizations
9 are indeed committed, and with the understanding of what
10 the responsibilities are. That has to come in some fashion
11 from the organizations.

12 It doesn't mean as a matter of form it has to be
13 in the same type of letter agreement, necessarily, but we
14 will wait for the proof to decide that.

15 I said all that so that the parties will get to
16 the real issue here, and not craft their testimony geared
17 to only technicalities of whether the commitment
18 technically labeled letter of agreement need have this
19 information or not. We have agree that it need not, but
20 that won't end the matter.

21 We, of course, noted in the exchange of pleadings
22 the mistake with respect to understanding what the initials
23 RMC stand for, and we don't have to discuss it. That's one
24 reason the contention, as to that part, subpart (b) is
25 admitted. It relates to, in this case, the Radiation

1 Medicine Center of the Hospital of the University of
2 Pennsylvania, and not the other RMC organization.

3 On VIII-11, has that status changed with
4 respect to plans for modifying the emergency plan for
5 back-ups to the Winfield Fire Company?

6 MS. DORSEY: Nothing has been added to the plan
7 yet, although Applicant says they intended to add something.
8 We have not seen it.

9 JUDGE BRENNER: Does LEA know specifically what
10 the plans contemplate, even though they have not been changed
11 yet?

12 MS. DORSEY: No, we do not. We have not been
13 told anything about it except what you see here.

14 JUDGE BRENNER: All right, it is admitted as
15 pleaded, and it may be that prior discussion will have
16 eliminated the need to admit it at this time, but that did
17 not take place. This matter does not appear to be as simple
18 as the others; that is, it is not just a ministerial act
19 of making a change where we all have knowledge of what the
20 change will be.

21 Now after the change is made, the parties are
22 free to decide if the contention is satisfied or narrowed,
23 but we'll leave that for the discovery negotiation process.

end Take 7

Sue ls.

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st 8-1

1 JUDGE BRENNER: I will note briefly with respect
2 to contention VIII-12, sub-part A is really two separate
3 items. One involves the question of the number of people
4 that may be affected, and the other is the hospital's proximity
5 to the EPZ.

6 In addition, there are other sub-parts of other
7 contentions that this may be related to; in fact, is related
8 to. I guess one example might be contention VIII-10, part B.
9 It's a candidate for reorganization. The contention is.

10 We've looked at it. We understand the applicable
11 Commission rulings with respect to plans for contaminated
12 injured individuals, contemplating not more than twenty-five
13 individuals. But LEA's reply points out, that limit does
14 not moot the contention. And, of course, the contention will
15 be litigated with that applicable requirement in mind.

16 And we are prepared to admit the contention as
17 pleaded.

18 I should add for sub-part b of that contention,
19 VIII-12, it refers to victims of radiological accidents. We
20 are talking about contaminated injured there, not general
21 public radiation exposure.

22 MS. DORSEY: I understand that, yes.

23 JUDGE BRENNER: Let me ask a general question.
24 Has anything changed on this one with respect to information
25 in the plan, or can these sub-parts be deleted pending.

st 8-2

1 modification of the plan?

2 MS. DORSEY: We know of nothing that has been
3 changed.

4 JUDGE BRENNER: What about -- wasn't LEA going
5 to check on whether the contacts with those other states
6 would be through PEMA, or let me change the question.
7 Applicant asserted that -- and I don't remember if you
8 reacted to that in your filing. If not, do you have a
9 reaction now?

10 MS. DORSEY: I don't. Off the top of my head, I
11 don't. I don't remember saying that I was going to do that.

12 MR. WETTERHAHN: Mr. Chairman, can I suggest that
13 since the State, the Commonwealth, is here that we determine
14 whether that's in their contemplation, that they would
15 contact other states.

16 JUDGE BRENNER: The sub-part of the contention I
17 am talking about is sub-part c which alleges that the plan
18 does not identify the specific assistance from Maryland,
19 New Jersey, Delaware and the nuclear industry. And with
20 respect to the other states, it's kind of a vague contention.

21 I'm not sure why the Applicant should directly
22 be worried about it. I don't know what you are looking for.

23 MS. DORSEY: It's not a question of who contacts
24 whom. It's a question of the plan indicating that they
25 expect resources from these places but giving absolutely no

st 8-3

1 indication of what resources they are going to expect to be
2 able to depend on. To simply say that we will be able to
3 get resources from these places.

4 JUDGE BRENNER: I see.

5 MS. DORSEY: I'm not concerned about who contacts
6 them to get the resources. I'm concerned about what re-
7 sources they are expecting are going to be available, and
8 has somebody agreed to that.

9 JUDGE BRENNER: All right.

10 MR. WETTERHAHN: There seems to be some confusion,
11 Mr. Chairman. The Applicant does not expect any state other
12 than Pennsylvania to assist it in its on-site activities.
13 If there is any confusion, let me clarify that this certainly
14 is part of the off-site plan. I didn't know it could be
15 confused.

16 But it's the intent that for any assistance by
17 a state other than the Commonwealth, it would go through the
18 Commonwealth.

19 JUDGE BRENNER: It was difficult for the Board to
20 understand what assistance, at least on-site assistance, would
21 be planned for from these other three states. And we didn't
22 understand the basis for the contention. You have explained --
23 LEA has explained why they put it in there.

24 But we still don't understand the substantive
25 basis. We are prepared not to admit it on the basis that there

st 8-4

1 is no contemplation of any assistance by these other states.
2 And the adequacy or the inadequacy of the on-site plan will
3 be tested by the Staff's review and by our litigation of
4 the contingents that are admitted.

5 MS. DORSEY: Well, the plan says that support is
6 contemplated but it doesn't say what support. And I don't
7 know whether it's on-site or off-site or what it is. It's
8 a simple statement that they expect support from these
9 states, that they expect support from a list of nuclear
10 related industries, but no indication of whether that support
11 is something critical to the plan. We can't tell.

12 Maybe the whole sentence could be taken out. Then,
13 we wouldn't expect that they are going to depend on it.

14 JUDGE BRENNER: Well, as to the other three
15 states we are reading it out from the on-site portion based
16 on the statement of Applicant's counsel here.

17 What about what LEA says is just a bare reference
18 to support from the nuclear industry, Mr. Wetterhahn?
19 That that's in the plan but that doesn't tell anybody any-
20 thing.

21 MR. WETTERHAIN: There will be specific letters
22 of agreement. For example, the General Electric Company,
23 which I believe is required by the regulation. The General
24 Electric Company is the nuclear steam supplier for Limerick.
25 And this would be flushed out in a letter of agreement which

st 8-5

1 is expected to be filed in January.

2 JUDGE BRENNER: Well, is it just going to be an
3 agreement that they will help if you need help, or are there
4 going to be specific responsibilities or what, if you know?

5 MR. WETTERHAHN: There is a form letter which is
6 pretty standard. I'm trying to recall from another case
7 what it is, but it generally says we will assist you to the
8 extent you need assistance. I don't have that form letter
9 with me but it has been accepted in other cases.

10 It's hard to say now -- it's technical assistance
11 and in analyzing what its effect is and it's hard to define
12 what that technical assistance will be. So, it's a rather
13 general tone.

14 But that will be submitted in January.

15 JUDGE BRENNER: All right. We are not going to
16 admit any part of sub-part c. We don't see that as an
17 issue that is raised with any specificity for litigation.

18 The General Electric Company or other nuclear
19 resources will be committed for assistance. We are not going
20 to litigate now the extent to which that assistance should
21 be spelled out. Where there are particular complaints about
22 inadequacies and the Applicant's ability to deal with things,
23 it may become pertinent and then things would have to be
24 made more specific in the litigation before us.

25 But just as a general proposition, to tell us what

st 8-6

1 the rest of the nuclear industry is going to do for you in
2 the abstract is certainly not something we are going to
3 sit here and litigate.

4 All right. We will admit the other portions
5 of contention VIII-13, however. Although we have admitted
6 it, we have emphasized further discussion and negotiation
7 would be fruitful among the parties for all contingents.

8 We think this contingent should be subject to
9 settlement or narrowing at least once the facts can be
10 exchanged as part of the discovery process.

11 With respect to contention Roman VIII-14, LEA
12 was dropped sub-part b, as we understand it; is that correct?

13 MS. DORSEY: Yes.

14 MS. FERKIN: Excuse me. Was that sub-part b or d?

15 JUDGE BRENNER: B as in boy.

16 MS. DORSEY: Also, there has been a change. One
17 of the Revision 6 changes that Mr. Wetterhahn referred to was
18 for 14-j. That was corrected. I don't know whether it was
19 a typographical error or what it was, but that was corrected.
20 So that j can be dropped.

21 JUDGE BRENNER: All right. I would like to ask
22 LEA, does not sub-part a simply repeat contingents Roman
23 VIII-1 and Roman VIII-2 when those two contentions are
24 looked at in combination? What does sub-part a of
25 contention 14 add to it?

st 3-7

1 MS. DORSEY: It --

2 JUDGE BRENNER: I told you I wasn't going to
3 spend time reorganizing the contentions, but this one was
4 an obvious one.

5 MS. DORSEY: Well, it was -- I understand the
6 problem. It was difficult for us sometimes to decide where
7 to put things. We tried to group them in ways that made
8 sense but that didn't always work.

9 This does add something to those, in the sense
10 that there are just a whole lot of numbers that have not
11 been provided so you can't go any further with that, with
12 that table until you have those numbers.

13 MR. WETTERHAHN: Mr. Chairman, let me address
14 that. The bases for setting those numbers are contained
15 in the table, whether numbers 428 or 5200 I don't think makes
16 a difference. But the bases for setting Table 4.2 and those
17 numbers are included in the table.

18 I don't see the issue whether the numbers are
19 4 or 5. I don't see the validity of the issue.

20 JUDGE BRENNER: We are going to admit the contention
21 as pleaded with the exception of the two sub-parts just
22 deleted, sub-parts b and sub-part j. We expect that as
23 part of the reorganization the matters in sub-part a will
24 be combined together with the contentions in Roman VIII-1
25 and Roman VIII-2.

st 8-8

1 We understand your observation, Mr. Wetterhahn,
2 and that would become part of the proof on whether an
3 adequate spectrum of accidents has been described, and it
4 may be that we will agree that the absence or differences
5 in the values specified in that table are not material so
6 long as the method in which they are arrived at is described.
7 Maybe at that point the actual values will be straightened
8 out among the parties.

9 MS. DORSEY: Excuse me. I just wanted to say
10 the reason that this was put in here and not put in earlier
11 was because we tried to group these according to the 10CFR
12 reference. I mean, these all have to do with monitoring in
13 some respect and that's why they were grouped together this
14 way. I think it's going to be difficult for some of these,
15 to rearrange them, and still maintain the -- tying those
16 to the CFR requirements which you asked us to do.

17 JUDGE BRENNER: Yes. I realize that. And there
18 are many ways you can organize these contingents. No one
19 of them is perfect.

20 And I think we understand why you organized them
21 as you did, as tied to the requirements, which is what
22 we were looking for at the admissibility stage. But, now
23 you are going to get into the next phase of discovery and
24 organization for litigation or settlement or summary disposi-
25 tion or whatever. You want to organize them more along

st 8-9

1 subject matter of what experts would be available to
2 testify or what the subject area of cross-examination would
3 be, so that the issues that should be litigated together
4 are litigated together.

5 And that may cut across the 10 CFR requirements
6 but nevertheless would be the same area of expertise and would
7 go to the same ultimate substantive point.

8 MS. DORSEY: Does that mean that when we re-
9 arrange these we can leave the 10 CFR references out and just
10 state them rearranged that way, or do you want us to still
11 try to tie them?

12 JUDGE BRENNER: I think it would be good to still
13 try to tie them to the references. But you can organize
14 them along subject matter lines and have the -- the references
15 need not be sequential and may well be repeated.

16 Here again that's another area -- fertile area --
17 of discussion among the parties. Although in the end, of
18 course, it's up to the -- up to LEA as the proponent of the
19 contention to organize it as it sees fit. I shouldn't say
20 in the end. I meant among the parties. We may exercise a
21 prerogative at the end also.

22 But start thinking about it in a practical litiga-
23 tion sense now. Now being at the end of the discovery period.
24 We are not asking you to come back quickly. And something
25 you learn or don't learn on discovery may well influence your

st 8-10

1 organization.

2 All right, on VIII-15 as with respect to other
3 contingents we have discussed, LEA believes the plan needs
4 to be amended to incorporate the material in the Applicant's
5 response. I guess the Board would add that if it's imple-
6 menting procedures as distinguished from the plan I don't
7 know that that difference matters as long as it is spelled
8 out somewhere.

9 Has the situation changed on any of these?

10 MR. WETTERHAHN: No. The said evacuation will be
11 a set of procedures, particularly as to construction workers
12 during construction of Unit 2.

13 There is nothing additionally contemplated for the
14 plan at the present time.

15 JUDGE BRENNER: When are you going to have those
16 procedures out?

17 MR. WETTERHAHN: I'm again told the end of December.

18 MS. DORSEY: The reason LEA took a position on
19 the procedures versus the plan is that it was previously
20 the Applicant's position that we had no right to review what
21 was in implementing procedures. So, if everything goes in the
22 procedures, then we don't get to look at it.

23 And I think if these are matters that are related
24 to the requirements, right, I don't care as much where they
25 are as I do whether the information is available. But if

st 8-11

1 by putting it in procedures we don't get a chance to review
2 it, then I do care.

3 MR. WETTERHAHN: It is still Applicant's position
4 that the plan merely has to identify what has to be done, by
5 whom, and give sufficient detail, such that you can make a
6 finding that can be implemented. And I'm not prepared to
7 say right now that what is in the plan, on the merits, is
8 not acceptable under the Commission's regulations.

9 JUDGE BRENNER: We are not discussing that for the
10 moment. Don't you think this contention is settable, Mr.
11 Wetterhahn, if you put things in the procedures and --
12 LEA, you will have access to the procedures, don't worry about
13 that.

14 MR. WETTERHAHN: Certainly we could not deny them
15 access to a relevant procedure on discovery. And, yes, we
16 will attempt to settle this as we will all contentions which
17 are in that category.

18 JUDGE BRENNER: I haven't said it expressly, but
19 you have gotten the message. We don't think there was a
20 good faith attempt to settle these contentions prior to this
21 time. And we don't know where the fault lies. Maybe it
22 exists among all persons.

23 But, to say the least, Applicant's position on
24 the admissibility of the contentions was not thoughtfully
25 selected. And to the extent that influenced the lack of

st 8-12

1 negotiations, I think it has redounded to the Applicant's
2 disadvantage.

3 We are going to admit VIII-15 as pleaded. We
4 agree that it should be amenable to settlement, and we hope
5 it is settled. But for now it's an admitted contention.

6 MR. WETTERHAHN: I've been corrected. With
7 regard to on-site procedures, at least, the Commission's
8 regulations require that they be submitted to the Commission.
9 They are, therefore, public documents.

10 I just wanted to make that clear. I said something
11 which could be misunderstood as saying otherwise.

12 JUDGE BRENNER: Okay. I think your other correct
13 statements assumed the whole subject; that is, any procedures
14 that are relevant to any contentions are going to be available
15 to the parties in the case.

16 Is VIII-16 in the same general category, procedural
17 category, as VIII-15? That is, something on which discussions,
18 once the implementing procedures are out, should assist the
19 process, and we would admit it for now, and we are directing
20 the parties to hold discussions.

21 We won't tell you which contentions to look at.
22 We hope you, at appropriate points, discuss all these con-
23 tentions again. The appropriate point will be sooner with
24 respect to some contentions than others.

25 Some sub-parts of this contention may be redundant,

st 8-123

1 particularly sub-parts e and f. I make that observation
2 and stop there. I don't have the cross-reference as to
3 where I saw the redundancy. I noted it at the time and then
4 forgot to write it down.

5 All right. So VIII-16 is admitted.

6 Taking it out of sequence and looking at sub-part b
7 of VIII-17 first, is that still in contention? We have
8 looked at the written pleadings by the parties.

9 And LEA in its reply did not make any particular
10 response to the Answer of the Applicant, setting forth the
11 Applicant's views as to how it believes sub-part b is
12 satisfied. And then we expected to see some comment on that
13 in LEA's reply. But we will ask you now.

14 MS. DORSEY: We just didn't feel that there was
15 very much there. And the Applicant indicated that they would
16 be adding extra information but that it wasn't required in
17 any case.

18 With some of these we just felt that additional
19 argument wasn't going to be useful. It was just a matter
20 of disagreement.

21 JUDGE BRENNER: Well, that's not quite the
22 Applicant's Answer. The Applicant referenced particular
23 sections in which they have a general reentry matrix. And
24 they say nothing more could be done now until you develop
25 specific reentry procedures, depending on the future

st 8-14

1 circumstance and when you need reentry procedures.

2 I didn't read the Applicant's response as saying
3 more information was going to be provided in the immediate
4 time frame. Maybe I should ask Mr. Wetterhahn.

5 MR. WETTERHAHN: That's still our position. This,
6 as opposed to other emergency functions which must be done
7 shortly after an emergency, we are talking about reentry into
8 a site which will be a recent decision made I'm sure with the
9 advice of the Commonwealth, the NRC and other people.

10 I fail to see what more could be added here and
11 what issue we are going to litigate. It's really dependent
12 on what the circumstances are following an accident.

13 JUDGE BRENNER: What about c. The Applicant states
14 that the information for periodically estimating the population
15 exposure will be in implementing procedures available shortly
16 before fuel load?

17 MR. WETTERHAHN: Well, I am now told that January
18 is the estimated date.

19 JUDGE BRENNER: LEA, can you help us and tell us
20 a little bit more of what you are looking for in this
21 contingent with respect to all the sub-parts, a, b and c?

22 MS. DORSEY: Well, the only thing I can add is
23 just my general concern that I raised previously, and that is
24 that these sections are so sparse that my sense is that it's
25 just boiler-plate language and nobody has really done anything

st 8-15

1 to put a plan together that there is anything behind. It's
2 just -- we can read to you the sections that have been
3 referenced. There is just not very much there.

4 JUDGE BRENNER: Yes. I understand that position
5 by LEA but have you considered that given the nature of the
6 subject matter, sparse information might be more appropriate
7 here as distinguished from some of the other contingents we
8 have discussed?

9 MS. DORSEY: I haven't given a lot of thought to
10 that, no. I must admit.

11 MR. ELLIOTT: Among the things that perhaps would
12 be helpful would be -- all I have here on the page that I
13 have on the plan -- and what I have is Revision 2 so maybe
14 if there has been a subsequent revision dealing with Section
15 6411(g) that I don't have, maybe there is more information
16 there, but what I do have doesn't even designate the people
17 who would be responsible for making the decisions, doesn't
18 indicate the nature of the inquiry that will be made.

19 All we have is a general statement that it's a
20 deliberate process involving no unnecessary radiation exposure.
21 Well, that much is obvious.

22 But the two paragraphs here don't provide any
23 information.

24 JUDGE BRENNER: All right. So as to b and c, at
25 least, you think the two are not even sufficient as the general

st 8-16

1 criteria required by the emergency planning regulations for
2 recovery and reentry.

3 MR. ELLIOTT: Exactly.

4 JUDGE BRENNER: But do you recognize that if we
5 litigated this issue the level of detail required is much
6 sparser than that for other issues?

7 MR. ELLIOTT: Yes. We understand that one cannot
8 provide exact detail in that situation because all the
9 variables can't be contemplated in advance. We understand
10 that.

11 But we don't think it meets the planning standard.

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jw 9-1 1

JUDGE BRENNER: All right. We are going to admit the contention as pleaded. If we were rewriting it, which we will not do, we would emphasize that what is material for litigation here is meeting -- providing sufficient criteria for meeting the planning standard for recovery and reentry, emphasis on planning. And it is very early general planning at that.

Given that statement this is another one that should be fairly easy to settle, or at least to narrow on which particular aspect is still in dispute. But it is admitted for now. Well, it is admitted.

We don't have any comment on 18. We are prepared to admit it as pleaded. This is one where the discovery, however, may well limit the scope of the litigation. That is, we would expect the parties to use discovery and parties would be bound by their answers on discovery as to what still bothers them with respect to the emergency response training. Of course, it is fairly broad now, and we think appropriately so, given the basis and information available now.

But we expect that situation to change, and there are many, many tools available in the negotiation process, discovery, and so on.

8-19, subpart a is one I haven't seen before. If I have, I don't recall it, before in other proceedings

jw 9-2 1 I mean. It involves the allegation that the Applicant
2 does not provide proper training for those involved
3 in the planning, I am not talking about implementing
4 the emergency procedures as they may become necessary,
5 but rather devising what the emergency plan is, is that
6 correct?

7 MS. DORSEY: Yes.

8 JUDGE BRENNER: Yes. Why should I worry about
9 who put the plan together as opposed to more directly
10 litigating the particular aspects of the plan that are
11 being put into issue?

12 MS. DORSEY: Well, in terms of litigation that
13 may be the case. I think the concern is, again, the
14 broad issue, and maybe one of the reasons it is in the
15 shape it is in is who put it together. I don't know whether
16 that is the case or not.

17 The regulations do require some training planners
18 -- for planners so they know what is required.

19 JUDGE BRENNER: Well, if we fly in the
20 world's best planners, presumably you wouldn't want to
21 litigate just that issue and say you will rise and fall
22 on that, and not litigate all your substantive concerns
23 in the contention, correct?

24 MS. DORSEY: Correct.

25 JUDGE BRENNER: Conversely, we could find the
world's worst planners, and by sheer serendipity

jw 9-3 1

came up with a good plan as to certain areas, correct?

2

MS. DORSEY: Correct.

3

JUDGE BRENNER: It seems a little digressive

4

to litigate that.

5

MS. DORSEY: We may have been trying to be

6

too thorough.

7

JUDGE BRENNER: Too cute, I don't know.

8

All right. We don't think that is a litigable issue.

9

One that could be productively litigated, and be material

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to the decision that we must reach on whether or not the

11

emergency planning criteria is satisfied. So we would

12

delete a. B is different and more directly gets to

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one of your concerns, although related to the people

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responsible under the plan. In this case it is by the

15

annual review.

16

Now, we will admit it as pleading. The extent

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and detail necessary at this stage may be a matter for

18

debate on the merits. But I will admit the contention

19

as to subpart b as has been pleaded. So, VIII-19-b is

20

admitted, and a is rejected with prejudice.

21

All right. VIII-20 relates to emergency planning

22

exercises, and I wonder if LEA will let us know if there

23

has been any change from your reply. I have noticed that

24

LEA said they will take a look at whether there is new

25

information or whether the plans for new information,

gw 9-41

even if not formally amended in the plan, would satisfy you.

2

MS. DORSEY: As far as we know, there is nothing additional since the response.

3

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MR. WETTERHAHN: There is one item.

5

JUDGE BENNER: Ms. Dorsey, take a look at your reply for subpart a.

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MS. DORSEY: As far as I know, we have not received anything, and I don't know whether that requirement has been deleted or not. Maybe the Commonwealth can comment on that, whether they know.

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MS. FERKIN: You are referring to subpart a of the provisions for the timing of the exercises every six years. Okay. That may be included in PEMA's recently issued final regulations on emergency -- I don't have a copy with me.

12

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16

JUDGE BRENNER: The question is whether the requirement has been dropped.

17

18

19

MS. FERKIN: Right. I don't know whether FEMA has dropped this requirement.

20

JUDGE BRENNER: Does anybody know?

21

MR. WETTERHAHN: I believe the Staff stated that was no longer a requirement, if I read their --

22

23

MR. VOLGER: That is correct, and I am without other than the background. Other than that statement, I am without background. I did check this at the time I wrote it.

24

25

JUDGE BRENNER: Is there something I should look

gw 9-5

1 at that supports it?

2 MR. VOGLER: I will have to get back to you.

3 MS. DORSEY: Also, as Mr. Wetterhahn just pointed
4 out, c has been corrected in revision six, and I forgot
5 about that. So c can be dropped.

6 JUDGE BRENNER: Let me turn back to a. Mr. Vogler,
7 it is your recollection that it has been dropped?

8 MR. VOGLER: Yes.

9 JUDGE BRENNER: All right. Let's leave a out for
10 now, and get together with the parties and discuss it,
11 and if it turns out not to be the case or LEA disagrees
12 with your interpretation, I don't think it is that complicated.
13 A is out for now without prejudice. And c is deleted.
14 LEA knows it has been satisfied on c, correct?

15 MS. DORSEY: Yes.

16 JUDGE BRENNER: With respect to subpart f, is
17 LEA seeking the particular exercise scenarios that would
18 be used in the exercise? We don't understand why that
19 level of detail should be available in advance, let alone
20 need be available.

21 MR. ELLIOTT: I don't think we are looking for
22 the exact scenario. We are just looking for some assurance
23 that the criteria of 0654 are met, in the absence of
24 anything in the plan which suggests that those criteria
25 will be met, then the contention stays as worded.

gw 9-61

JUDGE BRENNER: Well, you are talking about the exercise that FEMA, or I guess to some extent PEMA, orders for those organizations to judge compliance with the plan. And I don't know what you would expect to see at this point what specific criteria you have in mind.

You know, presumably what those organizations would tell you now is they will devise an exercise sufficient in the view of those organizations for the plan, for the ability of the plan to be implemented to be examined.

MR. ELLIOTT: It was my understanding that scenarios would be submitted by the Applicant and by the State -- well, also by local emergency response organizations. That is wasn't necessarily a top to bottom direction. To the extent that PECO or other response organizations submit scenarios, to that extent those organizations should commit to meeting the requirements of 0654.

JUDGE BRENNER: The Staff did not object to the admissibility of that subpart. Maybe I am misunderstanding the situation. What does the Staff believe should be available in advance of the exercise that is not presently available?

MR. VOLGER: That is difficult to quantify. We agreed with LEA that there wasn't enough. As to how

gw 9-7 1

2 much you need, we felt that a little bit more information,
3 or sufficient information to get an indication as
4 to what is going to transire.

5 JUDGE BRENNER: What entity would supply that
6 additional information? Would it be PEMA, the Commonwealth
7 of Pennsylvania entity, or FEMA, or the Staff or the
8 Applicant.

9 MR. VOLGER: Yes. Primarily PEMA.

10 JUDGE BRENNER: Let me ask the Commonwealth.

11 MS. FERKIN: Yes. PEMA and PM PECO in conjunction
12 would submit a scenario forty-five to sixty days prior to
13 an exercise to FEMA.

14 JUDGE BRENNER: Isn't that scenario kept confidential?

15 MS. FERKIN: Yes, it is.

16 JUDGE BRENNER: Well, we are not talking about
17 the actual scenario here, as I understand LEA. We are
18 talking about something more. I don't know -- something
19 more than the criteria supplied. I don't think the Board
20 has a handle on what the Staff had in mind or what LEA
21 had in mind.

22 MS. DORSEY: Unfortunately these were written
23 a very long time ago. Sorry. We knew then what we
24 wanted.

25

CW 9-8 1

2 JUDGE BRENNER: Let me suggest this. I really
3 that disadvantage to all parties. We did not want to
4 defer a ruling on any contentions, but let's pull out this
5 little subpart, subpart f of contention VIII-20, and put
6 it in the category of -- it should be, we hope, settled.
7 But we will do that without prejudice on the basis of
8 timeliness or anything else, because we are not rejecting
9 the contention, of the parties coming back and stating
10 that certain information with respect to the plan for the
11 exercise scenario, but not the actual scenario, need be
12 supplied. And we expect some definition of what it is
13 you are talking about at that time, and what it is the
14 Staff has in mind, and at a minimum we would hope that
15 if the parties need come back to us with anything on this
16 subject, it would be coordinated with the Commonwealth and
17 the Staff and LEA.

18 So that we can understand what those organizations
19 believe should be supplied, and we just don't have a handle
20 on that one at this time. I don't want to rule
21 precipitously given that lack on our part.

22 MR. ELLIOTT: Mr. Chairman, I can provide a little
23 more detail if you want at this time, if that is helpful
24 to you or not.

25 JUDGE BRENNER: I don't think it is necessary
given the fact we are going to defer it and give you

gw 9-9 1

another shot at it, if you will.

2

Let us hear one way or the other -- well, if we don't hear from you it is out, but --

4

MR. ELLIOTT : Do we have a time period to work with?

5

6

JUDGE BRENNER: We will leave it fairly open. If somebody else starts to getting prejudiced by your silence -- but don't wait until the end of discovery for this one. You should be able to resolve it sooner rather than later.

10

11

MR. ELLIOTT: We will do it exeditiously.

12

13

JUDGE BRENNER: The reason I haven't set a time frame is you may find it convenient to discuss this one together with others, which we have actually admitted, but let you know that you should discuss those sooner rather than later too, so I don't want to set the priorities for you.

17

18

On this one in particular, we are sure the Commonwealth and their exertise would be a great help, along with the Staff.

20

21

We have completed our rulings on the on-site emergency planning contentions, and as requested will receive the -- well, we are going to admit VIII-20 with the exception of subparts a and c, which we are not admitting, and subpart f, which we will put in the

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gw 9-10 1

category of a deferral of ruling, if you will.

2

MS. DORSEY: I believe a was to be left out without prejudice, and c was being dropped, because it has been satisfied.

3

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JUDGE BRENNER: It is dropped, thank you. And a is not being admitted, again without prejudice, as with the others.

5

6

MS. DORSEY: Right. As I understand, we do not have to attempt to reorganize these for this next submission.

7

8

JUDGE BRENNER: That is right, just do it the way we are now, or we will all go crazy.

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MS. DORSEY: We just want them all in one place physically.

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1 JUDGE BRENNER: That's correct. Just do it the way
2 it is now, or it will drive us crazy.

3 MS. DORSEY: You just want them all in one
4 place, basically?

5 JUDGE BRENNER: Right. With the -- it would help
6 if you kept the subpart number in and indicated deleted
7 in brackets, and I think in one case where it had its
8 own language, if you underline the added language.

9 MS. DORSEY: Okay.

10 JUDGE BRENNER: Thank you.

11 As we said, you should do that in conjunction
12 with the other parties and give them that vast array of
13 resources. Since LEA is going to primarily be putting the
14 listing together, perhaps the other parties can assist in
15 providing some transcript references to where the
16 contention was actually discussed. Not as to each subpart,
17 but just as to the beginning of each main contention.

18 That way, if we ever have to go back and double-
19 check what occurred, we'd have that handy also. We'd
20 appreciate that.

21 We need to set a discovery schedule on
22 contentions I-41, I-42, and the onsite emergency planning
23 contentions which we have admitted.

24 Now we, last time, in our May 16th, 1983
25 order, we set a discovery schedule for other contentions and

1 we are inclined to follow the same scheme and format and
2 requirements, but not necessarily the same initial time.
3 And I might want to discuss that. The time frame back then
4 was 75 days for the last day for service of the discovery
5 request.

6 I think that is a little longer than necessary in
7 this case. We had more time then, and as a result could
8 accommodate everyone.

9 We would think that the discovery could be over
10 approximately by the end of the year on these, approximately,
11 and if we have that in mind, perhaps a period of a slight
12 adjustment from the 75-day period would help, down to 60
13 days.

14 Again, that is the last day for making requests.
15 There is still the lagging time after that for final
16 responses pursuant to exactly the same schedule as was
17 set forth in the May 16th, 1983 order.

18 That is our suggestion, and I will leave it as a
19 suggestion, and after lunch the parties can come back and
20 agree or disagree, but talk to each other first briefly.

21 All right, we'll take a break until 1:45.

22 (Whereupon, at 12:05 p.m., the hearing was
23 recessed, to reconvene at 1:45 p.m., this same
24 day.)

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AFTERNOON SESSION

(1:45 p.m.)

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3 JUDGE BRENNER: All right. We're back on the
4 record.

5 Have the parties agreed on a discovery schedule?

6 MR. WETTERHAHN: The parties, as far as all three
7 contentions, but particularly as for the Applicant with
8 regard to emergency planning, the parties think that they
9 would like to go back and find out the exact status of the
10 emergency plans as they are to be revised in December,
11 before a discovery schedule is agreed upon.

12 It may not be productive for the first round of
13 discovery to be -- we'll see -- we'll give you the answers
14 in December -- that would provoke a motion for extension of
15 time, a later point in time. And I really cannot, at this
16 time, give a specific starting date for the discovery.

17 So, we would propose to get back to the Board
18 within two weeks on a discovery schedule for all three of
19 the contentions. But we are thinking of a discovery on the
20 order of 70 to 75 days to permit a full -- at least two
21 rounds of discovery.

22 JUDGE BRENNER: From today? Or from the time you
23 come back?

24 MR. WETTERHAHN: From the time we come back.

25 We may be able to come back much earlier.

1 JUDGE BRENNER: As to Contentions I-41, I-42, and
2 the emergency planning contentions?

3 MR. WETTERHAHN: That's correct.

4 JUDGE BRENNER: All right.

5 And that will affect the possible times for start
6 of litigation and the possible times for prehearing
7 procedures, such as possible summary disposition procedures
8 and so on.

9 And remember, our message this time with respect
10 to the contentions coming up in December; I can tell you
11 that summary disposition does not have its desired effect
12 if it's received as close as two months before the possible
13 start of hearing, because then you do not get rulings before
14 testimony is filed.

15 And I suspect if we hadn't gone out of our way to
16 make the preliminary comments we made yesterday as to at
17 least one of the motions, it just would not have worked.

18 We may set a time for summary disposition motions,
19 if the parties wish to file them, of not closer than the
20 approximately 90 days before the state of our hearing.
21 We'll talk about that as we get closer to the end of
22 discovery, but bear that in mind.

23 In addition, when we hear arguments as to when
24 the hearing should start, recall what occurred today with
25 respect to the request that we defer starting the discovery

1 schedule on these issues.

2 But having said all that, we'll accede to the
3 joint request of all the parties.

4 So, if you agree on a discovery schedule -- and
5 the only thing to agree upon is -- as we see it, is the
6 starting period -- well, how many days for requests that you
7 would have, as set. The rest of the schedule would be in
8 conformity to what we've always set in this proceeding.

9 And the deferral now does not mean that discovery
10 is not open. It is as far as we are concerned, and parties
11 can go to it. But presumably you will talk to each other
12 and decide which subjects it is productive to proceed on
13 now and which subject it is not.

14 At the close of discovery -- and we don't know
15 when that will be yet. But once a schedule is agreed upon
16 and approved by us, we would, at that time, probably seek a
17 status report from the Staff as to what, if anything, is
18 still pending in the Staff's review that is pertinent to
19 these contentions:

20 I-41, I-42, and the on-site emergency planning
21 contentions.

22 So, the Staff now has an early opportunity to set
23 the priorities for its review on anything relevant to the
24 proceeding.

25 And you'd better get that message back to the

1 technical folks.

2 Just a look at what might occur -- and we're
3 speaking generally -- we understand the parties want to set
4 a particular schedule -- if you get back to us sometime
5 in November with a schedule that calls for discovery requests
6 to be permitted for 75 days, then you're -- at the end of
7 January, before discovery responses are completed. Actually
8 the beginning of February, you then need time for filing
9 the testimony, prehearing procedures and so on.

10 If there are summary disposition motions, we
11 wouldn't start the hearing before May or, more likely, even
12 after that.

13 If there are no such motions, it might be that
14 we'd be able to get started before that. But certainly
15 we're looking at a -- closer to an April time frame.
16 Originally, I guess, in our own mind, the Board had thought
17 we might be able to start prior to that time.

18 But that's the way we see it now, and we'll wait
19 to hear from the parties on that.

20 All right. I think we've completed with that
21 subject, unless somebody had something else.

22 (Pause.)

23 Mr. Romano is not here. It's not quite
24 2:00 o'clock, but it's awfully close.

25 Let's briefly discuss the time for the site visit

1 tomorrow.

2 We anticipated arriving at the site at
3 approximately 9:00 o'clock if that time suits the Applicant
4 and the other parties, primarily the Applicant.

5 JUDGE MORRIS: 9:00 o'clock is fine.

6 Again, I will repeat, for those here -- those
7 attending the site visit will meet at the Limerick Informa-
8 tion Center.

9 The Board expressed a preference for a general
10 site tour lasting two-and-a-half to three hours at the most.
11 And that's generally what we would do -- start out with,
12 subject to any particular aspects of the site the Board
13 would want to see.

14 JUDGE BRENNER: Yes. We didn't quite say it that
15 way, but the gist of it is close. But we said a general
16 site tour, lasting approximately two-and-a-half to three
17 hours. We did not say the "at most," because there may be
18 some areas that we will indicate during the site visit that
19 we want to spend more time looking at.

20 So, you can delete the "at most," but take that
21 as an approximation.

22 Let me state for the record I'm not sure how much
23 of the site visit I'm personally going to be on. I'm not
24 sure I'm going to be physically up to it tomorrow. I'm going
25 to try to attend, and I may avoid some of the crawling in and

1 out and bending through the plant, if necessary, but I may
2 look around the outside of the plant and the pipeline and the
3 simulator and perhaps to the control room.

4 I state that for the record, because it isn't
5 necessary for any of our findings in this case that I, as a
6 Board member, be present on any or all aspects of the site
7 visit.

8 If it later becomes material in my mind that
9 anything in litigation before us involves something I should
10 have looked at, but did not, I will then look at it at that
11 time.

12 JUDGE MORRIS: Judge Wetterhahn. It was my thought
13 that we could discuss initially, when we congregate at the
14 Information Center, the things which might of interest and
15 discuss the timing that it might take and then work out a --
16 sort of an itinerary at this time.

17 MR. WETTERHAHN: Okay, fine.

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end 10A

10B fls

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1 JUDGE BRENNER: Needless to say, I expect the
2 other parties who have expressed an interest in going on the
3 site visit in discussions with the Applicant will be informed
4 of the 9:00 o'clock meeting time for the site visit.

5 MR. WETTERHAHN: I have made no arrangements to
6 do so.

7 JUDGE BRENNER: We told all the other parties
8 that it was up to them to find out from the deliberations
9 today and we'll leave it that way. You're right.

10 Mr. Romano, we will turn to your issues now.

11 One of our questions yesterday with reference to
12 a letter to the Board of August 5th, 1983 was to ascertain
13 which inspection report you had in mind when in your motion
14 for reconsideration you state that the Board has overlooked
15 your allegation that there is in fact a presently existing
16 defect with respect to concrete in the containment wall.
17 And I told you that you had referenced IE Report No.
18 50-353 76/09 and we could find no such report.

19 Off the record here today, the Staff and the
20 Applicant informed us that there is no such report, so
21 the question is, did you mean 50-352 76/09?

22 MR. ROMANO: Slight typographical error. Yes.

23 JUDGE BRENNER: All right. Fine.

24 Now I have in front of me that report, that is
25 50-352 76/09, and either with reference to that report or

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1 anything else that you are using as a basis, what is it
2 that you are alleging as a presently existing defect in the
3 concrete, which allegation you state we overlooked in your
4 original contention when we ruled on it last time?

5 MR. ROMANO: Well, you realize that that is
6 another one of my examples in the pattern that I was showing,
7 and there are numerous contradictory situations in that
8 report.

9 JUDGE BRENNER: Let me ask my question again,
10 Mr. Romano.

11 We dealt with our view of the pattern allegation
12 in our original ruling on the contention. I understand you
13 don't like what we said, but as part of your motion for
14 reconsideration, you have stated that our view that AWPP
15 was not alleging any particular defect still existed in the
16 plant was incorrect, and you have cited this report.

17 So my question is, what particular defect are you
18 alleging still exists with respect to the concrete placement?

19 MR. ROMANO: Well, I believe the defect is that
20 they did not restore the integrity of that portion of the
21 drywell wall that the improperly mixed concrete and the
22 unconsolidated honeycombed concrete referred to.

23 For example, I want to see if I can find here
24 -- now because I don't have 10 secretaries, I am going to
25 be a little slow.

1 JUDGE BRENNER: Well, let me bring something else
2 to your attention and you can include it in your remarks.

3 You did not inform the Board that there was a
4 ruling, a Director's ruling, on your earlier request to the
5 Staff, which ruling is dated October 9th, 1979, denoted
6 DD -- for Director's Decision -- 79-16, reported at
7 10 NRC Page 609.

8 The Staff informed us of that today. You did not
9 inform us of it. We view that as an important omission
10 from your presentation.

11 MR. ROMANO: I didn't really get what you said.

12 JUDGE BRENNER: We've got a ruling in which it
13 is stated quite clearly at page 610 of that ruling --
14 Mr. Crockett is going to give you a copy, but of course
15 you received it back in 1979, it should have -- and it deals
16 with this issue. For some reason you did not bring that
17 prior ruling to our attention, and in dealing with the issue
18 at page 610 in the last sentence of the last full paragraph
19 on that page, it says -- it cites a later inspection report
20 No. 50-352 77-01 and states that in repairing the
21 containment wall, the defective concrete was removed, the
22 steel reinforcing and sound concrete were left in the area.

23 So you didn't tell us about that, and you'd
24 better include that as part of your explanation.

25 It looks like they took out the bad concrete, the

1 concrete with the voids and honeycombing, and replaced it
2 with sound concrete.

3 MR. ROMANO: Well, that's what they say. Now
4 we've had very recent evidence of statements and repeated
5 statements and repeated statements of something being
6 proper that turned out to be improper, and I am saying here
7 now on the basis of such a situation, we are questioning
8 the other things that have already been stated to be, you
9 know, all corrected.

10 And I would like to say, I want to find this
11 No. A first as it relates to the point --

12 JUDGE BRENNER: Can you tell me why you didn't
13 tell us about this Director's ruling?

14 MR. ROMANO: What's that?

15 JUDGE BRENNER: Why didn't you tell us about
16 the existence of this Director's ruling?

17 MR. ROMANO: Why didn't I tell you about the
18 decision --

19 JUDGE BRENNER: Yes.

20 MR. ROMANO: -- of the Director's ruling?

21 JUDGE BRENNER: Yes.

22 MR. ROMANO: Well, maybe I didn't quite appreciate
23 what it was at the time.

24 JUDGE BRENNER: Didn't you know it was a ruling
25 on the question you are presenting before us?

1 MR. ROMANO: Ruling on the question of --

2 JUDGE BRENNER: That you are presenting before us
3 now with respect to the allegation of improper concrete
4 placement in the containment stemming from that Inspection
5 Report 76-09?

6 MR. ROMANO: Are you saying that you ruled that
7 I can't discuss it?

8 JUDGE BRENNER: No. I asked you why you didn't
9 tell us about this ruling.

10 MR. ROMANO: Oh, boy. I'm just trying to develop
11 the situation that I'm contending, and that is that there
12 are many more possibilities --

13 MS. DORSEY: I don't think he understands your
14 question.

15 JUDGE BRENNER: I think he understands it. I
16 don't think he wants to answer it.

17 MR. ROMANO: I'll tell you what I think you're
18 saying, and my reaction to it is that I'm trying to develop
19 other instances -- and I think this is in the public
20 interest, and that's what I believe we're really here for --
21 that we do look into other examples of errors and whether
22 or not they were really corrected.

23 Now I don't know, I'm still not getting to your
24 point, in which case I would like to talk to Ms. Dorsey.

25 JUDGE BRENNER: All right. I understand that

1 is part of your larger complaint. However, in seeking recon-
2 sideration, you took issue with the Board stating that you
3 were not contending that there was any presently existing
4 defect in the plant. You took issue by saying, oh, yes,
5 there is, from Inspection Report 76-09, based on the improper
6 placement of the concrete, and that there is still to this
7 day a defect existing.

8 We now learn that the Staff has investigated
9 that, has performed follow-up inspection reports in response
10 to your complaint to the Staff back in 1979, and the Staff
11 at least believes that the improper concrete was removed
12 and replaced with proper concrete.

13 Given that, I'd like to know what in particular
14 you would point to as a basis for stating that that is
15 incorrect, that in fact the improper concrete work was not
16 removed at that location. We're talking about the incident
17 that you have pointed us to in Inspection Report 76-09.

18 MR. ROMANO: Well, I'm still contending that
19 insufficient proof exists that that was so.

20 JUDGE BRENNER: With respect to what in particular
21 do you say that?

22 MR. ROMANO: Removal of all bad concrete, because
23 one of the instances of admitted situations where there
24 were a number of truckloads of improperly mixed concrete
25 that went into that wall.

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1 Now, you know, what do we have to demonstrate that
2 we know exactly every truckload that went into that wall
3 that was defective? They found it out after a number of
4 truckloads had gone into the wall.

5 Now, then, you know, isn't this a point where
6 we say we would like to have proof that it was only six?

7 (Pause.)

8 JUDGE BRENNER: Have you read the other inspection
9 reports that were attached to this Director's Decision?

10 MR. ROMANO: I don't know. That was attached to
11 where? Between trying to get all this information and
12 working, I hope you'll excuse me for not being 100 percent.

13 JUDGE BRENNER: There are a series of inspection
14 reports that the Staff cites in which purportedly -- and I
15 have not read the reports, but -- all the reports. But
16 purportedly this matter was followed and the Staff has
17 agreed with the Applicant that the improper concrete was
18 removed.

19 MR. ROMANO: Well, I believe the Staff has
20 also agreed earlier that every weld, as was stated repeatedly,
21 was, you know, reinspected. But it turns out that it
22 wasn't so.

23 JUDGE BRENNER: So your basis for not believing
24 the Staff is you think they have been wrong about other things?

25 MR. ROMANO: No, I don't want to disbelieve the

1 Staff. I think they tried their best. However, in this
2 case, as a result of the Applicant's repeated statements,
3 absolute repetition of the facts, all welds were reinspected
4 -- now, then, I don't blame the Staff for reading that
5 after repeated times and feeling that it was so. But this
6 demonstration indicates that there is a possibility of
7 other instances of noncompliance.

8 We are not really totally, you know, taken care
9 of properly. And again, I say, this is a matter why we are
10 here in the safety situation.

11 MR. WETTERHAHN: Mr. Chairman?

12 JUDGE BRENNER: I'm not sure Mr. Romano is
13 finished. Did you finish, Mr. Romano?

14 MR. ROMANO: No. I really want to then demonstrate
15 a few cases where the --

16 JUDGE BRENNER: I want to stay with this case,
17 Mr. Romano.

18 MR. ROMANO: No, by cases I mean points related
19 to this.

20 JUDGE BRENNER: To the concrete placement?

21 MR. ROMANO: Yes.

22 JUDGE BRENNER: All right.

23 MR. ROMANO: Generally, in some of the discussion
24 of the voids, you see many times that it was only two
25 feet. Two-foot portions of concrete -- now this is a

1 six-foot wall, and it was described as generally being
2 somewhere in the vicinity of two feet where the voids were,
3 the honeycombing.

4 But then it is also stated later that it is
5 as much as 67 inches. And when you consider a 72-inch
6 wall where there are some honeycomb situations of 67
7 inches, there is a big question relative to the integrity
8 of that wall. And --

9 JUDGE BRENNER: Mr. Romano, excuse me. Are you
10 stating that that honeycomb still exists in the wall?

11 MR. ROMANO: I am stating that there is sufficient
12 evidence as it relates to safety and the pressures, the kind
13 of pressures that wall has to take, the wall being the
14 barrier between the reactor core and the public, that we
15 must, you know, re-look at it and be sure, instead of just
16 having someone say it was okay.

17 I want to continue that many points -- many points
18 that's perhaps added to my feeling, add to my feeling
19 regarding the concrete is something like they had made
20 various mistakes in this concrete situation, and you have
21 here on September 16th, 1976, the quality control inspection
22 reports of June 23rd, 24th, '76, concrete placement of
23 the containment drywell walls did not reflect (a) that
24 concrete was suspect for six truckloads of concrete --

25 JUDGE BRENNER: Whoa, whoa, whoa.

arl0b-10

1 MR. ROMANO: Why would they --

2 JUDGE BRENNER: Wait a minute. You're going a
3 little too fast for me to follow. What are you reading
4 from? Is that the inspection report you cited?

5 MR. ROMANO: I'm reading under 76-09-03.

6 JUDGE BRENNER: What is 03? You mean page 3?
7 I can't find the reference.

8 MR. ROMANO: Yes. Page 7, as it is in this grouping.

9 JUDGE BRENNER: All right. We have read that. I
10 have it right in front of me.

11 MR. ROMANO: Okay.

12 JUDGE BRENNER: What about it?

13 MR. ROMANO: Well, I'm saying that there is a
14 whole grouping of kinds of questionable operation reflecting
15 that the concrete ingredient proportions were suspect for
16 such loads of concrete and may not have been within
17 specifications. Why didn't they come out?

18 And then did not reflect that this situation
19 had been reviewed by appropriate personnel; did not reflect
20 that the concrete "use as is" decision was supported by
21 engineering rationale; did not reflect that this matter
22 was identified and reported in the control manner provided
23 by the nonconformance report system.

24 That is pretty many indications of sort of sloppy
25 work and lack of respect for the NRC regulations.

ar10b-11

1 JUDGE BRENNER: Mr. Romano, this is the violation
2 that was followed up on according to the Director's
3 Decision and the further inspection reports, and the
4 Staff -- we're not bound by that, but it certainly rebuts
5 your basis on the surface as to whether or not there presently
6 exists a defect in the concrete in that containment as a
7 result of this infraction. And you keep going back to citing
8 simply the original report and have not responded to my
9 question as to what your basis for disbelieving that in
10 fact the improper concrete was repaired, other than your
11 statement, well, you believe the Applicant and Staff have
12 been wrong about other things, particularly the welding
13 matter, and therefore you don't know if they're right about
14 this.

15 Does that summarize it?

16 MR. ROMANO: Well, that's right, I don't know
17 whether they are right about this, but tied in together
18 again, it's this same situation. You know, we have
19 descriptions of repairing the concrete where they chip and
20 bend rebar, reinforcing rods, and where is it stated the
21 manner in which they chipped and repaired the chips, and
22 corrected the bends in the reinforcing rods?

23 As you read the descriptions there, anyone, I
24 think -- if the average person would read some of the
25 descriptions of the kind of work that was supposed to have

ar10b-12

1 corrected some of these things which should not occur in the
2 first place, if they were following orders properly, the
3 average person would say, "I'm not going to trust it."

4 I'd like to bring up one more little point, if
5 it's all right, where they again claim that they did their
6 repair.

7 They cut four sections out of the steel liner
8 of the containment of the reactor core and that is the
9 inside face of this six-foot wall. They wanted to find out
10 whether or not the honeycombing went all the way through.

11 Now they picked three or four -- approximately
12 four square feet of that entire surface of that wall which
13 I feel wasn't enough. One of the times they picked -- did
14 it by hitting with a hammer, hitting with a hammer and
15 trying to listen to the sound, and the only place where
16 they thought they had a sound which may have been a place
17 where there could have been a void, wasn't one. The other
18 three seemingly were okay, which means that their manner of
19 testing was not valid and not conclusive, and so there
20 could have been other voids which were in other areas of
21 the steel shell where there was question.

22 So, again, I say -- I'm saying that the manner
23 in which they tested these things out, and then the
24 information which was supplied to the Staff was inadequate
25 and probably assumed to be adequate, which is not, I feel, a

arl0b-13

1 safe situation because of the grave possibilities of
2 something happening there.

end Take 10

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st 11-1

1 JUDGE BRENNER: All right. I understand your point.

2 MR. WETTERHAHN: Mr. Chairman, one note. This
3 item had come up during informal discovery, and we just note
4 for the record that in response to a September 3, 1982
5 request for informal discovery all the backup material
6 related to this incident was made available to Mr. Romano
7 for his inspection.

8 His data base, so to speak, is larger than merely
9 the inspection reports.

10 MR. ROMANO: I've got to say, I did not get all
11 the information I asked for.

12 JUDGE BRENNER: All right.

13 JUDGE MORRIS: Mr. Wetterhahn, changing the
14 subject to welding, welding procedures and welders, I'm
15 not sure that you are the one that could answer this question
16 at this time, but related to Mr. Romano's concern about
17 welding and welder qualification, there has been in the
18 press and in NRC reports lately a number of instances
19 cited where welds were defective, where inspectors fudged
20 the results of inspection, where welders were not properly
21 qualified.

22 In fact, in cases there were persons who took
23 the welder's examination in place of the person who was
24 supposed to be tested. And records for qualification were
25 improper. The question that I have is how, in the wake of

st 11-2

1 this -- and I'm sure Philadelphia Electric is at least as
2 aware of the situation as I am -- how does Philadelphia
3 Electric assure itself that welding, welder qualifications,
4 welding inspection, do meet, in fact, the intent of the
5 design and the welding codes and the other criteria for
6 the proper function of the equipment welded?

7 MR. WETTERHAHN: That's difficult for me to answer
8 other than generalities. But, of course, Philadelphia
9 Electric Company is aware of the issue of welder qualifica-
10 tion as an issue. And, while I'm not going to say their
11 record is completely unblemished on it, their record and
12 their focus on this has been good. Such that this area has
13 not been recognized as a problem at the Limerick station.

14 It's hard to distinguish between not finding it
15 and not looking hard enough. We could have someone describe
16 the welder qualification program and the program to assure
17 that a welder is qualified. The only part I can tell you
18 is that a welder does not get issued the well rod necessary
19 for making a well unless the person who issues that checks
20 and assures he is qualified for the well he is about to do.

21 There are many other checks and balances as far
22 as the well test shop. I am just not prepared to discuss
23 today -- we could provide information if you wish.

24 JUDGE MORRIS: I guess I'm looking for somewhere
25 along the line whether or not there is a contention admitted

st 11-3

1 here or not, some discussion of, in effect, what I would call
2 them, a management quality assurance program, to -- that
3 Philadelphia Electric promulgates to assure itself that the
4 proper level of confidence, that the welding is proper, that
5 the welders are qualified, really exists on the Limerick
6 plant.

7 MR. WETTERHAHN: Philadelphia Electric Company
8 does have the advantage of having constructed other nuclear
9 units. First Peach Bottom 1 and then the Peach Bottom Units
10 2 and 3, and recognizes the importance of welding in the
11 construction of a nuclear plant. And as a corporation is
12 aware of the requirements of the NRC as far as welding is
13 concerned.

14 Other than those generalizations it is difficult
15 for me to respond to your questions right now.

16 JUDGE MORRIS: I understand that. And I wasn't
17 expecting a complete response, but I did want to identify
18 something that the Board will be very much interested in
19 learning about.

20 MR. WETTERHAHN: I don't know whether the Board
21 wants to discuss this with the other parties present during
22 the site tour, as it views the facility, or the test shop,
23 but if the Board wants to consider that tomorrow perhaps we
24 could do that.

25 JUDGE MORRIS: I really don't believe that's a

st 11-4

1 proper environment to have a good discussion, but somewhere
2 down the line we will want to discuss that.

3 I would like now to turn to the Staff and ask
4 essentially the same question. How does the Staff assure
5 itself in the light of the recent experience and especially
6 I&E reports of failures of welding programs and failures of
7 proper qualification of welders, that the high level of
8 attention in this area is actually being given in the field,
9 particularly Limerick. Yes.

10 MS. HODGDON: I know that the Staff is aware of
11 the problem. And I don't know that -- I don't know that
12 there is any specific program to identify various things
13 that can lead to this problem or prevent them. But, of
14 course, that's what the whole QAQC program is about.

15 And whether it needs to be looked at, whether
16 there are methods of assuring quality that haven't been
17 thought about before, I really don't know specifically.
18 I know that it's being looked at. And that's about the
19 most that I can say, not that any conclusions have been
20 reached about what more could be done than is already being
21 done.

22 JUDGE MORRIS: Well, I would say the same thing
23 to you, Ms. Hodgdon, I wasn't expecting a detailed response
24 from you or at this time. But it is a subject that the
25 Board is interested in. And, of course, we are aware of

st 11-5

1 the normal I&E programs and the NRR reviews.

2 But what I'm trying to do is highlight this as
3 a special area of interest that we want to learn more about
4 and general understandings of the programs.

5 MS. HODCDON: Yes.

6 JUDGE MORRIS: Okay.

7 MS. HODCDON: We understand what your concern is,
8 and we will look into it and see what is being done.

9 JUDGE MORRIS: Thank you.

10 JUDGE BRENNER: Now, part of this is not just a
11 paper review. We have read Mr. Romano's October 2nd, 1983
12 letter to us and one thing he mentions there, although we
13 did not need Mr. Romano to bring it to our attention, but he
14 did and he is talking about in part the alleged use of
15 stand-ins for welder qualification tests at other facilities.

16 You are not citing any known instances with respect
17 to Limerick, as I understand it, Mr. Romano; is that correct?

18 MR. ROMANO: Well, it might be, because --

19 JUDGE BRENNER: Wait. Answer my question. I
20 understand you are not precluding it but you are not alleging
21 that you know of any instances at Limerick, are you?

22 MR. ROMANO: Well, I know a near related one, yes.

23 JUDGE BRENNER: All right. Tell me about that one.

24 MR. ROMANO: And that is that in spite of what
25 Mr. Wetterhahn said regarding the experience of Peach Bottom,

st 11-6

1 the Applicant disagreed at the time the inspector stated
2 that they had used wrong qualifications, wrongly qualified
3 welder and did that well at 7601, did improper welding.

4 They disagreed that that should be looked at by
5 the inspector. And there is a case where there was a
6 situation of a non-qualified inspector being used and
7 the Applicant saying that he did not do something wrong.

8 JUDGE BRENNER: Wait a minute. First you
9 mentioned Peach Bottom. Then you mentioned 7601. I don't
10 know what you are talking about.

11 MR. ROMANO: Well, I'm saying that Mr. Wetterhahn
12 had just stated how much experience PE has and, therefore,
13 they wouldn't make these errors. But, in spite of the
14 experience, this thing happened where they have a non-
15 qualified welder doing a job and then disagree that he had
16 done an improper job.

17 And when the reinspection took place, they found
18 out that the well was improper.

19 JUDGE BRENNER: You are talking about inspection
20 report 7606?

21 MR. ROMANO: 06, yes.

22 JUDGE BRENNER: 5352-7606.

23 MR. ROMANO: I think that was 53 on that.

24 JUDGE BRENNER: 53, yes. Thank you.

25 All right. My question was relating to your

st 11-7

1 first paragraph of your October 2nd, 1983 letter to us,
2 you are talking about the alleged use of stand-ins for
3 welder qualifications. These were instances of out-
4 right fraud of different people qualifying for welding
5 examinations.

6 That's different than the 7606 matter that we
7 talked about yesterday.

8 MR. ROMANO: Oh, I'm not sure I understand your
9 question again. Do you want to know whether 7606 -- is that
10 what we are talking about?

11 JUDGE BRENNER: No. We are talking about, do
12 the -- do you have your October 2nd, 1983 letter?

13 MR. ROMANO: I probably don't have it here.

14 JUDGE BRENNER: The first paragraph states -- this
15 is your letter, not my letter. All right.

16 MR. ROMANO: Yeah.

17 JUDGE BRENNER: It's hard for me to explain your
18 letter to you.

19 (Laughter.)

20 The first paragraph states: Information Notice
21 Number 83-61, Re: Alleged use of stand-ins for welder
22 qualification tests. Details criminal and fraudulent
23 activities involving welding and welders employed at nuclear
24 reactor plants. And you go on to say some other things.

25 Now, the problem highlighted by that information

st 11-8

1 notice -- and I'm assuming you have the right number, I
2 didn't check -- are you alleging any known instances of
3 that at Limerick?

4 MR. ROMANO: I'm alleging that there is suspicion
5 of that. And it is these kind of things which we have to
6 clarify because of the recent situation where it had to be
7 admitted that repeated statements were shown to not be
8 true.

9 And I would like to say something else if it's
10 okay.

11 JUDGE BRENNER: Let me stay with that subject
12 for a minute. The problem, as the Board sees it, is this
13 is a very important safety concern developed as a result
14 of activities at other plants. The problem for an inter-
15 venor such as Mr. Romano or any other intervenor is you
16 do not detect such a problem by looking at inspection reports.

17 It's outright fraud in which a different person
18 sat in for a welder qualification exam and then the person
19 not qualified does the welding. Took the test under another
20 name.

21 And this is the type of thing, although not
22 exclusively, that is included in Judge Morris' request on
23 behalf of the Board for information. We do not see a
24 basis for a contention with respect to the first paragraph
25 of Mr. Romano's letter. He doesn't have any basis of anything

st 11-9

1 at Limerick. On the otherhand, it would be very difficult
2 for him to ever have such a basis, given the nature of the
3 concern.

4 And we are interested in seeing whether, on behalf
5 of Philadelphia Electric and the Staff, the inspection
6 programs are much the same type of program that did not
7 detect these problems at other plants and whether programs
8 have been adapted for spot checks or whatever. I'm not a
9 detective. I don't know how you would do it.

10 But some program geared to these particular
11 recent, most serious problems of welding, to assure that they
12 are not occurring at Limerick. That's the plant we are
13 interested in.

14 We are asking for this information not as hearing
15 testimony at this point, and not as part of whatever con-
16 tention we might admit with respect to Mr. Romano, but a
17 full report. We have seen enough to be concerned and to
18 require the information.

19 And we believe the question is broad as Judge
20 Morris stated it, but recognize that this particular aspect
21 is part of the question.

22 MR. VOCLER: Limerick.

23 JUDGE BRENNER: Yes, we are interested in
24 Limerick. What you have done or plan to do at Limerick,
25 or both. You, being PECO and the Staff. And recall in

st 11-10

1 some cases it was not necessarily fraud engaged in by the
2 utility in question. The utility was fooled by the craft
3 people also. And that's the nature of the problem.

4 No one ever alleged it was in the utility's
5 interest, this improper certification to have occurred. In
6 fact, in the other cases it was decidedly not in the utility's
7 interest. Nevertheless, they occurred. Although there
8 were these normal ongoing overall QA programs, including
9 welding.

10 So it appears that answer won't suffice for this
11 type of problem. If nothing is being done with respect to
12 assurance of this problem, we want to hear why the Staff
13 and the Applicant thinks nothing need be done.

14 I guess after a short break we would like to hear
15 your suggestions as to a time frame in which it would be
16 feasible to receive that type of information from the
17 Applicant and the Staff. Give yourself enough time to give
18 us a thorough report, not a series of interim reports, yet
19 soon enough so that if we see enough that we think some
20 aspect of it should be litigated before us, as part of Mr.
21 Romano's contention or otherwise, you will not upset the
22 possible time table for the proceeding.

23 So, I guess we would like to hear about it in
24 the next couple of months certainly. But you think about
25 it and get back to us.

st 11-11

1 Putting that aside, Mr. Romano, also in your
2 October 2nd, 1983 letter, you state -- you cite a problem
3 disclosed in an I&E information notice. This is the last
4 paragraph of your letter. You give the notice as Number 83-60
5 in which test reports were not provided directly from an
6 independent testing facility.

7 What occurred in that information report is that
8 the independent testing facility sent the report to the
9 purveyor of a process that could be used at the plant, and
10 the report was fraudulently altered and then submitted to the
11 NRC to change a negative report to a positive report.

12 And you say, given that it applies to Limerick
13 because tests performed by Radiation Management Corporation
14 are not independent because of the overlapping involvement
15 of employees of the utility with Radiation Management Corpora-
16 tion.

17 Now, we have heard that one from you before,
18 although prior to the information notice. And we think what
19 we said then still applies. But we thought we would say it
20 again, given your letter, and give you an opportunity to
21 comment here. As we understand the situation, there is no
22 secret to the fact that Radiation Management Corporation is
23 composed as alleged, and that these were not tests which
24 were required to be performed or purportedly performed by an
25 independent testing facility. Rather, they could have been

st 11-12

1 performed by the utility itself. And the utility, as is
2 its right, had them performed by Radiation Management
3 Corporation on its behalf, just as it has other contractors
4 and subcontractors. And that's what the situation is.

5 And there is nothing improper in that. And it
6 would not have been improper if the utility had performed
7 it itself. That's different than the independent certifica-
8 tions which the Staff insisted on with respect to the
9 subject of that I&E information notice. It was a new
10 technique for coding.

11 And the Staff said they wanted, for purposes of
12 their review, an independent testing laboratories report
13 before certifying that that technique would be acceptable by
14 other utilities. In this case, as we understand it -- I say
15 again, these are tests that could have been performed by
16 the utility. So, unless you are going to allege -- and it's
17 past the timely time frame for it, unless you had alleged a
18 particular problem with the test being relied on, we don't
19 see the basis for any contention here.

20 Nobody is fooled. There is no pretense that this
21 is -- that these tests were performed by some independent
22 testing facility as opposed to, in effect, partial agents of
23 the utility. And, in fact, they could have been performed
24 directly by the utility's own employees.

25 MR. ROMANO: Well, I would like to comment that

st 11-13

1 here again we have fraud. And just as we could not absolutely
2 be sure in the other case, we cannot be sure here that every-
3 thing that Radiation Management Corporation did was correct.

4 Just to quote a few words what you said, you
5 said that these tests were performed in its behalf, in the
6 Applicant's behalf. And you have part ownership where
7 President Everett of Philadelphia Electric was President of
8 the RMC Corporation and they owned part of it. We hear
9 very often today, after the fact, of tests that were done
10 in drugs and every other thing that have been shown to
11 indicate a conflict of interest, and even results which have
12 been changed for the purpose of selling a product or agreeing
13 with policies or statements.

14 And here again we have a case where tests that
15 were done here had to be done with the idea of insuring the
16 safety of the public. And to be part owner it would be the
17 same thing. If we said that PE was part owner of some welding
18 outfit that was doing the welding, I see here -- if we had
19 the public, consider whether they wanted somebody to do a
20 certain job that might involve their safety, whether they
21 would want it to do with somebody who was saying something is
22 safe and having his outfit test it, or an independent outfit
23 test it, I know I think the average person would say they
24 would rather have the independent outfit test it.

25 A lot of the work that was done in this testing had

st 11-14

1 to do with water and related things, where I happen to
2 know something about it. And, as a chemist and a water
3 chemist, you know, I see some of the kind of writings that
4 to me has me say that there should not have been a conflict
5 of interest that certainly was there.

6 JUDGE BRENNER: I will ask the Applicant and the
7 Staff -- I will ask the Applicant first, were any of the
8 tests performed by RMC required to be performed by an inde-
9 pendent testing facility?

10 MR. WETTERHAHN: No. Let me clarify, the only
11 safety related testing at all that RMC has done was performed
12 the third quarter of 1983 and that was related to water
13 chemistry analysis on pipe flushing water samples. That's
14 the only safety related work that they have done. And I
15 would like to check this, but RMC I believe has been spun
16 off by the Applicant prior to that time. I would like to
17 check that.

18 MR. ROMANO: You had better check it.

19 JUDGE BRENNER: Well, aside from that, these tests
20 would have been permissible for the utility itself to perform
21 by its own employees?

22 MR. WETTERHAHN: Yes, it would, sir. There is
23 no requirement otherwise. But I understand that a number
24 of samples were also sent to another independent laboratory
25 just to check up on RMC.

st 11-15

1 JUDGE BRENNER: Does the Staff have any comment?

2 MS. HODGDON: Yes. And that is that Mr. Romano
3 wrote a letter to the Staff more than a year ago about this
4 supposed conflict of interest between -- having RMC do
5 certain kinds of work for Philadelphia Electric. And he
6 says its a conflict of interest.

7 We wrote back and said this is not a conflict
8 under the rules. We sent him the rules regarding conflicts.
9 And at that time, I attached deposition pages from a deposition
10 of August I believe, of 1982, in which Philadelphia Electric
11 executives spoke to this matter and said that they no longer
12 owned RMC.

13 JUDGE BRENNER: Aside from that, let's assume that
14 RMC is a total prisoner of Philadelphia Electric --

15 MS. HODGDON: Yes.

16 JUDGE BRENNER: And let's assume that they are
17 direct employees of Philadelphia Electric --

18 MS. HODGDON: Yes.

19 JUDGE BRENNER: If that is the case, would there
20 have been any problems from the Staff's point of view with
21 RMC having performed these water chemistry tests on pipe
22 flushes?

23 MS. HODGDON: No. The reason I brought the point
24 up is the fact that it was pretty much the question except
25 it was a different -- in a different framework. It was the

st 11-16

1 same kind of a question, and Mr. Romano wrote asking about
2 conflict rules. And I said they are not applicable. As
3 far as we are concerned they could do them in-house. It
4 doesn't make any difference who does them.

5 MR. ROMANO: I understand that in '82 but this
6 recent I&E report indicating that -- what can happen with
7 independent laboratories with conflict of interests and the
8 idea that now you should be a little more certain and get
9 some independent checking -- and Mr. Wetterhahn said something
10 about a Mr. Armsby but then there was a Mr. Harmon who worked
11 for Exiologist Associates who also did some work that was
12 related and now he is working -- he came over and is working
13 for RMC.

14 JUDGE BRENNER: That's last year's --

15 MS. HODGDON: The only other point I would make
16 with regard to that is that this information notice 8360,
17 falsification of test results of protective coatings, is
18 just simply not related.

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2 MS. HODGDON: The only other point in that
3 regard is that this information notice, 8360, falsification
4 of test results for protective coatings, is just simply not
5 related to the kind of work that RNC is alleged by you to
6 have done.

7 MR. ROMANO: I did --

8 JUDGE BRENNER: Mr. Romano, we don't allow people
9 to interrupt you.

10 MR. ROMANO: I am sorry.

11 MS. HODGDON: There is no relationship between the
12 two things as far as I can see, and the information report
13 says get an independent testing facility to assure that
14 this has been done in this instance with regard to this
15 information notice.

16 It doesn't say that it is generally applicable
17 that you should have all your work done -- or all your
18 tests done by independent facilities. It just simply
19 doesn't say that.

20 JUDGE BRENNER: Okay. I think we have heard
21 enough. We are going to take a break until three o'clock.

22 (Recess)

23 JUDGE BRENNER: All right, we are back on the
24 record. With respect to your motion for reconsideration
25 based on inspection report 50-350 -- let me get it right --
that is 352-7609, regarding alleged improper placement

gw 12-2 1

2 of concrete -- not alleged, but improper placement of
3 concrete in a container walls, and alleged failure to
4 correct the situation, the motion for reconsideration
5 is denied, given the number of inspection reports and
6 follow-ups by the Staff, AWPP has failed to specifically
7 point us to any particular reason to disbelieve the fact
8 that the work was corrected as stated by the Applicant
9 and the Staff, other than AWPP's general distrust for
10 the Applicant.

11 And point that there are other things with
12 respect to non-related matters in which things turned out
13 not to be the way they were, which is a subject we will
14 discuss soon.

15 In addition, with respect to your aspect of the
16 letter regarding the independence, or lack thereof, of
17 RMC, that does not give rise to any contention for the
18 reasons we discussed before. There is no requirement for
19 an independent test alleged, for any particular test
20 performed by RMC, nor further was there any timely, or
21 even untimely, allegation that there were any particular
22 problems with the tests performed, although that is a
23 side issue.

24 With respect to the matter of welding, we think
25 there is a basis for admissible contention. As we stated
yesterday, we have gone way beyond the basis into

gw 12-3 1

the merits based on that inspection report 7606 -- I
forget which docket number now.

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MR. ROMANO: It is 353.

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JUDGE BRENNER: Is that 353, Mr. Romano? Thank you.

5

JUDGE BRENNER: All right. As Mr. Romano pointed
out to us in the original discussion of the contention last
spring, and again in his discussion yesterday, and implicit
in the way in which we pursued it, that is viewing it as
a possible example, we think there is an admissible
contention, but not solely limited to that inspection report.
And the contention would be as follows: Applicant -- this
is AWPP would allege that -- "Applicant has failed to
control performance of welding and inspection thereof
in accordance with quality control and quality assurance
procedures and requirements, and has failed to take proper
and effective corrective and preventive actions when
improper welding has been discovered."

18

Now, we are not forever wedded to those words.

19

However, that is the contention as we see it today, after
discovery and voluntary respecification of the contention,
we will be open to suggested changes, as we were with
respect to your other contention, Mr. Romano.

23

It has been suggested that I should read it again.

24

" Applicant has failed to control performance of welding
and inspection thereof in accordance with quality control

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gw 12-4 1

2 and quality assurance procedures and requirements, and
3 has failed to take proper and effective corrective and
4 preventive action when improper welding has been
5 discovered."

6 Now, a very important part of this contention
7 given the way we have admitted it, is the discovery and
8 preparation for litigation as follows: We would set a
9 discovery schedule on this contention of sixty days for
10 the last date upon which to make discovery requests.
11 After that date, the schedules -- we have always filed
12 for responses in the same procedure for complaints about
13 discovery, et cetera, as set forth in our various orders,
14 including the Order of May 16th 1983 shall be followed.
15 Including, as always, an absolute failure to accommodate
16 each others interest before coming to the Board with a
17 discovery dispute.

18 Now, beyond whatever discovery of the parties
19 seek, we will require that as soon as practicable, and
20 certainly in the time frame of the next week or two,
21 AWPP will be given access to all inspection-related
22 documents on welding at Limerick. That includes, but
23 is not necessarily limited to, in case we leave out a
24 category, the Staff's inspection reports, correspondence
25 between the Staff and the Applicant on welds. The
Applicant's own inspections and audits, and inspections

gw 12-5 1 and audits performed by agents, contractors, whatever you
2 want to label them, of the Applicant for welding at
3 Limerick.

4 These reports, with the Applicant and Staff
5 in combination, shall make them available. That is, if
6 the Applicant can make available all the Staff's
7 inspection reports at the same location as the
8 Applicant's own documents, that might be easier for Mr.
9 Romano. If that cannot be worked out, and the Staff
10 wants to make its documents available at its King of
11 Prussia office, that is another possible alternative,
12 and these shall be made available to Mr. Romano for
13 reasonable inspection at locations in or around the
14 Philadelphia/King of Prussia area. The location shall
15 be at the option of the Applicant and/or the Staff.

16 And upon reasonable notice from Mr. Romano
17 or some representative of AWPP, the representative shall
18 be allowed access. And it isn't just one time access.
19 Those documents are to be kept available at least during
20 the discovery period, and thereafter until further notice
21 by us. We might want to turn to them ourselves in some
22 fashion.

23 And, of course, arrangements should be made for
24 Mr. Romano to be able to make copies of the documents
25 at whatever reasonable expense -- no profiteering. At the

gw 12-6 1

lowest possible available cost if he wants to make copies.

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I haven't calculated when the discovery period might end, and I guess we will wait for a joint certification from the parties. From the Applicant, Mr. Romano, and the Staff, that the discovery period has ended, and that depends on precisely when the last request was made and how it was delivered and then when the response thereafter was made.

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But after we receive that certification that all parties agree, discovery as we have now ordered it has ended, within thirty days from that date, AWPP shall file a list of all instances of improper welding which AWPP contends will form part of the case on the merits of this contention, and very briefly, in a sentence or two as to each incident what it is about that incident that AWPP believes is pertinent to the contention.

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And for each of these incidents, AWPP shall include a reference, or multi-references for the incident to pertinent inspection report of the Staff and/or audit and inspection report by the Applicant, and/or any follow-up correspondence involving it.

The case on the merits will be limited to the instances that are so specified by AWPP, and absent good cause or -- well, absent good cause will limit it to that listing.

gw 12-7 1

Are there any questions?

2

MR. ROMANO: Judge, would I be allowed during the discovery period to request affidavits on welding situations that I feel are questionable?

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JUDGE BRENNER: You can ask Interrogatories and/or take depositions, which answers are supplied to you under oath or affirmation.

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MR. ROMANO: But can we go through the same thing that happened with the welding with the affidavits?

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JUDGE BRENNER: You just heard what I said, and those answers have to be given to you under oath or affirmation. You can't say: Go write me an affidavit. You can ask them questions and they have to supply the answers under oath and affirmation. You can do that in writing, that is Interrogatories or you can take their deposition.

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MR. ROMANO: Isn't that the same thing that was done in regard to this welding before?

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JUDGE BRENNER: I answered your question and I will let you seek advice from competent counsel who --

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MR. ROMANO: Well --

21

JUDGE BRENNER: -- are just itching to give you the advice. Any questions?

22

23

MR. ROMANO: I would just like to say one more thing. And I think the public in this area, Montgomery County, Philadelphia, really lost this afternoon on this

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gw 12-8
1 situation.

2 JUDGE BRENNER: You think back and look at what
3 you got this afternoon, Mr. Romano. I'm not sure you fully
4 appreciate it.

5 MR. ROMANO: I don't feel that I can bring out the
6 need to protect the public that I feel is necessary.

7 JUDGE BRENNER: I want to respond to that, Mr.
8 Romano, and it's probably not necessary to do it. Through
9 a lot of work on our part over the last few months we have
10 pursued one of the most poorly pleaded contentions that
11 I have ever had the opportunity to see in a proceeding on
12 your behalf, and reformed it in terms of asking for informa-
13 tion, getting that information, asking the follow-up, getting
14 the Applicant to do quite a lot of work for its own interest
15 obviously, but nevertheless to do it, to follow up in
16 response, and so forth.

17 And if we had left you to your own devices you
18 would still be going in circles. Now, I will leave it at
19 that.

20 MR. ROMANO: What would happen to the average
21 person on the street who had to defend a situation? Would
22 it have to be in legal terms? I'm not a lawyer. Bechtell is
23 enough to have me feel that there is something wrong here
24 with Zimmer and Midland.

25 JUDGE BRENNER: Mr. Romano, if you are not happy

gw 12-9

1 with the contention you can withdraw it right now. I will
2 give you that opportunity.

3 MR. ROMANO: I will think about it.

4 JUDGE BRENNER: Okay. Mr. Wetterhahn.

5 MR. WETTERHAHN: With regard to a related matter,
6 we believe we can prepare and submit the report requested
7 by Doctor Morris in about thirty days, and taking due
8 consideration of the Thanksgiving holidays probably the
9 week of November 28th. That's approximately.

10 JUDGE BRENNER: Does that apply to the Staff also?

11 MS. HODGDON: Yes.

12 JUDGE BRENNER: All right. We won't set a date
13 certain. We will leave it at about thirty days and then
14 you can adjust by a few days without needing to seek any
15 further ruling from us.

16 MR. WETTERHAHN: That's fine.

17 JUDGE BRENNER: Does the Staff want to wait for
18 the Applicant's filing? We will give you that opportunity
19 as long as you are going to respond shortly thereafter.

20 MS. HODGDON: It might be useful. Seven to ten
21 days afterwards?

22 JUDGE BRENNER: We are not going to be that
23 particular. Put your calendar away. We will hear from
24 the Applicant in about thirty days and from the Staff in
25 a time frame of a couple of weeks after they receive the

gw 12-10
1 Applicant's filing.

2 Do we have any other matters to take up before we
3 turn to the subject of the severe accident analyses under
4 the National Environmental Policy Act?

5 MR. WETTERHAHN: I have one minor matter. If a
6 hearing is held in December, I would prefer because of a
7 witness availability problem which is not critical but a
8 preference, I would like to start with Mr. Romano's contention
9 related to carburator icing on the afternoon of the 7th.

10 JUDGE BRENNER: All right. I'm glad you brought
11 that subject up. And we are not going to grant the request
12 as you made it, although we are not going to preclude it
13 either. We will leave it like this.

14 No one knows for sure whether we are going to be
15 in hearing on all of those contentions or none of those
16 contentions or some of those contentions at this time,
17 depending on our ruling on summary disposition. As far as
18 the Board is concerned, unless the parties can agree to a
19 different order we will take up whatever contentions or
20 parts thereof remain after our rulings on summary disposition,
21 if any, in the numerical sequence. That is 1-62, 5-3A and 3B
22 together as a pair, and Roman V-5.

23 So if you cannot agree otherwise, that's the
24 sequence. The parties are free to agree otherwise and we
25 will accede to whatever order the parties come up with.

gw 12-11 1 However, barring an extraordinary need we do not want to
2 jump back and forth among the contentions. We want to take
3 the litigation issue by issue, barring an extraordinary
4 problem.

5 All right. I guess we should say when the parties
6 do agree on a sequence, obviously that will be close to
7 the start of the hearing but we would like to know what
8 the sequence is. And if we back it up to the Friday before --
9 let's make it the Thursday before. We would like to hear
10 on December 1st what the sequence is. We would like to
11 receive the information on December 1st, and just a very
12 simple filing of a number of sentences.

13 And if there is no agreement, then we know what
14 the sequence will be because we have just ordered it.

15 JUDGE MORRIS: I guess we are ready to go to the
16 final subject, I believe, of this prehearing conference
17 which is the contentions and the severe accident risk
18 analysis. We don't have a great deal to say on these,
19 but I would like to make a few points which hopefully
20 would be helpful to the parties, and if the response is
21 positive I think it would be greatly helpful to the Board.

22 I find that there are several subjects which are
23 overlapping in the context of the contentions. The primary
24 area for the contentions is environmental, environmental
25 impact under NEPA. I find that there is a confusion in the

gw 12-12

1 contentions between the environmental impact and potential
2 safety questions. I also find that there is quite a bit
3 of confusion or overlap between the environmental issues
4 and the bases for emergency planning.

5 In the environmental area, one tries to do the
6 most realistic assessment of impacts as possible. In the
7 safety area, one sometimes is conservative because of lack
8 of good data base or sound technology. And emergency plan-
9 ning is a special beast, in that it's impossible to plan
10 through a whole spectrum of conceivable accidents. It's
11 impossible to plan -- to give equal treatment to every
12 individual in the vicinity of the plant. It's impossible
13 to predict weather patterns and whatnot.

14 Therefore, one develops a general approach to
15 emergency planning. And this was what was attempted to
16 be set out in the Staff's documents, new regs, 0396 and 0654.

17 These documents give a basis for planning. They
18 are not attempted to be deterministic, a deterministic set
19 of criteria for exactly what the plan shall be. So I
20 think it would be very helpful if those three distinct
21 concepts could be kept distinct in the discussions of the
22 contentions.

23 And one final point which perhaps applies more
24 to the City of Philadelphia than the others is quarrels
25 with the exact basis for doing the analyses, whether in

gw 12-13

1 one part of the consequence calculation, the input is X or
2 the input is two times X. I think it may be many cases, or
3 at least some, where it makes no difference whether it's
4 X or 2X in the end result of either emergency planning,
5 safety considerations or the impact on the environment.
6 I'm concerned it will waste a lot of time in litigating
7 things which, at the bottom line, will really make no
8 difference in the ultimate decision to be made.

9 If anyone would care to respond or to ask
10 questions, I will be glad to hear it.

11 MS. BUSH: Your Honor, if I might respond to the
12 last concern that you raised, I -- this has been brought
13 to my attention by part of the statements that the Applicant
14 has made.

15 My confusion or response to that is how are we
16 going to know that these variables will not have an impact
17 on the bottom line unless the Applicant demonstrates that
18 with some calculations? And that is constantly the question
19 that arises in my mind.

20 JUDGE MORRIS: Would the Applicant care to respond?

21 MR. WETTERHAHN: I have a more fundamental problem
22 which has been evidenced by our responses. I do not believe
23 that there is any bottom line nor possibility of developing
24 a bottom line with regard to probablistic risk assessment
25

1 methodology today. Perhaps in a few years, but I'm not
2 so optimistic even then.

3 The Applicant views the probablistic risk
4 assessment as a document disclosing a number of things.
5 There is uncertainties disclosed, very sensitive studies,
6 changes in variables. Taken together, this gives a lot
7 of information about the environmental impact or projected
8 impact in response to a specific call for such an evaluation.

9 But the Applicant does not see that it can serve
10 as a decision-making tool as opposed to a tool for disclosure
11 in the environmental sense. Certainly we have been over
12 its possible uses as far as safety matters are concerned.
13 I won't go over that.

14 Perhaps it's best for ranking various systems and
15 looking at the effect on safety and the effect on the environ-
16 ment. I don't believe that it can be used for other than a
17 disclosure document, and I don't believe that I've seen -- as
18 an advocate, see anything in the contentions that have been
19 advanced that shows that it can be used for anything else.

20 So, viewing it as an environmental document, I
21 think it's difficult to pick out even a best estimate, a
22 median, a mean, or look at any one line, any one number from
23 the report. It has to be taken as a whole.

24 JUDGE BRENNER: I would like to ask Philadelphia if
25 it has an expert that has been assisting it?

gw 12-15

1 MS. BUSH: Yes, I have, Your Honor.

2 JUDGE BRENNER: You do?

3 MS. BUSH: Yes.

4 JUDGE BRENNER: Can't your expert give you some
5 indication as to whether some of these things which are
6 the subject of your contention have even a reasonable po-
7 tential of effecting the end result?

8 MS. BUSH: Well, the experts opinion is that these
9 are of sufficient concern that they should be reviewed.
10 Ultimately he believes that a CRAC-2 analysis would have
11 to be done with these impacts to see the result. As
12 far as the protective action guides being exceeded, if you
13 look and isolate Philadelphia, I have -- actually had an
14 indication that they probably would be, but I think because
15 we -- as the expert giving me advice and, you know, working
16 for the City of Philadelphia, it is, I can take it, his
17 assumption that these are of significant importance that
18 the Board or the City of Philadelphia should have the
19 ability to review the actual analysis.

20 JUDGE BRENNER: Let me make an obvious observation,
21 that when you prepare for possible litigation on matters
22 requiring expert testimony, or at least on which expert
23 testimony is well advised, you have a number of disciplines
24 that have to come together, both legal and technical. And
25 you may have already done so but I suggest you do it again.

gw 12-16

1 Take your proposed contention and as counsel
2 knowledgable as to what is material and what has the
3 potential to make a difference legally, you then make -- put
4 that legal knowledge together with your expert's opinion and
5 make sure your expert is distinguishing between matters that
6 can be critiqued in a technical matter on the report from
7 things that are actually legally material, given the applicable
8 statutes and regulations and so on. Now, you may have done
9 that, or you may do it and come out with the same contentions
10 that you have.

11 But there are some sub-parts there that -- in your
12 contentions or concerns that I think would benefit from that
13 process.

14 JUDGE MORRIS: Let me say, Mr. Wetterhahn, that I
15 don't think what I said was inconsistent with your point of
16 view. I used the expression bottom line, not as an end result,
17 single calculation, but a conclusion based on the studies made.

18 And in this regard, I think again for the City of
19 Philadelphia, but the very nature of a probablistic risk
20 assessment is that there are very large errors in any calcula-
21 tion, any calculated result, and the difference, as I mentioned,
22 is a factor of two. And any input parameter is going to be
23 within the final airbands of cumulative, comprehensive dis-
24 tribution curves. So, the conclusions you can draw from a
25 set of those curves is not going to be influenced by factors

gw-12-17 1

2 of two in inputs. And I don't think it's productive for
3 your expert or for the parties in this case or the Board
4 to worry about those things.

5 MS. BUSH: I'm not sure which particular contention
6 you are talking about. I do know that the expert has
7 indicated that he believes there is a basic question of
8 whether the results would be within the parameter of results
9 that is set forth in SARA. If we did see an analysis that
10 isolated the effect on the population in the direction of
11 Philadelphia under a bad weather scenario -- he has
12 definitely stated he has a question but he wouldn't know
13 until he saw it, whether it did go outside of the bounds
14 which I presume would be something of level significance
15 greater than what you have just articulated as being too
16 small to consider.

17 JUDGE MORRIS: Well, I will just leave it at that.
18 I won't try to get into arguing details.

19 JUDGE BRENNER: We want you to go over all of them
20 and with LEA and its expert. We have been told before that
21 LEA has an expert and the same comments I make to Philadelphia
22 apply.

23 We have indications as we have directed, the
24 parties have discussed these contentions a number of times.
25 As I recall, the discussions have been mostly over the
26 telephone, and I don't criticize the media necessarily,

gw 12-8 1

2 but over the telephone and among counsel, as distinguished
3 from face-to-face meetings involving counsel and the
4 experts. Are my observations correct?

5 MR.WETTERHAHN: Not entirely, Your Honor. We
6 had a face-to-face meeting lasting an entire day in
7 Philadelphia, which involved the City of Philadelphia and
8 its expert and our expert along with counsel.

9 MS. BUSH: The three of us have not gotten
10 together, and that was one meeting -- there was one
11 meeting, there were some contentions dropped as a result
12 of that, and I think there was clarification of the
13 issues and understanding of the issues as a result of
14 the meeting. I found it helpful.

15 JUDGE BRENNER: Well, I think it is time to
16 wait for the Staff's analysis to issue, and promptly
17 get together in face-to-face meetings, including any
18 experts and counsel, and go through these again in
19 light of the staff's analyses.

20 MR. WETTERHAHN: I think the parties are
21 reluctant to give ground, because they still do not
22 have any idea of the position the Staff will take in
23 its evaluation. Its evaluation in this instance is
24 the first of a kind, I guess, for this type of evaluation,
25 and I think that the Board is going to be somewhat
disappointed that the legal positions advanced will come

gw 12-19 1

back, at least by one of the parties if the Staff does
or does not do something; either the intervenor will be
disappointed, LEA or perhaps the Applicant.

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1 JUDGE COLE: Well, somebody is going to be
2 disappointed, because there's a very great difference
3 between how you view this document and how the Intervenor
4 views this document.

5 MR. WETTERHAHN: There is agreement on that.
6 That is the only thing you did agree with on that.

7 JUDGE BRENNER: Judge Cole said he knows that
8 there is a large difference of opinion between the parties
9 and that somebody is bound to be disappointed.

10 We're going to be able to make the legal rulings;
11 but beyond that, there's a -- just a wide gulf, in terms of
12 what is even likely to be material, even assuming that the
13 legal ruling goes your way. And I say that as to all
14 parties.

15 And we think at this point we, as a Board, want
16 the assistance of seeing the Staff's analyses, as I stated
17 yesterday. And we better appreciate it -- while the parties
18 wanted to see that, as we got to work on these contentions
19 ourselves, in analyzing them and the responses.

20 I think we're willing to leave the procedure
21 open and let the parties even work out what procedural
22 devices they want to use to get to back to us. That is,
23 there is going to be -- the next step will be the issuance
24 of the Staff's analyses, expected in the very near future.

25 After that, we would like to have a joint

1 proposal from the parties as to time frames for futher
2 filings and what form those filings should take.

3 Whatever filings come in, we, of course, need
4 the ready cross-reference to the contentions as they existed
5 and then a proposal for the time frame in which those filings
6 should be made. Outline the procedural proposals to us and
7 we'll look at them, at the same time have discussions, face
8 to face, with counsel and experts -- before the time frame.
9 Set your time frame for the filing so that it's after you've
10 had a chance for those discussions. And then after the
11 filings, we'll set a time for further prehearing conference
12 on this subject.

13 (Board conferring.)

14 JUDGE BRENNER: Did any party want to add anything
15 on this subject?

16 (No response.)

17 JUDGE BRENNER: All right. I had one miscellane-
18 ous matter that I overlooked a moment ago. And this will
19 be, I believe, the last matter.

20 The Board has received, by service of the
21 General Correspondence, a document issued by the Staff on
22 September 20th, 1983, which is a summary of September 8th,
23 1983 appeal meeting on containment isolation provisions for
24 the hydrogen recombiners.

25 And in that document, it is indicated that the

1 Staff believes that the provision for not having a second
2 isolation valve in the lines to and from the hydrogen
3 recombiner was a violation of the regulations, particularly
4 General Design Criterion 56.

5 However, the Staff also concluded that it was an
6 acceptable departure -- I guess "exemption," although the
7 Staff didn't use that word -- from the regulation until the
8 first fuel loading.

9 And we recognize that this document was just a
10 meeting summary.

11 And incidentally, thereafter, on September 22nd,
12 1983, the Applicant agreed to install a second isolation
13 valve after the first refueling outage.

14 The question is is the Staff going to provide any
15 analyses in support of what we see, in effect, is granting
16 an exemption from the regulations to Philadelphia Electric
17 Company with respect to this matter.

18 And if so, what -- you don't have to answer now.

19 MR. VOGLER: I'm just going to say we'll get
20 back to you.

21 JUDGE BRENNER: I realize that you had no
22 advance notice we would bring this up.

23 And if so, what form that it would take and when
24 it would -- when would it be issued. And if not, why not.

25 And I guess we'd like to get that response as to

1 as to what the Staff's plans are as soon as practicable, not
2 necessarily the full analyses.

3 If the Staff believes that this September 20th
4 document is acceptable for granting this exemption from the
5 regulation, we'd like to hear why it believes that.

6 We don't know what the situation is.

7 And again, at this time, we are merely seeking
8 information, and we're not implying anything proper or
9 improper as to what has transpired.

10 That's all we have. If there's nothing else, we
11 will adjourn at this time.

12 We'll be here for a limited appearance session
13 this evening, beginning at 7:00 o'clock. And we'll be at
14 the site visit with the parties who wish to participate at
15 9:00 o'clock at the Information Center at the site.

16 All right. We're adjourned.

17 (Whereupon, at 3:40 p.m., the hearing was
18 recessed, to reconvene at 7:00 p.m., this same day.)

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EVENING SESSION

st 14-1

(7:00 P.M.)

JUDGE BRENNER: Good evening. I would like to introduce ourselves to start off. We are the three-member Atomic Safety and Licensing Board, designated by the five-member Nuclear Regulatory Commission, to preside in a Limerick operating license proceeding.

On my left is Judge Richard F. Cole, who has a Doctorate in environmental engineering and water resources. On my right is Judge Peter A. Morris, with a Doctorate in nuclear physics, and who specializes in nuclear reactor safety and technology.

I am Lawrence Brenner, and I am the Lawyer-Chairman of this Board.

The meeting tonight, as well as the meeting we had last night here, presents an opportunity for members of the public to make oral statements before us. In addition, we provide the opportunity for written statements, some of which we have already received. We can receive written statements tonight. We can also receive written statements in the future without any particular time limit.

However, the sooner we receive the written statements the more assistance it will be to us as we begin further procedures in the proceeding before us. You can submit a written statement even if you make an oral statement.

st 14-2

1 There may be other things you think of that you would liked
2 to have said and add in a written statement later.

3 We are presiding in a formal trial-type proceeding,
4 governed by the Administrative Procedure Act. In that pro-
5 ceeding we have formal participants known as parties and also
6 various governmental agencies who have opinions both in favor
7 of and against the proposed issuance of an operating license
8 for the Limerick nuclear power plant.

9 The Limerick nuclear power plant has many years
10 ago received a construction permit also as a result of
11 proceedings. The stage we are at now is deciding in accordance
12 with the requirements of the various statutes, primarily the
13 Atomic Energy Act and also the regulations issued by the
14 Nuclear Regulatory Commission to see whether or not the plant
15 in fact meets those regulations.

16 Under the Atomic Energy Act, passed by your
17 Congress and our Congress, if the plant meets those regula-
18 tions it is entitled to receive a license. If it does not,
19 it is not entitled to receive a license.

20 There are various issues which have been identified
21 in the proceeding, and it is on those issues that we have,
22 and in the future, will receive evidence. One subject of
23 understandable great interest last evening was the off-site
24 emergency plan, or lack thereof depending on the speaker.
25 As we indicated last evening, and as I will state now,

st 14-3

1 we will in the future be receiving formal issues from the
2 parties in the adjudicatory phase of the proceeding on
3 emergency planning. We have not yet heard that case.

4 However, several of the comments that we received
5 last night provided information to us that stimulated our
6 interest. And, as is our right, we asked the parties to
7 provide further information on those points. After we
8 receive that further information we can and will decide
9 whether or not to make those formal issues in the case. It
10 may be also that the actual parties admitted in the proceeding
11 will raise issues which consume some of those same issues.

12 However, as I said, we don't know that yet. We
13 have not yet approached hearing litigation on the off-site
14 emergency planning part of the case.

15 I have the brief forms that have been filled out
16 by persons wishing to make oral statements tonight. We will
17 ask that you keep your statements to five minutes in length
18 so that we can reach everybody who wishes to make a state-
19 ment. I will call two names together and ask that the first
20 person, if it is convenient, speak at the lecturn there into
21 the microphone, and ask that the second person have a seat
22 next to the lecturn so that the second person can readily
23 step up after.

24 We will hear first from Bevier Hasbrouck, and
25 second from Mr. John L. Wise.

st 14-4

1 If I have pronounced your name incorrectly, please
2 feel free to correct me. Mr. Hasbrouck.

3 LIMITED APPEARANCE STATEMENT OF
4 BEVIER HASBROUCK.

XXXXXXX

5 MR. HASBROUCK: Bevier Hasbrouck. Nuclear power
6 is dangerous in many unexpected ways, thus there could be
7 no justification for its broad exploitation if cheaper
8 alternatives exist. One attractive alternative is cogenera-
9 tion by tiny plants, perhaps as small as individual houses
10 or apartment houses. An automobile engine with a different
11 carburetor can run and run well on natural gas already piped
12 to millions of residences.

13 These can turn an electric generator and feed
14 sixty cycle power to the Philadelphia Electric grid. This
15 is the cash crop which pays for the fuel and perhaps something
16 extra.

17 The second output from the engine is hot water
18 stored in an insulated tank, perhaps two hundred or five
19 hundred gallons. This type of thing is done in wood stoves
20 to heat houses where they run the wood stove for five hours,
21 store up hundreds of gallons of hot water, five hundred, and
22 then run their house one, two or three days without anymore
23 heat, just live off that hot water.

24 The house owner will be using his engines contri-
25 bution to the electric power grid to earn the greatest return

st 14-5 1 from PE to pay for his fuel. Some time probably during the
2 peak hours between 8 a.m. and 4 p.m. The heat he can use
3 at his convenience.

4 The PURPA Act of 1978 -- I forget what those
5 precise things are, Public Utility Act, obliges PE to buy
6 this kind of power at the price set by their avoided cost.
7 In short, the power delivered to them during peak hours is
8 more valuable to them than power after midnight. And this
9 is -- so they pay a higher rate and can pay for the cogenera=
10 tion. The heat storage in the cellar means that the house-
11 holder gets his heat when he wants it, and the Philadelphia
12 Electric gets their power when they want it. So, it should
13 be an economic thing.

14 I want to introduce a letter which I wrote to
15 the Public Utility Commission of Pennsylvania in 1980, showing
16 that this general scheme has become valid ever since the
17 cost of fuel started rising in 1973 with the OPEC boycott.
18 Big steam plants typically dump two-thirds of their fuels
19 value into rivers or cooling towers and they don't heat any
20 buildings with it. This is the major economic savings that
21 cogeneration exploits.

22 Thermo-dynamics requires that heat be rejected
23 but it doesn't have to be wasted. It's the scale of the
24 plant that makes it wasted. Something the size of Limerick
25 can't pipe all their waste heat out to heat enough houses and

st 14=6

1 apartments to be economical. What you need are a lot of
2 little plants to do it, the size, for example, of automobile
3 engines.

4 JUDGE COLE: I'm sorry, sir. I didn't hear what
5 you said. The size of what, sir?

6 MR. HASBROUCK: Automobile engines. The -- all
7 right, I guess -- a counter example of the regulator's model.
8 Most industries are traditionally thought of as either labor
9 intensive like a shirt factory or capital intensive as an
10 oil refinery or some mixture in between. But a new
11 category has become necessary. The fuel intensive industry.

12 Moody's financial reports for 1978 shows that
13 PE spent three hundred million for fuel, including coal,
14 uranium, oil and gas, but a mere hundred and seventeen
15 million in depreciation charges.

16 JUDGE BRENNER: Mr. Hasbrouck, excuse me. I
17 wonder if you could complete your statement? Your time is
18 up at this time.

19 MR. HASBROUCK: Yeah. This shows that PE, as a
20 whole, is two and a half times more fuel intensive than
21 capital intensive. And this is why we need some different
22 rules to promote cogeneration.

23 Thank you.

24 (Applause.)

25 JUDGE BRENNER: Mr. Wise. I would ask the

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1 court reporter to bind Mr. Hasbrouck's written statement in
2 at this point. It's a lot more extensive than his oral
3 remarks and would supplement it.

4 (Statement follows)

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11/15/1980

An Economic Justification for the PUC to
Promote Cogeneration and the Dispersed
Generation of Electricity

-- Bevier Hasbrouck

Abstract: The conventional paradigm for regulating electric power utilities has become obsolete. The traditional model ignores the cogeneration option because the cost of fuel was not large enough before 1973 to override the added bother of dispersed operations. The inadequacy of the investment dominated model is explored for PE in 1978. Some rules are proposed.

Sketching an Argument for Networked Cogeneration

(1) All fuels are zooming up in price, i.e. oil, coal, gas, and uranium, especially since 1973.

(2) Big steam plants dump 2/3 of their fuel's value as waste heat into rivers or cooling towers.

(3) Cogeneration heats and/or cools offices, apartments, stores etc with this 2/3. Steam heat can be piped for a few hundred yards but not more than a mile. In contrast the grid economically transports electricity for 200 or 300 miles. Thus electric plants should be limited in size according to the rejected heat they can deliver and sell. Thermodynamics requires heat to be rejected, but big plants force it to be wasted.

(4) Our cogenerating diesels, methane fueled gasoline-type engines, "jet" engines etc will feed their electricity into the Philadelphia Electric (PE) grid. The grid's power at every outlet is more reliable and more flexible than any of its individual sources.

In short, cogeneration by small plants all feeding one grid can save fuel (and therefore dollars) and provide more reliable electricity.

Public Utility Commission's Role

PE may fight this concept and/or its application because of the partial loss of ownership and a decrease in their rate base, financial size, prestige, and political power. See Fortune's article of 12/31/78 "The Little Engine That Scares Con Ed" by Tom Alexander for a description of such a fight including some valid points on both sides. Thus in the public interest the PUC should promote financial rewards to the cogenerators while allowing partial penalties for poor performances or poor matches to the grid's needs.

A Counterexample to the Regulator's Model

Conventional wisdom describes every industry as either labor intensive (e.g. a shirt factory) or capital intensive (e.g. an oil refinery) or some mixture of both. But a new category has become necessary -- the fuel intensive industry. Moody's financial reports for 1978 states that PE spent \$300 million for fuel (including coal, uranium, oil, and gas) but a mere \$117 million in depreciation charges to pay for prior capital investments. $\$300 / \$117 = 2\frac{1}{2}$. So PE as a whole is $2\frac{1}{2}$ times more fuel intensive than capital intensive -- what a reversal of conventional wisdom !

Indeed this figure of $2\frac{1}{2}$ is low because distribution and transmission investments are substantial. They dilute the true figure pertinent to steam powered facilities.

In short, today's conceptual model for the regulation of electric power companies is obsolescent.

Proposed Rule Changes:

Consider a few specific changes aimed at permitting and fostering cogeneration and other small dispersed sources, e.g. wind mills, small dams.

(1A) Eliminate declining block rates, which tend to subsidize excessive use. But --

(1B) Allow a user (often a large one) to borrow power from the grid if he returns it within a day or so. It should be returned at a time of higher demand or an added fee be charged.

(1C) Allow a user to buy the replacement power from other sources and pay the grid for its transportation but not its generation.

(2) Discount the rate base (and thus the dividends to stockholders) according to the inefficiency of each facility. For example transformers waste only 2%, but large steam plants waste 68%, i.e. a thermodynamic efficiency of 32%. And nuclear efficiencies are even worse. Why reward managements and stockholders for promoting fuel wasting facilities and technologies ? !

(3) Cogenerators isolated from the grid can bog down, and their brief low voltages will occasionally burn out motors. The grid gives a stronger response to such momentary demands with a far smaller percentage of spinning reserve. Indeed, this is the grid's major economy of scale: every spinning, throttled generator is backstopping hundreds of elevators over thousands of square miles in contrast to a dozen elevators in a stand alone apartment complex. Thus the grid deserves a fee for every kilowatt-hour borrowed and returned.

The fees for this Full Time support differ conceptually from those for Standby Power, often used to discourage cogeneration by users. PE presumably prices a Standby connection by allocating a fraction of their nearest regular generator plus the wires and transformers in a direct path thereto.

In contrast, the modest fees for our Full Time connection would only support that very local portion of the grid wherein the cogenerated power would usually be resold. Furthermore, the fee would be reduced by the ratio of said cogenerated traffic to the total traffic in said portion.

- (4) Split PE into two companies: specifically --
- (A) the grid portion remains a regulated public utility; and
 - (B) large steam generators should gradually be deregulated as competition from cogenerators becomes available.

Dams owned by PE belong to the grid, especially if their production can be matched to the hours of peak demand. Conversely, those dams whose operational flexibility is severely constrained (e.g. to maintain navigable flows downstream) are less worthy of protection from competition.

Facilities which substantially aid peak production generally belong to the (PUC-protected) grid. These include pumped storages now and batteries in the future. At the legal borderline will be gas turbines producing during peak hours using caverns of air which were compressed during off-peak times. This stratagem exploits the difference between peak and base line costs for the substantial fraction of power consumed internally, i.e. by the compressors.

Summary:

The grid itself is a natural monopoly. The installed wires and poles are so expensive that the public cannot afford overlapping grids. Regulation by the PUC remains a good answer.

But today's large steam plants (regardless of their fuel) are not natural monopolies worth shielding from competition. They have diseconomies of scale in selling their rejected heat.

In the interests of the general public and for national strength in any mid East war the PUC should unshackle the many potential producers of electric power and protect their access to the grid. Society can benefit from many diverse facilities, e.g. cogeneration using truck sized diesels, small dams, windmills, and eventually photovoltaics mounted on homes.

-- Bevier Hasbrouck *

* The author has a B.S. in physics from Yale University, 3 years experience in nuclear physics and health physics, and 30 years experience plus 2 patents in computer design and programming.

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1 LIMITED APPEARANCE STATEMENT
2 OF JOHN L. WISE.

3 MR. WISE: My name is John Wise. My position is
4 Director of Power Services Division with the General Physics
5 Corporation which is a consulting engineering firm specializ-
6 ing in operator training services and operation services to
7 the nuclear and fossil fuel power industry.

8 A quick word about my background. I spent twenty
9 years with Metropolitan Edison. The last five years from
10 1967 to 1972 as the first operating superintendent at the
11 Three Mile Island nuclear generating station during the
12 construction and start-up of Unit 1. Spent two years with
13 the Power Authority of New York as resident manager during
14 construction and testing of the Fitzpatrick nuclear plant.
15 I was with Gilbert Commonwealth, an engineering firm for
16 seven years as manager of their start-up services responsible
17 for providing start-up activities, testing activities at
18 three nuclear power plants. And for the past three years
19 I have been employed by General Physics.

20 Among my responsibilities are providing of
21 qualified personnel to assist in pre-operational and start-up
22 testing activities at the Susquehanna steam-electric nuclear
23 station for Pennsylvania Power and Light and also at the
24 Peach Bottom and Limerick generating stations for Philadelphia
25 Electric.

st 14-9

1 As such, I consider myself to be highly qualified
2 by experience to judge the adequacy of power plant test
3 programs to verify the readiness of nuclear power plants
4 to operate safely and reliably. In my judgment, the ongoing
5 program at Limerick more than adequately demonstrates this
6 readiness. The program is well documented and scheduled
7 and is being implemented in a manner that is extremely well
8 organized both from a technical and an administrative stand-
9 point.

10 One other point which I would wish to make as
11 regards the license ability of the Limerick plant, as a
12 former nuclear power plant superintendent, I had been in a
13 rather unique position to observe the capabilities of both
14 plant designs and personnel capabilities to allow operation
15 of a nuclear power plant in a safe manner. The Three Mile
16 Island accident clearly demonstrated inadequacies in these
17 capabilities to prevent -- and I emphasize the word prevent --
18 a nuclear accident.

19 These inadequacies have been greatly improved
20 upon, as a result a more stringent operating training
21 program in which general physics is directly involved, and
22 also much more thorough power plant design requirements.
23 However, the Three Mile Island accident also clearly demon-
24 strated the capabilities of existing power plant designs to
25 withstand -- and I emphasize the word withstand -- the

st 14-10

1 consequences of an accident. At Three Mile Island no
2 reactor coolant or containment boundaries were breached,
3 and no off-site personnel received anything approaching
4 the maximum allowable dose of whole-body radiation as
5 permitted by the Nuclear Regulatory Commission.

6 These facts, plus the increasingly stringent
7 training design and construction practices presently in
8 effect, lend even more confidence in the ability of nuclear
9 plants such as Limerick to operate safely and reliably.

10 As such, I strongly recommend that the plant be
11 licensed for full power operation following successful
12 completion of the pre-operational test program presently
13 underway. Thank you.

14 (Applause.)

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1 JUDGE BRENNER: Ken Whitman, to be followed by
2 Gerald Horn.

3 LIMITED APPEARANCE STATEMENT OF
4 KEN WHITMAN.

5 KEN WHITMAN: Gentlemen, my name is Ken Whitman.
6 I am chief of the Trapp Fire Company, which is in the
7 shadows of the nuclear plant. I have read quite a few
8 peoples remarks against the evacuation plans which was
9 mentioned earlier tonight. Our borough has worked with
10 ECI and come up with a plan that I believe, and the
11 members of my fire company and the borough believe to
12 be a very workable plan. I have talked to officers in
13 the fire companies adjoining my district, and they feel
14 the same way I do. No plan is going to be a hundred
15 percent, but we do have a plan now which is better than
16 none, which Three Mile Island did not have.

17 This plan that we have now can be used by our
18 fire company for any emergency that might come up in our
19 borough. A few years ago the county of Montgomery asked
20 each fire company to come up with an evacuation plan.
21 I could not do this. It was reasons for this where I
22 did not know what the boroughs and township surrounding
23 our township and borough would do. Now, I have a plan
24 that works in with the surrounding areas. I believe it
25 will work, and I believe I will probably have more chance

gw 15-2

2 to use this evacuation plan for the hazards that go
3 through our borough from transportation, with the
4 trucking, than I ever will have to use with this
5 nuclear plant.

6 That is all I have to say.

7 LIMITED APPEANCE STATEMENT OF
8 GERALD HORN.

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10 MR. HORN: My name is Gerald Horn, and I work
11 at Bechtel, engineering department.

12 I want to commend this area for seeing the
13 advantages that we do have here. Since I am in
14 construction, I have followed construction in many states.
15 And this is the place where I really commend each one of
16 you people here in this area for thinking ahead a little
17 bit.

18 Since I am in QC, quality control, I have been
19 in other areas where chemicals was a problem. I have
20 been evacuated from chemicals -- of course, you don't
21 hear about that -- in Louisiana. I have also been
22 with the government inspector for aircraft, where I
23 was also crew chief for the air force, and I have
24 seen several places where nuclear power has been. I
25 highly recommend this area and this plant for being

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so organized as they are.

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That is all I have to say.

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JUDGE BRENNER: Joseph Fratoni, to be followed
by Gunner Sarsten.

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6

LIMITED APEARANCE STATEMENT OF

7

JOSEPH FRATONI.

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MR. FRATONI: I am Joseph Fratoni, and I am
a cost engineer with Bechtel Power Corpration at the
Limerick generation station.

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More importantly, I am a resident of the area
and a PECO customer. Like everyone else, I am concerned
about the health and welfare of my family and the
community as well. I have an advantage, in that I can
see the construction on a daily basis. Also, I have
seen the construction of other projects and can compare
the quality of work that goes on in a nuclear power plant
as opposed to other places.

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Never have I seen such constant attention to
detail. The public fear of nuclear power is unfounded.
Since its inception thirty years ago, the nuclear
industry's track record is unparalled. There has never
been a death due to nuclear generation. It is the safest
of all industries. No industry is subject to such
intense regulation. We have over two hundred quality

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gw 15-4 1 control engineers inspecting the construction. This is after
2 the constant review by field engineers checking the
3 drawings, the theory behind everything. This is also
4 not including the reviews by our quality assurance , the
5 QC's are doing what they are supposed to be doing. Making
6 sure everybody else is doing what they are supposed to be
7 doing.

8 There is -- what occasionally appears as a
9 cumbersome system, constant checking during the process
10 of turning over completed systems to the utility, all these
11 reviews are designed to ensure that the smallest details
12 are followed , so that all safeguard systems will function
13 as designed. It is a highly unlikely case that they are
14 not necessary.

15 The public worries that a TMI could occur in the
16 Delaware Valley. I strongly doubt that. We are building
17 the cadillac of nuclear power plants. We have learned
18 from the problems of the past to ensure a safer tomorrow.
19 I would live next to that plant, and raise a family there,
20 sure in the knowledge that they are safer there than within
21 a mile of an oil refinery.

22 The Institute of Nuclear Power Operation rated
23 PECO's safety record as one of the best. No other utility
24 has as many high level executives with as much training in
25 the nuclear field. With their management, and my knowledge

gw 15-5

1 of the quality construction of this plant, I feel confident
2 that Limerick will enjoy a bright future with one of the
3 safest and most efficiently run nuclear power plants in
4 this country.

5 That is all. Thank you.

6 JUDGE BRENNER: Mr. Sarsten?

7
8 LIMITED APPEARANCE STATEMENT OF

9 MR. GUNNAR SARSTEN

10 MR. SARSTEN: Thank you. I am Gunner Sarsten. I am
11 a professional engineer. I am a resident of East Penn
12 Township, Chester County, and I am a customer of
13 Philadelphia Electric Company. It is my firm belief
14 that the most expeditious completion and operation of
15 both units of Limerick is in the best interest of the
16 Greater Philadelphia region, and the customers of
17 Philadelphia Electric Company, for the following three
18 reasons: One, adequate, safe, reliable supplies of
19 electricity such as will be provided at Limerick is
20 essential to the economic well being of the region.

21 Two, the cost to complete Limerick one and
22 two are lower than the costs of all other alternatives.
23 Those who really believe they can generate electricity
24 at less costs and less environmental impact than the
25 electric company are free to do so.

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1 Third, the environmental impacts of operating
2 Limerick are less than all other alternatives, including
3 the alternative of not generating additional electricity.

4 Thank you.

5 JUDGE BRENNER: Michael King, to be followed by
6 Marie Innsley.

7 LIMITED APPEARANCE STATEMENT OF
8 MICHAEL KING.

9 MR. KING: My statement is going to be brief and
10 to the point.

11 I have submitted a six-page written statement
12 entitled "The Need for Nuclear Power." Covered in its
13 context are statistics on increased usage of our natural
14 resources and the impact on society over an extended period
15 of time, and compares the possible alternatives to nuclear
16 power.

17 Realistically, looking at seemingly outrageous
18 costs of a power plant from start to finish over an
19 extended period of time, we will enjoy the security of
20 knowing not only that our dependence on foreign countries
21 is stabilized, but also that our children will enjoy the
22 convenience of power without jeopardizing the balance of
23 nature.

24 I feel it is important -- and there is others here,
25 I am sure, that would agree -- to remember our country

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1 progressed through optimism and invention. We should not
2 look to regression as a means for stability, but to
3 feasible alternatives for securing the future.

4 Thank you.

5 (Applause.)

6 (The statement of Michael King follows.)

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THE NEED FOR NUCLEAR POWER

National Perspective

Historically, our nation's economic health and vitality have been coupled closely with an adequate energy supply. There are indications today that this traditional relationship may be modified by a number of influences -- new technology, changes in production techniques, possible changes in lifestyles and conservation. However, economic growth and energy are linked inextricably and the need for at least moderate increases in energy supplies, particularly electricity, will continue in the future.

The importance of this relationship is emphasized by the present-day energy crisis, which was triggered initially by the oil embargo of 1973. It's a crisis created by dwindling domestic oil and natural gas resources and consequent heavy dependence on foreign imports, with resulting hefty increases in energy costs, and aggravated further by threats of impending shortages of electricity.

Oil, Gas Use Underly Energy Problems

Reliance on increasingly scarce and costly oil and natural gas for the bulk of our energy needs is the crux of our nation's energy problems. Today 76% of our energy requirements are met by these sources. Approximately 50% of the oil, more than 3 billion barrels annually, are imported at a cost exceeding \$40 billion. (Domestically, these fuels constitute less than 10% of our nation's energy reserves.)

To answer our energy needs and alleviate the energy crisis, we must reduce this dependence on oil and natural gas and, at the

same time, provide for some modest increase in energy consumption over the years ahead.

Why More Energy Will Be Needed

Energy consumption will continue to increase, nationally, because:

First, our nation must provide for moderate increases in Gross National Product to assure all segments of society an opportunity to improve living standards. This will require a greater energy supply, particularly electric power.

Secondly, more energy will be required by an expanding work force. Approximately 12 million more workers will be in the marketplace by 1985 alone.

Third, more energy also will be needed to support and provide decent lifestyles for growing numbers of families. By 1985, an estimated 13 million new households will be formed.

A Different Fuel Mix Is Imperative

It will be impossible to meet our nation's future energy requirements unless a drastic change is made in the fuel mix presently utilized. This is apparent in reviewing projections to the year 2000. Assuming a modest 2% annual increase in energy consumption (only one-half the historical trend), and using today's fuel mix, over the next 20 years we would need to approximately: triple our oil production, double our natural gas production, and triple coal production.

Such increases in oil and gas production are out of the question, and -- for a variety of reasons -- it is highly unlikely

that coal production could be trebled over the existing level.

Three-Part Solution

The solution to our nation's energy problems is a combination of three steps:

1. Conserve our national resources, especially oil and natural gas;
2. Examine all our energy alternatives, developing those that are practical and prudent, both competitively and environmentally;
3. Make the most of our solid fuel resources that are available in adequate quantity now -- coal and uranium.

Increasing costs will certainly help provide incentives to conserve oil and natural gas. Diminished supplies could also enforce conservation. However, our overall energy program should avoid the social and economic disruption that such a situation would create.

Some Now, Some Later

This brings us to alternatives. Accelerated research will produce viable alternatives that ultimately will make significant contributions to our nation's energy supply and enable us to stretch out oil and natural gas reserves. For example, solar energy is competitive now for certain uses such as water heating and, hopefully, technological progress will enable solar to make meaningful contributions to the production of electricity sometime in the future.

It is this time period between limited applications of

energy alternatives and their broadscale use that must be bridged. This bridge can best be formed through a combination of coal and nuclear power and judicious use of our oil and gas resources.

A Partnership

Through a partnership of coal and nuclear in the production of electric power, our nation can become less dependent on oil and gas for its future energy supplies. There is, of course, a controversy over the use of nuclear power and some people advocate eliminating it from our energy options.

There are those who believe the nation's future electric energy needs can be met by coal alone, but studies indicate otherwise. Nuclear is needed, as demonstrated by an EPRI Study which reached these conclusions based on the assumption that full reliance would be placed on coal for the production of electric power.

Without Nuclear As An Energy Option

"Impossible" demands would be placed on coal reserves. Production would have to increase from the present .7 billion tons per year to 3 billion tons per year by the year 2000;

Carrying the projections another 30 years, coal production would have to reach a staggering 7.5 billion tons per year by 2030:

The study points out that the environmental implications of such coal production levels would be monumental -- especially if plans proceed for the conversion of coal to synthetic gas and oil:

Full reliance on coal for future energy needs would raise the busbar cost of electricity by about 20% compared to the cost using an optimum mix of fuels, including nuclear.

Another Look by NERA

Making the same assumption that nuclear power would be unavailable, National Economic Research Associates (NERA) in a separate study projected these consequences:

1. Such a move could increase the annual utility costs by up to \$37 billion in the year 2000.
2. The additional social costs of insufficient energy supplies could exceed \$25 billion a year by 1987.
3. Coal as a substitute would add as much as 1.87 million tons of additional sulphur emissions per year by 1990--significantly reducing the present and anticipated gains of the 1977 amendments to the Clean Air Act.
4. Oil imports will have to be increased 2 million barrels per day by 1985; and possibly as much as 4.7 million barrels a day.
5. Energy production-related fatalities would increase by as much as 30,000 over the next two decades because of increased hazards in mining, transportation, and burning of coal.

Nuclear Power Today

Looking at nuclear power on the national level, there are presently 72 plants operating in this nation and an additional 96 have received construction permits from the Nuclear Regulatory Commission.

Operating nuclear plants in 1973 provided nearly 13% of the nation's electrical output. They save consumers almost \$3.6 billion compared to the weighted cost average of coal and oil

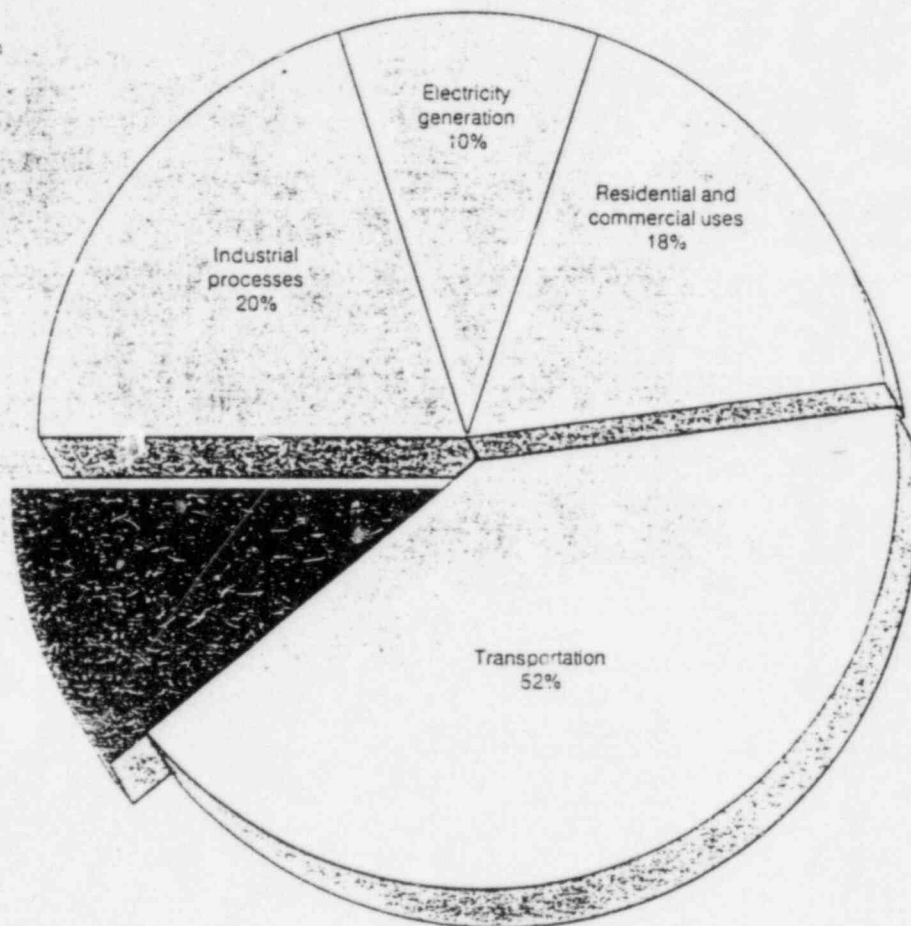
generation. These plants produced electricity equalivant to that which would require burning 130 million tons of coal or, more significantly, 470 million barrels of oil.

Equally significant is the dependability of nuclear power plants. This has been demonstrated particularly in the eastern half of the nation, when the supply of electricity from coal-fired power plants has been threatened by extreme winter weather and strikes which jeopardized coal availability.

How can the pattern of U.S. oil use be changed, and how soon? Coal and uranium can directly replace oil throughout electricity generation and process heat production and indirectly replace oil (by means of electric-powered heat pumps) in many residential and commercial applications. Early substitutions in these three sectors could total 42% of 1979 oil use (nearly as much as the 46% we now import).

By 2000, development of synthetic fuels from coal and shale could yield the equivalent of another 14% of today's use, probably most applicable in the transportation sector.

SUBSTITUTING FOR OIL



Beyond this displacement of natural crude oil alone, however, oil recovery from shale is potentially extremely large and could in time replace all our imported oil. The production process is inherently more expensive than from flowing wells, but the costs are within near-term commercial reach. What is needed now are large-scale demonstrations to settle all the technical uncertainties of environmental issues, equipment reliability, fuel-refining variables, and the like.

There is yet another source of liquid (and gaseous) fuel. The conversion of coal is a chemical engineering process that has been feasible on a small scale

for some time but for which large-scale development remains to be accomplished. This might be done during the coming decade if proposed projects are started soon. Cost projections are promising but still uncertain because full-size engineering subsystems have not yet been demonstrated. The large U.S. coal resources make coal conversion a very attractive long-term objective for liquid fuel supply.

There is no question in my mind that technology is showing us a way to remove the oil squeeze, with room to spare. In industry, in buildings of all kinds, and among utilities, the displacement of oil by coal- and nuclear-pow-

ered electricity generation can be significant in the near term. Oil from shale and from coal conversion processes can do even more. We can therefore be optimistic about an eventual assured liquid fuel supply if we take the obvious steps.

But although substitutes for natural petroleum are obviously crucial to our total energy mix and are clearly seen to be technologically attainable, an adequate supply of electricity, in particular, is not thereby assured.

Fueling electricity growth

Almost one-third of our primary energy equivalent is used to generate electricity today, and by the year 2000 about one-

1 JUDGE BRENNER: Mr. King, I'm going to have your
2 written statement, of course, without the covers, bound
3 into the transcript as if read following your oral remarks.
4 So, we'll have them available in the record.

5 MR. KING: Very good.

6 JUDGE BRENNER: I should have mentioned -- those
7 of you who were here last evening know the court reporters
8 here are taking down, for our transcript purposes, the
9 oral statements. And we will also bind in the written
10 statements that we've received tonight in tonight's
11 transcript.

12 Ms. Inslee.

13 LIMITED APPEARANCE STATEMENT OF MARIE INSLEE

14 MS. INSLEE: I'm Marie Inslee. I live in
15 Downingtown.

16 I have been reading for 10 years the worldwide
17 concerns in the nuclear picture. But there are so many
18 positive things to be said about our world today that I'd
19 like to start with them.

20 I'd like to congratulate Philadelphia Electric
21 on installing scrubbers in the plants of coal-fired energy
22 generation. This is a great step to solve some of our
23 environmental problems.

24 There are alternatives, and we've had them dealt
25 with. We are all reading about them every day.

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1 This morning I heard that a much smaller wind
2 turbine in San Francisco can produce the equal of wind power
3 that a much larger turbine had been producing. So, we're on
4 the way.

5 And I think perhaps everyone in this room tonight
6 will admit that when we deal with something that is as
7 challenging as uranium, that develops as much power as
8 uranium does, that lasts 100,000 years in some of its effects,
9 that we'd like to find something that might not last so
10 powerfully long to kill us, but would still produce energy --
11 and that perhaps everyone of you would admit that we'd like
12 nuclear energy to be an interim source.

13 And to me, if it were the last source of energy,
14 I'd say, "Go ahead. Do your very best."

15 But it makes me furious to think that a number of
16 years ago our Congress gave thousands more to research in
17 the nuclear field than to any other alternative to develop
18 energy.

19 Right now we're learning to conserve. We find
20 our projections are wrong. We've stopped being fools about
21 wasting the world's supply of energy, of minerals, of every-
22 thing that becomes scarce. We're stopping cutting down trees
23 and considering our water supply. Florida has paved in.

24 I'm happy to say that the president of the
25 International Paper Company, upon becoming president, found

1 that International Paper can do half its power source by
2 co-generation.

3 We'd better stop wasting.

4 There are many alternative sources of energy, of
5 electricity, where workers will have continuing expanding
6 employment. And we had better start to investigate them.

7 And again, I say I'm proud of Philadelphia Electric
8 for going ahead with scrubbers.

9 These are optimistic signs.

10 There can wind farms.

11 NASA predicted that we could get one-third of our
12 energy from wind farms in the West because of steady air,
13 steady wind sources.

14 NASA sent us to the moon.

15 But now I'd like to talk about deaths. To me,
16 the whole nuclear picture is the eptome of the Four Horses
17 of the Apocalypse, War, Death, Pestilence and Famine.

18 Nuclear wastes destroy our water supply, destroy
19 the food chain, destroy us. We're all limping around here
20 a little bit more because of all of the talks and nuclear
21 waste, radioactivity that's gone into our earth.

22 None of us can escape this. It's happening now.

23 We hope we won't have to deal with the war that
24 nuclear power can give us.

25 But it's going to create pestilence -- but I

1 have them wrong. In the Bible, it's War, Death, Famine, and
2 Pestilence. But in case of War, Pestilence may come first,
3 and then Famine. Something for all of us to think about
4 every time we hitch up a new nuclear plant.

5 I'm optimistic that it is an interim thing,
6 because 200 plants that were scheduled have been canceled.
7 And plants now -- one, almost 97 complete, is being consider-
8 ed for cancellation.

9 We have the debt here of the possibility of
10 \$5 billion. They only spent \$1 billion. But they're going
11 to cancel it.

12 Today we seem to be fascinated by movies like
13 Apocalypse, The Sinking of the Titanic. And when we look
14 back on history, we all say, "It could have been avoided.
15 They saw these things. They knew these things. And they
16 didn't do anything."

17 CHAIRMAN BRENNER: Ms. Inslee, excuse me. You're
18 past the five minutes, so I wonder if you could complete your
19 thoughts at this time.

20 MS. INSLEE: A Philadelphia Electric Luncheon
21 featured on its printed program the emergency plans for
22 nuclear plants. And the other half of the program was on
23 cosmetics.

24 And on the printed program there was a clown face,
25 and underneath it said: "Put on a smiling face."

1 I don't think emergency plans are cosmetic. I
2 think they are crucial to your child's life and your grand-
3 child's life. Every one of us who earns a salary here has
4 to face three generations ahead and 200 years ahead. And
5 we'd better face it. And we'd better ask Philadelphia Electric,
6 the public utilities, to serve us honestly and in a
7 humanitarian way.

8 Thank you.

9 (Applause.)

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1 JUDGE BRENNER: Lisa Cremers, to be followed by
2 William Farally, Jr.

3 LIMITED APPEARANCE STATEMENT OF
4 LISA CREMERS.

5 MS. CREMERS: I am Lisa Cremers. I live in
6 South Coventry Township.

7 I was at the meeting last night and I listened
8 to the comments and the statements. Two things seemed to be
9 really clear to me. Number one was that almost all of the
10 people who spoke in favor of the Limerick Power Plant or
11 nuclear power in general seemed to have three alternatives
12 in mind, either coal, oil or nuclear.

13 Very few seemed to know or be aware of renewable
14 energy which can take several forms and does not need an
15 evacuation plan.

16 I cannot help but wonder if as much effort had
17 been spent by the electric power industry, and if it had
18 been as heavily subsidized by the federal government as
19 nuclear power has, if then the alternate sources of safe
20 electricity would not be as far advanced today as nuclear
21 energy is.

22 The repeated statement tonight and last night
23 that there has not been one fatality caused by nuclear
24 industry bothers me. The hazardous effects of nuclear
25 energy have been -- on the body happen to take -- happen to

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1 be delayed for years. Tumors and cancer cells aren't
2 labeled nuclear-reactor-caused.

3 Number two, the other point that seems strange
4 to me was that the people who spoke against nuclear power
5 and the effects of an evacuation plan were unanimous in
6 their cry for moral responsibility, while those who were
7 for nuclear power spoke very little of responsibility.

8 I heard more discussion from them on economic
9 and monetary priorities at any price.

10 I think it is kind of peculiar at a pretty young
11 age that I found myself embarrassed or apologetic for
12 needing to find integrity in people and in their actions.

13 I remember when I was younger and we were playing
14 games and things, it was honorable to play fair. The cheater
15 was always scorned and I had -- if someone was cheating, I
16 had the choice to quit, if I wanted to, but in this more
17 serious case that option is threatened. I don't have the
18 choice to quit. It's a life-or-death matter.

19 Decisions are being made for us by a select few.
20 I do not want to be a party to any form of energy that
21 requires or in any way discourages personal options and
22 the benefits and the privilege of individual responsibility.

23 Thank you.

24 (Applause.)

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1 LIMITED APPEARANCE STATEMENT OF
2 WILLIAM FARALLY.

3 MR. FARALLY: Good evening. My name is William
4 Farally. I am a business representative for the Sheet
5 Metal Workers Local Union 19. I have approximately over
6 200 people working up at the site at the present time. I
7 represent approximately throughout the Philadelphia area
8 2500 people, and probably throughout the five-county area
9 3000 people.

10 I think they would probably echo some of my
11 statements tonight. In the spirit of democracy there was
12 no sense of bringing my membership here because then they
13 wouldn't have the right to say what was on their mind.

14 Being a business representative, I think foremost
15 I have to present to people at this meeting we represent
16 people, foremost people. Jobs is certainly a priority,
17 but not one job is worth an unsafe plant. For seven years
18 I have --

19 (Applause.)

20 -- for seven years I have been on this particular
21 site, and my duties have been the Limerick site. Our
22 people have worked on Peach Bottom, worked on Salem, they
23 have also worked on TMI, and they have worked around the
24 clock after the incident at TMI to make sure that no other
25 catastrophes happen on that particular project.

1 The paper work, the quality assurance programs
2 that's been developed on this particular site, has been
3 demonstrated to be, as the people have come on the site to
4 work, sometimes overburdened, but for safety it must be.
5 You cannot tolerate a nuclear accident in this country.
6 We realize that.

7 The Philadelphia Electric has emphasized to the
8 people that they want to build the finest, the most efficient
9 and, most of all, the safest nuclear power plant in the
10 country. And this has not been said just once by
11 Philadelphia Electric, it's been commented to the workers
12 numerous times and the work force up there feel the same
13 commitment.

14 Many jobs have developed not just on that site,
15 but indirect throughout the whole metropolitan area.
16 The completion of Unit 2 -- the realities of not completeness
17 is having a skilled work force move from one area to another
18 escapes me. When you talk about future development of this
19 area -- and let's face it, if our people don't have jobs,
20 they don't have a place where there's sufficient energy
21 for those jobs, you know, our children and their children,
22 they won't have much of a life.

23 There is such a thing as planned development. It
24 does work. The major cost factor in the plant itself --
25 people talk about the escalation of cost, and this has been

1 caused mostly by gimmicks, either to stop the plant or
2 impact studies, and the Philadelphia Electric has been
3 patient. They went through these series. It's safe. It's
4 environmentally sound.

5 So what I'm urging, that we go -- that I would
6 go on record as a representative plus as a consumer and a
7 ratepayer that the license be given on Unit 1 and the
8 completion of Unit 2. Don't waste the skills of those people
9 up there. Don't waste the billions of dollars that have
10 already been spent, because it is a safe plant and it
11 will be a safe plant.

12 Thank you.

13 (Applause.)

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1 JUDGE BRENNER: Wilmer Kleinbach. To be followed
2 by Joseph David.

3 LIMITED APPEARANCE STATEMENT OF WILMER KLEINBACH

4 MR. KLEINBACH: My name is Wilmer Kleinbach. I
5 reside in Jeffersonville, Pennsylvania.

6 I'm a graduate electrical engineer, professional
7 engineer. And after 37-1/2 years in the utility industry,
8 I'm now a private consultant.

9 For 30 years, I have worked in interconnected
10 systems operation across the country. I have been
11 instrumental in setting up guidelines to cope with normal
12 operation, as well as guidelines to cope with emergency
13 operation.

14 In this part of the country in the Mid-Atlantic
15 states, I was involved in interconnected operations in all
16 or parts of five states, Pennsylvania, New Jersey, Maryland,
17 Delaware, Virginia, and the District of Columbia on a day-to-
18 day management basis.

19 During the late 1960s and one week in September
20 1970 we suffered serious capacity shortages. I lived through
21 blackouts, and I lived through brownouts. And I know the
22 impact this can have on the customers and on those persons
23 who are responsible for operating the large interconnected
24 grids.

25 The purpose of my statement is to indicate my

1 sinsere believe that what we experienced in the mid- to
2 late-'60s will be mild compared to the power shortages that
3 I do anticipate will take place in the late '80s or, if not,
4 the early '90s.

5 I judge this to be a fact based on the lead times
6 required to install generating plants and transmission lines;
7 Approximately 10 years to install a fossil-fired -- coal-
8 fired plant; approximately 15 years to install a nuclear
9 plant; and up to 10 years to install a high-capacity bulk
10 power transmission line, the lines that are needed to deliver
11 the power from the plants to the customers.

12 Approximately three years ago I presented a paper
13 to system operators across the country, pleading with them
14 to prepare for the future.

15 On November 16th, I will repeat a similar paper in
16 California, pleading, again, with the companies, the
17 operators of approximately 60 utilities in the western part
18 of the country to prepare their operations for the future.

19 I think all of us realize the tremendous contribu-
20 tion that the electric utility industry has made to the
21 progress of this country during its second century.

22 I think it's extremely unfortunate that as our
23 economy now turns around it will be blocked by a lack of
24 sufficient, adequate capacity for this country to make the
25 progress that we all like to see made.

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There has been too much postponement already of generating capacity in this country, and especially in this part of the country.

I would hope that all units that are still in the construction progress would continue. I would hope that there would be no more cancellation, that the utilities will find some way of financing the future plants that are needed, because I sincerely believe that the progress of our country is tied directly to adequate electric power supply

Thank you.

(Applause.)

st 17-1

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1 JUDGE BRENNER: Mr. David.

2 LIMITED APPEARANCE STATEMENT

3 OF JOSEPH DAVID.

4 MR. DAVID: Yes. My name is Joseph David. And
5 I live in Pottstown. And I am a professional engineer and
6 at least part of my life I've been involved with nuclear
7 power plants.

8 First of all, I would like to say that I am a
9 sportsman. I like the outdoors. I like breathing fresh air.
10 And for that reason I am very concerned about the pollution
11 and there is a lot of pollution that is generated by every
12 other source but nuclear power. In fact, if you read, during
13 operation the statistics of nuclear power, in fact they are
14 far better than almost any other source of energy or things
15 like the automobile, aircraft, whatever.

16 But I think we are dealing here with problems that
17 are connected with the emotions and we think -- we don't
18 think of coal as a friend. We think -- we don't think of
19 nuclear energy as an enemy. Unfortunately, nuclear energy
20 has had a very frightening beginning, not in the form of
21 energy but in the form of bombs. It's quite different.

22 That is what stays in the minds of people. I am
23 a Friend of the Earth, and I would like to say that it's
24 very difficult to think of nuclear power as an enemy.

25 In this century we have used up a lot of our

st 17-2

1 renewable resources. If you look at the graphs you can see
2 that we are consuming them at such a rapid rate that in the
3 next three to five hundred years we can expect to see our
4 oil and coal resources totally depleted.

5 If you want to take a long view, then I think we
6 must look at how can we stop that. There is nothing yet
7 on the horizon which can take place of the massive energy
8 resource available in nuclear energy. We must use it as
9 an interim measure at least until something else comes
10 along. Everything else is going to take too long. What are
11 we going to do in the interim?

12 I would like to touch on safety for a moment.
13 Safety is very comparative. We walk out of our door and
14 we risk our lives. We could fall on the step. We could get
15 knocked over by an automobile. We go skiing without fear.
16 We get in automobiles, and we get into aircraft, and we go
17 off on vacation laughing.

18 Actually, all those things are so much more
19 dangerous than nuclear power. It's absolutely inaccurate
20 to think that people are concerned about the risk of nuclear
21 power when they themselves everyday are taking risks that
22 are far in excess of that.

23 I would like to talk a little bit about the
24 political aspects of nuclear power. As you know, we were
25 held to ransom by the oil-producing countries in 1974 and

st 17-3

1 then I think in 1979 or thereabouts. We will continue to
2 have that happen unless we are totally energy dependent.

3 France has taken measures to become totally energy
4 dependent. She managed to ride through some oil crises.
5 Actually, New England which has the greatest energy resources
6 in nuclear power did very well during that crises. That's
7 why. We talk about costs. A lot of people are concerned about
8 costs. I think the human elements are important. It's very
9 important.

10 And what I have been trying to address here is the
11 fact that we are all involved with the human elements. But
12 the cost cannot be overlooked. We see the plant sitting there.
13 I drove right past it. It cost -- it is going to cost many
14 billions of dollars. We know that the availability and
15 capacity factors are very good with nuclear power.

16 So I would like to say that why don't we keep on
17 with nuclear power, because it is a good alternative. Thank
18 you very much.

19 (Applause.)

20 JUDGE BRENNER: Charles McHush, III, to be followed
21 by Paul Seerfoorce.

22 I would like to ask people in the room to kindly
23 not smoke. We have a large crowd here and also we are
24 guests in this room, and for those two reasons, among others,
25 I would ask that you please not smoke. Thank you.

st 17-4

LIMITED APPEARANCE STATEMENT OF
CHARLES McHUSH, III.

MR. McHUSH: My name is Charles McHush. I am President of the Millwright Machinery, Local 1906. I am representing my membership tonight and I am here in place of my business representative who couldn't make it here. I have a letter written by him.

I would like to state my, as well as my memberships' viewpoint, and make it part of the public record on the license issuing of Limerick 1 and 2.

On behalf of three hundred and sixty members of Millwright Local 1906, I think it imperative for the future stability of the electrical needs of the Delaware Valley that Limerick 1 and 2 receive the Nuclear Regulatory Commission license. Not only is the need of electricity for the homeowner a concern, but also the industrial community. For without power to expand and grow, the Delaware Valley -- the jobs in the Delaware Valley will eventually disappear.

We all know that jobs are -- without them we have no future. As business representative for the United Brotherhood of Carpenters, I feel it is imperative that this project be completed and become a contributing factor for the growth of our society and will help supply the many needed jobs in this community. Thank you. David Marconi.

(Applause.)

st 17-5

1 JUDGE BRENNER: Thank you. You might tell Mr.
2 Marconi we had his written statement bound into the record
3 last evening when we first received it also.

4 Mr. Seerfoorce.

5 LIMITED APPEARANCE STATEMENT
6 OF PAUL SEERFOORCE.

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7 MR. SEERFOORCE: Good evening. My name is Paul
8 Seerfoorce. I live in Trappe, Pennsylvania and I work for
9 Bechtell Power, the constructor of the Limerick nuclear
10 generating station. And my position there is an engineer.

11 There are many advantages of having a nuclear
12 power plant located near Pottstown, Pennsylvania. The main
13 reason being is that it is a safe, economic source of
14 energy. It is an advantage, because when it does go on
15 line it will be an incentive to existing businesses in the
16 area to stay there. It will also be an advantage to this
17 area for attracting potential other major businesses,
18 because -- the reason is because of low energy rates.

19 If Limerick is cancelled or not built, the rate-
20 payers are going to pay the for construction of it anyway,
21 or PECO will fold. And it will drive the cost of electricity
22 in this area up and drive those businesses that are here
23 away because they cannot afford the high rates.

24 I want to say that Limerick is a quality job,
25 a lot of hard work, a lot of manhours have been spent building

st 17-6

1 the place, with the thought of the best nuclear power plant
2 in the world in mind. And that's pretty much what I had to
3 say. Thank you very much.

4 (Applause.)

5 JUDGE BRENNER: Georgia Dukes, to be followed by
6 Nancy Catton.

7 LIMITED APPEARANCE STATEMENT

8 OF GEORGIA DUKES.

9 MS. DUKES: Thank you, gentlemen, for allowing me
10 to speak. I sympathize with the Limerick workers. I know
11 that jobs are the most important things in this -- especially
12 in Pennsylvania because we have lost so many. But I was
13 wondering if maybe they could have ten more years of work
14 by dismantling the Limerick plant and using the materials
15 for diversified fuel. (Applause)

16 Liquified gas, you know, solar maybe somewhere.
17 But diversified. We were always told never to put our eggs
18 in one basket. It seems to me PE has done that. And I
19 think it's an unsafe basket.

20 I live in Collegeville. I am outside -- well,
21 Collegeville is in the evacuation area. But I called the
22 secretary in the Municipal Building and she knew nothing
23 about the meeting tonight. It's the best kept secret in
24 Collegeville. We are right next to Trappe, Limerick. And
25 I happened to be -- she told me -- you know, there is a nice

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st 17-7

1 little circle, and I'm outside that circle. I'm nine point
2 five miles from the plant but I'm outside the circle. My
3 sister is three miles further away from Limerick and she
4 got an evacuation form, and she is worried about taking
5 three horses down the expressway, a couple of dogs and
6 chickens, and out the Roosevelt Boulevard to the Yosemite
7 Mall which is where they will evacuate. Now, Collegeville
8 is supposed to go to Doylestown. The people in Collegeville
9 at the Municipal Building had no idea they were supposed
10 to evacuate to Doylestown. So she said: Where did you
11 hear that? Well, I got a report from the NRC. And they
12 don't know anything about that but she is not worried be-
13 cause she doesn't feel she has to worry about that. So,
14 that's good.

15 But there is also another one. In 1981, the NRC
16 decided that PE would have to come up with a probable risk
17 assessment in this area. And they said they would probably
18 not give them a license unless they came up with a probable
19 risk assessment. I think there was a Mr. Tadeskio and said:
20 Why are you dragging your heels on this. I forgot who it
21 was at PE, said: Well, I have no idea why but it's a
22 horrendous undertaking.

23 JUDGE BRENNER: Excuse me. I am having a little
24 bit of trouble hearing you. Could you speak up so I can
25 hear you?

st 17-7

1 MS. DUKES: I said Mr. Tadeskio of your Staff sent
2 me --

3 JUDGE BRENNER: Not my Staff.

4 MS. DUKES: I'm sorry. So, anyway he sent a
5 letter to PE and said something about your dragging your
6 heels and the response was, you know, I don't know why we
7 are but it's a horrendous undertaking. But I know why. Now
8 I know why they are dragging their heels, because it was not
9 to be considered in the licensing of Limerick.

10 In 1983 we don't consider a probable risk assess-
11 ment of the people who live in this area. I know everybody
12 is saying it is very safe. But, you know, if it was so safe
13 isn't it bizzare that we are all sitting around here figuring
14 how the hell to get out of this area if we have a leak?

15 I don't know of any other fuel, fossil fuel,
16 whatever, solar, whatever. There are many coalminer's
17 killed, and I'm sorry to say there are. That isn't just
18 the only way to go but this is bizarre. This whole setup
19 is bizarre.

20 I know you will say I'm a hysterical old lady,
21 but you know you find out that hysterical old ladies around
22 here read.

23 MS. INSLEE: You are not a hysterical old lady.

24 JUDGE BRENNER: Excuse me. Ms. Inslee, we gave
25 you your opportunity. Now, I would like to give everybody

st 17-8

1 an opportunity.

2 MS. DUKES: I think this plant was a self-
3 fulfilled prophecy. If they built it, dig, one spot. They
4 could take the pipeline from the Delaware and they could
5 develop Montgomery County. Because after they are finished
6 with the two units they will have sixty-six percent more
7 electricity than they can use. So, it's a good sales
8 item.

9 I will tell you another thing. I resent being
10 a -- or being put in harm's way by a private industry who
11 is making profit, and I'm giving him that profit. We have
12 one of the highest electricity bills around here, and when
13 it goes on line it will be astronomical, because they can't
14 get another loan from a bank unless they promise forty per-
15 cent over the rate they are charging after it goes on line.

16 I'm upset, and I do feel badly about the workers,
17 but I think there is diversified things they can do. We
18 have bridges falling down in Connecticut and in Pennsylvania.
19 And they are good workers and they are hard workers, but
20 they have a vested interest and I don't blame them.

21 Thank you.

22 (Applause.)

23 JUDGE BRENNER: Ms. Dukes, I would like to ask
24 you one question. You said you live in Collegeville.

25 MS. DUKES: Yes.

st 17-9

1 JUDGE BRENNER: And in your view Collegeville
2 is not within the ten mile evacuation area?

3 MS. DUKES: I live on the edge of Collegeville,
4 and I think we might be right on it. I'm not sure. They
5 didn't know. I called.

6 JUDGE BRENNER: What county is Collegeville in?
7 Montgomery?

8 MS. DUKES: Yes, that's Montgomery County. The
9 line is two miles beyond me so I am sure I'm in the evacuation
10 area. But I never got a notice.

11 JUDGE BRENNER: Ms. Catton.

12 LIMITED APPEARANCE STATEMENT

13 OF NANCY CATTON.

14 MS. CATTON: Yes. My name is Nancy Catton. I
15 want to express my opposition to the nuclear power plant.
16 I also want to express my annoyance at the size of the room,
17 and that there are not people who would want to speak. In
18 my mail I get propaganda from PE, and in my children's
19 schools we have propaganda from PE, and when we come to a
20 meeting we are swamped with workers at PE.

21 And I'm really angry by this situation, and I
22 hope that we will have another meeting so that others can
23 speak.

24 I am going to send my comments to the NRC. And
25 I really feel it's futile to get up and talk at this point.

st 17-10

1 I'm sorry. That's the way I feel.

2 (Applause.)

3 JUDGE BRENNER: All right. You reminded me of
4 one thing. I should give the mailing address for people
5 who, after thinking about it, would wish to write comments
6 or supplemental comments they made here tonight.

7 And that would be to the U. S. Nuclear Regulatory
8 Commission, Attention of the Secretary of the Commission,
9 Washington, D. C. 20555.

10 And please indicate somewhere near the top of
11 your writing that it relates to the Limerick proceeding. And
12 the Secretary will forward it to us.

13 MS. INSLEE: Could I ask a question on the radius --

14 JUDGE BRENNER: No.

15 MS. INSLEE: -- of the area to be evacuated.

16 Ninety miles downwind can be effected.

17 JUDGE BRENNER: I'm glad I said no. Robert Pruis,
18 and to be followed by Audrey Falasco.

19 Mr. Pruis. Is Mr. Pruis here? (No response.)
20 Audrey Falasco, followed by Donald Paterson.

21 LIMITED APPEARANCE STATEMENT
22 OF AUDREY FALASCO.

23 MS. FALASCO: My name is Audrey Falasco. I come
24 as a property owner in East Coventry Township with property
25 less than a quarter of a mile from the site. And as a home-

st 17-11

1 owner we are just under the mile and a half limit from
2 the site.

3 I am a management consultant. I own and operate
4 a company. I am also part-time faculty at two local
5 universities. I have a statement and some questions. I am
6 not as coordinated as I would like to be. I am rushing in
7 from work.

8 My statement is that the reality to us, those of
9 us who live so close to the site, is that in fact evacuation
10 is only a word. It just is not possible. I recall a very
11 similar hearing held at the Holiday Inn in Pottstown several
12 months ago. A young man from Philadelphia addressed the
13 panel and asked precisely what they proposed that those of
14 us who lived very close to the site do. And the member of
15 the panel in a rather blase and flippant way said: I
16 certainly would suggest that you go to your basement and
17 you won't be trapeled in the crush. And the young man said:
18 Sounds as though you are writing us off. The man said: Well,
19 you said that, I didn't.

20 We find more and more as time goes by, those of
21 us that are faced with this reality, it is not possible to
22 evacuate us and our cattle, those of us on farms, our children
23 in three or four different schools. We ponder what you
24 propose that we do. Do we go and get the grandparent at the
25 facility for the aged first? Do we go and get our mother and

st 17-12

1 father out of living in another place, not even to think
2 about our own situations at work.

3 We have heard many proposals for evacuation. It
4 just isn't possible. I know very little about engineering,
5 but I have considerable and insight about living beings.

6 And I propose that regardless of the severity of
7 a possible situation, even though we may see five months,
8 five years, fifteen years, or however, of power being
9 generated from this plant, it is unconscionable to impose
10 this on the hundreds of people, the old people who could not
11 survive in the thought of trying to go out, whether it be cold
12 or hot. We have insufficient ambulances with people in the
13 hospitals.

14 I would like to know how you propose to obtain
15 hospitals. What are you going to do with the people in
16 prison? I'm not even thinking about -- the bus drivers that
17 we now hear that are saying publically, they are not going
18 to drive the school buses. They are going to take care of
19 themselves and not -- they are not even considering reporting
20 to schools and so forth.

21 The chaos and the heartache and anguish that
22 would come about, regardless of the severity of an incident,
23 is not only -- it makes evacuation impossible. To those of
24 us who have been so severely affected by this, we think
25 it's unconscionable.

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You have robbed us of the right to even sell our property. We have forty acres of heaven, and we don't have anyone who would buy it, even at half price. We have this land. You are taking our heritage away, that we can't even leave to our children. Our family has a history of grandular problems, and we know from the computerization of urinalysis and other tests, we know from people that I correspond with in Colorado, in West Germany, in the Savannah River Plant in Georgia, we know for a fact -- people that we know near TMI still hae strong evidence of problems because of the effects of this.

We find many people here tonight said a lot of positives. I respect that certainly. I also would like to comment it is a shame that the room is so small and those of us who would have the opposing side, regardless of how we feel about nuclear power, present the fact that in reality evacuation is not possible.

And you have not only robbed us -- I will add a four-letter word, you have raped us. You have violated our personal rights to our property, to our heritage and to certainly the way we have our income. We have people now telling us that please know that they are not going to buy our organic grown crops and cattle when Limerick goes on line.

JUDGE BRENNER: Ms. Falasco, five minutes are up.

at 17-14

1 I wonder if you could complete your thoughts at this time.

2 MS. FALASCO: I believe I have. Thank you.

3 (Applause.)

4 JUDGE BRENNER: Mr. Paterson.

5 LIMITED APPEARANCE STATEMENT

6 OF DONALD PATERSON.

7 MR. PATERSON: Thank you. My name is Donald

8 Paterson. I am a research chemist at a chemical company

9 located in Valley Forge. I currently live in Monclair,

10 Pennsylvania. I have several thoughts about nuclear energy.

11 I would first of all like to make the distinction that

12 Limerick, TMI and so forth rely on nuclear fission which is
13 splitting of atoms to make energy.

14 There is another form of nuclear energy which
15 is called fusion, where you join hydrogen atoms together
16 which again makes energy. Just a fine distinction but it's
17 confusing to a lot of people who really don't know.

18 Basically, what we are talking about with Limerick
19 and with other reactors of this type is we are using an
20 atomic bomb to heat water. What happens when we have a
21 problem here, you release radioactive materials which can
22 cause a lot of damage to a lot of different beings, organisms.

23 And those affects will not be seen for perhaps
24 years, so we have many questions that are not really known
25 what the answers are. When you use this uranium to make

XXXXXXX

st 17-15

1 atomic energy, there are by-products which have lives of
2 hundreds and thousands of years. What are we going to do
3 with these by-products? We don't know what to do with them
4 now. What is another reactor going to do?

5 We have heard a lot of talk about an evacuation
6 plan. That's not really going to accomplish much. There
7 is going to be a lot of panic if we have an accident similar
8 or even worse than TMI.

9 One interesting point, when we bought our home
10 in Montclair, on our insurance it says we will not insure
11 you against a nuclear accident and the affects of a
12 nuclear accident. If it's so safe, why won't the insurance
13 companies cover an accident like that?

14 I think maybe we are not getting all of the
15 facts. As I have said, an alternative is fusion power. It
16 is safe. If anything goes wrong, the system will shut down.
17 In fission power, if something goes wrong you have got to
18 rely on devices to shut it down. And that might not work.

19 In conclusion, I think that Murphy's law applies
20 here, that is whatever can go wrong will go wrong. With
21 nuclear fission I think that O'Toole's quip applies, and
22 that is: Murphy was an optimist. Thank you.

23 (Applause)

24

25

gw 18-1 1

JUDGE BRENNER: I mispronounced the name before.

2 It should be Mr. Robert Brems. We will hear from him now.
3 Is he here? Mr. Brems to be followed by Barney Schlecterine.

4 LIMITED APPEARANCE STATEMENT OF
5 ROBERT BREMS.

6 MR. BREMS: My name is Robert Brems. I am a
7 professional engineer, and I live in Reading, Pennsylvania,
8 and I am not associated in any way with Limerick nuclear
9 power station. I am, however, a firm believer that
10 nuclear power is safe, clean, economical energy source
11 that should be exploited by this country and by others
12 throughout the world.

13 It is a shame, but an unalterable fact of history
14 that nuclear energy was introduced to the world by a bomb.
15 The mushroom clouds have left impressions in our minds,
16 and as a result people are responsive to emotional arguments.

17 The negative side I think to nuclear power exploits
18 these particular arguments. There is a risk associated with
19 nuclear power. There is no question about that. And for
20 those of us that live around Limerick, the risk is about
21 the same as being hit by a meteor, and how many in this
22 room have altered anything in their life because of that
23 possibility.

24 We all drove here tonight. Fifty thousand people
25 a year get killed in automobiles. Billions of dollars
of property damage. We heard somebody say please stop

gw 18-2 1

2 smoking. We are all exposed to smoking. Guaranteed to
3 shorten your life. It can cause exp hazema and other
4 diseases.

5 So, the risks have to be put into perspective.
6 And it is up to boards like this, and public forums like
7 this, to get everybody's opinion and ideas out in the
8 open to evaluate them and then to make a decision for
9 the benefit of overall society.

10 The average person is confused. There are
11 experts on both sides of the issue. They both have good
12 credentials. What are we to believe? Now, that is a
13 problem, but it is not without precedent.

14 There are experts on both sides of all controversial
15 issues. If we go back to the turn of the century when
16 electricty was beginning to be distributed to homes and
17 factories, two giants of the industry, disagreed on what
18 should be done. Thomas Edison was a proponent of direct
19 current electricity. John Steimmitz was a proponent of
20 alternating current electricity. The battles raged. The
21 lines were drawn and the people were bewildered. What
22 should be do? Who was right?

23 With time, we now know that Steimmitz with his
24 alternating current was right. I would urge this board
25 to examine the facts and then rule on the Steimmitz side
of the operating license for Limerick nuclear power

gw 18-3 1

station.

2

JUDGE BRENNER: Ms. Bonnie Scheleschig.

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4

LIMITED APPEARANCE STATEMENT OF

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MS. BONNIE SCHELESCHIG.

6

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MS. SCHELESCHIG: I want to add that it is

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times like this that make me regret reverting to using

9

electricity again. I lived for four years with hardly

10

any electricity, and it is really not that bad.

11

Anyway, I know that most people can't do it,

12

but I am very conscientious of the time, and I don't now,

13

and I am going to say what I am going to say anyway.

14

While all of us certainly use electricity

15

to make our daily tasks and rituals convenient, and while

16

industry requires huge amounts of electricity, I would

17

like to voice my opinion that returning to nuclear

18

power as a healthy solution is a far more drastic measure

19

than our very serious need for sufficient electricity

20

supply both now and in the near and distant future.

21

I have some objections to nuclear power in general.

22

First of all, this realization hit me about a

23

year ago, when -- I am an avid reader of several

24

environmental publications, and like the gentleman just

25

said, we have experts on both sides of the issue, but the

one thing that really hit me is that with nuclear energy

gw 18-4

1 we are creating an extreme irreversible dependence of
2 millions of people on one source of electricity generation.
3 And I think that is extremely dangerous. Centralizing
4 anything, especially power, is a very unwise move.

5 Radiation from uranium is insidious. It is
6 not immediately obvious. That is why a lot of people don't
7 think it is a dangerous thing.

8 We are thinking of fission and uranium as an
9 alternative to burning coal, because it seems to be
10 cleaner, and all I can say to that is the genetic damage
11 is one of the dirtiest things I can think of.

12 We need alternatives to both coal and uranium,
13 and I am young. I may be naive, as to understand just
14 how much unrenewable fuel we are consuming right now
15 trying to power this building which is rumbling under
16 my feet while I sit there. It really bothers me, by
17 the way.

18 There are two things that would convince me
19 that Limerick and nuclear power plants in general should
20 be used. First of all, it would have to be demonstrated
21 as an economical source of energy, while being safe, and
22 I don't believe that it is. All I have heard is
23 controversy about the billions of dollars that is
24 being spent on almost every plant in this country, and
25 I can't believe that we are as stupid as we are to

gw 18-5

gw 18-4

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2 millions of people on one source of electricity generation.
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4 anything, especially power, is a very unwise move.

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7 think it is a dangerous thing.

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11 is one of the dirtiest things I can think of.

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20 be used. First of all, it would have to be demonstrated
21 as an economical source of energy, while being safe, and
22 I don't believe that it is. All I have heard is
23 controversy about the billions of dollars that is
24 being spent on almost every plant in this country, and
25 I can't believe that we are as stupid as we are to

gw 18- 5 1

continue building them.

2 Also, the other thing is we have to find ways
3 to control uncontrollable substances. I just cannot
4 believe that we are dealing with uranium, which is --
5 it is the most toxic substance, except we have discovered
6 to make a more toxic substance, and that is plutonium,
7 and we are making it every day at every nuclear power
8 plant in this country, and there ain't no way to get
9 rid of it.

10 You make bombs with it. And we have enough
11 bombs right now to destroy ourselves six times over,
12 but we are going to continue building them, I am told.

13 So, my humble solution to this, I happen to
14 work for an alternative energy supply distributor.
15 We sell wood stoves. We sell on demand hot water heaters.
16 We sell wind equipment, and solar equipment, and I think
17 all of these are viable solutions if given plenty of
18 research and we have patience, if all of us are willing
19 to change within.

20 I think our basic problem is that we are not
21 willing to change ourselves to new ideas. So we need
22 to discipline ourselves to pursue a serious conservation
23 program in order for these alternative energy resources
24 to be researched and applied. Conservation will make
25 time for us. I am talking about solar energy, wind energy,

gw 18-6 1 bio mass and other renewable forms of energy.

2 So, I would like to close my statement with
3 frankly I really don't know what is going to happen with
4 Limerick. I am real concerned. At this point, however,
5 in my life, and a bit of research on the topic, I would
6 like to be put on record with the names of everyone else
7 who is opposing the licensing of Limerick. And if I am
8 proven over-anxious later, I will be very happy.

9 Thank you.

10 JUDGE BRENNER: S. Chris Baker? S. Chris Baker,
11 to be followed by Elizabeth Norris. S. Chris Baker? Not
12 here?

13 Elizabeth Norris?

14
15 LIMITED APPEARANCE STATEMENT OF

16 MS. ELIZABETH NORRIS

17 MS. NORRIS: I am Elizabeth Norris, and I live
18 here in Phoenixville. I am fully opposed to the operation
19 of the Limerick Power Plant.

20 JUDGE BRENNER: Excuse me, Ms. Norris, could
21 you speak a little louder.

22 MS. NORRIS: I am sorry. Does this move down at
23 all?

24 JUDGE BRENNER: You can speak louder and I will
25 hear you. You can use your assistant too, if you want to.

gw 18-7 1

MS. NORRIS: This is my daughter, Amanda.

2 She has said plenty this evening. I know the people in
3 Phoenixville, and I know that an evacuation plan for this
4 area just does not seem possible. I, for one, at times
5 do not have an automobile. The people next door to me do
6 not have a telephone. There are a lot of us like that
7 here, and I know we don't have very much money. I think
8 the operation of the power plant will remove a lot of
9 our funds, because I think it is an expensive energy.
10 Especially for such short a term as twenty-five to thirty
11 years operation of the plant itself.

12 I had a lot of -- excuse me. I am really very
13 upset about this. I really don't think it is possible
14 for me to go on. Thank you. I just wanted to state
15 my opposition.

16 JUDGE BRENNER: Dennis Paul Elco, to be followed
17 by Paul Pozery.

18

19 LIMITED APPEARANCE STATEMENT OF

20 MR. DENNIS PAUL ELCO.

21 MR. ELCO: I thought I was going to be preempted
22 by all the people from Bechtel Corporation. I would also
23 like to say it is nice to see some people from the
24 Commonwealth here this evening. I testified at the
25 hearings in Pottstown, and by the time I was finished
speaking I convinced myself that the people representing

gw 18-8 1

the Nuclear Regulatory Commission were inflatable.

2 I think one of the first things we have to consider
3 rather than start to argue about what kind of material
4 for a containment vessel will hold this nasty stuff we
5 are trying to make power out of in a safe manner for a
6 lengthy period of time, let's look at something a little
7 more basic. We are talking about evacuation.

8 I think one of the fundamental things that
9 people haven't really addressed in this issue is we don't
10 anything we have to run from. We don't need anything we
11 would have to evacuate a town for. And let's hope in the
12 event this comes about it is in the summer, because I
13 have spoken with some representatives from Penn DOT
14 who will be responsible for plowing the roads in the
15 winter time, and I have been assured in no uncertain
16 terms that should there be a crisis while there is a
17 snowfall, those trucks will not go down the highways.
18 They are not going to be leaving their families. They
19 are not going to be coming out, and I can't blame them.
20 We don't need this.

21 The location of the plant I think is interesting.
22 I have been told by several people the location for this
23 plant was selected because it was politically involatile.
24 I think at this point it will start becoming more
25 volatile, and if ever there is an accident I think a lot

gw 18-9 1

of people on the NRC and perhaps some of the other
licensing bodies are going to have to move very quietly
and very quickly, because a lot of people are going to be
very angry, and I am going to be one of them.

5 As far as power situation, and the need for the
6 power, I understand there is excess power available right
7 now on the grid. One of the other considerations I think
8 is the fact there has been technological advances in the
9 field of power generation using fossil fuels, which have
10 yielded results up to fifty percent more efficient than
11 we are using right out there now at Cromby, and I think
12 Cromby or a similar plant could have been retrofitted
13 at a fraction of the cost of what we have out there now
14 at Limerick.

15 Nuclear energy isn't cheap. We know that the
16 price over-runs on Limerick have just skyrocketed. We
17 know that the handling of nuclear fuel is an added cost.
18 We know that it is dangerous, and we know that we can't
19 keep anything for any great length of time because it
20 eventually goes through the container. I think one of
21 the other things you might want to consider is what it
22 is going to cost to shut the son-of-a-gun down if it
23 makes its life span of thirty years. Hopefully, if the
24 thing runs through its life span without burning out or
25 leaking into the Schuylkill, where it might be picked up

gw 18-101

Phoenixville's water intake. We are going to have to spend a whole lot more money closing it down and sealing it up then guarding it for I don't know how many hundreds of years before that leaks out into the water supplies.

Radiation itself is an interesting thing. The government says it is a certain level that is safe. The fact is low level radiation is proven not to be safe. It does cause a number of different problems. Nobody knows exactly what the proper level is, because like medicine, some people are allergic to penicillin, and some aren't. In this particular instance, looking at a worse case scenario, take a look at something that happened in Hiroshima during the war when they dropped the bomb. That is an extreme example. As far as the affects go, because you know they have been monitoring that carefully ever since the war, leukemia peaked at seven years, but the tumors didn't peak until fifteen years span of time.

I think once you get that thing on line, there is no such thing as a perfect system. You are going to find leaks of some kind. You know now in the news that pipes and various items in a lot of the reactors had to be replaced. They will deteriorate, they will fail, I don't care how perfect the system. It is a damned stupid way to generate power. It is too expensive, we don't need it, we don't like it, and we don't want it, and anybody who is for it hasn't got the facts, and maybe

gw 18-11 1 there are a few people that don't live in the area who
2 would sell out their family for a paycheck, but I am not
3 one of them. Thank you very much.

4 JUDGE BRENNER: Paul Pozery?

5
6 LIMITED APPEARANCE STATEMENT OF

7 MR. PAUL POZERY.

8
9 MR. POZERY: My name is Paul Pozery from
10 Schuylkill Township in Valley Forge. I cannot see how
11 a massive evacuation plan could be implemented in an
12 emergency on the roads in the vicinity of Limerick,
13 particularly in the winter.

14 So I suggest before this plant goes on line,
15 a test evacuation under realistic conditions be
16 performed. This will give some idea of what the real
17 thing might be like.

18 Now, I have another point. This reminds me,
19 incidentally of what happened at the time of Three Mile
20 Island. I got calls from as far away as Harrisburg.
21 It was absolute panic, and I found out later on that
22 I was the only one that had any potassium iodide on hand.
23 Absolutely nothing. Everyone was completely unprepared.

24 Now, the exorbitant cost of this plant, and
25 the increase in rates it requires are of great concern

gw 18-11 1 to the citizens in this area. PE has already one of the
2 highest rates in Pennsylvania, and consumers are in no
3 mood to absorb higher monthly bills. Lukens Steel, which
4 I understand consumes about three percent of PE's output,
5 is already talking of purchasing electricity elsewhere.
6 PE should come up with a statement to inform us if it
7 will ever have some kind of a ceiling on the rates it
8 expects to impose on the ratepayers.

9 Now, I have one question for you Judge Brennan,
10 as a technician. I understand that in a meltdown, the
11 isotopes produced are roughly the same as those produced
12 in a nuclear explosion. Are they produced in the same
13 proportions? That is what I would like to know.

14 JUDGE BRENNER: Well, if you are asking me I
15 don't know, but I will note your question for now.

16 MR. POZERY: I am sure you can find it out.
17 I have not been able to find that out, and I would like
18 to know that.

19 JUDGE BRENNER: I am sure we can find that out
20 for you. Are you going to be here --

21 MR. POZERY: You have my address there anyway,
22 and I would appreciate knowing that.

23 JUDGE BRENNER: Are you going to be here until
24 the end of the evening.

25 MR. POZERY: I probably am.

JUDGE BRENNER: We will get back to it.

gw 18-12 1

MR. POZERY: Thank you.

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JUDGE BRENNER: Elaine Graham, to be followed
by E. William Andrews.

5

6

LIMITED APPEARANCE STATEMENT OF

7

MS. ELAINE GRAHAM.

8

MS. GRAHAM: Good evening, gentlemen. I do
not believe Philadelphia Electric should be granted an
operating license at this time.

10

11

VOICE: We can't hear on the front row.

12

13

JUDGE BRENNER: I know. You are closer than
most people. Please try to speak up a little bit. That
is the best I can do. Wait excuse me a moment. Give
me a moment and we will see if we can get a microphone
for you.

16

17

VOICE: Can you turn the heat down.

18

19

JUDGE BRENNER: Can you get it to work? Ms.
Graham. We will move the lectern over.

20

21

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MS. GRAHAM: I do not believe Philadelphia Electric
should be granted an operating license at this time for
the following reasons: An agreement is yet to be reached
between commercial and medical producers of radioactive
waste as far as storage is concerned. B, if an agreement
is reached, a storage facility site must be chosen which

gw 18-13

1 possibly would also be a reprocessing facility.

2 C, public opinion is very much against waste sites
3 and reprocessing sites.

4 D, uranium is a finite resource.

5 E, the evacuation plans are very inadequate. I
6 speak only for the plan of my township, which is Lower
7 Providence. I have read the plan. There are many,
8 many blanks within the plan. In recent conversations
9 with the township office, I get referred to the man who
10 does the consulting for Philadelphia Electric, and I
11 haven't been able to talk directly to the coordinator,
12 who is the town manager.

13 Now, I have my doubts just how much more
14 information he can give me. I know he will see me,
15 but this is the furthestest I can get so far as far
16 as the plan is concerned.

17 I also talked to the county emergency services
18 coordinator, and he referred rather consistently to his
19 plan as a draft plan, and I am sure you all recognize that,
20 but if it is a draft plan, and if the licensing permit
21 hinges at least to some degree on a completed evacuation
22 plan, then certainly you cannot make a decision until we
23 have a completed plan rather than a draft plan.

24 The other factor is, I wonder why we couldn't
25 get -- the layman couldn't get a plan. They didn't seem

gw 18-141

to be available from the county office.

2 I really feel that interested people, caring
3 people, who don't have the assurance that there is
4 safety necessarily, how do you determine safety in a
5 nuclear plant until you start operating the plant. Then
6 the machinery begins to tick, then the corrosion starts,
7 and then the vibrations start. You can't judge the
8 safety of a plant until it begins to operate. So I have
9 very strong feelings that evacuation plan is a very
10 viable thing. It is not something to do -- oh, yes,
11 we are going to fulfill an obligation. We are going to
12 fill -- to fulfill a law on the books in Pennsylvania.
13 But it is viable for a lot of different reasons.

14 Also, when I talked to the coordinator, I asked
15 him about geriatric center which lies within the PEMA
16 radiation emergency, and he was not able to tell me that
17 there was an agreement between his office and the host
18 facilities. He named them. One would be the Philadelphia
19 State Hospital. Another would be Nashamona Manor. And
20 he was not able to tell me that there was a written
21 agreement so that we would know there was a viable place
22 for the patients to be taken to.

23 Also, I tried to contact our ambulance corp to
24 determine whether or not their technicians have any
25 training in radiation detection, or whether they have

gw 18-15

equipment, how they are geared up or beginning to get geared up.

I have yet to get more information on that, but if that is something that PEMA should look into, or help us, then I would be glad of that. Also, another reason why evacuation plans are very, very viable, is that I don't believe any nuclear plants are earthquake proof. So we have got to put our heart into these evacuation plans, and we don't have our heart into them, and you can't look at us who care about the earth as rabble-rousers, but we really do care. It isn't just that perhas it will be a difficulty with the plant, but perhaps other things that will cause difficulties.

And again I want to emphasize that you can't evaluate it as a safe plant unless -- until we know how it is going to withstand its operations.

Thank you.

JUDGE BRENNER: Ms. Graham, I would like to ask you something. Which geriatic center can you -- can you describe it better for me?

MS. GRAHAM: Limerick County Geriartic Center on Lewis Road.

VOICE: It is on 13, and it is within about three miles of the plant, because it is right beyond me. It is three stories high.

JUDGE BRENNER: Thank you.

1 JUDGE BRENNER: Okay. Thank you.

2 Mr. Andrews.

3 (Pause.)

4 Mr. Andrews, I should take this opportunity to
5 thank you for use of the Borough Council's rooms. We
6 appreciate it very much. I know you're accustomed to this
7 room. We've usurped your normal position here on my left.
8 And thank you again. We appreciate it.

9 LIMITED APPEARANCE STATEMENT OF WILLIAM ANDREWS

10 MR. ANDREWS: I'm certain that it's our pleasure.

11 I do apologize. I intended to come here this
12 evening to attend the Special Council Meeting. Realizing, of
13 course, that you folks, all of you, would be here testifying,
14 I was most curious to find out where we were actually going
15 to hold our Special Council Meeting, which we are presently
16 holding nextdoor.

17 And so I'm not going to burden you with a whole
18 lot of statistics which I'm not prepared to give you at this
19 time. However, I would like to make what I consider to be
20 a brief statement.

21 I am Bill Andrews, Vice President of the
22 Phoenixville Borough Council. And on behalf of a majority
23 of Borough Council, my constituency and myself, I strongly
24 urge the NRC to reject the application of Philadelphia
25 Electric Company --

XXXXX

1 (Applause.)

2 -- to license Limerick --

3 (Applause.)

4 We are concerned about the potential hazard to
5 our potable water supply. We operate our own water treatment
6 plant in the Borough of Phoenixville. We're concerned as
7 to the continued potential hazard of a nuclear plant upstream
8 from us, as there is already an operating generating station
9 near at hand to our water treatment plant.

10 We are also concerned as to the health, safety,
11 and well-being of our residents, our neighbors, and their
12 ability to evacuate -- escape, if you will, a potential
13 hazard.

14 Just to digress for a moment, I seriously
15 question the wisdom of siting a plant where, number one, the
16 water has to be pumped to cool it and, number two, the
17 population is so dense that it leads to be concerned for
18 the safety and well-being of the people who live around it.

19 We are also, additionally, very, very concerned
20 about the evacuation plan, with the road network that
21 exists around our municipality being as heavily burdened. On
22 any good day, you can see the jammed traffic leading to and
23 from Philadelphia -- and in this area, most particularly the
24 roads leading to and from the Schuylkill Expressway.

25 Additionally, we are concerned, should the plant

1 be licensed, as to the transportation of the hazardous waste
2 or, even more, the storage of hazardous waste so close to
3 us, where is it going to be put, where is it going to be
4 stored on site, if it's going to be store on site, what
5 protections and what guarantees will be offered to the
6 people.

7 I thank you for allowing me the opportunity to
8 speak. As I said, I'm not prepared with a whole lot of
9 statistics, because I came here for another meeting. But I
10 felt compelled to speak to you.

11 And as I had indicated to the legal assistant,
12 hopefully we will be able to draft a position paper with
13 more statistics and facts and forward them on for your
14 edification.

15 I thank you.

16 JUDGE BRENNAN: All right.

17 Thank you.

18 (Applause.)

19 (Recess.)
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1 JUDGE BRENNER: When we resume, which will be
2 momentarily -- excuse me -- we'll hear, first, from
3 Michael S. Burgoon, to be followed by Colette Strosnider.

4 Is Mr. Burgoon here?

5 Don't start yet, but make yourself comfortable
6 up there.

7 I would ask the next speaker to take the chair
8 on the end, next to the lectern -- Colette Strosnider.

9 LIMITED APPEARANCE STATEMENT OF MICHAEL BURGOON

10 MR. BURGOON: I'm a resident of West Pikeland
11 Township. I'm speaking for my wife, my child, and my
12 mother and father, who are both doctors, who were unable to
13 make it tonight but will be submitting their opposition by
14 mail.

15 We would like to thank the Nuclear Regulatory
16 Commission for holding these public hearings and hope that
17 the representatives of the Nuclear Regulatory Commission
18 here tonight have come here with open ears, open minds,
19 and open hearts.

20 We would like to publicly voice our opposition
21 to the possible licensing of the Limerick Nuclear Power
22 Plant.

23 We believe that we are put on this earth to create
24 a more whole planet for all those to whom we bequeath what
25 we leave behind. We believe this to be paramount in all our

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1 decisions we make every day of our lives, whether we are
2 buying a Big Mac in a throwaway box or buying a nuclear power
3 plant and its boxes, which we don't know how to safely throw
4 away yet.

5 We hope that the Limerick Power Plant is being
6 very well built and that great pride is being taken in the
7 completion of minutest details. It is too bad that such
8 quality workmanship and planning has to go into a product
9 with such a limited lifespan of 30 to 40 years if all goes
10 perfectly.

11 The power of the atom is a wonderful gift. We
12 are willing to conserve, sacrifice, and take a few steps
13 back in order to provide time, money, and incentive for the
14 production of more permanent and wholesome sources of energy
15 to fill the luxurious wants and utmost needs for the future.

16 Thank you for your time.

17 (Applause.)

18 LIMITED APPEARANCE STATEMENT OF COLETTE STROSNIDER

19 MS. STROSNIDER: My name is Colette Strosnider,
20 and I am here to publicly voice my vehement opposition to
21 Limerick Power Plant going into operation now or any time
22 in the next -- any time at all.

23 Mind you, all of the pro that I have heard this
24 evening, except for two gentlemen, has been from people who
25 are affiliated and many of them who receive a paycheck from

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1 the NRC or from some of the other institutions directly
2 associated and on line with nuclear power -- what I find is
3 the unbalance, which leaves many questions for me, because
4 the residents who speak forth are opposed and are scared and
5 have many, many questions.

6 The public is scared of nuclear power. It's not
7 a hype. There are a lot of questions.

8 Why are we having this meeting now, when it's --
9 how complete is it, 90 percent? 80? Something.

10 What's the point now? It's because there's far
11 too many risks and questions that need answers.

12 Evacuation plan? Who heard of such a thing?

13 Here? Today? Not in our lifetime..

14 To bring a good point in perspective, there is a
15 nuclear power plant on Long Island. They have outright
16 announced there is no possible evacuation plan for those
17 people -- in the event of any type of a disaster on any
18 scale.

19 That brings to mind if they have the guts or the
20 nerve or the lack of moral obligation to place that on
21 Long Island, what are they doing to us?

22 Why are we having this meeting? I don't under-
23 stand the point. I am outraged that it's gotten this far
24 along.

25 What are they doing to Bucks County?

1 (Applause.)

2 Bucks County is an historic area. It's beautiful
3 and it has no right -- or it, Bucks County, should not have
4 to suffer the consequences of destroying their beautiful
5 land and their historic land sites just to pump water -- how
6 many miles is it? 20? Something. Constantly. That is
7 going to cost a lot of money.

8 Why the site here?

9 Okay. Another point, many of you may or may not
10 be aware that the Mayor of New York City has had a court
11 injunction to stop the railroading of nuclear waste through
12 New York City, which is the most densely populated area in
13 this country.

14 Why in the world -- I have far too many questions
15 -- why would they even consider New York City? Can you
16 imagine what they're considering for this area and for your
17 people?

18 That leaves far too many questions: Why they would
19 put up a nuclear power plant on Long Island? What they doing
20 here?

21 It's far worse than rape. We've already been
22 raped.

23 There is no turning back.

24 The cost? It's sky high.

25 There's no alternative now but to complete it --

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because of someone's lack of moral obligation.

Einstein backed away from nuclear power because of his moral obligation to humankind.

That's all.

(Applause.)

1 JUDGE BRENNER: Gerald Kelly, to be followed by
2 Margaret -- it's either Hoos or Floos.

3 MS. HOOS: Hoos.

4 JUDGE BRENNER: Hoos.

5 Mr. Kelly.

6 LIMITED APPEARANCE STATEMENT OF GERALD KELLY

7 MR. KELLY: My name is Gerald Kelly. I live in
8 Sanatoga, Pennsylvania.

9 Like so many people, my people have been here a
10 long time.

11 I'd like to go back to the days of my Indian
12 heritage in the Delaware Valley or back to my Irish
13 heritage there, too, and live that way. But times advance.

14 And I know the history of power generation in
15 this area. And I can't visualize -- have an individual home
16 system. It would be nice out here in the wilderness area,
17 but in Philadelphia they couldn't afford it. Folks -- poor
18 people would never be able to afford it.

19 And I listen to these people talking about the
20 evacuation plans and one chemical engineer standing here
21 blasting that. Yet, the only time the evacuation plans
22 have been used since their inception have been for chemical
23 problems.

24 I was a radiation defense officer for the
25 Western Mediterranean. The only time we were ever called

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1 out for radiation problems was in transportation either for
2 American airplanes or ships.

3 Yes, there are problems. There are problems in
4 everything that's been addressed previously.

5 And I think if we want to get the regrowth of
6 this area, we'd better start looking back to more power and
7 we'd better get the power going, because we can't start
8 over in coal burners now. It's a little too late. Our
9 unemployment is now and right in the near future, and we've
10 got to get industry back in here.

11 I thoroughly endorse it.

12 (Applause.)

13 LIMITED APPEARANCE STATEMENT OF MARGARET HOOS

14 MS. HOOS: I would like them to know that I am
15 living three miles from the Limerick Power Plant, and I am
16 strongly opposed -- against licensing the Limerick Power
17 Plant -- because I believe firmly that nuclear power is not
18 safe.

19 It is being built by human beings, and human
20 beings can make mistakes. And the mistakes can be so
21 disastrous that we cannot even get insurance for our homes.
22 And supposedly the government is to pick up whatever the
23 insurance company doesn't pay, but that doesn't help us much.

24 It has proven -- my idea -- by TMI that the
25 nuclear power is not safe -- and that because of the

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1 accident.

2 What concerns me deeply is that we are depending
3 upon the information we get from the people who run the
4 power plant to let us know whether there is a leakage.

5 There is no way we personally can feel, see, hear,
6 smell -- anything.

7 And so I believe that what happened in the TMI
8 plant was a terrible thing, because not until half a year
9 later was it published that we were half an hour from a
10 meltdown.

11 So -- I mean if there had been a meltdown? I
12 mean the people were not evacuated.

13 So, I am really very scared about having a nuclear
14 power plant in such a densely populated area.

15 Other people have pointed out before me that
16 evacuation plans are definitely inadequate and impossible.
17 And if you gentlemen would take the trouble to go through the
18 country when there is one inch of snow on the road, you would
19 know what it would be if we would have an evacuation problem
20 at that time of the year. One inch of snow, and we have
21 two cars in front our house in the ditch -- which kind --
22 you know, right away blocks traffic.

23 I also would like to bring out another thing that
24 just got to my attention, and that is about the safety
25 procedures of licensing nuclear power plants.

1 Apparently the present Administration, through
2 the Department of Energy and the Nuclear Regulatory
3 Commission, have both filed legislation to streamline the
4 process for licensing nuclear power plants. The bills are
5 numbered H.R. 2511, S. 894, and so on.

6 The thing that worries me really is that some
7 of the changes in the Atomic Energy Act are, for example:
8 Eliminate the public right for a formal hearing before a
9 plant goes on line, thus relying completely on the NRC Staff
10 to determine that the plant has been built correctly;
11 severely weakens citizens' ability to cross-examine an NRC
12 and utility expert in hearings on safety and environmental
13 issues:

14 To make it much more difficult for the NRC to
15 require safety-related upgradings, fact sheets -- I don't
16 know what that means -- in the equipment or operations of any
17 reactor that has already received initial NRC approval and
18 allow NRC to adopt a lower standard of safety for older
19 plants.

20 Grandfather in obsolete designs and questionable
21 sites.

22 Let state agencies renew need for power and
23 evaluate alternative energy sources without setting any
24 assembly for public participation and without mandating
25 full consideration of conservation as an alternative to more

1 nuclear power plants.

2 This really scares me. I know this hasn't
3 happened yet. But the idea that it just comes up that they
4 are considering these things is enough, I would say.

5 I also would like to bring to your attention that
6 in our area we have the Geriatric Center, which was mentioned
7 before. There are at least two hospitals. There are
8 several nursing homes. There is a state prison.

9 And I understood that when the evacuation plans
10 were being considered that if it had to be done at night,
11 the prison was just out of luck. They had to stay in there.

12 And we also has Pennhurst -- institutions in
13 this area.

14 I also believe that the idea that a 10-mile radius
15 of evacuation is kind of a fallacy, because when we have a
16 leakage -- I mean, it's going to go much further than
17 10 miles. I mean, I think everybody knows that.

18 So, what the 10 miles means to me is actually
19 nothing.

20 I also would like to bring out that I worked as
21 an X-ray technician for 10 years, and I did this in radiation.
22 And I have seen people get radiation and go home and come
23 back a week later and they get a red spot on their skin.
24 And that spot gets redder and redder. And there is nothing
25 that can stop it, because the radiation is in there. And

1 there is no way that that will ever stop -- maybe after a
2 long, long time.

3 And these kinds of experiences scare me. And
4 that's why I am very strongly opposed against licensing the
5 nuclear power plant.

6 Thank you.

7 (Applause.)

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1 JUDGE BRENNER: James Gaut, to be followed by
2 John Millor.

3 LIMITED APPEARANCE STATEMENT OF
4 JAMES GAUT.

5 MR. GAUT: James Gaut from Pottstown.

6 I have heard a number of things that started me
7 thinking about what I'd like to say here, and one of them
8 that I have often heard is that talk about the record of
9 the nuclear industry, the safe record, the record of safety.
10 And usually they will tell you that no one has ever been
11 killed.

12 I think that it would be a much more true state-
13 ment to say no one knows how many people have been killed
14 by the use of nuclear power.

15 JUDGE BRENNER: Mr. Gaut, could you try to speak
16 up just a little bit, please. I know it's hard in this
17 room, but just a little bit louder.

18 MR. GAUT: The other thing that caught my ear
19 was the talk about alternative energies, alternative
20 sources of energy, and what I -- I have submitted an
21 analysis of the alternative source that's already in use
22 and having so much of an effect that many utilities
23 are on the way to bankruptcy.

24 Efficiency is already becoming the main alternative
25 source of energy. The utility industry is going on along

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1 the old pattern where we gave them a law that said we
2 want you to build this industry so anything you invest,
3 we'll guarantee you a good return on your money. And those
4 laws are still on the books.

5 But by now they have learned that this means
6 that the more they spend, the more they make, and so they
7 were very happy to find nuclear power, since this is
8 absolutely the most expensive possible way you can produce
9 electricity.

10 And as a result, the utility industry is
11 pricing itself out of the market. That is to say that
12 the ratepayers find more and more that they can't pay or
13 that their money will be better spent on more efficient
14 ways to use power. So that many companies are in fact on
15 the way to bankruptcy.

16 In fact, people who work for Philadelphia
17 Electric Company would do well to take their money in cash
18 and be prepared to run.

19 I submit for the record the analysis that was
20 given to the Secretary of the Treasury Amory Lovins, and
21 I would suggest, too, from something else I have been
22 hearing here tonight -- that is, talk of jobs -- that
23 there are a great many jobs for steel workers, concrete
24 workers, on something that we really vitally need. That
25 is there are bridges to be repaired in this country to the

1 tune of billions of dollars.

2 I would suggest that the Steel Workers Unions
3 bring their clout to bear to get that money budgeted to
4 repair our bridges. I don't think that the people who are
5 building nuclear plants -- at least the steel workers --
6 I'm not sure what engineers will do -- perhaps they can
7 learn to do something more useful -- and steel workers
8 can certainly build bridges that we need.

9 Thank you.

10 (Applause.)

11 JUDGE BRENNER: Mr. Gaut, we do have the
12 written submission which, as you said, is actually authored
13 by Mr. Lovins and we can put it in the transcript at this
14 point on your behalf.

15 (The document follows.)

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To: Hon. Donald T. Regan, Secretary of the Treasury
Copies to: Hon. David Stockman, Director, OMB
Hon. Malcolm Baldrige, Secretary of Commerce
Hon. Paul Volcker, Chairman, Federal Reserve Board
Hon. John Dingell, USHR
Drs. David Bodde and Roger Naili, DOE
Dr. Walter Schroeder, FERC
Dr. Walter Baer, RAND Corporation
Prof. Irvin Bupp, Harvard Business School
Dr. Edward Kann, Lawrence Berkeley Lab.
Mr. Roger Sant, Energy Productivity Center, Mellon Inst.
Dr. Irwin Stelzer, National Economic Research Associates

From: # 11
James Galt
762 Queen St.
Pottstown, Pa.
19464

From: Amory B. Lovins (211 Furness Ave, Los Angeles CA 90042, (213) 256-3534), consultant physicist on DOE's Energy Research Advisory Board

Re: HOW TO KEEP ELECTRIC UTILITIES SOLVENT

26 February 1981

An urgent policy issue likely to confront you this year or next is how to keep one or more major U.S. investor-owned utilities [1] from becoming visibly bankrupt. The fiscal and psychological fallout could be severe, because vast amounts of utility debt and equity are built into the base of our nation's highly leveraged capital structure. If confidence in the worth of those assets were eroded by something worse than ConEd's dividend omission seven years ago, there could be disproportionate and unmanageable effects on banks, insurance companies, and pension funds. At least one regional Fed office is already worrying about how to bail out some local banks that are up to their necks in dubious utility paper.

During the past few years I have worked with many utility executives, bankers, and regulators to try to restore utilities to financial integrity through a better understanding of their predicament. From this perspective I am concerned that the reflex actions most likely to be proposed to you in a crisis are liable to make the utilities worse off and thus to increase financial risks to an even more intractable level.

The conventional wisdom of the industry and, until recently, of most financial analysts holds that the utilities would be healthy but for an unfavorable regulatory climate that gives them (belatedly) only half the rate relief they want. In this view, if the utilities were unregulated or at least more sympathetically regulated, they would be commercially viable enterprises. I believe this view is false for three reasons:

1. Utility cash-flow is inherently unstable--to the point that any utility, whether regulated badly, perfectly, or not at all, will go broke if it keeps building power stations.
2. Long-run price elasticity of revenue may be negative--in which case construction, by incurring higher marginal costs, would require higher revenues to maintain it but would produce lower revenues.
3. The utilities' financial problem is not merely fiscal but also fundamentally economic: all of their marginal output and much of their current output is simply uncompetitive in an end-users' market.

Let me now briefly argue for each of these propositions, leaving the details for cited references and, if you wish, for discussion.

1. Many public utilities have analogous problems. See e.g. Washington State Senate Energy & Utilities Committee, WPPSS Inquiry Report, 1981: the \$5.5 billion in bonds sold, part of the largest non-federal public borrowing program in the U.S., have already incurred carrying charges totalling >\$40 billion in current dollars; yet far more money is needed.

1. Utility cash-flow is inherently unstable [2].

Electric utilities are extraordinarily capital-intensive--about a hundred times as much as the traditional direct-fuel energy systems on which the American economy was built. Owing to the scale and complexity of the technologies, construction lead times for traditional major utility investments are irreducibly several times longer than the time constant for short-run price elasticity of demand. Accordingly, a utility that orders a power plant will inevitably overbuild. Higher marginal costs require higher prices to maintain financial health during construction. These higher prices dampen demand growth below the expected level; thus when the plant is commissioned, demand and hence revenues are inadequate to cover fixed charges. This shortfall induces still higher prices, dampening demand growth--or, in some cases, the level of demand--still further, thus increasing overcapacity and eroding cash-flow still more. If demand at the time of plant completion falls persistently short of expectations, cash-flow will progressively collapse.

So far into this "spiral of impossibility" are U.S. utilities that if every power-plant construction project in the country were cancelled now, and if we had for the rest of the century twice the rate of peak demand growth we had in 1979 (a "normal" year with 3.2% real GNP growth), then in 2000, we would still have nationally--ignoring significant regional differences--a prudent 15% reserve margin, just by working off the fat. (This does not count price-induced acceleration of improvements in electrical productivity, nor 200+ Gwe of available cogeneration, nor other alternatives.) This overcapacity has built up through demand forecasts so exaggerated that during 1974-79, investor-owned utilities' forecasts of peak demand one year ahead averaged 2.6 times the actual growth. Had the utilities enjoyed perfect information about cash needs and price elasticity a decade ahead, they could in principle have avoided overshoot. But data and forecasting tools are grossly unequal to this task, and in practice, most utilities predicted demand based on current or rolled-in prices, very low price elasticity, and underestimated cash requirements.

Many second-order effects make the instability worse, including some acting through capital markets and accounting methods. Utilities' reliance on Allowance for Funds Used During Construction (a fictitious, non-cash income item now constituting about half their net income) makes cash-flow collapse faster if in fact the construction is not finished or if its output cannot be sold: the real cash position, not its AFUDC-boostered facade, then becomes apparent. The possibility, based on several recent precedents, that state Commissions may exclude unneeded plant completions from rate base also heightens the risk of not being made whole.

Would commonly proposed measures to boost cash-flow correct its instability? No. For example, putting construction work in progress (CWIP) into the rate base gives price elasticity longer to work during construction--it approximates a sort of marginal-cost pricing up front--and thus increases the shortfall in revenue when the plant is completed. (An alert utility which anticipated this could of course cancel the construction, but then there'd be no CWIP to argue about.) Rate-based CWIP is economically dubious because it makes ratepayers finance compulsorily an investment which investors are unwilling to finance themselves. Besides evading the salutary discipline of the capital marketplace, it is not even in the utilities' long-term interest because it would ultimately only increase overcapacity.

2. This argument is expanded and documented in my March 1979 E.F. Hutton conference paper "Electric Utility Investments: Excelsior or Confetti?", reprinted Spring 1981 in J. Bus. Admin. 12(1) [Vancouver]. Pending publication it is available from Katy Slichter, (415) 495-5210.

What about increased subsidies--faster depreciation, bigger investment tax credit, mandatory phantom taxes in flow-through states, etc.? These would further inflate the utilities' construction beyond their ability to amortize it from revenues, making them crash harder just a few years later. Indeed, present tax subsidies and rolled-in pricing can in significant part be blamed for having led the utilities down the path to ruin. Each of these terms reduces the marginal delivered price by about 1.5-2¢/kW-h. Thus, conservatively assuming unitary price elasticity, demand at the margin is being roughly doubled from an economically efficient level (clearing at the shadow price); or, to put it differently, utilities are led to overinvest in supply, as against increased energy productivity, by about twofold--a misallocation of over \$100 billion.

In short, a disparity of time constants between construction and price response makes cash-flow unstable--the classic control-theory instability of any system with long lags. Reconciling the two time constants can cure the instability, but subsidies make it worse. It is like having a furnace controlled by a thermostat at the end of a long corridor: the corridor will overheat before the thermostat can tell the furnace to shut off. Moving the thermostat up next to the furnace reduces the time-lag and can eliminate the overshoot. Turning up the thermostat or enlarging the furnace merely exacerbates it.

2. Higher prices may reduce long-run revenues.

Both recent observations of empirical marketplace behavior and detailed new engineering/economic studies of the scope for using electricity more efficiently (see #3 below) have led many analysts of energy demand to suspect that clearance of institutional barriers to efficient investment will elicit long-run price elasticities of demand for electricity of at least -1.0 and probably more: -1.5 is reasonable and even -2.0 is not impossible. If the absolute value of the elasticity exceeds one, then absent compensatory growth in population or income, price elasticity of revenue is negative. Higher prices would then lose the utility more on the number of kilowatt-hours it sold than it would make up by charging more for each kilowatt-hour. Nobody knows yet whether this is the case, but if it were, a rational utility seeking higher revenues should reduce its rates and its rate base.

When marginal costs started to exceed historic costs, around 1970, it took many utilities ten years to realize that building more plants is not in their economic interest: they never get their money back. It may now take some utilities another decade to realize that rate relief is not a panacea and may even dig them into a deeper hole.

3. Utilities' product is basically uncompetitive.

There is no demand for electricity per se. Raw kilowatt-hours are not a useful commodity. The real demand is for energy services: comfort; light, mobility, ability to smelt alumina or run sewing-machines. End-users desiring these services have a wide choice of how to provide them: raising their energy productivity, buying electricity, or buying some other form of energy. In a free market, end-users can be expected to choose the amount, type, and source of energy that will provide each desired service at lowest private internal cost. This will often mean buying less electricity--precisely what many consumers are starting to do.

Electricity is a special, high-quality, extremely expensive form of energy. Today's average delivered price, around 5¢/kW-h, is equivalent to buying the heat content of oil priced at \$30/bbl. A typical marginal

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delivered price, 8¢/kW-h in 1980 \$, is equivalent on a heat basis to buying oil at \$130/bbl, four times today's OPEC oil price. Such expensive energy may be worthwhile for certain premium applications such as smelters, lights, motors, appliances, and subways. It is, however, fundamentally uneconomic for thermal applications, even if used in a very efficient heat pump. It also cannot compete in the road-vehicle market against really efficient fueled cars, especially series hybrids. These economic conclusions are robust and not vulnerable to technical change.

The end-use energy requirements of the U.S. economy are currently:

heat (mainly at low temperatures).....	58%
vehicular liquid fuels.....	34%
electricity-specific applications.....	8%
TOTAL DELIVERED ENERGY NEEDS..100%	

Only 8%, then, of all delivered energy requires and (at marginal price) can economically justify electricity; but 13% of all delivered energy is currently supplied in the form of electricity, and 16% would be if plants were not sitting idle. Thus the real electrical market is already filled up twice over by today's power stations. Two-fifths of all U.S. electricity sold is already being used uneconomically for low-temperature heating and cooling: space heating, water heating, and air conditioning. Still more could only be so used--like cutting butter with a chainsaw.

There is thus no marginal market for electricity in the United States, because the premium applications for this costly form of energy are already saturated. Arguing about which kind of power station to buy is somewhat like shopping for the best buy in brandy to burn in your car, or the best buy in Chippendales to burn in your stove. It does not matter whether one kind of proposed new power station will be able to provide cheaper kilowatt-hours than another kind, because no kind of new power station can come close to competing with the real competitors--the cheapest ways to provide the same energy services. Those real competitors, equally available to end-users, are such measures as weatherstripping, insulation, heat exchangers, window shades, and greenhouses. They can provide the user with heating or cooling not at the 8¢ it would cost with marginal electricity (3-4¢ with a good heat pump), but rather at about 0.4¢/kW-h. No thermal power station, new or old, can compete with that.

This finding has been confirmed in detail by Roger Sant in his study of "The Least-Cost Energy Strategy" [3]. He showed that at rolled-in 1978 prices, some 43% of the electricity sold in the U.S. was uncompetitive with efficiency improvements that would provide consumers with the same energy services at lower cost. What would happen, however, if we made this comparison at marginal delivered prices--as we should do to minimize social cost? My analysis, not to Sant's surprise, suggests that the electricity saving would then so large that all of the thermally generated electricity in the country may become uncompetitive!

This is mainly because there is an enormous scope, just now starting to be appreciated, for raising the energy productivity of non-thermal uses of electricity through cost-effective technical measures. For example, lighting efficiency can typically be trebled, at a price under 0.5¢/kW-h, by task-lighting, daylighting, and efficient lights and fixtures. The practical efficiency of industrial electric motors can generally be doubled by proper sizing, coupling, and controls, at a cost often below 0.8¢/kW-h--a payback of 3-4 years. (Just this one saving would more than

3. Energy Productivity Center, Mellon Institute (Suite 1200, 1925 N. Lynn St., Arlington VA 22209; Harv. Bus. Rev. 6&ff, May-June 1980. My analysis is documented in Energy/War (ref. 5) at pp. 47-53 and 96-100.

displace the entire U.S. nuclear power program.) Intelligent redesign costing 1.1¢/kW-h (6-year payback at 5¢/kW-h) can quadruple the average efficiency of household appliances with no loss of convenience. Other such examples abound. It is for this reason that Sant's latest analysis, constructing from many hundreds of sectors a "least-cost strategy" for providing energy services in the year 2000, finds it is seldom worthwhile even to finish building the power stations now under construction.

Further confirmation comes from an analysis commissioned by Jonn Sawhill in 1979 from consultants directed by Henry Kelly at the Solar Energy Research Institute. They explored U.S. energy needs if real GNP were to increase by two-thirds during 1980-2000, assuming that energy investments were meanwhile based on least marginal cost to the consumer and were neutral as between increasing supply and increasing efficiency. The result was a total primary energy demand in 2000 reduced by at least a quarter below today's level, a total nonrenewable fuel requirement cut by nearly half, and a flat or declining total demand for electricity. Even the presently installed coal and hydro plants provided more electricity than careful analysis could find an economically rational use for. This implies, as Sant's most recent work has found explicitly, that total U.S. energy costs as a fraction of GNP could actually decline. The energy sector, far from driving inflation, would become a net exporter of capital to the rest of the economy. Increased energy productivity would become a principal engine of economic growth. *

This is good news for the economy as a whole, but it is bad news for utilities, for it means that they have over \$100 billion worth of thermal plants which they may be unable to amortize. Utilities must now compete not only with efficiency improvements, but also with alternative generation options from which, under the Public Utility Regulatory Policies Act of 1978 (PURPA), they must buy back surplus power at their own "avoided cost"--in oil-burning New Hampshire, 7.7-8.2¢/kW-h. Entrepreneurs are therefore installing dispersed generation whose output is to be profitably sold to still other entrepreneurs who in turn profitably sell it back to utilities. What are these alternative options with which existing thermal plants must compete? A utility seeking more electricity can get it from these sources, in approximate order of increasing price:

- a. Eliminate pure waste of electricity, like lighting empty offices at headache level. A kilowatt-hour saved is a kilowatt-hour earned. It can be resold to some other customer without generating it anew.
- b. Displace with efficiency improvements, passive solar measures, and some cost-effective active solar measures the two-fifths of electricity now used for low-temperature heating and cooling. (That is why some Northwest private utilities now offer zero-interest insulation loans: the electricity saved is far cheaper than new generation.)
- c. Make the lights, motors, smelters, appliances, etc. cost-effectively efficient compared to building a new plant. (TVA has been developing a proposal to treat such efficiency improvements as equivalent to new generation, eligible for PURPA buyback in the form of a TVA voucher applicable to the purchase price of the equipment.)

Just these first three measures will, I believe, approximately quadruple U.S. electrical use efficiency [4], at a cost generally below present

4. The main items are (b), saving two-fifths of total electricity, and industrial motor retrofits, saving over a quarter of the rest. The most detailed analysis of measures (a)-(d), done by my colleague David Olivier for the U.K. Atomic Energy Authority, shows a nearly sevenfold improvement in British electrical efficiency at well below the cost of (e).

rolled-in prices. The resulting demand could be met with no thermal plants, old or new, but only present hydro, small-scale hydro, and a modest amount of windpower. But if still more electricity were desired, the next higher points up the electricity supply curve would include:

d. Industrial cogeneration, combined-heat-and-power stations, low-temperature heat engines operated by industrial waste heat or solar ponds, filling empty turbine bays in existing large dams, modern wind machines or microhydro in good sites, or possibly new developments in photovoltaics (especially using cheap optical concentrators and waste-heat recovery for an economic credit [3]).

It is only after all these options had been exhausted that one would even consider

e. Building a new central power station--

because that is the costliest and slowest known way to get more electricity (or to save oil). [6]

Given this array of options, what follows from PURPA's creation of a competitive market in generation? There is currently a strong economic incentive to install your own generating capacity--in your factory, in your backyard, or (as cheap solar cells arrive in the next few years) on your roof. Whatever power you sell, the utility must pay you "avoided cost" for it. But your power is not only cheaper than the utility's marginal cost; it may well undercut the rolled-in price too. Your competition reduces the utility's revenues while increasing its overcapacity and hence its burden of fixed charges per kilowatt-hour sold. The utility must therefore raise its price. But that increases your incentive to generate and resell more. Where this positive feedback loop ends, I suspect, is in the economic and technical obsolescence, over the next ten to twenty years, of \$100-200 billion net worth of thermal generating plants. Repealing PURPA would not prevent, but only slightly postpone, this outcome--the inevitable fate of a capital stock that is fundamentally uncompetitive even in marginal operating costs with existing alternatives widely available to end-users.

Is this really true, not only of the admittedly expensive new plants--option (e) above--but also of existing thermal plants whose capital cost is already sunk? The only marginal internal cost of operating them is their cost of fuel, plus operation and maintenance for the plant and perhaps for its associated marginal grid. For a nuclear plant, depending on age, that cost (neglecting the present value of waste management and decommissioning) can be as low as about 1-2¢/kW-h. But even that is more than the cost of efficiency improvements--like the 0.4¢/kW-h weatherization and the 0.6-0.8¢/kW-h industrial motor retrofits--which are collectively sufficient to displace all existing nuclear, oil, and gas capacity. Thus if one had just built a new nuclear power plant, one would save the country money by writing it off and never operating it! Under U.S. tax laws, the additional saving from not having to pay its stream of

5. DOE now expects central-station photovoltaics--far from the most cost-effective application--to compete on U.S. grids in 1986. Many dispersed uses, especially with cogeneration, are worthwhile already or will be within a year or two. This assumes only existing technology; but second-generation cells which promise to be far cheaper are likely to be here in the next few years before we know what to do with them.

6. My 1 January 1981 memo to David Stockman describes how two measures with payback times of a few years can eliminate U.S. oil imports by about 1990. See also Energy/War: Breaking the Nuclear Link (Friends of the Earth, 124 Spear St., San Francisco CA 94105), 1980, pp. 91-98.

future subsidies and profits would probably suffice to recoup its sunk capital costs too [7].

With competition in their territories raising their own overcapacity, many utilities plan to sell their surplus output to someone else--traditionally the utility next door. Today the assumed long-term market is in particular regions, assumed to represent "black holes"--infinite inelastic markets for electricity, such as New England, New York, Florida, Mississippi, Arizona, and California. (TVA even has ambitions to wheel power to Arizona!) Unfortunately, a great many utilities are hoping to sell gigantic surpluses to these same black holes simultaneously. It won't work. More utilities--including many in Canada--will be seeking to sell more electricity to an ever smaller U.S. market. There is no geographic escape from the uncompetitiveness of the utilities' product.

Nor is there an escape through higher prices, in whatever guise. Roger Sant was recently discussing his findings with some utility executives. They nonetheless continued to call for rate relief--until John Bryson, President of the California PUC, said, "Roger's just been telling you that at the 1978 prices, 43% of your product was uncompetitive. Now you want higher prices so that maybe 60% or 80% will be uncompetitive?" Higher prices, like higher subsidies, are worse than a merely cosmetic approach to the utilities' disease; they actually reinforce it.

Powerful market forces are converging on the utilities: high interest rates, falling ratios (current, coverage, and market/book), increasing dependence on "funny money" (AFUDC) and other creative bookkeeping, stagnant demand, real cost escalation, greater consumer opposition to rate hikes, heavy short-term borrowing to pay dividends, shareholder efforts to prevent further dilution of equity (thus forcing even higher debt/equity ratios), and many more. These signals are not fortuitous artifacts. They offer unmistakable evidence that the utilities' financial problems are of a fundamental nature--both fiscal and economic. A utility can go broke without suffering a catastrophic GPU-style loss-of-cash-flow accident, simply because its business takes too much cash, pays it back too slowly, is unexpectedly price-elastic, and cannot compete.

Even the most gifted managers would be hard pressed to sustain such an unpromising venture; but the utility sector is oversupplied with mediocre managers, often with grievously little prospect of attracting better. The hottest management seat in industry today is finding few inspired takers. However this long-standing problem of management quality is to be resolved, the market is clearly signalling that utilities are no longer a sound investment. How, then can the utility sector be smoothly recycled into a form whose product the market is willing to buy, and how can we meanwhile avoid serious dislocations in our financial system?

What is to be done?

I have summarized elsewhere [2,3] a possible framework for remedy which appears to merit prompt attention and refinement. It includes:

1. Utilities should be considered in the business of supplying, not kilowatt-hours per se, but rather energy services or the financial means of providing them (a position already adopted by some well-managed private utilities and by the American Public Power Association).

7. For details, see Energy/War, op. cit. [6], pp. 48-49.

8. California PUC (San Francisco), Energy Efficiency and the Utilities: New Directions, 1980, pp 168-73 (concluding keynote); see also 72, 139-42, 151-2, 165, and many other statements by industry leaders.

2. State utility Commissions should, like California's and Idaho's, permit new construction (or, generally, continuation of existing major construction) only if that marginal investment is shown to be the cheapest way to provide the incremental energy services for which the incremental electricity would be used. Otherwise, utilities should loan out their money on mutually advantageous terms so consumers of all classes can do the cheaper things first. (To keep this "investment balancing test" honest, a utility which passes it and builds the plant should not be allowed to rate-base more than the real plant cost it assumed when comparing the proposed plant with other options.)

3. The loans should be made at the utility's post-subsidy cost of money (in practice, near embedded cost, for reasons explained below). Borrowers would then pay back the loans through their bills only as fast as the energy saving saves them money--the TVA "graduated-payback" system. Borrowers would thus need no capital, and all options would enjoy equal access to capital, encouraging fair competition.

4. The loans--which I call "capital transfers"--should be made from a revolving fund "below the line", i.e. neither rate-based nor expensed, though transaction costs could be expensed. (Two-fifths of U.S. generating capacity belongs to utilities already giving or about to give analogous loans: generally with rate-basing, fast payback, and subsidized interest--a less efficient scheme than that proposed here.)

5. Rate reform should as nearly as possible ensure that incremental consumption attracts true incremental cost.

6. Cooperating utilities' deferred taxes under accelerated depreciation--an overhang nationally totalling some \$13 billion (mixed current \$) which falls due when a utility stops growing--should probably be forgiven. The Treasury was not going to get most of it anyway, since it was being shoved off into the never-never and paid in vastly inflated dollars. The forgiveness should preferably be part of a broader Batinovich-style plan (2,9) to desubsidize the utilities systematically by abolishing their Federal income taxes. (Most of them currently pay negative taxes, at least on marginal investments. The tax timing inefficiently encourages premature construction and premature retirement; the subsidies are unnecessary and inefficient for a regulated monopoly required to meet demand anyhow; and any revenue gain would be more simply obtained by a direct electricity excise.)

This package of measures would have the following consequences:

a. Consumers, regardless of class or income, can make any fuel-saving investments which are cheaper than marginal utility investments, without needing the capital up front.

b. Utilities can participate--at arm's length--in the highest-return investments in the entire economy. (They would not own, lease, install, control, or specify the investments; measures are available to protect consumers from supplier fraud without projecting utilities into a business they are not good at or risking an appearance or fact of anti-competitive activity.) The new marginal investments would yield about ten times as much energy per dollar as those they replace.

c. Instead of tying up dollars in a power plant that pays back in 30-40 years (if ever), utilities can turn dollars over every few years, about ten times as fast. This greatly increased velocity of cash-flow

9. C. Davis provides an excellent analysis of utility subsidies and why to remove them: 4 Harv. Envir. L. Rev. 311-358 (1960).

will enable many utilities to finance a larger energy program than they had before, but without needing to go to the market for new debt or equity capital: they can merely bootstrap their retained earnings (totalling some \$11 billion a year, of which perhaps half is real money) because the revolving fund revolves so quickly. Because the capital is largely or wholly internal--embedded capital already earning a return--the utility can loan at close to its embedded cost of money. It then takes the cash-flow benefit of avoiding the high marginal cost of new money from outside. (There are also obviously some national macroeconomic benefits for interest rates, employment, etc.)

d. Utilities can have, at the margin, a short-lead-time, fast-payback business. Its short time constants remove the instability in their cash-flow. They are no longer at risk of going broke by building more plants than they can pay for. New construction, having failed the investment-balancing test, is no longer hemorrhaging cash.

e. All marginal investment opportunities to provide energy services are now being symmetrically compared, not with old cheap natural gas, but with the marginal cost represented by the proposed new plant. Most of the capital going into the U.S. energy system is therefore being allocated as if energy were priced at the margin, whether it is or not. We have thus largely done an end-run around the awkward problem of finding energy prices that are both equitable and efficient.

f. For the next fifty years or so, as they turn into a distribution service like the telephone company, utilities have something useful to do which they can do well and feel good about. They are using their financial talents and existing billing relationships to minimize transaction costs. Their goal is a socially efficient allocation of capital to meet consumers' energy service needs at least cost.

g. Unlike plans which rate-base conservation loans, this scheme leaves the incentive to invest efficiently in the hands of the party (the householder, factory-owner, etc.) who is making the investment. Further, treating the loan below the line protects the utility if price elasticity of revenue turns out to be negative. The utility's passed-through cost of money is a wash; the utility's return is unchanged; and the utility's cash-flow benefits are enormous.

h. Unlike plans which offer low- or zero-interest loans, this scheme permits and indeed requires investment in alternatives up to the marginal cost of conventional supply. No complex "no-losers" test is required, since nonparticipants benefit instead of being penalized.

i. Though this scheme could be facilitated by federal action, especially in tax reform, it can probably be done entirely at a state level, often without new legislation. Only existing institutions, modestly adapted, would be needed.

The foregoing proposals address both the fiscal problems of the utilities --by stabilizing cash-flow and prices--and their economic problems--by redirecting their marginal investments into competitive channels. There will undoubtedly turn out to be special cases requiring special treatment. (For example, some utilities have no retained earnings with which to capitalize a revolving fund. Possible alternative sources of initial capitalization include public bond issues and a couple of years' temporarily excess tailblock revenues in the course of flattening or inverting an existing declining-block rate structure.) But the general principles presented here appear to be consistent with sound market theory logically applied to utilities' pressing financial problems. That is why many utilities are expressing great interest in exploring and refining them.

I therefore hope you will be duly skeptical about doctrinaire assumptions that power-plant construction is vital to the national welfare; that utility rate relief is essential to their financial integrity; and that lame-duck utilities are so important to preserve in unaltered form that they must be resuscitated by heroic measures, notably subsidies of the kind urged in the transition-team Halbouty Report from the President's Energy Advisory Task Force. There is compelling evidence, on the contrary [10], that power-plant construction is an egregious misuse of scarce national resources and will retard oil displacement by diverting investment from measures that would save more oil faster and cheaper [9]; that Commissions reluctant to grant rate relief uncritically are doing their best to save utilities from their own folly; and that more subsidies are the surest way to ensure the bankruptcy of the utility sector on a scale beyond the ability even of the Treasury to bail it out.

Should you wish to pursue these concepts further, I should be glad to meet with you or your advisors on one of my forthcoming visits to Washington. Meanwhile, let me suggest that there is a case for setting up without delay a small, high-powered task force of analysts who have already devoted a great deal of thought to these problems. I should be glad to help you identify key people, mainly in the financial community, whose insights could be of lasting national service. If your Department waits until a Chrysler-like situation has actually developed, flexibility of action will already be severely constrained and a large measure of the public confidence which one had sought to preserve will already stand in jeopardy. It is vital to use this short breathing-space to develop in advance some prudent contingency plans. Only thus can you have at hand, when a politically visible crisis does loom, the background analyses you will need to forestall nasty and ill-considered proposals that do not grasp the full depth of the utilities' plight.

10. Among the most cogent demonstrations that utilities' financial risk can be greatly reduced and their cash-flow markedly improved by abandoning partly built power stations in favor of efficiency/renewables investments is E. Kahn et al.'s "Commercialization of Solar Energy by Regulated Utilities: Economic and Financial Risk Analysis," LBL-11398, October 1980, Lawrence Berkeley Laboratory (Berkeley CA 94720): see especially Figs. 6 and 8.

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1 LIMITED APPEARANCE STATEMENT OF
2 JOHN MILLOR.

3 MR. MILLOR: My name is John Millor and I would
4 like to begin by thanking everybody here for the opportunity
5 to speak.

6 I would also like to say that I don't envy the
7 people on the NRC -- that's you folks over here; right?

8 If there was ever a definition of people who
9 were between a rock and a hard place, it is you folks. It's
10 tough decisions you have to make. I think we all appreciate
11 that here.

12 I am speaking on behalf of my wife, my child,
13 my brothers and my parents. I live in East Vincent Township,
14 about five miles from Limerick Plant on a 115-acre farm
15 that has been in my family for six generations. It has
16 been a working dairy farm since the 1840s when it came
17 into my family. That's 140 years that my family has been
18 in the same place.

19 The land has received good care there. We
20 believe that each generation has left the land there in a
21 more fertile condition than the previous generation. We
22 have taken pains to see to that.

23 All of us are ultimately charged with the care
24 and stewardship of this planet. Our food doesn't just
25 come from a super market. It originates in the soil and

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1 anything that threatens the stability of that resource is
2 not to be taken lightly.

3 There are others more eloquent than I who have
4 spoken to you folks here and written about the potential
5 threats posed by nuclear power.

6 I come before the NRC tonight to register my
7 strong dismay at the potential danger that you folks are
8 considering licensing.

9 Nuclear power cannot be construed under any
10 circumstances as good stewardship of the planet, and to do
11 anything that promotes bad stewardship of the planet and
12 of our resource, the soil, is sacriligious, it is sinful,
13 it is suicidal.

14 (Applause.)

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1 JUDGE BRENNER: Stephen Taylor, to be followed
2 by Katherine Kelly.

3 LIMITED APPEARANCE STATEMENT OF

4 STEPHEN TAYLOR.

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5 MR. TAYLOR: My name is Stephen Taylor. I don't
6 have a lot of facts and figures about the nuclear power
7 industry and so forth, but the more I see from the sources
8 I have read and the experience I have had, I have strong
9 opposition to nuclear power.

10 There are many reasons, many of them have been
11 enumerated by the group here already. The fact that we
12 don't have a system for ridding ourselves of wastes from
13 these plants is almost reason in itself not to want to
14 construct these nuclear plants.

15 I myself have helped work on several solar type
16 homes. I believe that if more research is put into
17 alternative energy, I believe that we can create an alternative
18 system for nuclear power, something safe, that we won't
19 need an evacuation system for.

20 I just wanted to voice my opposition to nuclear
21 power.

22 (Applause.)

23 LIMITED APPEARANCE STATEMENT OF

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24 KATHERINE KELLY.

25 MS. KELLY: I am Katherine Kelly. I didn't come

1 to speak tonight, but listening to everybody talk and
2 saying to people who came for nuclear power, against
3 nuclear power, I understand those who are against it. I
4 understand your point of view and your feelings and how
5 you feel about it.

6 But mostly I want you to know that just because
7 nuclear power people are here -- a lot of us work for
8 Bechtel and I do -- doesn't mean that we have no feelings
9 for those of you who live here.

10 I live in Lower Pottscript Township. I went
11 to Pottscript High School of two years. I have friends
12 and my family lives there. We live there now and we may
13 live there for a long time to come.

14 I don't plan on leaving these people a time bomb.
15 I work and I have great faith in the checks that go on at
16 work, in the QA and the QC, the PECO people that come in
17 and check and the NRC people checking up on us, and although
18 it does get to be -- you think that you're always being
19 watched and will this work never get done. You realize
20 that in the end it does pay off. That's what it's there
21 for. It's to protect you and to protect me, to protect
22 my friends and family.

23 But I want you to know that we don't look forward
24 to saying, okay, we're going to finish here and when it is
25 done, we'll all move out. We have -- people I work with,

1 ladies I work with, are all from this area. The engineers
2 are mostly from Douglasville, from Birds Grove. Philadelphia
3 is probably the farthest away the engineers I work with
4 come from. We plan on staying here and building homes, and
5 bringing up families here.

6 We know that we need the energy and we know that
7 we need the power plant. We have faith in what we have done.
8 That's why we urge the -- the people I work with urge the
9 NRC grant the license. But we do want you to know that
10 we are not trying to sell out and we do. plan on leaving
11 you behind.

12 Thank you.

13 (Applause.)

14 JUDGE BRENNER: Adomino Ortiz, to be followed
15 by H. F. Greenawalt, Jr.

16 LIMITED APPEARANCE STATEMENT OF
17 ADOMINO ORTIZ.

18 MR. ORTIZ: Buenos noches.

19 (Mr. Ortiz speaking in Spanish.)

20 Good evening. My name is Adomino Ortiz. I am
21 here to speak on behalf of the forgotten people, those
22 ratepayers of the Philadelphia Electric Company who are
23 unable to speak or understand English, especially the
24 Hispanic community. About 2000 of them live within the
25 10-mile radius of the Limerick Nuclear Power Plant.

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1 I began speaking to you in Spanish to dramatize
2 the need for communication between the emergency planners
3 and the Hispanic community who live within the 10-mile
4 radius of the Limerick Power Plant.

5 I am here to suggest that the Philadelphia
6 Electric Company be denied a permit to operate the facilities
7 until a plan be devised that guarantees that every citizen
8 within the 10-mile radius, regardless of their language,
9 be notified in the event of a nuclear accident.

10 The majority of the Hispanic community opposes
11 the licensing of the Limerick Nuclear Power Plant because
12 we feel that it is too risky and places the lives and well
13 being of so many people in danger. We should not sacrifice
14 the well being of an entire community for any economic
15 advantage, no matter how many jobs are created or how
16 efficient the power plant may be. There is no comparison
17 when considering the lives of human beings.

18 Thank you very much.

19 (Applause.)

20 LIMITED APPEARANCE STATEMENT OF

21 HARVEY GREENAWALT, JR.

22 MR. GREENAWALT: My name is Harvey Greenawalt.

23 I am originally a native of Lancaster County. I live
24 right between Peach Bottom and TMI. At the time Peach
25 Bottom was completed, I was in the Navy, United States

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1 Submarine Service, Atlantic Fleet, punching holes in the
2 ocean for Uncle Sam. The only way to get away from the
3 reactor was about 80 feet. My total dose for three years
4 of operation was about 200 millirem. If you go to the
5 beach and get a good tan, that's about what you have. I
6 never got to go to the beach in three years to get that tan.

7 So now I'm an employee of Bechtel Power Corp.
8 I thought there was no other place in Pennsylvania so
9 beautiful as Lancaster County, until I came to Limerick.
10 This is perhaps one of the most aesthetic areas in this
11 state. It has history, character.

12 The people here this evening that are voicing
13 their opinions -- we never had the chance to in Lancaster
14 County, and as Americans we are taking on this responsibility,
15 not as a regulatory body, Commonwealth or utility, we are
16 taking it on together.

17 I am an engineer. I have a lot of responsibility.
18 I had eight years of training before I even got in the door
19 with Bechtel Power Corp. I am responsible. It is our
20 responsibility, each and every one of us, to learn, to study,
21 and know this source of energy.

22 There was a lot of comments made here this
23 evening. Some of them I didn't quite understand, some of
24 them are in agreement with what I have come across in my
25 readings.

1 I never have trouble with crowding as I did in
2 this hearing when I'm in the public reading rooms reading
3 government reports. The government goes to a lot of
4 trouble making these reports. I'm usually the only one
5 there. Sometimes I think I have a problem, but I'm
6 interested, and I'm interested. It is a concern to me to
7 see that my government is actively involved in this and
8 they do take a concern.

9 Philadelphia Electric and every other utility
10 in this country, they are professionals and they are
11 obligated.

12 A lot of the costs of these nuclear projects is
13 due to safety.

14 Now the National Academy of Sciences a few years
15 back published a report. It was done overall throughout
16 the world, biologists, physicists, chemists, everyone; even
17 foresters. They recommended nuclear power as the safest,
18 most efficient means to our environment, overall planet.

19 I don't know if you people are familiar with
20 the phenomenon of strontium-90. Fossil-burning plants
21 emit strontium-90. It goes into your bone structure, it
22 replaces the calcium and irradiates blood cells. It is a
23 leukemia-causing agent. You'll have to look in the report
24 of the National Academy of Sciences. I am sorry I don't
25 have my facts. I wasn't prepared to speak this evening.

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1 Your pH in Philadelphia was what last month?
2 It was in the newspaper. Acid rain. No matter how good
3 our scrubbers are, if we need to produce the energy that we
4 are going to use for our industry to compete with the rest
5 of the world, we are not going to be able to bring that
6 down.

7 In this area, the environmental controls are so
8 strict on a utility that they can't meet it. Nuclear power
9 is not the ultimate answer, I will agree with that. I
10 would rather have a solar home. But it is our median and
11 we need it and I endorse it, and I would like to express my
12 respect for the people of this township and within this
13 10-mile area that have come here to express their concerns.

14 Thank you very much.

15 (Applause.)

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1 JUDGE BRENNER: The next speaker is Estelle
2 Cremers. Unless there are two Estelle Cremers, we heard
3 from somebody by that name last evening.

4 MS. CREMERS. There is only one.

5 JUDGE BRENNER: All right. We heard from you
6 already, Mrs. Cremers.

7 MS. CREMERS: This is just a comment on what I
8 heard, I have nothing prepared.

9 JUDGE BRENNER: No, everybody gets a turn.
10 As I said you can supplement it in writing if you wish.

11 Christopher Wilson, to be followed by Bill Adams.

12 LIMITED APPEARANCE STATEMENT OF

13 CHRISTOPHER WILSON.

14 MR. WILSON: My --

15 JUDGE BRENNER: Go ahead, I'm sorry.

16 MR. WILSON: I don't want to interrupt you.

17 JUDGE BRENNER: I wanted to inquire if Mr.
18 Robert Anthony was here this evening.

19 VOICE: He was here earlier today. Maybe he
20 already left, I don't know.

21 JUDGE BRENNER: Go ahead, Mr. Wilson. I'm sorry.

22 MR. WILSON: My name is Chris Wilson.

23 I live in East Vincent Township, not all that far from
24 Limerick, like across the river, and not too far from
25 Pottstown. It would have been nice to have one of these

1 a little bit closer to the plant itself, one of these hearings.
2 I hope we have another one.

3 I have a lot of things I could say about nuclear
4 power and about Limerick especially. I don't like the
5 idea of it. I'm a nurseryman, I'm not an executive or a
6 businessman or an engineer. I did study some science in
7 my time.

8 The main thing I have to say about this plant
9 is that I think the evacuation plans are poor. I don't
10 think they could be good if they tried, and I guess they
11 have tried, but they can't try hard enough.

12 It said on the first page of the East Vincent
13 evacuation plan that -- this is trying to provide maximum
14 protection for us. Well, it seems like it's not even
15 making minimum protection. They talk about East Vincent
16 township people all evacuating along Route 23. I live
17 just off Route 100 on Route 23, and we are supposed to
18 come into Phoenixville, hit Route 113, and go south on 113
19 till we hit maybe Route 100 in Lyonville.

20 It took me about 20 minutes to do that tonight,
21 and I'd hate to try it in the rain, and I'd hate even more
22 to try it in the snow, and I think if there were an
23 accident at Limerick, there wouldn't be any point in
24 trying it, because I think it would be just solid blocked.

25 Our town had a number to call if you hear a

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1 rumor about the plant, 431-6480. I think if everyone were
2 hearing that it was blowing up, and you called 431-6480,
3 either no one would be there and you'd get a busy signal,
4 or just a ring, a dead ring, or it would be busy because
5 so many people would call.

6 Someone in our township is planning to drive up
7 and down delivering warning cards to people that can't
8 hear, that there has been an accident.

9 I wouldn't want to attempt to try to drive up
10 and down Route 23, especially not then.

11 The unmet needs weren't very high, listed by
12 our township plan. There wasn't anything listed under
13 fire department, ambulance services. There were no unmet
14 needs in those departments. The reason is they didn't
15 put them in with the little boxes. If you don't write them
16 in, it seems there aren't any. But we all know that there
17 are a lot of unmet needs.

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SUE TRAYLOR

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For Phoenixville, I think the best thing to do would just be stop Limerick right now.

(Applause.)

JUDGE BRENNER: Mr. Adam?

LIMITED APPEARANCE STATEMENT OF

BILL ADAM.

MR. ADAM: Good evening. My name is Bill Adam and I live in Arcola, Pennsylvania, the fringe of the 10-mile radius somebody cooked up. Because I know we go way past the 10-mile area. And I'm not going to thank you to speak tonight because I expected to speak at the very last minute, and tell you I am here to attack all you men up there who are squeezing all of us in this little area while you have all that room up there.

(Laughter.)

(Applause.)

JUDGE BRENNER: Sorry about that.

MR. ADAM: But seriously speaking, I think that if you look at the young, beautiful, handsome men that are working on the atomic power plant, they are working on that atomic power plant because they need a job. And everybody in this country needs a job, and when you have 10 million people out of a job, if they were to quit their job over ethics, somebody else would jump in there that quick. And if you really have that fix, you'd contribute

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1 10 bucks to the Limerick Ecology Action Group, because
2 they're against the atomic power plant.

3 I mean that.

4 And we talk about economics in the system like
5 this, where only profit is the thing that's the motivation
6 to get something done over the flesh and blood of people,
7 and children and unborn. It's unconscionable. And there
8 are some of you people in this room tonight, when you shave
9 you've got that on your mind all your lives whatever you do.

10 And I have another question. Maybe you can
11 straighten me out on this one. What will happen to all this
12 that's taken place in the last two nights? What will happen
13 to it? Will it go on and on until the atomic power plant
14 is built? Or in other words, I'd like to know right now,
15 what will happen to all this that has taken place?

16 JUDGE BRENNER: Mr. Adam, why don't you complete
17 the statement and we'll do what we did last night. We're
18 going to go over the points raised.

19 MR. ADAM: Summarize. Okay.

20 JUDGE BRENNER: I don't mean you're out of time.
21 I mean I'm not going to stop to answer it.

22 MR. ADAM: I think that the economic system we
23 live under stinks because, you see, we had a revolution
24 and that revolution isn't over yet. It was 1776 we got
25 rid of the Queen of England, and we've got to get rid of

1 these here power structures. They are coopting, the PUC
2 is coopting all the men of good will.

3 You think about that. Where is the democracy?
4 There's not much democracy in this country. You all ape it,
5 you know, you say it is. But where is it? We shouldn't
6 even be here tonight if we had democracy. It's a psuedo- --
7 democracy.

8 Thank you.

9 (Applause.)

10 JUDGE BRENNER: We have completed the persons
11 who had signed up indicating they wished to speak tonight.
12 If there are others there who can sign up now while I speak
13 for the next few moments; if not, we will be adjourning
14 shortly if there are no further oral statements.

15 We have some written statements which we will
16 have bound into the record as if read from the following
17 people:

18 Monica -- I believe it is Sacks.

19 Candace Snyder.

20 Patricia Brett.

21 And Clifford Brett or Brettl of Phoenixville.

22 And we will have those bound into the record
23 at this time.

24 (The statements follow:)

25

NRC commissioners + judges:

Please consider that the admission by outlaws that there is a need for education plans, like the formation of an accident at a nuclear power plant (as TWT has already given) means very strong interest in the minds of thousands of people living in the shadows of those activities. I am one of them. I live within fifteen miles of Lawrence. We don't need the technology. We are starting to consume our alternative sources of energy are on their way to by and the lives of a hundred million of people for energy in their needs.

Please don't cover for PECC & Glendon.

Sincerely,

Madison Sack



TRI COUNTY CHAMBER OF COMMERCE

1200 High Street, Pottstown, Pennsylvania 19464

Phone: (215) 326-2900

TRICOUNTY CHAMBER OF COMMERCE POLICY STATEMENT

Re: Nuclear Energy

The TriCounty Chamber of Commerce, in 1979, conducted a survey of all Chamber business members regarding their feelings on nuclear energy and the activation of the Limerick Nuclear Power Plant.

More than 82% of all respondents favored nuclear energy over any other source of power, and expressed belief that the Limerick Plant would mean more efficient production and lower costs for industry as a whole.

The Legislative Committee of the Chamber conducted an even more extensive survey and interview process of members in early 1983, with much the same results. Approximately 60% of the total membership returned these questionnaires and of that number, 80% favored the activation of Limerick. Members again expressed the belief that Philadelphia Electric Company would adequately cover any problem areas and that the consequent availability of this type of energy would prove very valuable to this region in future marketing efforts to industry.

The TriCounty Chamber of Commerce, thus, wholeheartedly supports the Limerick concept and its resulting product.

Candace B. Snyder
President

To the Nuclear Regulatory Commission Members.

Of course I am hoping you will deny a license for the Limerick Nuclear Power Plant (PECO) - that is why my family and I attended this meeting tonight. I definitely think that the questions of inadequate evacuation plans for the high population in this area would render the plant a terrible risk. However I am also aware that your major concerns revolve around the financial commitments of this utility company. The governments sympathies in these situations up to this point have obviously ~~not~~ ~~and~~ sided with the large power companies and keeping them afloat.

This particular plant is such a tremendous safety risk, I can only hope you might break with the status quo and consider some of ^{the} other aspects of granting an operators license to this plant than that of encouraging an apparently mismanaged utility company to continue it's misguided venture.

Thank you -

Patricia Brett
Phoenixville, Pa.

Dear Sirs:

I wish to register my opposition to the licensing of the Limerick Nuclear Power Plant on the grounds that evacuation of the populace ~~is~~ because of a meltdown would be impossible. The evacuation plans are ludicrous due to the high population density, therefore, on behalf of my wife and three children and myself I make this statement of conscience. I can offer no new information in opposition to the licensing of the plant, but I would ask that you consider the gamble you will be supporting by licensing this plant.

Sincerely

Clifford Bretz

Rt 29, R.D. 2

Phoenixville, Pa

19460

1 JUDGE BRENNER: While other people are signing
2 up, we have some points on which we would like further
3 information from the appropriate parties in the formal
4 proceeding before us, and this is similar to our request
5 of last evening, so I won't go over the explanation again
6 to the parties. But what we are doing is seeking further
7 information on these points for our benefit, and then
8 depending on our view of the information supplied, we will
9 determine our further course of action which could be
10 including these as formal issues in the proceeding, or it
11 could be that we are satisfied that notwithstanding the
12 comments tonight, the information is in fact properly
13 available and sensible.

14 (Pause.)

15 Excuse me. I want to double-check a name so I
16 can cross-reference the person who raised the first point.

17 (Pause.)

18 Ms. **Dukes** asked a question about whether
19 Collegeville is included in the evacuation zone. That
20 wasn't precisely her question, but that is the gist of her
21 concern, and if it is included, how come nobody in charge
22 there knew about it.

23 Did I misstate that?

24 MS. **DUKES**: You did, as a matter of fact.

25 JUDGE BRENNER: All right.

st 21-5

1 MS. DUKES: They knew nothing about where they
2 were to be evacuated to. They are working on an evacuation
3 plan. They didn't know where they should be evacuated to.

4 JUDGE BRENNER: They, being the Collegeville
5 officials?

6 MS. DUKES: I talked to the secretary.

7 JUDGE BRENNER: All right. Thank you for that
8 correction. I think you have heard that the gist of the
9 complaint and we would ask the Commonwealth along with the
10 information that we have indicated last night, that the
11 Commonwealth graciously agreed to supply, on that same time
12 schedule, and this is after the plans which the Commonwealth
13 is still reviewing are forwarded to the Federal authorities.

14 After that we would like particular information
15 on those points we discussed last evening and right now,
16 this additional point. And other subjects on off-site
17 emergency planning also raised tonight. What about the
18 provisions for the geriatric center in the event of an
19 emergency? That was raised by Ms. Graham and Ms. Hous.

20 That's the Montgomery County Geriatric Center
21 on Route 113. In addition, Ms. Hous is interested in knowing,
22 as are we, given her point whether special provisions are
23 being made for the Pennhurst facility and, if so, what they
24 are in the event of an emergency.

25 Somebody also raised the point -- it may have been

st 21-6

1 Ms. Hous, I'm not sure. In any event with respect to
2 Graterford Prison, we are not going to ask that that informa-
3 tion be supplied because we know it is going to be a formal
4 issue in the proceeding raised by counsel for the group of
5 prisoners in Graterford. And we will be litigating that
6 issue.

7 At least, we so anticipate. If for some reason
8 that issue drops out of the formal proceeding we will then
9 decide whether we want the information in any event. But
10 we won't ask for that as a result of the meeting tonight
11 because we will be litigating that issue before us. So,
12 there is no need for us to decide whether we want to raise
13 it on our own, since it is already raised.

14 In addition, Mr. Ortiz asked -- and I'm paraphrasing
15 I hope accurately -- and obviously the transcript which you
16 will have available to you is the more accurate rendition of
17 the concerns raised by the people in case I do not state it
18 correctly. And I certainly am not attempting to state it
19 fully in this summary, but Mr. Ortiz raised a concern as
20 to what provisions would be made in evacuation planning for
21 persons who do not understand or speak English with sufficient
22 fluency and had to depend on the Spanish language. And
23 if no special provisions are made, we would like the explanation
24 at this time in preliminary information form why not.

25 Councilman Andrews who, of course, is the government

st 21-7

1 official of the Phoenixville Borough asked about possible
2 contamination of the Phoenixville water supply. As to that
3 item we are not asking that the information be supplied to
4 us directly in the first instance. This is a government
5 official. Governments are supposed to be actively included
6 in emergency considerations. This item relates to emergency
7 planning but it also relates to issues other than emergency
8 planning.

9 And we would ask the Philadelphia Electric
10 Company and the NRC Staff to respond in writing to Mr.
11 Andrews' concern dealing directly with him as a government
12 official. And if discussions are appropriate, we will
13 leave that up to the parties and the Phoenixville officials.

14 But at some point we would like to see the
15 written evidence of the exchange of information to Mr.
16 Andrews from the Applicant and the Staff. But we merely
17 want copies. We will permit the parties, at least for now,
18 to deal directly with the Phoenixville officials and through
19 Mr. Andrews.

20 And by receiving copies of the correspondence, we
21 will be able to assess the situation from that point.

22 Beth Everett.

23 LIMITED APPEARANCE STATEMENT

24 OF BETH EVERETT.

25 MS. EVERETT: Yes. I have a couple of questions
that I hope that I can ask appropriately and clearly.

st 21-8

1 They are concerning not such a sensational aspect as a melt
2 down or a crises that would be apparently announced or
3 obvious, but more of the aspect of the small leakages,
4 especially concerning the farms in the area. I work on a
5 farm with thirty head of dairy animals, and I wonder if
6 we would know, if it would be apparent to us if there was a
7 small leakage or if there is an accurate enough check to
8 let the agricultural parties know when there is something
9 that is going to affect the businesses such as the farm.

10 I wonder if we would have to wait for weeks or months
11 before we would know and just wait and see the results of
12 abortions or apparent difficulties with our animals before
13 we would know that we needed to check other sources other than
14 our own farm.

15 I wonder if the scientists have taken that into
16 consideration, the engineers, knowing enough about the
17 agricultural life, as it is.

18 The second question -- along with that, I hope
19 that there could be a system where they would let the
20 information be known if there were any possibility of a
21 small leakage.

22 The second thing that I wondered about is with
23 this water, pumping water for the plant, I really don't
24 understand that and I would like to understand more. I
25 would like information on it if it could be sent to my

st 21-9

1 address about just how that affects the river that is
2 going to be coming from and what sort of studies -- I'm
3 sure there have been studies made of the affects after it
4 goes through the plant and it is poured into the river, or
5 wherever it is poured or warmed.

6 I wonder what sort of studies have been done
7 and I would like information on that, because certainly
8 that will affect our business and businesses of other
9 people.

10 Thank you very much.

11 JUDGE BRENNER: I'm sorry. With respect to your
12 point you said at first, pumping the water. Now, that's
13 a broad subject. Then, after that -- are you interested
14 in the aspect of heating up of the water and after the water
15 comes through the plant and is returned?

16 MS. EVERETT: Yes. I felt it was one question,
17 the whole effect of the river. Yes, the water after it is
18 pumped through the plant but it's all the same water.

19 JUDGE BRENNER: All right. We have litigated
20 some of these issues, and that's why I'm asking. We have
21 litigated issues on the effect of the Delaware River of
22 water being taken in through the Point Pleasant diversion.
23 Now, that's not what you are asking about. You are asking
24 about heating up of the water in the Schuylkill; is that
25 right?

st 21-10 1

MS. EVERETT: Yes. I would be interested though
2 on information of how it does play into the water usage in
3 general. I don't have that information as a lay person, and
4 I don't know where to get it. Any information on the usage
5 of water, I would appreciate it.

6 JUDGE BRENNER: The reason I tried to clarify it,
7 and it wasn't to narrow you down to something less than
8 you are interested in is when you state the subject that
9 way you are talking about a large volume literally of
10 documents put out by the Delaware River Basin Commission,
11 by the Nuclear Regulatory Commission, and by PECO and Fish
12 and Wildlife and so on. We are familiar with that subject
13 or parts of that subject.

14 Let me suggest this. Perhaps the NRC Staff can
15 send to Ms. Everett appropriate portions on that subject
16 from the NRC environmental statements, both the final
17 environmental statement of the construction permit stage,
18 which has a lot on water usage and water thermal. And also
19 the appropriate excerpts from the draft environmental state-
20 ment recently issued at the operating license stage. You
21 might want to send her the whole draft environmental state-
22 ment which would cover subjects beyond which you asked
23 about.

24 And I have her address here. Thank you.

25 Barbara Visser, to be followed by Vernon McMullen.

st 21-11

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1 LIMITED APPEARANCE STATEMENT
2 OF BARBARA VISSER.

3 MS. VISSER: My name is Barbara Visser. I live
4 in Phoenixville. I am concerned about several things with
5 regard to the Limerick nuclear plant. One of them is the
6 evacuation.

7 And I wonder if the NRC is addressing itself to
8 more general guidelines for how municipalities should go
9 about planning their own basic guidelines for evacuation.
10 It has been my understanding that on a more national level
11 there are not basic guidelines about what each individual
12 township or municipality might be expected to do or carry
13 out. And my impression in the general area around here is
14 that each small municipality or township is struggling
15 with what they should or should not consider in terms of
16 evacuation.

17 And I wonder if you gentlemen are drafting some
18 kind of basic guidelines that all townships or municipalities
19 can follow for evacuation?

20 I used to be a teacher of nursery school children,
21 and at the particular nursery school in Charlestown where I
22 taught the children were between two years old and five
23 years old. At that particular school, parents drive their
24 children to the school; there aren't school buses. So,
25 individual parents would presumably have to pick up those

st 21-12

1 children. And having listened to a number of the people
2 talk about how to get through the various and sundry
3 roads here and out of the area, I wonder how children that
4 age could be picked up by their parents who may in fact
5 be working and how would they get from their work to that
6 particular nursery school to pick up those particular
7 children, because they are not on any school bus route.

8 I also have a mother who is 82. She doesn't hear
9 very well. She doesn't see very well. And she can't drive.
10 And since I work she would be perhaps at my home, and I
11 don't know exactly how she would get out of there either.

12 In addition to the various concerns about evacuation,
13 I am also concerned about what happens with all the nuclear
14 wastes. A number of people have addressed that question,
15 and I'm not sure that anybody really knows the answer, so
16 I wonder if the Nuclear Regulatory Commission is taking
17 into consideration what is going to happen with the waste
18 from Limerick, where it's going to be put, how it's going
19 to be contained, how we will know whether or not it's
20 leaking out of whatever it is put in, and at what point we
21 might know that, since these determinations seem to take a
22 number of years and it would be difficult, it would seem,
23 for anyone to predict when that might happen or even though
24 the workers who are working on the plant have assured us
25 that their work is the best and there are many rules and

st 21-13

1 regulations that they are trying to follow in order that
2 those kinds of things be safe. But I wonder if we really
3 know when some of these things might break down or not
4 break down, and how that -- and how that is going to be
5 determined and who is going to determine it and who is
6 going to be in charge.

7 If only the utility is in charge, I wonder what
8 kinds of checks and balances we might have in order that
9 the general public or someone besides just the people at
10 the plant or just the people at the Philadelphia Electric
11 Company might be able to act in some kind of a system of
12 checks and balances for those things.

13 I am also concerned about the cost to me. My
14 electric bill has gone up by leaps and bounds in the past
15 couple of years. It is fast approaching what I pay for
16 mortgage. And with the projected cost of Limerick, it
17 would appear that rather than Limerick providing cheap
18 electric power it is in fact going to be terribly expensive,
19 and if the Philadelphia Electric Company in fact gets some
20 of the credit that it has applied for from the New York
21 banks that we, as ratepayers, are going to have to help
22 them pay off those loans. And I really don't want to do
23 that.

24 I don't like the idea of having a nuclear plant
25 in my back yard, to which I have not subscribed, about which

st 21-14

1 I have not been asked and I just don't really want to
2 pick up the tab for that.

3 Thank you.

4 (Applause.)

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JOE WALSH #22

LIMITED APPEARANCE STATEMENT OF VERNON MC MULLEN:

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I wanted to be here both last night and tonight to fathom the feeling, the general feeling in the area.

I have spent the last seven years home flat on my back. Only in the last 18 months of the last seven years have I been able to get up and move around.

And one of the things I had to do about three years ago was take my health into my own hands, and one of the things that happened was I became very much enlightened during that period of time.

I found out that orthodox medical allopathic doctors that irradiate us with the same thing that that power plant is going to put out basically in low level nuclear radiation, if everything goes well. Well, we all know what happens with high level nuclear radiation if things go badly.

We know that as a result of Nagasaki and Hiroshima.

One of the things I have had the opportunity to do only in the last year is study macrobiotics. A lot of us have heard about it. It is basically the story of life, the great story of life. And one of the things that I found out is that when we really get involved and we find out what is going on around us, we really have some problems. We seriously do.

Now, unfortunately, I have lived in this area for

ar22-2

1 15 years. It has been basically a fairly nice 15 years,
2 except for the last seven.

3 (Laughter.)

4 No, it is a beautiful area, there's no question
5 about it. I moved here 15 years ago. There's a lot of
6 nice people here and there's a lot of fresh air here. But
7 the important thing is the fact that right up here we have a
8 nuclear power plant being built on a river that doesn't
9 have the water in it to cool it, so we had to go out to the
10 Delaware to get the water, and we caused that problem.

11 We have a great deal of opposition to it as a
12 result of the fact of the high density here. I know that
13 the people from the Nuclear Regulatory Commission very
14 definitely have a very difficult decision to make as far
15 as licensing this thing. But we all know the fact of how
16 much money is behind it, and we know that money in this
17 country is power, unfortunately. It is.

18 One of the things I have read in the last year
19 was the ion effect, a little pocketbook. I don't have my
20 glasses on, I can't see how much it cost. Probably a
21 dollar and a quarter or two and a quarter. A nuclear power
22 plant is a generator of positive ions.

23 Now we all know what happens when the full moon
24 comes and people -- a certain amount of people in our
25 population start to act a little crazy, or do odd things, or

1 become very aggressive. The reason that they do is because
2 of the fact that their metabolism speeds up, and when this
3 happens, this is positive ions that do it.

4 When we get positive ions in our body, we have a
5 slope where we are originally initially exhilarated, but we
6 only go so far and everything from there is downhill.

7 Negative ions, on the other hand, we can get
8 them in enormous amounts and they do nothing but good for us.
9 But in any case, we are going to have a positive ion
10 generator up there, up the river, on a river that doesn't
11 have enough water in it to cool it, in a highly dense area.
12 We are being -- this whole thing is being looked at by a lot
13 of people, physicists, doctors, lawyers, governmental agencies,
14 and everybody else that's concerned.

15 And I can only say one thing: I hope you're
16 making the right moves because if you aren't, this place
17 could be disaster. It's just like any one of all the rest
18 of them all over this country.

19 And the only thing I can say to you is read about
20 it. It's only a little pocketbook. Read about what happens
21 when you get positive ions, because that thing generates
22 them up there.

23 Thank you.

24 (Applause.)

25 JUDGE BRENNER: Stan Wybranski, and then

ar22-4

1 he will be followed by our last speaker -- it looks like
2 Liz DiNunzio.

3 Mr. Wybranski.

4 LIMITED APPEARANCE STATEMENT OF
5 STAN WYBRANSKI.

6 MR. WYBRANSKI: My name is Stan Wybranski. I am a
7 lifelong resident of the area. Presently I reside in
8 Chester County. I was born and lived here all my life
9 essentially. Both sets of my parents, my wife's parents
10 live here. My children are teenagers and will shortly
11 become married themselves and spend more likely than not
12 their adult life here in this area.

13 In addition to that, I am an engineer who is
14 professionally registered in the state of Pennsylvania
15 in the last 15 years, and for the last six years I am
16 proud to say that I have been associated with the construction
17 of the Limerick Generating Station.

18 I often find myself apologizing, but in a group
19 like this I find that I can say it proudly that I am working
20 for an extremely conservative company who is working for
21 an extremely conservative utility in an extremely
22 conservative area. Whereas it becomes a little frustrating
23 to deal with on a day-to-day basis, having spent a goodly
24 amount of my professional life in commercial construction,
25 in the eyes of safety and reliability it becomes acceptable.

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ar22-5

1 I don't profess to be Solomon and know all the
2 answers, nor did I really come here tonight with the
3 intent of making a statement. But after listening to the
4 bulk of the testimony last night, as well as tonight, I feel
5 morally compelled to stand up and be counted.

6 I would like to offer that I believe in the
7 process of what we are doing here. I believe that everyone
8 should be in a position to express their concerns, their
9 legitimate concerns.

10 I understand that and I accept that. Notwith-
11 standing that, I have a lot of difficulty accepting a lot
12 of what I have heard in the last two evenings.

13 Although I believe in the process, I am not
14 foolish enough to think that we're going to walk away from
15 this forum or any forum with total and complete agreement.
16 God knows, even the Lord Himself couldn't please everyone.

17 I believe in regulation of safety and reliability.
18 Howsomever, I don't believe that road blocks and strangulating
19 regulation which maliciously impedes progress serves any
20 useful purpose whatsoever, and certainly has got nothing
21 to do with safety or reliability.

22 A lot of the regulations that are being imposed
23 are good, wholesome, reassuring facts of life. A lot of
24 what is being proposed when we come out of sessions like this
25 are regulations which tend to be one-sided to the extent that

1 nothing could possibly get done in any sphere of our
2 involvement.

3 The example I often find myself using is if we
4 tried to implement the regulations necessary and the
5 procedures necessary to ensure that we got across the street
6 each and every time we tried to get across the street,
7 regardless of the time of day or time of the year,
8 circumstances, earthquakes or nuclear missiles, that no one
9 would ever get across the street.

10 Correspondingly, if we try to design, manufacture
11 and operate automobiles with the absolute certainty there
12 would never be an accident, I assure you none of us could
13 afford to own an automobile or ever operate one.

14 I don't consider myself a capitalist by any
15 stretch of the imagination. Yes, I am concerned about costs
16 and about jobs, but not overly concerned about them, to the
17 extent of personal safety. I am just as concerned about
18 my family's welfare as everyone in this audience.

19 But notwithstanding that, a true energy need
20 exists, and nuclear power here in Pottstown in the
21 Philadelphia area is not only the best game in town, it is
22 really the only game in town.

23 It is nice to talk about diversification, but
24 the fact remains that is just a lot of rhetoric. It's
25 just a pipe dream. Technically it is not available and

ar22-7

1 won't be for another 20 to 30 years.

2 As far as waste disposal, the technology exists
3 today and as far as waste, more waste is created by medicine
4 and the military than is ever created by generating plants
5 throughout this country.

6 I'll speak rapidly and conclude.

7 Thank you.

8 The fact remains as far as putting all our eggs
9 in one basket, we only have probably 12 percent of our
10 nuclear generating capacity coming from nuclear power.

11 In conclusion, I would like to say that I fully
12 endorse the administrative judges' conclusions about a
13 six-month extensive study of the -- very exhaustive study
14 of Philadelphia Electric Company's management of Limerick
15 and the construction of Limerick.

16 In addition, I fully endorse the PUC's Staff
17 recommendation and I endorse the NRC's draft report. All
18 of these agencies call for the rapid completion of construc-
19 tion and the granting of a license for the Limerick Generating
20 Station.

21 Thank you.

22 (Applause.)

23 JUDGE BRENNER: Liz DiNunzio.

24 I'm not sure I have your name right, ma'am.

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LIMITED APPEARANCE STATEMENT OF

LIZ REAGAN DI NUNZIO.

MS. DI NUNZIO: Liz Reagan DiNunzio.

I am a Phoenixville resident and a single parent.

I am opposed to the licensing of the nuclear power plant. I sing for the residents of Montgomery County Nursing Home, and would like to express my feelings and opinions to a tune that you will all recognize, or else I won't have the nerve.

(Singing)

I've been looking at the power plant

All the livelong day.

I've been wandering if an accident

Could chase us all away.

What will happen to our children?

What will happen to the poor?

Will PE be there to help the elderly

As they stumble out their door?

Can't you visualize the panic

As we try to flee our homes?

Can't you heed the words of wisdom.

Don't turn your hearts to stone.

Please vote no,

Please vote no,

To license Limerick's plant,

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For we've no place to hide.

Give us back our countryside.

Thank you.

(Applause.)

JUDGE BRENNER: Well, I think on that note --

(Laughter.)

-- we are prepared to adjourn the proceeding
this evening.

Again, we thank you for your time and attendance
here, and your comments.

Thank you.

(Whereupon, at 10:12 p.m., the hearing
was adjourned.)

* * * * *