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NUCLEAR REGULATORY COMMISSION

COMMISSION MEETING

CLOSED MEETING - EXEMPTION NO. 10

DKT/CASE NO.

TITLE DISCUSSION OF IMMEDIATE EFFECTIVENESS
ISSUES IN TMI RESTART PROCEEDING

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF IMMEDIATE EFFECTIVENESS ISSUES
IN TMI RESTART PROCEEDING

CLOSED MEETING - EXEMPTION NO. 10

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

Thursday, December 9, 1982

The Commission convened in closed session at
2:05 p.m.

COMMISSIONERS PRESENT:

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

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- M. MALSCH
- J. ZERBE
- A. KENNEKY
- J. MONTGOMERY
- R. LEVI

AUDIENCE SPEAKERS:

- J. FOUCHARD
- J. ARON
- C. ROCHSCHILD

* * *

P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: I wonder if we could come
3 to order, please.

4 This afternoon we continue our deliberations
5 on the restart of TMI-1, at least the immediate
6 effectiveness portion thereof.

7 Late yesterday we received a revised draft
8 order based on Commission comments made at the December
9 6th meeting.

10 I would like to have OPE lead us through a
11 discussion of the changes on significant points in the
12 draft order. I understand you are going to proceed more
13 or less page by page so we can bring up our comments and
14 questions as we go through and I think that would be
15 wise.

16 Are there any other Commission comments?
17 (No response.)

18 CHAIRMAN PALLADINO: I understand Commissioner
19 Gilinsky won't be able to join us today. He went home
20 ill.

21 COMMISSIONER AHEARNE: I guess I would make
22 one overall comment. I do want to go through it page by
23 page, but the overall comment would be that in trying to
24 keep up with this rapidly moving process, and I think
25 the staff is to be complimented. They certainly did a

1 very good job in rapidly turning around the document.
2 We can probably address it as we work through it, but
3 the sense I get as I try to consider it as a whole is we
4 are speaking of the immediate effectiveness and we say
5 that when we issued those orders we had concerns which
6 must be satisfied. We then say the concerns have been
7 satisfied. We spend the bulk of the order talking about
8 the Licensing Board decisions and our final conclusion
9 is the concerns have been satisfied.

10 Now, unfortunately, I didn't find that key
11 transition section which essentially says our concerns
12 have been made equivalent to what the Licensing Board
13 did, because the conclusion which we really have here is
14 not that our concerns have been satisfied, but rather we
15 agree with the Licensing Board as far as the immediate
16 effectiveness determination is concerned. That is
17 basically a problem I began to perceive.

18 COMMISSIONER ASSELSTINE: I agree with that,
19 John. I would add just one more element. There are
20 instances also in which the draft decision discusses the
21 exceptions or the criticisms by the parties to the
22 Licensing Board's decision, and the conclusion generally
23 is here is the criticism that was made and we agree with
24 the Licensing Board in most instances again without
25 explaining why we find the find the Licensing Board

1 decision persuasive and the argument or contention that
2 was made unpersuasive.

3 CHAIRMAN PALLADINO: Yes, that point came
4 clear on the previous draft and I had a lot of places
5 where I said why. Some of them they answer, but not all
6 of them.

7 COMMISSIONER ASSELSTINE: That is right.

8 COMMISSIONER AHEARNE: That was my only
9 general comment.

10 CHAIRMAN PALLADINO: Well, let's turn the
11 meeting over to Mr. Zerbe.

12 MR. ZERBE: Thank you.

13 We passed out here at the table Attachment 3.
14 I just want to make sure you notice that you got it.
15 There was a blank sheet at the back. This attachment
16 shows the items that are yet to be completed of all the
17 items listed on, we call them attachments in what you
18 show, but we have changed that to sections 1, 2 and 3
19 now of the appendix, and this covers the uncompleted
20 items that are addressed there.

21 COMMISSIONER AHEARNE: Jack, may I ask how you
22 developed this?

23 MR. ZERBE: Well, this came from the staff.
24 We got this officially from the staff no the uncompleted
25 items covering all of the ---

1 COMMISSIONER AHEARNE: So this is really the
2 NRR judgment as to what ---

3 MR. ZERBE: What are left to be completed.

4 MR. MONTGOMERY: It would be as of November
5 30th an update of their previous list they had of
6 certifications.

7 MR. ZERBE: Because somebody wanted it.

8 COMMISSIONER AHEARNE: I felt because what we
9 are really saying in our lifting the immediate
10 effectiveness is that there were conditions. We have
11 got a set of appendices that refer to a lot of things
12 that the Board said that had to be done, but at this
13 point when we are turning this switch we are really
14 saying as far as the immediate effectiveness shutdown was
15 concerned we are removing that subject to certain
16 conditions, and I thought it would be useful to see what
17 those conditions were because they aren't subject to all
18 of the Board conditions in the sense that some of them
19 have already been met. That was the purpose.

20 CHAIRMAN PALLADINO: Then a sentence or two
21 about attachment 3 would be appropriate somewhere in the
22 body.

23 COMMISSIONER AHEARNE: Oh, yes.

24 MR. ZERBE: Well, recall we had a number of
25 unresolved items in the last meeting, and most of them

1 have been resolved. There are some that aren't and we
2 would take them up as we went through the page-by-page
3 review of the document.

4 There is a completely new introduction
5 hopefully putting in comments that Commissioner Ahearne
6 had given to us. I guess we aren't sure at this point
7 where we covered what he had in mind.

8 COMMISSIONER AHEARNE: I assure you I will
9 tell you if you haven't.

10 (Laughter.)

11 MR. ZERBE: That also applies to the first
12 paragraph of Roman numeral II, effectiveness review.

13 COMMISSIONER AHEARNE: Whoa, not so fast.

14 (Laughter.)

15 CHAIRMAN PALLADINO: Nice try, Jack.

16 (Laughter.)

17 CHAIRMAN PALLADINO: On page 1 and 1 you use
18 the word "restraints," and the question is are they
19 restraints or are they constraints? You use it in the
20 first paragraph, the first line of the second paragraph
21 and you use it on page 2 in the first line of the first
22 full paragraph.

23 MR. ZERBE: Okay.

24 COMMISSIONER AHEARNE: All right. On page 1
25 and this is more a question. It says in condition No. 2

1 "The Commission itself must decide that it has been
2 satisfactorily resolved." Is it clear that we are going
3 to be issuing an order?

4 MR. ZERBE: That is the way it has been
5 rewritten now. It is covered in the latter section and
6 that is a change.

7 MR. MALSCH: This doesn't specifically say or
8 call for the issuance of an order. Some people might
9 read it that way.

10 MR. ZERBE: In the section where that is
11 covered it doesn't specifically say you will issue an
12 order, but my impression was that that would be the
13 intent.

14 MR. MALSCH: I think people would expect one,
15 although it doesn't specifically say you are going to.

16 CHAIRMAN PALLADINO: What other ways do we
17 have to speak? Do we have other ways?

18 COMMISSIONER AHEARNE: We do have other ways
19 in that the Director of NRR comes in and certifies
20 something to us and you meet with him and we agree that
21 is all right and he goes off and he issues something.

22 I just wanted to make it clear that I read
23 this that we are essentially committing we are going to
24 issue an order at that stage. I have no problem with
25 that, but I wanted all of us to see that.

1 MR. ZERBE: I recall that in the last meeting
2 there was a question of if nothing was said anywhere,
3 then there would be no obligation legally on the part of
4 the licensee.

5 COMMISSIONER AHEARNE: I understand.

6 MR. MALSCH: I think the word "decide" implies
7 an order.

8 COMMISSIONER AHEARNE: The next comment there
9 is in No. 3 I think it would help if you added on
10 "Direct that the Commission to revive the 30-day
11 notice," et cetera, "in connection with the
12 psychological stress case," something to explain what
13 that was in connection with.

14 The next line, why do you want to say we took
15 the extraordinary step? Why not just say we made the
16 shutdown orders immediately effective?

17 MR. MALSCH: I don't think you have to say it.

18 COMMISSIONER AHEARNE: I would prefer not to
19 just as a style.

20 COMMISSIONER ROBERTS: I think it was
21 extraordinary and you may not want to say it.

22 (Laughter.)

23 COMMISSIONER ROBERTS: I think it was
24 extraordinary.

25 COMMISSIONER AHEARNE: I guess I would have

1 felt it would have been extraordinary.

2 COMMISSIONER ROBERTS: I wasn't a part of it,
3 John.

4 (Laughter.)

5 COMMISSIONER AHEARNE: I understand.

6 COMMISSIONER ROBERTS: So don't misinterpret
7 me.

8 MR. MALSCH: I will say this. The issue comes
9 up again on page 5 where it is referred to as an unusual
10 step. So it is covered.

11 COMMISSIONER AHEARNE: Yes, I will take it up
12 again.

13 (Laughter.)

14 COMMISSIONER ASSELSTINE: I think there are a
15 couple more places in here.

16 COMMISSIONER AHEARNE: That is all on page 1.

17 CHAIRMAN PALLADINO: Page 2. I am sorry. Go
18 ahead, Jack, you take the lead.

19 MR. ZERBE: Any more on page 1?

20 COMMISSIONER ROBERTS: Are we taking
21 "extraordinary" out or leaving it in?

22 COMMISSIONER AHEARNE: I would take it out.

23 COMMISSIONER ROBERTS: I would leave it in.

24 COMMISSIONER ASSELSTINE: I guess I would take
25 it out. I think it was extraordinary, but as a matter

1 of style I would agree with John.

2 CHAIRMAN PALLADINO: I was going to leave it
3 in.

4 (Laughter.)

5 COMMISSIONER AHEARNE: Victor will decide.

6 (Laughter.)

7 MR. FOUCHARD: It was four months after the
8 accident.

9 COMMISSIONER AHEARNE: You have to make a note.

10 COMMISSIONER ASSELSTINE: Somewhat
11 extraordinary.

12 (Laughter.)

13 COMMISSIONER AHEARNE: Joe, you would agree it
14 would have been extraordinary had we not ---

15 MR. FOUCHARD: I remember answering a question
16 seriously of why it took us so long.

17 CHAIRMAN PALLADINO: Let's get on with it.

18 COMMISSIONER AHEARNE: On page 2 I would say
19 "The Commission has determined the concerns which caused
20 it to order TMI remain shut down," rather than "it
21 immediately ordered." We did not immediately order.

22 CHAIRMAN PALLADINO: How do you fix that?

23 MR. ZERBE: Just take out the word
24 "immediately."

25 COMMISSIONER ROBERTS: Who is on top of the

1 split infinitives. That is marvelous.

2 COMMISSIONER AHEARNE: You say down seven
3 lines, "The agency's appellate review of the decisions
4 continues as explained fully."

5 MR. ZERBE: Do you want to leave out "as
6 explained fully"?

7 CHAIRMAN PALLADINO: No, just cross out
8 "fully."

9 MR. ZERBE: Okay.

10 COMMISSIONER AHEARNE: I would strike out
11 fully and I guess I would say something like the
12 appellate review or the more detailed review. I am not
13 sure how to say it.

14 MR. KENNEKE: Explained in detail.

15 COMMISSIONER AHEARNE: Okay. I will pass.

16 MR. KENNEKE: Explained in detail.

17 COMMISSIONER AHEARNE: I just felt some
18 explanation there that the Appeal Board review and the
19 final Commission review continues as explained.

20 You say "Today's decision has no effect on the
21 appellate review." I don't think that is correct. That
22 has two effects.

23 COMMISSIONER ROBERTS: "E"ffect.

24 COMMISSIONER AHEARNE: Yes. One is that in,
25 as you say later in a footnote, it makes some of the

1 Appeal Board decisions immediately effective, and that
2 is part of the appellate review. Second, we are in this
3 staying part of the Appeal Board review.

4 MR. MALSCH: No. The Appeal Board has no
5 staying authority in this case.

6 COMMISSIONER AHEARNE: Oh, yes.

7 MR. MALSCH: I had read the earlier order
8 depriving the Board of stay authority as essentially
9 taking the whole issue of stays out of the appellate
10 process.

11 COMMISSIONER AHEARNE: Well, what do you mean
12 by the appellate process? I thought we were talking
13 about the merits review side of going through the Appeal
14 Board and into the Commission.

15 MR. MALSCH: Yes.

16 COMMISSIONER AHEARNE: As part of the merits
17 review process the Appeal Board made a decision and in
18 this we are staying part of that decision, mainly the
19 EOF, and that is therefore an effect on the appellate
20 review process.

21 MR. MALSCH: You can argue that. I mean you
22 can also argue that ---

23 COMMISSIONER AHEARNE: I am arguing.

24 (Laughter.)

25 MR. MALSCH: --- that is making one or the

1 other decisions effective. Yes, if you want to read it
2 broadly.

3 MR. KENNEKE: Delete the whole sentence.

4 CHAIRMAN PALLADINO: Today's decision, et
5 cetera, yes.

6 COMMISSIONER AHEARNE: Down on the bottom
7 where we say "The NRC staff has not yet provided the
8 Commission its findings and analyses and, indeed, the
9 licensee is now repairing the steam generators," my
10 impression is that NRR, however, has given some kind of
11 approval. As I recall they sent a letter, and I thought
12 they had produced some kind of a document which they
13 have sent to us.

14 MR. MONTGOMERY: Are you speaking to allowing
15 repair versus approval of the state of events after
16 repair?

17 COMMISSIONER AHEARNE: Yes, so I would have
18 stuck in some clarifying sentence just to explain it.
19 The licensee wasn't allowed to just go off and start
20 that.

21 MR. MONTGOMERY: Right.

22 CHAIRMAN PALLADINO: Page 3.

23 COMMISSIONER AHEARNE: We say at the top of
24 page 3 that "The licensee is to maintain Unit 1 in cold
25 shutdown conditions until the Commission is satisfied

1 the concerns are met."

2 Now I know they went through hot functional
3 test once. We did give them permission to do that and
4 ended up with the steam generators. Now what is the
5 situation here that we are saying? Are we going to have
6 it one-step prior to their doing hot functional or are
7 we going to allow them to do hot functional and then
8 have a step? Have we thought about that?

9 MR. MALSCH: I hadn't thought about it. I
10 think it is up to the Commission whichever it would like
11 to do.

12 CHAIRMAN PALLADINO: Have they had hot
13 functional?

14 COMMISSIONER AHEARNE: Yes. That is when they
15 discovered the steam generator problem.

16 CHAIRMAN PALLADINO: How did they heat it, by
17 pumps?

18 COMMISSIONER AHEARNE: I think so. I don't
19 know.

20 MR. MALSCH: We would certainly not want to
21 preclude them from doing tests that the staff would need
22 to do to sign off on the generator repair.

23 CHAIRMAN PALLADINO: Would it only make it
24 ambiguous to cross out "cold"? That at least would
25 permit the hot functional in a shutdown condition.

1 COMMISSIONER AHEARNE: All right, the next
2 paragraph, I would strike the word "actually" every time
3 we say we are actually authorizing restart. Let's just
4 say we are authorizing restart.

5 COMMISSIONER ASSELSTINE: Yes.

6 CHAIRMAN PALLADINO: Therefore needs an "e" in
7 there.

8 COMMISSIONER AHEARNE: Right. Now I am
9 confused on the following description, and that is this
10 order lifting the previous order and then also putting
11 conditions on it, or are we putting conditions on which
12 when satisfied the previous orders will be lifted? Here
13 it seems to say it lifts the shutdown orders once the
14 conditions are completed, and on page 19 the immediate
15 effectiveness is lifted subject to the conditions. It
16 may not be important, but I guess it would just be
17 useful to have it be consistent.

18 CHAIRMAN PALLADINO: What does it mean subject
19 to the conditions? Does it mean you have got to meet
20 them first?

21 COMMISSIONER AHEARNE: Well, I read it as it
22 it is a lifting and there are also conditions associated
23 with it. See, here I am reading it as here first the
24 conditions have to be met and then it is lifted. The
25 other I read as saying we are now lifting it, and along

1 with that lifting we are putting some conditions, and it
2 just should be clear.

3 CHAIRMAN PALLADINO: "All the required
4 conditions are to be met, is the word "all" necessary?
5 Do some of these relate to after restart? I was going
6 to suggest crossing out "all." Once the NRC staff is
7 satisfied that required conditions have been met.

8 MR. MONTGOMERY: Some of the conditions are
9 continuing conditions, that is correct.

10 CHAIRMAN PALLADINO: So we can cross out "all"
11 and I think you get a better meaning.

12 COMMISSIONER AHEARNE: Now I have a suggestion
13 with respect to how you mention the appendix. I noticed
14 many times or several times Boards when they have been
15 summarizing something from some place else say that for
16 the convenience of the reader something is attached, but
17 for complete or accuracy or legal sufficiency, whatever
18 is the right phrase, go see the original order.

19 I would suggest we try to say something here
20 such as for convenience these are listed in the
21 appendix, but for precision go see the orders, primarily
22 just because it would make me feel a little bit more
23 comfortable that something hasn't been missed. If we
24 don't put that kind of wording in, it could be that this
25 is now the complete set, whether or not there is

1 something else.

2 CHAIRMAN PALLADINO: That is a good suggestion.

3 MR. ZERBE: Good.

4 CHAIRMAN PALLADINO: Page 4.

5 I found one little nit. I read where it talks
6 about the record that exceeds 50,000 pages and then I
7 came on later on page 11 and read 27,000 pages and it
8 sounded like they were two different numbers. I read
9 them carefully and they aren't two different numbers,
10 but why give two sets of numbers to the public. I think
11 one or the other.

12 MR. ZERBE: The total record is 50,000 and
13 then the record from the proceeding ---

14 CHAIRMAN PALLADINO: What you say is correct.
15 It is just that in quick reading it sounded like
16 inconsistent.

17 MR. KENNEKE: We can drop it the second time.

18 CHAIRMAN PALLADINO: I don't know if you need
19 them both times.

20 MR. KENNEKE: Drop it the second time.

21 MR. ZERBE: Okay.

22 MR. ZERBE: Any more items on page 4?

23 (No response.)

24 MR. ZERBE: On page 5 there is one sentence
25 that is out of place again on page 5.

1 COMMISSIONER AHEARNE: I am beginning to think
2 this is where you want it.

3 (Laughter.)

4 MR. ZERBE: We don't need it to be there.

5 (Laughter.)

6 CHAIRMAN PALLADINO: I guess I would rather
7 cross it out.

8 COMMISSIONER AHEARNE: That would be better.

9 MR. ZERBE: It probably would keep it from
10 showing up wrong again.

11 CHAIRMAN PALLADINO: I would cross that out.

12 COMMISSIONER AHEARNE: Particular since you
13 have revised the end of the last paragraph it no longer
14 fits.

15 MR. ZERBE: That is right.

16 CHAIRMAN PALLADINO: Do you have more?

17 MR. ZERBE: Yes. Delete the second sentence
18 right under "Public Concerns. "In this sense the view
19 expressed. . . ."

20 This item, incidentally, Roman numeral III,
21 there is a major question there.

22 COMMISSIONER AHEARNE: Before we get to Roman
23 numeral III I have a question. Many times through here
24 it has once the concerns are satisfied, or these
25 concerns having been satisfied, I believe, and I think

1 John pointed out to me this was an issue that was raised
2 at the meeting I missed, but since I wasn't there I will
3 raise it anyway, but I believe what we should be saying
4 is once the concerns are satisfied sufficiently to meet
5 the immediately effectiveness review, because some of
6 those concerns are the same concerns that are involved
7 in the merits review. So it is a qualified satisfaction
8 of those concerns.

9 CHAIRMAN PALLADINO: What are you putting in
10 there, John?

11 COMMISSIONER AHEARNE: I would say, and it is
12 just my scribble, and maybe it could be said better, but
13 I would say, and this is now the third and fourth line,
14 once those concerns are satisfied sufficiently to meet
15 the immediate effectiveness review, then the Commission
16 is legally required to lift the shutdown order.

17 CHAIRMAN PALLADINO: Sounds good.

18 COMMISSIONER AHEARNE: Now Roman numeral III.

19 MR. ZERBE: Well, there had been some changes
20 of course made in the public concern area, but I guess
21 the main question is whether that should be kept in the
22 body of this order or whether it should be taken out or
23 modified or what-have-you and added somewhere else
24 outside the order in a public information document.

25 COMMISSIONER AHEARNE: I recognize this is a

1 losing argument, but I am going to make it anyway. I
2 believe that the treatment we have of the public concern
3 is a valid one to make in the sense that the public is
4 clearly, as we all know, extremely concerned and that
5 the NRC has to speak to those concerns.

6 However, we code it, I believe that what we
7 have to end up saying is for the legal requirements
8 which we have on us for whether or not that plant can
9 operate, those are determined by public health and
10 safety considerations, not that all of these concerns
11 were raised or the bulk of them. Now it is difficult to
12 say that in an order and I think you people have been
13 trying to do it.

14 I believe it could much better be said with a
15 lot more words on an announcement or a release that goes
16 along with an order. So I wouldn't put that discussion
17 in here.

18 CHAIRMAN PALLADINO: I wanted to do a few
19 little changes on here. I thought it was worthwhile
20 putting it in the order, but I don't think it is
21 sufficient.

22 COMMISSIONER ASSELSTINE: There are two
23 problems. One is whether what is in here now is
24 sufficient to address those concerns and puts the right
25 emphasis, and I think, John, the emphasis that you

1 mentioned is the right one. Then the second one is do
2 we put this in the order or do we put it somewhere
3 else. I think both are problems.

4 CHAIRMAN PALLADINO: I was going to propose
5 leaving them in the order and then expand on them in a
6 public release. Otherwise, after the public release is
7 lost the order may still stand.

8 COMMISSIONER AHEARNE: Yes, the order may
9 still stand. Exactly my concern, the order may stand.
10 Obviously I said as a statement of fact what is my
11 working hypothesis, namely, the bulk of these concerns
12 cannot affect our decision on the public health and
13 safety analysis that we have to make.

14 CHAIRMAN PALLADINO: That is why I was
15 thinking they ought to be in.

16 COMMISSIONER AHEARNE: But if they are in the
17 order, I believe that in order so that we don't bruise
18 the feelings too much of the people, the words are going
19 to be such that can imply that, yes, they do have weight
20 and they should be considered. So you are establishing
21 a precedent that they are really germane.

22 CHAIRMAN PALLADINO: Well, I didn't think they
23 established that precedent in here, not if they do onto
24 the order what I want to do.

25 COMMISSIONER AHEARNE: Oh, well, okay.

1 CHAIRMAN PALLADINO: Well, there is not that
2 much that I want to do to it. For example, on the top
3 of page 6, the last sentence says "We recognize that
4 those concerned look to us to safeguard their interests
5 and we have therefore been very careful in our safety
6 review to be sure that there is no legitimate cause for
7 concern," and it insults the people. You mean my
8 concern isn't legitimate? I don't know if putting a
9 period after review is sufficient, but something needs
10 to be done there.

11 COMMISSIONER AHEARNE: I would also strike
12 "therefore." My primary goal is to take it out, but if
13 you are going to keep it in, I resent that we are only
14 careful.

15 CHAIRMAN PALLADINO: Yes. I agree,
16 "therefore" and "sometime indeed" and "sometimes
17 actually" is insulting. Well, I would propose for the
18 moment to follow John's suggestion and take out
19 "therefore" and put a period after "review" and I would
20 cross out the rest. However, I am also open to better
21 rewording.

22 I am on page 6. This is 6?

23 MR. ZERBE: Yes.

24 CHAIRMAN PALLADINO: The full paragraph in the
25 middle of the page, the last sentence says "The

1 Commission believes it would be abdicating its
2 responsibility for it to allow a referenda rather than
3 write its own view to control the outcome." But the
4 sentence before it I think says ---

5 COMMISSIONER AHEARNE: Says the same thing.

6 CHAIRMAN PALLADINO: "Ultimately the
7 Commission itself must make reactor safety decisions
8 which we will not be doing if we allowed referenda." So
9 I think you can cross out the last sentence.

10 COMMISSIONER AHEARNE: I agree. Part of the
11 difficulty is ---

12 CHAIRMAN PALLADINO: It is hard medicine.

13 COMMISSIONER AHEARNE: Well, no, it isn't
14 really. Let me see if I can say this accurately. I
15 believe our judgment rests on what I would call
16 technical analysis. It is judgment on that technical
17 analysis. This reads to me as though we have to make
18 the judgment. It can certainly be swayed heavily by the
19 referenda, but it isn't that they aren't binding on us,
20 and I disagree with that. Not only do I think they are
21 not binding on us, but I don't think they are relevant.
22 That is one of the frank things that I believe would
23 have to be said if you are going to put it in the
24 order.

25 Now if you put it in a public statement that

1 goes along with it, then you can sugarcoat that. If you
2 put it in the order you are establishing the ground
3 rules of the agency.

4 COMMISSIONER ROBERTS: I agree with John.

5 CHAIRMAN PALLADINO: But isn't it necessary to
6 make that clear? It may not be necessary but I think it
7 is important to make it clear.

8 COMMISSIONER AHEARNE: My concern is that to
9 be clear enough you are going to be more brutal than you
10 wish to be. So that is why I would like it better to
11 have it in the order.

12 MR. FOUCHARD: I don't believe there is any
13 sugarcoating frankly, Mr. Ahearne. I think you have to
14 say why you are making the decision and why you can or
15 cannot take into account what transpired in the
16 referenda and in the public meeting and pretty well tell
17 it straight and I don't think there is any amount of
18 sugarcoating that is going to help the situation.

19 COMMISSIONER AHEARNE: Joe, I agree it is
20 better to do it that way.

21 MR. FOUCHARD: I think you have to. I don't
22 think it is better or worse. I just think that is the
23 way it has to be done.

24 CHAIRMAN PALLADINO: John, let me make sure I
25 caught your point. Did you have some specific wording,

1 or you used some words that sounded pretty good.

2 COMMISSIONER AHEARNE: No, I was
3 extemporaneous.

4 CHAIRMAN PALLADINO: Well, the judgment has to
5 relate to technical analyses and technical issues.

6 COMMISSIONER ASSELSTINE: I think it wouldn't
7 hurt, too, to tie in essentially the fact that the
8 Commission is charged by law with making those judgments
9 and with making the judgments based upon technical
10 considerations. That is why the referenda don't affect
11 the outcome of that judgment. This sort of dances
12 around it a little bit.

13 CHAIRMAN PALLADINO: Do you have enough to try
14 to fix that up?

15 MR. ZERBE: We will try to.

16 Anything else on page 6?

17 (No response.)

18 MR. ZERBE: Page 7.

19 CHAIRMAN PALLADINO: I would like to propose
20 more on TMI-2 cleanup, and you may or may not buy it.

21 COMMISSIONER ROBERTS: I would propose less.

22 (Laughter.)

23 CHAIRMAN PALLADINO: That is why this is just
24 is an interesting Commission.

25 (Laughter.)

1 CHAIRMAN PALLADINO: Now it starts off the
2 same way. Somebody crossed off a sentence that I
3 thought ought to stay in. So the first paragraph is
4 like the paragraph in here.

5 COMMISSIONER AHEARNE: As far as that first
6 paragraph, I could buy the last sentence if we strike
7 the word "continue."

8 MR. ZERBE: Do you not show the last sentence
9 struck out completely?

10 COMMISSIONER AHEARNE: Yes. You see the
11 Chairman has just added it back in. In other words, I
12 would be willing to say the Commission supports prompt
13 resolution of the funding problem and will press for
14 prompt solution as a separate matter.

15 CHAIRMAN PALLADINO: Say that again, John.

16 COMMISSIONER AHEARNE: I would accept your
17 last sentence of your first paragraph if it were
18 modified to say "The Commission supports prompt
19 resolution of the funding problem and will press for
20 prompt solution as a separate matter."

21 CHAIRMAN PALLADINO: Well, we have done quite
22 a bit. As a matter of fact, Norm wrote this up and he
23 had about four paragraphs of what we had done, and I
24 said that is too much detail. We have written to the
25 White House and we have written to Congress. I don't

1 want to take credit for a lot of stuff that was in
2 effect then.

3 (Laughter.)

4 CHAIRMAN PALLADINO: "The Commission will
5 support prompt resolution of funding and will continue
6 to press" ---

7 COMMISSIONER AHEARNE: I would drop the
8 "continue" out of the sentence. I would just say "will
9 press."

10 CHAIRMAN PALLADINO: Well, I think we have
11 pressed.

12 COMMISSIONER ROBERTS: I would delete the
13 whole paragraph.

14 (Laughter.)

15 CHAIRMAN PALLADINO: Give me a chance to
16 present it.

17 (Laughter.)

18 CHAIRMAN PALLADINO: I think it is very
19 important because it relates to an issue that was
20 discussed in the litigation. Now then I am trying to
21 give the staff some direction. Now maybe this is the
22 right place to do it. "The Commission intends that the
23 NRC staff review the updated plans and schedules for
24 cleanup that have been requested from GPU Nuclear. The
25 staff is then directed to make recommendations to the

1 Commission for further action that may be necessary to
2 assure the cleanup is completed expeditiously. The
3 Commission further intends that staff monitor (a) the
4 availability of funds for TMI-2 cleanup and (b) the
5 arrangement with DOE to help assure that waste is safely
6 and expeditiously removed from the site, and TMI reactor
7 fuel is disposed of off site."

8 This could also be a separate statement.

9 COMMISSIONER AHEARNE: I would make that a
10 staff requirements memo.

11 COMMISSIONER ASSELSTINE: Well, I certainly
12 agree that there may be some advantage in connection
13 with the Commission's action on this order to say
14 something like that.

15 CHAIRMAN PALLADINO: I felt that way and that
16 is why I proposed it.

17 COMMISSIONER AHEARNE: I think the staff
18 certainly will review the updated plans and schedules
19 and the staff will make recommendations to us without
20 our directing them if they see that there are further
21 actions that may be necessary because that Denton and
22 Snyder and Barry are very anxious to try to get motion
23 there. If there is anything they see, I am confident
24 they will come back in and tell us. The staff certainly
25 is monitoring those other two things. So I am uneasy to

1 say that we are directing that this is action we are
2 taking. Now if we wish to say that the staff is
3 responsible and will do this, than that is a statement
4 of fact and I can tolerate it.

5 CHAIRMAN PALLADINO: Well, suppose I look at
6 it again and suggest something to put in the next draft
7 that will be identified.

8 COMMISSIONER ROBERTS: The paragraph that
9 begins "Finally, the decision on effectiveness. . ."
10 What are we saying, we will establish a base level of
11 protection." What about a "level of protection." I
12 don't know what you mean by a base level.

13 COMMISSIONER ASSELSTINE: That could be easily
14 left out.

15 MR. KENNEKE: Take out "base."

16 COMMISSIONER ROBERTS: I think the next
17 sentence should be struck because I think it is
18 confusing and you can draw the inference that TMI-1 is
19 some sort of miniaum level of safety. I don't
20 understand an unsafe plant that fails to achieve this
21 level of protection. I mean it is gratuitious. It is a
22 throw-away. Why do we want it?

23 MR. KENNEKE: Delete it. Any objection to
24 deleting it?

25 MR. ZERBE: No.

1 COMMISSIONER AHEARNE: That is fine with me.

2 COMMISSIONER ROBERTS: Fine to delete?

3 COMMISSIONER AHEARNE: Yes.

4 CHAIRMAN PALLADINO: That would sound good in
5 a speech.

6 (Laughter.)

7 MR. FOUCHARD: Only if there were a Q and A
8 session afterwards.

9 COMMISSIONER AHEARNE: I would like to delete
10 some of the previous sentence, too. I would prefer it
11 to say "The Commission does establish a level of
12 protection of adequate safeguards and public safety and
13 insists that this level be met.

14 COMMISSIONER ASSELSTINE: I would agree with
15 that?

16 COMMISSIONER ROBERTS: Rather than the
17 negative the positive.

18 COMMISSIONER AHEARNE: I would strike "while"
19 at the beginning and I would keep "the Commission," and
20 then I would strike from "will" up to "improvements in
21 safety." Then I would strike "we will" and put in
22 "does."

23 So it would read "The Commission does
24 establish a level of protection of adequacy regards
25 public safety and insists that this level be met."

1 CHAIRMAN PALLADINO: This could benefit from
2 good editorial monitoring. All my writings have been
3 subject to editorial monitoring.

4 (Laughter.)

5 COMMISSIONER AHEARNE: Let me address the last
6 sentence in that paragraph. "We are convinced that Unit
7 I can be safely operated once all the items listed in
8 the appendix have been completed." It is difficult for
9 me to believe that a conclusion of a merits review could
10 have anything more positive.

11 MR. MONTGOMERY: Well, that is the first
12 problem. As you raised something earlier going through
13 here, I am not sure that is accurate now. If we have
14 continuing items in the back, I am going to look at that
15 from that standpoint.

16 CHAIRMAN PALLADINO: Besides, we were
17 convinced once that we could operate it safely without
18 all that stuff.

19 (Laughter.)

20 CHAIRMAN PALLADINO: Why don't we cross that
21 sentence out and make it a short paragraph.

22 COMMISSIONER AHEARNE: If you need some
23 wrap-up sentence, it would be terms of the 1979 order,
24 or something like that.

25 MR. ZERBE: Yes.

1 COMMISSIONER AHEARNE: In other words, what
2 has been resolved really by the immediate effectiveness
3 portion.

4 MR. ZERBE: Anything on the last sentence
5 there on 7?

6 (No response.)

7 MR. ZERBE: Page 8.

8 COMMISSIONER AHEARNE: On 7, just
9 historically, you will note the point that Joe Fouchard
10 made. If you recall the date of the accident and you
11 look at the date of the order, you will see that it was
12 not an immediate order. It was an immediately effective
13 order, but it was not issued immediately.

14 COMMISSIONER ROBERTS: This is just for my
15 information. Would they still have been out for
16 refueling July 2nd?

17 COMMISSIONER AHEARNE: Probably not.

18 COMMISSIONER ROBERTS: Probably not?

19 COMMISSIONER AHEARNE: Yes.

20 CHAIRMAN PALLADINO: There is nothing on 8.

21 MR. KENNEKE: On page 8, before you go on, I
22 see about line 8 or so "The Commission took the special
23 step." Do we fix that? We fixed something like that
24 earlier.

25 COMMISSIONER AHEARNE: Took the step of making

1 enforcement orders.

2 MR. KENNEKE: Drop "special."

3 COMMISSIONER AHEARNE: Yes.

4 COMMISSIONER ASSELSTINE: Or why not just say
5 "made."

6 CHAIRMAN PALLADINO: What is that?

7 COMMISSIONER ASSELSTINE: The Commission made
8 the enforcement order immediately effective.

9 CHAIRMAN PALLADINO: Where are you?

10 COMMISSIONER ASSELSTINE: In that same
11 sentence. "The Commission in this proceeding made the
12 enforcement order immediately effective."

13 CHAIRMAN PALLADINO: I found this "special
14 step" maybe some place else.

15 MR. KENNEKE: The next sentence. You have got
16 it twice.

17 CHAIRMAN PALLADINO: Okay. Now what did you
18 say?

19 MR. ZERBE: "The Commission in this proceeding
20 made the enforcement order immediately effective."

21 CHAIRMAN PALLADINO: Okay, good.

22 Shall we go on to 9.

23 At the end of the first paragraph it might be
24 well to refer to the appendix.

25 MR. MONTGOMERY: We just didn't get it in

1 there, but on the next version there will be a footnote
2 there that says go to the appendix for the list of these
3 documents.

4 CHAIRMAN PALLADINO: "Then the Commission on
5 August 9," I think it would be well to put "1979" again.

6 MR. ZERBE: Page 10.

7 (No response.)

8 MR. ZERBE: 11.

9 CHAIRMAN PALLADINO: On 11 that "27,000 pages."

10 MR. ZERBE: We are going to take it out.

11 MR. KENNEKE: Could we say something like days
12 of adjudicatory hearings with extensive hearing
13 transcripts, testimony and exhibits and delete the rest.

14 CHAIRMAN PALLADINO: I just wanted to avoid an
15 unnecessary ---

16 COMMISSIONER AHEARNE: Sorry, Trip, but I
17 would delete 339 page decision.

18 CHAIRMAN PALLADINO: Yes.

19 COMMISSIONER ASSELSTINE: I would, too. There
20 are several references all the way through.

21 MR. KENNEKE: There were several places where
22 we do that. That is out.

23 MR. ZERBE: Page 12.

24 MR. KENNEKE: Take the reference there out.

25 CHAIRMAN PALLADINO: Where?

1 MR. KENNEKE: The third line.

2 MR. ZERBE: 806 pages. There is a comma
3 instead of a period there on about the eighth line down
4 or so.

5 MR. KENNEKE: There is another one on page 13
6 that I will take out.

7 CHAIRMAN PALLADINO: What did you do on page
8 12 besides that 806 pages.

9 MR. ZERBE: John, isn't there a comma?

10 MR. MONTGOMERY: It starts "While the Board."

11 MR. ZERBE: It says "While the Board in that
12 decision. . . ."

13 COMMISSIONER ASSELSTINE: Take the "while" out?

14 MR. ZERBE: No, leave the "while" in. It is
15 the "restart." and there is a comma there. The fifth
16 line down in the first complete paragraph on page 12.
17 Before "restart" that is a comma.

18 COMMISSIONER ASSELSTINE: Why not just make it
19 two separate sentences.

20 MR. KENNEKE: Just drop the "while."

21 MR. ZERBE: All right, we can do that, too.

22 CHAIRMAN PALLADINO: Yes, that is good.

23 MR. ZERBE: Any more on page 12?

24 (No response.)

25 MR. ZERBE: Page 13?

1 COMMISSIONER ASSELSTINE: On the top of page
2 13 you say "The Special Master further found, however,
3 that the licensee working with the NRC staff to develop
4 a proper answer to the NRC-administered operator license
5 exam had not acted in good faith." Then further "The
6 Special Master found inadequate the overall integrity of
7 the licensee's operations staff." It is a little bit
8 imprecise just to refer to the licensee. This was the
9 Ross issue. I guess I would make that a little tighter
10 than just the licensee.

11 Second, if you are going to discuss that
12 specific aspect, the proper answer, I think you ought to
13 also mention the interference with Procter since that
14 was part and parcel of the same event.

15 CHAIRMAN PALLADINO: What was your word on
16 licensee? I missed that.

17 COMMISSIONER ASSELSTINE: Well, it is a little
18 imprecise. It is one individual. It is not the
19 licensee.

20 CHAIRMAN PALLADINO: "Further, the Special
21 found inadequate the overall integrity of the licensee's
22 operations staff."

23 MR. MONTGOMERY: The preceding sentence.

24 COMMISSIONER ASSELSTINE: That is right; the
25 preceding sentence.

1 COMMISSIONER ASSELSTINE: I would say one
2 individual or a member of the licensee's mangement, or
3 something like that.

4 MR. ZERBE: We can fix that.

5 Any more on 13?

6 (No response.)

7 MR. ZERBE: Page 14.

8 COMMISSIONER AHEARNE: On the footnote on page
9 14, what is the status, do you know, of what we asked in
10 October?

11 MR. MONTGOMERY: The status of which?

12 COMMISSIONER AHEARNE: We directed the NRC
13 staff to determine which civil penalty proceedings
14 should be instituted. We asked OI and I&F to look at
15 whether something really was violated.

16 MR. MONTGOMERY: I don't know what the status
17 is. Would you like us to find out?

18 COMMISSIONER AHEARNE: Yes.

19 MR. ZERBE: Page 15.

20 COMMISSIONER ASSELSTINE: The first full
21 paragraph on 15 I would just say the parties raised two
22 issues that were addressed in ALAB 698.

23 COMMISSIONER AHEARNE: Now at the bottom there
24 we say "The Commonwealth and the NRC staff requested
25 Commission review and the petitions are presently

1 pending." My understanding is we jut got in a request
2 from Pennsylvania in which they say they are joined by
3 the licensee and for us to defer action.

4 COMMISSIONER ASSELSTINE: That is right.

5 MR. LEVI: It is still pending. They just
6 asked us to defer it and they haven't withdrawn it yet.

7 COMMISSIONER AHEARNE: But we say the
8 Commonwealth has requested the Commission to review.
9 Actually the Commonwealth has put that request on hold.

10 CHAIRMAN PALLADINO: Well, can we update that.

11 MR. ZERBE: Yes.

12 Page 16.

13 (No response.)

14 MR. ZERBE: Page 17.

15 (No response.)

16 MR. ZERBE: Page 18.

17 COMMISSIONER AHEARNE: We are back to the
18 evening session in Harrisburg. Now we say the
19 Commission held an evening session and the Commission
20 has received numerous written submissions. These
21 comments are part of the record. Does this now say that
22 we are agreeing that the public meeting in Harrisburg is
23 part of the record?

24 MR. MALSCH: I think we characterized it as
25 something in the nature of limited appearances I thought

1 in one of our orders. It is a little misleading to call
2 them a part of the record.

3 MR. MONTGOMERY: I would offer the following
4 alternative that we didn't get in there, and that is
5 strike that whole sentence that these comments are part
6 of the record.

7 (Laughter.)

8 MR. MONTGOMERY: As a replacement sentence,
9 "The Commission has considered those comments received
10 during the comment period."

11 CHAIRMAN PALLADINO: What does that mean, that
12 we didn't consider this evening session?

13 MR. MONTGOMERY: That means we didn't consider
14 the comments that were not received during the comment
15 period. There were other comments that were not offered
16 to us during the comment period and they were not part
17 of what OPE and OGC did.

18 COMMISSIONER ASSELSTINE: Just leave it out.

19 COMMISSIONER ASSELSTINE: The whole sentence
20 is coming out now?

21 CHAIRMAN PALLADINO: Yes. I would be happier
22 to say nothing. Cross out that sentence.

23 COMMISSIONER ASSELSTINE: Yes.

24 CHAIRMAN PALLADINO: Than to imply we went out
25 and held a hearing, but, boy, you guys were too late

1 with your comments.

2 MR. KENNEKE: What about the opening clause in
3 the next paragraph?

4 CHAIRMAN PALLADINO: I raised that a couple of
5 times before.

6 Go ahead, John.

7 COMMISSIONER AHEARNE: My point was going to
8 say, and it is really just the old one, "The shutdown
9 order has been resolved to the extent necessary to lift
10 the immediate effectiveness." That is my concern.

11 CHAIRMAN PALLADINO: Well, what was giving me
12 the problem was the way it was written included the
13 evening session and all the other things.

14 MR. ZERBE: That is right.

15 CHAIRMAN PALLADINO: Now how are you fixing it?

16 MR. KENNEKE: Just delete the clause.

17 CHAIRMAN PALLADINO: Oh, "The Commission has
18 determined." You are crossing it out. It starts "The
19 Commission has determined that the concerns with
20 prompted the original shutdown order have been resolved
21 sufficiently to lift the immediate effectiveness."

22 MR. ZERBE: Page 19 in the center of that top
23 paragraph is where we have added that information about
24 steam generator tubes, thermal sleeves and spargers.

25 COMMISSIONER AHEARNE: This also at the top of

1 page 19 is where I think I would like us to be clear on
2 what order it is.

3 MR. KENNEKE: What is the legal status of it
4 now.

5 COMMISSIONER AHEARNE: The conditions then
6 they are lifting and lifting with conditions.

7 CHAIRMAN PALLADINO: Who is going to check
8 that? How will we know?

9 MR. MALSCH: Why don't we think about which is
10 the best way to state it and then try to be consistent.

11 CHAIRMAN PALLADINO: Yes.

12 COMMISSIONER AHEARNE: Down in footnote 12 we
13 say that "Even if the communications were ex parte, they
14 do not specifically relate to items required prior to
15 restart of the proceeding." I certainly haven't gone
16 back through the UCS objections yesterday. So is there
17 someone on the staff who has gone through the USC
18 objections to check?

19 MR. MONTGOMERY: I am about 85 steps down
20 about a 95-step path to the extent to where that is
21 something we are going to verify completely.

22 COMMISSIONER AHEARNE: In the footnote that
23 runs over to the next page, and this is a side question,
24 is the Commission going to revisit the psychological
25 stress issue? What are we doing?

1 MR. MALSCH: You mean the pendency of studies?

2 COMMISSIONER AHEARNE: Yes. What is the
3 status? Does anybody know what the status is?

4 MR. MALSCH: The last I heard, I asked the
5 staff what they were doing and they said they were
6 finishing up with some of the reports that have been
7 done with their consultants that were ongoing and they
8 decided to put the whole Warheight matter on hold and
9 not contact NIMH.

10 I suggested that Tom Beam mention the issue at
11 agenda planning so if the Commission wanted to get a
12 further briefing or become involved they would know what
13 was going on or otherwise they would have no way of
14 knowing that the staff had done this.

15 MR. ZERBE: Did you want to change anything?

16 COMMISSIONER AHEARNE: No. It was just an
17 alert to me to ask the staff.

18 MR. ZERBE: Any other items on 20?

19 (No response.)

20 MR. ZERBE: 21. We would suggest to change
21 that top section, the paragraph there, taking up some
22 pieces from the footnote so that we would propose
23 changing the second sentence there. "Those it does not
24 discuss do warrant maintaining the ---

25 CHAIRMAN PALLADINO: Where are you, Jack?

1 MR. ZERBE: Do you see the sentence that
2 starts "Those it does not discuss ---

3 CHAIRMAN PALLADINO: Oh, way at the top?

4 MR. ZERBE: Right. We are suggesting it be
5 modified to this. "Those it does not discuss do not
6 warrant maintaining the effectiveness of the shutdown
7 order."

8 Then the footnote would be changed such that
9 the second sentence of the footnote would be crossed out
10 and leave the rest of the footnote alone.

11 MR. KENNEKE: In other words, we would borrow
12 that phrase, "do not warrant maintaining effectiveness"
13 and substitute it for "it has been found to be without
14 merit," and delete that second sentence in the footnote.

15 COMMISSIONER ASSELSTINE: I have a question
16 about the footnote. These I take it are the various
17 exceptions that were submitted to the Commission as part
18 of the immediate effectiveness review, right?

19 MR. ZERBE: That is right.

20 COMMISSIONER ASSELSTINE: Are every one of
21 those also before the Appeal Board as part of the merits
22 review, or do we have in some instances perhaps separate
23 sets of exceptions?

24 MR. LEVI: I don't know the answer to that.

25 COMMISSIONER ASSELSTINE: Because we do say

1 they will all be addressed during the merits review by
2 the Appeal Board, and I am not sure that is the case.
3 We can check it.

4 CHAIRMAN PALLADINO: How did you fix up that
5 sentence on the top of page 21?

6 MR. ZERBE: That sentence will read "Those it
7 does not discuss do not warrant maintaining the
8 effectiveness of the shutdown orders.

9 CHAIRMAN PALLADINO: Those it does not discuss?

10 MR. ZERBE: Right, do not warrant maintaining
11 the effectiveness of the shutdown order.

12 Any items on 22?

13 COMMISSIONER ASSELSTINE: 22, yes. First, I
14 guess in my own mind I am not convinced that I agree
15 with the second full sentence on the page, "In each case
16 the weight of evidence unrelated to demeanor supports
17 the Licensing Board's findings." I think again in my
18 own mind, particularly with regard to the performance of
19 individuals, I would find that the weight of the
20 evidence supported some of the Special Master's findings
21 rather than the Board's findings.

22 Second, in the first full paragraph you say
23 "The Commission after carefully considering the analyses
24 of both the Special Master and the Licensing Board as
25 well as its own review of the record has decided to

1 accept the conclusions of the Licensing Board. The
2 Commission notes that some of the Special Master's
3 conclusions are based in large part on his judgmental
4 determinations."

5 I think I would like to know which ones you
6 are covering when you say "some of the Special Master's
7 conclusions." It looked to me like you were talking
8 about management integrity because it seemed to me that
9 those were the ones that best fit under the rest of that
10 sentence where you say "The Commission notes that some
11 of the Special Master's conclusions are based in large
12 part on his judgmental determinations that various
13 licensee management personnel lied as witnesses in the
14 reopened cheating proceeding while the Board based its
15 findings on an analysis of all of the evidence before it,
16 including the testimony presented to it during its
17 initial management competence inquiry." I would just
18 specify which ones.

19 And I guess just more maybe as a general
20 comment on the balance of that paragraph I wonder
21 whether we ought to expand that to address to at least a
22 certain extent each of the major issues?

23 MR. ZERBE: We were going to add a few more
24 items to that.

25 MR. MONTGOMERY: On this paragraph

1 specifically and then there will be a couple of other
2 places throughout that we would have ourselves thought
3 that we needed emergency planning and hardware developed.

4 CHAIRMAN PALLADINO: What are you going to do
5 now? You are going to identify ---

6 MR. MONTGOMERY: Take this some and make it
7 more specific as to what the issues are and expand the
8 discussion of each.

9 CHAIRMAN PALLADINO: And expand what?

10 MR. MONTGOMERY: And expand the discussion of
11 each of those.

12 MR. ZERBE: We are going to add some items.

13 MR. KENNEKE: So that it is more precise.

14 COMMISSIONER ASSELSTINE: I think the judgment
15 there on why you are accepting the Licensing Board's
16 conclusions rather than the Special Master's, that
17 particular reason applies to some but not to all, and I
18 think it is worthwhile to point out which ones you are
19 talking about.

20 MR. MALSCH: Also I just noticed, and it is
21 kind of a fine point, but technically the fact that the
22 weight of evidence unrelated to demeanor supports the
23 Board's findings doesn't lead to the conclusion that we
24 must support the Board's findings.

25 COMMISSIONER ASSELSTINE: That is right.

1 MR. MALSCH: So we will have to fix that up a
2 little bit.

3 MR. ZERBE: Any more on 22?

4 (No response.)

5 MR. ZERBE: 23.

6 COMMISSIONER AHEARNE: Yes. I realize you
7 attempted to accommodate my concern. However, in
8 listing what the AMOTS contended, if we are going to use
9 negligent and naive, I would prefer to have it as the
10 AMOTS were quoting it. It still carries with it a
11 semblance that we are endorsing it as the Licensing
12 Board characterized it.

13 MR. ZERBE: You would cross out terms used by
14 the Licensing Board?

15 COMMISSIONER AHEARNE: I would have no problem
16 with what they said if their contention was the
17 licensee's management was negligent and naive. I would
18 just strike the ---

19 MR. KENNEKE: So it would say more like that
20 licensee's managment was as described by the AMOTS
21 "negligent and naive"?

22 COMMISSIONER AHEARNE: No.

23 COMMISSIONER AHEARNE: The AMOTS contended,
24 too, that licensee's management was negligent and naive.

25 CHAIRMAN PALLADINO: And you are crossing out

1 everything in the parenthesis?

2 COMMISSIONER AHEARNE: Yes, which strong
3 indicates that they had poor and negligent management.
4 That was their contention.

5 MR. ZERBE: Okay.

6 COMMISSIONER ASSELSTINE: In the next
7 paragraph we say "With regard to TMIA's arguments the
8 Commission finds that the Licensing Board was fully
9 justified in relying on the witnesses. The Commission
10 has itself carefully examined GPU Nuclear's management
11 and concluded that it is competent to operate TMI-1
12 safely."

13 I think since we are talking about the
14 Commission's review and examination and then the
15 conclusion that it might be a good idea there to say why
16 we reached that conclusion.

17 CHAIRMAN PALLADINO: I didn't hear you, Jim.

18 COMMISSIONER ASSELSTINE: Why we reached that
19 conclusion.

20 CHAIRMAN PALLADINO: Can it be said?

21 (Laughter.)

22 MR. ZERBE: We will try. We will say
23 something.

24 COMMISSIONER AHEARNE: On the bottom of
25 appellant 16, I would use some phrase similar to that

1 you previously used on page 5. On page 5 the last
2 sentence, prior to public concern, you said "The
3 Commission or Appeal Board should determine during the
4 review that the plant cannot be operated safely,
5 appropriate steps will be taken. If you want to add in a
6 sentence the flavor, we don't believe the pendency of
7 the investigation will adversely affect the operation of
8 TMI-1, et cetera. If something comes up in the
9 investigation, we will take appropriate steps ---

10 MR. ZERBE: Anything on 24?

11 COMMISSIONER ASSELSTINE: On 23, too, and
12 again this is another why question. "With regard to the
13 AMOTS argument, the Commission agrees with the Licensing
14 Board that the cheating incidents did not undermine the
15 competence and integrity of the GPU Nuclear
16 management." Again, I think that is one where we ought
17 to give our reasons on why we think that.

18 MR. ZERBE: Anything more on 23?

19 (No response.)

20 MR. ZERBE: On 24 we would add another
21 sentence on the second paragraph there.

22 COMMISSIONER AHEARNE: On page?

23 MR. ZERBE: 24. The sentence starts "The
24 breadth and depth." Just added right before that we
25 would propose adding "GPU Nuclear has added several

1 senior managers from outside the organization to
2 strengthen its management."

3 CHAIRMAN PALLADINO: Where does that go?

4 MR. ZERBE: Right before the sentence starting
5 "The breadth."

6 COMMISSIONER AHEARNE: The definition of new
7 blood.

8 MR. ZERBE: Yes, it is new blood.

9 (Laughter.)

10 MR. ZERBE: In an earlier version it was new
11 blood.

12 COMMISSIONER AHEARNE: And similar to a
13 comment before, "We are finding that GPU Nuclear cannot
14 operate TMI-1 safely."

15 CHAIRMAN PALLADINO: What is that?

16 COMMISSIONER AHEARNE: Well, the last finding
17 is "We find that GPU Nuclear can't operate TMI-1
18 safely." One of the issues in the merits review is are
19 they able to operate it safely."

20 MR. KENNEKE: For purposes of immediate
21 effectiveness.

22 CHAIRMAN PALLADINO: Oh, you want it for the
23 purposes of immediate effectiveness.

24 COMMISSIONER AHEARNE: Yes.

25 MR. ZERBE: Any more items on 24?

1 (No response.)

2 MR. ZERBE: 25.

3 COMMISSIONER AHEARNE: On 25, at the bottom of
4 the first full paragraph we have the Commission
5 accepting the commitment of the licensee as a condition
6 of restart. As you know, I am interested in how many
7 commitments has the licensee made that we have not
8 accepted, and what is unique about this? Is it that the
9 licensee has only made two commitments and so we have
10 called those two out?

11 MR. LEVI: As I read commitment, this is the
12 only commitment the licensee has made in its promise to
13 us on immediate effectiveness.

14 COMMISSIONER AHEARNE: So the reason we are
15 calling it out is it is the only commitment made by the
16 licensee in the licensee's comments on immediate
17 effectiveness?

18 MR. LEVI: The licensee said it would take
19 several other actions such as with regard to "H", but
20 those were not commitments.

21 COMMISSIONER AHEARNE: Well, we say on page 27
22 "The licensee has committed to pay close attention to
23 Mr. Husted's performance.

24 MR. LEVI: The distinction I would draw is
25 that this one relates to a condition imposed by the

1 Board and the others do not.

2 COMMISSIONER AHEARNE: I guess I am not
3 challenging whether you can defend a distinction. I am
4 curious as to why we are ---

5 MR. LEVI: We can accept them all.

6 COMMISSIONER AHEARNE: Now the second question
7 I had with respect to that was we are here accepting
8 this commitment of the licensee as a condition of
9 restart.

10 CHAIRMAN PALLADINO: Where are you reading?

11 COMMISSIONER AHEARNE: I am reading on page 25
12 at the bottom of the first paragraph.

13 CHAIRMAN PALLADINO: This one?

14 COMMISSIONER AHEARNE: Yes. Why are we making
15 it a condition? I would think we would make it a
16 condition if we think it is necessary. If we thought it
17 was necessary, why didn't we require it?

18 CHAIRMAN PALLADINO: We negotiated a lot of
19 these. I don't know about this one.

20 COMMISSIONER AHEARNE: In other words, with
21 regard to the Commonwealth's suggestion that the
22 Licensing Board's conditions required to restart the
23 licensee has committed itself, and I would just end
24 there.

25 MR. ZERBE: You mean just leave it there and

1 not say ---

2 COMMISSIONER AHEARNE: I would just end there.

3 MR. KENNEKE: Delete that last sentence.

4 MR. ZERBE: The purpose of the paragraph is to
5 show what the Commonwealth wanted.

6 MR. KENNEKE: Drop the last sentence.

7 CHAIRMAN PALLADINO: Well, we ought to say
8 something about it if they are making a commitment and
9 we are not satisfied it is enough.

10 MR. ZERBE: It was the Commonwealth that made
11 this if you read the bottom of the last page.

12 CHAIRMAN PALLADINO: So you are crossing out
13 that sentence.

14 MR. ZERBE: It is just an information
15 paragraph.

16 COMMISSIONER AHEARNE: Now in the middle of
17 the next paragraph, the bracketed part where you have
18 made some changes, we are now saying we have concluded
19 the training program more than adequate complies with
20 all NRC requirements. That is a sufficiently strong
21 statement that I couldn't go that far. I would agree
22 that we have to conclude that the training program
23 adequate complies, but when we say more than ---

24 MR. KENNEKE: It is not needed.

25 COMMISSIONER AHEARNE: Well, it may be needed,

1 but I can't go that far.

2 CHAIRMAN PALLADINO: You want to cross out
3 "more than"?

4 COMMISSIONER AHEARNE: Either "more than" or
5 "more than adequately." I would be satisfied with it
6 complies with the NRC requirements or adequate complies
7 with the NRC requirements.

8 CHAIRMAN PALLADINO: Complying means it is
9 adequate. So you are going to cross out "adequately"
10 also.

11 COMMISSIONER AHEARNE: That would be
12 satisfactory.

13 COMMISSIONER ASSELSTINE: Let me go back just
14 a second to the license condition. As I understand the
15 situation now, the Licensing Board has imposed this as a
16 condition but not a condition of restart but a condition
17 to be satisfied afterwards.

18 COMMISSIONER AHEARNE: Right.

19 COMMISSIONER ASSELSTINE: The licensee has
20 said he will do it before restart. We don't impose that
21 as a condition. There is nothing requiring that he do
22 that.

23 COMMISSIONER AHEARNE: That is right.

24 COMMISSIONER ASSELSTINE: I guess I would be
25 in favor of retaining that one as a condition.

1 CHAIRMAN PALLADINO: For retaining what?

2 COMMISSIONER ASSELSTINE: For retaining that
3 one as a condition.

4 COMMISSIONER AHEARNE: Why?

5 COMMISSIONER ASSELSTINE: To make sure that he
6 does it before restart.

7 CHAIRMAN PALLADINO: I thought we were
8 retaining it.

9 COMMISSIONER ASSELSTINE: We are taking out
10 that sentence.

11 COMMISSIONER AHEARNE: If the staff and the
12 Boards did not think it was necessary as a condition
13 prior to restart, if we put it in as a condition, that
14 is saying that we for some reason have concluded it is
15 necessary. So I guess we would also need an explanation
16 of why.

17 COMMISSIONER ASSELSTINE: Yes.

18 CHAIRMAN PALLADINO: Were you proposing to put
19 in ---

20 COMMISSIONER ASSELSTINE: I guess I wasn't
21 convinced that I wanted to delete that last sentence,
22 but let me think about it.

23 MR. ZERBE: Any more on 25?

24 COMMISSIONER ASSELSTINE: I have just one
25 more. In the second full paragraph where we are talking

1 about resolving the differences between the Special
2 Master's findings on the training program and the
3 Licensing Board's finding to say "The Commission notes
4 that the Special Master found the training program
5 inadequate. Based solely on the reopened cheating
6 record, the Licensing Board found differently based on
7 both the cheating record and the earlier hearings on
8 management.

9 I think we have to go beyond that to show why
10 the cheating record and the earlier hearings provide
11 information sufficient to show that the Special Master
12 was wrong.

13 MR. ZERBE: Anything else on 25?

14 (No response.)

15 MR. ZERBE: 26. At the bottom there is an
16 open item and what does the Commission want to do. This
17 came up I guess in the last meeting in what to do with
18 these various people, G, H, O, VV. This statement says
19 that you agree with the Board that what has been done is
20 adequate, but there was some comments that apparently
21 there wasn't ---

22 CHAIRMAN PALLADINO: Well, let's see, G has
23 left. He is still there, if I recall. H is an
24 operator, isn't he, a reactor operator?

25 COMMISSIONER AHEARNE: Yes.

1 CHAIRMAN PALLADINO: So we have some sort of a
2 handle on him.

3 COMMISSIONER ASSELSTINE: I guess I would
4 renew my proposal to designate a number of individuals,
5 whether they have left or not, and say that as a
6 condition of restart, those individuals cannot be
7 involved in activities related to Unit 1. For Mr.
8 Husted I would say that for him he can't be involved in
9 training activities.

10 COMMISSIONER AHEARNE: Would you mean to imply
11 that if Unit 2 were to restart they could however go
12 back to Unit 2?

13 COMMISSIONER ASSELSTINE: I think that is an
14 academic question at least for the purposes of this
15 decision, which I think is all we have to agree to at
16 the present time, and I would include O, W, G, H,
17 Herbein, Miller, VV, and I guess I would leave off Mr.
18 Shipman, but I would identify Husted and say that he
19 could not be involved in training activities.

20 CHAIRMAN PALLADINO: That is what he is
21 involved in, isn't he?

22 COMMISSIONER ASSELSTINE: That is right, but
23 he is also a licensed operator, as I recall, isn't he?

24 CHAIRMAN PALLADINO: I am not sure.

25 MR. MONTGOMERY: He is, and what I was going

1 to raise is, at least just as you said it, one of the
2 consequences of that was as a licensed SRO he might not
3 do training but instead would become senior reactor
4 operator.

5 CHAIRMAN PALLADINO: You said become what?

6 MR. MONTGOMERY: The way he stated it he could
7 then used to be a senior reactor operator and that would
8 be all.

9 COMMISSIONER ASSELSTINE: Yes, marginally.

10 CHAIRMAN PALLADINO: Is Herbein or Miller
11 involved in TMI at all?

12 COMMISSIONER ASSELSTINE: No, they are not
13 involved.

14 MR. MONTGOMERY: They are both no longer
15 working with the nuclear part of the organization.

16 COMMISSIONER ASSELSTINE: I don't want them
17 coming back either.

18 COMMISSIONER AHEARNE: Turn to the immediate
19 effectiveness ---

20 COMMISSIONER ASSELSTINE: Well, yes, the
21 condition would be continued operation.

22 COMMISSIONER ROBERTS: I would not name any
23 individuals.

24 CHAIRMAN PALLADINO: Any individuals?

25 COMMISSIONER ROBERTS: Right.

1 CHAIRMAN PALLADINO: Including Husted?
2 COMMISSIONER ROBERTS: Including Husted.
3 CHAIRMAN PALLADINO: He is mentioned in here.
4 COMMISSIONER ROBERTS: I know.
5 MR. MALSCH: Let me raise sort of a related
6 legal point. I think H is currently a licensed
7 operator. If this has the legal effect of saying he
8 can't exercise the rights under his license, we are in
9 effect taking his license away. That could give rise to
10 a hearing right in his behalf, and if we are going to
11 make it effective immediately with this order, we will
12 need to make some kind of finding that the public health
13 and safety interests requires immediate action.
14 MR. LEVI: The licensee has stated that if we
15 institute proceedings against these people they will
16 remove them from operation until the proceeding is
17 concluded.
18 CHAIRMAN PALLADINO: On the basis of cheating
19 and looking at the bases for revoking your license, I
20 don't think that is one of them that is listed in our
21 rules.
22 MR. MALSCH: I am sure we could.
23 CHAIRMAN PALLADINO: We have a material false
24 statement.
25 COMMISSIONER ASSELSTINE: Well repeated lying

1 to us.

2 MR. MALSCH: Depending upon how you view the
3 record, I am sure you could find grounds one way or the
4 other. It is just a matter of considering the matter
5 and if that is the way you come up to make the right
6 findings in the Commission's decision here and then
7 recognize that there may be follow-on proceedings
8 instituted by the operators themselves.

9 CHAIRMAN PALLADINO: But he would have a right
10 to a hearing.

11 MR. MALSCH: Yes.

12 CHAIRMAN PALLADINO: But what good does that
13 do him because here is an order that says you aren't
14 going to operate anyhow.

15 MR. MALSCH: Well, yes, it is the same as any
16 immediately effective order we issue. You argue what
17 good is it to give the licensee a hearing.

18 CHAIRMAN PALLADINO: But if as a result of the
19 hearing it were found that he was treated wrongly ---

20 MR. MALSCH: Then he would be reinstated and
21 this condition would have to be removed.

22 CHAIRMAN PALLADINO: Would he have to undergo
23 another examination?

24 MR. MALSCH: It would depend upon the results
25 of the proceeding.

1 CHAIRMAN PALLADINO: What would they do,
2 suspend him?

3 MR. LEVI: The licensee stated that if we
4 institute a proceeding against the operators or the
5 people they will remove them from operation.

6 CHAIRMAN PALLADINO: But would they continue
7 them on the payroll?

8 MR. LEVI: They didn't specify.

9 CHAIRMAN PALLADINO: I am still hung up over
10 this one. I am more concerned with Husted's attitude on
11 training and being an instructor. That bothers me.

12 COMMISSIONER AHEARNE: I share that concern
13 and I would probably be willing to go along with Jim's
14 proposal on Husted.

15 CHAIRMAN PALLADINO: What is that?

16 COMMISSIONER AHEARNE: I said I would probably
17 be willing to go along with Jim's proposal on Husted. I
18 would like to see the words he comes up with.

19 CHAIRMAN PALLADINO: How about the rest of
20 them?

21 COMMISSIONER AHEARNE: No, I wouldn't. That
22 is the only one.

23 CHAIRMAN PALLADINO: I went back and reread
24 Husted's stuff ---

25 COMMISSIONER ASSELSTINE: It is troubling.

1 CHAIRMAN PALLADINO: I wouldn't be comfortable
2 with him as a training instructor. I know one should
3 not extend experience from one individual to another,
4 but I found that where certain attitudes persisted among
5 instructors, all sorts of admonitions brought about very
6 little change.

7 COMMISSIONER ASSELSTINE: I just don't view
8 this notion that he is going to be watched carefully is
9 sufficient.

10 CHAIRMAN PALLADINO: I gather you don't have
11 support for your whole motion.

12 COMMISSIONER ASSELSTINE: There doesn't appear
13 to be.

14 (Laughter.)

15 CHAIRMAN PALLADINO: But you do have at least
16 two supporting Mr. Husted not being a training
17 instructor.

18 COMMISSIONER ASSELSTINE: Yes. Why don't I
19 develop a proposal.

20 COMMISSIONER ROBERTS: Can you vote for the
21 order and have comments on individual parts?

22 CHAIRMAN PALLADINO: What is that?

23 COMMISSIONER ROBERTS: Nothing.

24 COMMISSIONER ASSELSTINE: I will do two, and
25 then see whether I can get agreement on one or both.

1 CHAIRMAN PALLADINO: I can't hear you.

2 COMMISSIONER ASSELSTINE: I will do two
3 proposals, one on Husted and the other covering the
4 others and then you all can take a look at it and we can
5 act on that. But for my part I think that kind of a
6 listing is an integral element of my ability to find
7 satisfactory competence and integrity by the operations
8 staff.

9 CHAIRMAN PALLADINO: Well, the only one that
10 is really at issue is H in your list.

11 COMMISSIONER ASSELSTINE: Well, yes, and the
12 potential that the others would come back. Now is VV in
13 2 or is he on Unit 1 but in a different job?

14 MR. MONTGOMERY: That is my recollection, he
15 is on 2.

16 COMMISSIONER ASSELSTINE: So H would be the
17 only one that would be directly.

18 MR. ZERBE: Your comments are going to just
19 apply to their working in TMI-1?

20 COMMISSIONER ASSELSTINE: That is correct.

21 MR. ZERBE: At one time there was a question
22 about whether people wanted them to ever work ---

23 COMMISSIONER ASSELSTINE: John and I discussed
24 that. I think for purposes of this decision it is
25 sufficient to restrict it to Unit 1. The practical

1 effect could well be broader than that.

2 COMMISSIONER AHEARNE: Well, if you go with
3 either one of those, then in the middle of page 27, or
4 above the middle when the last sentence says "The
5 Commission finds this to be an acceptable response,"
6 they would have to modify it to make it conform.

7 MR. ZERBE: We would modify that.

8 Is there anything more on 27?

9 (No response.)

10 MR. ZERBE: 28.

11 COMMISSIONER ASSELSTINE: I guess I had one
12 back on 27. In the middle of the page we are talking
13 about the information flow business on the first day of
14 the accident. There is a sentence "The decision of
15 whether the licensee intentionally withhold information
16 from federal and state officials is a judgmental
17 decision and one which has been decided in favor of the
18 licensee."

19 While I don't have difficulty with that
20 statement, I don't think it answers the question. It
21 doesn't provide the explanation of why we have reached
22 that conclusion rather than the one that the AMOTS, USC
23 and TMIA has asserted. That in itself I don't think is
24 the explanation.

25 CHAIRMAN PALLADINO: Jim, with regard to H, I

1 do sense in reading that there was a general
2 lackadaisical atmosphere about studying together and the
3 examinations. I wasn't as concerned about H because he
4 was in the climate that may have actually stimulated
5 what he did.

6 COMMISSIONER ASSELSTINE: I appreciate that,
7 but I guess what bothers me about H is more the response
8 later on. If H had said to our investigators and if H
9 had said during the hearing before the Special Master
10 that he and G had cooperated on the quiz, that there was
11 an atmosphere that that was okay, that the guidelines
12 were unclear about whether cooperation was or was not
13 permitted, I would feel much differently about H than I
14 do based upon the testimony he gave.

15 What he said was he didn't cooperate. They
16 didn't cooperate on the quizzes at all, that they had
17 studied together and they had simply memorized the same
18 answers together. I find that response incredible based
19 upon the litany of the comparison of answers that Gary
20 Milholland went through in his decision.

21 It is the combination of the actions he took
22 on the quizzes coupled with his repeated statements to
23 our investigators, to Mr. Wilson and to Milholland, that
24 I can only interpret as lies. That is the part that
25 troubles me the most.

1 If he had said, yes, we cooperated, but we
2 thought that was okay, the guidelines were really
3 unclear and everybody else was doing it, I would feel
4 differently about it.

5 CHAIRMAN PALLADINO: Well, I was looking at
6 the earlier part. That is why I came down on the
7 training instructor as a very crucial guy.

8 All right, sorry. Where were you?

9 MR. ZERBE: 28.

10 COMMISSIONER ASSELSTINE: On footnote 19 I had
11 a question. "The Commission has reviewed each asserted
12 arbitrary and capricious conclusion cited by TMIA and
13 has concluded that there is a reasonable basis to
14 support the Board's conclusion." Does that mean that we
15 agree that the preponderance of the evidence supports
16 the Board's conclusion?

17 MR. LEVI: Yes.

18 COMMISSIONER ASSELSTINE: Okay, why don't we
19 say.

20 COMMISSIONER AHFARNE: I will admit I did not
21 review each TMIA assertion. So I am taking the staff's
22 position on it. Has the staff gone through every one of
23 TMIA's assertions, and rather than just concluding that
24 these people are always making wild statements thought
25 through each of their assertions?

1 MR. MONTGOMERY: I have personally read each
2 and every one and I think Rick Levi has, too.

3 COMMISSIONER AHEARNE: And you have reached
4 that conclusion?

5 MR. LEVI: Yes.

6 CHAIRMAN PALLADINO: And you are going to talk
7 about the preponderance of the evidence?

8 MR. ZERBE:

9 COMMISSIONER AHEARNE: In the previous
10 footnote, No. 18, it says "Our determination of the
11 concerns have been satisfied with respect to the
12 immediate effectiveness and a detailed rebuttal of each
13 exception has been provided in the merits review.

14 That leads me to conclude that we have already
15 decided that their arguments are wrong, but we just
16 haven't had the time to put the details in. Maybe that
17 is true.

18 CHAIRMAN PALLADINO: A detailed treatment.

19 MR. ZERBE: Yes.

20 29.

21 COMMISSIONER AHEARNE: On the top of 29,
22 "While all the evidence may reveal weaknesses, the GPU
23 Nuclear management is fundamentally sound." What message
24 would you trying to get across?

25 MR. ZERBE: There are some weaknesses -- this

1 is bad.

2 CHAIRMAN PALLADINO: It is a slight change
3 from what you had before. It is a little better, but I
4 don't know that it is good enough.

5 MR. MONTGOMERY: Our original intent was to at
6 least point out there had been some weaknesses shown
7 through the record, but those weaknesses did not show
8 there was a fundamental failure with management or a
9 fundamental fault with management.

10 You like those words better, okay.

11 COMMISSIONER ASSELSTINE: Yes, I like that
12 better.

13 MR. KENNEKE: Although there were weaknesses,
14 none demonstrate that they were not sound.

15 COMMISSIONER ASSELSTINE: No, no, John's
16 formulation is better.

17 MR. MONTGOMERY: I will have to read the
18 transcript.

19 (Laughter.)

20 CHAIRMAN PALLADINO: Oh, the way you said it?

21 COMMISSIONER AHEARNE: Yes.

22 CHAIRMAN PALLADINO: Okay. Fix it up.

23 COMMISSIONER AHEARNE: Down on the bottom of
24 29 you have "The personnel have been more than
25 adequately trained."

1 MR. ZERBE: That is that same thing.

2 COMMISSIONER AHEARNE: Yes, it is that same
3 thing. Their training meets our requirements.

4 MR. ZERBE: Or have been adequately trained.

5 COMMISSIONER AHEARNE: Okay, adequately
6 trained.

7 COMMISSIONER ASSELSTINE: I sort of like the
8 training meets our requirements since we may find out in
9 the coming months.

10 (Laughter.)

11 COMMISSIONER AHEARNE: You say the staffing
12 levels exceed regulatory requirements. Refresh my
13 memory why.

14 MR. MONTGOMERY: Their commitments now are to
15 six shifts and a minimum of five, and I think our
16 minimum requirements are four.

17 COMMISSIONER AHEARNE: They do have enough now
18 who have passed the exam.

19 MR. MONTGOMERY: To meet the five with a
20 commitment on their part to go to six whenever possible.

21 MR. ZERBE: Page 30.

22 CHAIRMAN PALLADINO: Page 30 at the bottom of
23 the page, the last sentence is "The one remaining plan
24 is nearing completion and FEMA will review the plan
25 after it is submitted."

1 When will that be done relative to restart,
2 before or after? I raised that before. Is it something
3 that we want to have done?

4 MS. ARON: That is the Elizabeth Town State
5 College Plan and it is unclear to staff whether FEMA will
6 review that plan or not because it is a college rather
7 than a school district plan. The last word from the
8 staff is that it will be reviewed, but they weren't sure
9 which reviewing body would do it.

10 MR. ZERBE: Do you know when?

11 MS. ARON: It will be done prior to restart.

12 CHAIRMAN PALLADINO: Well, it says then FEMA
13 will review.

14 MR. MONTGOMERY: We will fix it.

15 MS. ARON: It will be reviewed?

16 CHAIRMAN PALLADINO: What is that?

17 MS. ARON: It will be reviewed.

18 CHAIRMAN PALLADINO: Prior to restart?

19 MS. ARON: Prior to restart.

20 CHAIRMAN PALLADINO: Is there any objection to
21 saying that in the order?

22 COMMISSIONER AHEARNE: Let's see, that was the
23 one that in the afternoon session when I was asking some
24 questions, it wasn't clear where that plan was and how
25 it was coming along.

1 MS. ARON: It has already been submitted to
2 FEMA according to the last word this morning.

3 COMMISSIONER AHEARNE: Does that plan have to
4 be completed?

5 MS. ARON: It isn't clear whether it does or
6 not. They decided to include it because it was easier
7 to include rather than to go through the process of
8 trying to exclude it.

9 COMMISSIONER AHEARNE: My only concern was in
10 listening to the discussion in that meeting I got the
11 sense that the plan was being reluctantly developed and
12 as such I wouldn't be surprised if it is not very good,
13 and I am not sure that I want us to be here putting in
14 an agreement that that plan must be satisfactory ---

15 CHAIRMAN PALLADINO: I would leave it off. I
16 just wanted to know whether the plan was developed.

17 MR. ZERBE: Do you want to leave it the way it
18 is?

19 CHAIRMAN PALLADINO: Well, except it is a
20 question of whether FEMA will review it.

21 MR. ZERBE: Okay, we will clear that up and
22 not put a date.

23 COMMISSIONER AHEARNE: Just saying that one
24 remaining plan is nearing completion period.

25 CHAIRMAN PALLADINO: Actually this is an

1 ongoing process and it will always have to be changed.

2 COMMISSIONER AHEARNE: In the footnote right
3 below the footnote 17 on page 30 you say "Providing the
4 NRC staff certifies prior to restart the licensee
5 complies with the conditions imposed by the Licensing
6 and Appeal Boards, except for any modification we make
7 in this order.

8 COMMISSIONER ROBERTS: Such as?

9 COMMISSIONER AHEARNE: On the Appeal Board
10 decision.

11 MR. KENNEKE: And except as noted below. The
12 Appeal Board.

13 CHAIRMAN PALLADINO: As noted below or above
14 or both?

15 COMMISSIONER AHEARNE: Well, however the --
16 (Inaudible).

17 MR. ZERBE: Page 31.

18 CHAIRMAN PALLADINO: I come back to a question
19 on why, in the middle paragraph, the Commission has
20 decided to say the portion of ALAB 698 which holds that
21 protective action recommendations can be made from the
22 control room during the first four hours following the
23 declaration of an emergency.

24 MR. ZERBE: Well, that one I thought when we
25 discussed it at the last meeting, the intent of the

1 Commission was to go with the Licensing Board which
2 would start it out after the first hour over at the
3 remote site.

4 CHAIRMAN PALLADINO: Whoever is there has to
5 go out to the EOF?

6 MR. ZERBE: Yes.

7 CHAIRMAN PALLADINO: Until Clark or Arnold
8 gets there.

9 MR. ZERBE: Right. And recall I think
10 Commissioner Ahearne identified there are three other
11 people or so on that list of acceptable directors of
12 that facility that are on site. It was only two of
13 them, Arnold and Clark that were coming from New Jersey.

14 CHAIRMAN PALLADINO: What I was wondering
15 about is do we take somebody who is needed in the
16 control room and put them in the EOF ---

17 MR. ZERBE: Well, you will recall those people
18 could do both.

19 CHAIRMAN PALLADINO: I know they can do both.

20 COMMISSIONER AHEARNE: They have people to
21 cover both.

22 COMMISSIONER ASSELSTINE: They can cover
23 both. So both places could be manned or managed or
24 controlled.

25 COMMISSIONER AHEARNE: Yes. In fact, I think

1 the licensee has committed to do that.

2 MR. KENNEKE: There is an emergency director
3 in the control room and it was he that was going to take
4 on this other function as well for that first four hours
5 and there are other people who can cover the EOF
6 function.

7 CHAIRMAN PALLADINO: Should we explain that
8 here why we did it? Is it because it is more
9 conservative or ---

10 MR. ZERBE: Well, at one point I guess we did
11 have a statement in here that it was a more stringent
12 requirement.

13 CHAIRMAN PALLADINO: Because it is more
14 stringent.

15 COMMISSIONER AHEARNE: In that same paragraph
16 you say "The Licensing Board's decision which required
17 protective action recommendations be made from the EOF
18 once it is activated is to be in effect." Did the
19 Licensing Board also use the one hour?

20 MR. MONTGOMERY: I believe that once it is
21 activated means within an hour, that it will be
22 activated within the hour.

23 COMMISSIONER AHEARNE: I didn't go back and
24 look at the Licensing Board decision and I was wondering
25 whether ---

1 MR. ZERBE: We can check and make sure.

2 MR. MALSCH: Let me make another small point
3 in the paragraph. You probably should leave the phrase
4 "until the Commission is able to speak further on this
5 issue as an implied commitment to take review of the
6 ALAB decision."

7 CHAIRMAN PALLADINO: What are you putting in
8 there?

9 MR. MALSCH: I am not putting it. The present
10 language says "Until the Commission is able to speak
11 further on this issue the Licensing Board decision will
12 go into effect. I think that is an implied commitment.

13 COMMISSIONER ASSELSTINE: It really says we
14 are going to review the ALAB decision and act on it.

15 MR. MALSCH: That is right.

16 COMMISSIONER AHEARNE: Yes.

17 COMMISSIONER ASSELSTINE: I have a question on
18 the bottom of 31. Do we want to say anything about when
19 we intend to address the issues of our emergency plans?
20 I gather that there are a wide range of different
21 aspects that the Appeal Board commented upon, some of
22 which might be dealt with fairly quickly and others
23 which have been the subject of ongoing discussion.

24 Basically what we are saying is we are staying
25 those portions because the Commission is going to have

1 to act on them. I think it would be nice if we could
2 say that we would act expeditiously on at least some of
3 them, or something to that effect.

4 (Laughter.)

5 COMMISSIONER ASSELSTINE: It begins to look
6 like this is just, well, since we are the ones that have
7 to decide that, just forget about that one, fellows.

8 MR. ZERBE: This bottom statement here was one
9 that we want to make sure that the Commission agrees on
10 that we have added there.

11 CHAIRMAN PALLADINO: Which is that?

12 MR. ZERBE: The one starting "The Commission
13 is staying this portion of the ALAB 698 until a later
14 date since this issue involves additional Commission
15 action."

16 CHAIRMAN PALLADINO: Then you go on to say "In
17 the interim the TMI Program Office" It doesn't
18 say whether we agree that is okay or not. I was going
19 to propose this action responds to the Appeal Board
20 concerns on this matter in ALAB 698 or words to that
21 effect.

22 COMMISSIONER AHEARNE: Can we get some sort of
23 an explanation of what was done?

24 MS. ARON: Would you like an explanation now
25 of the plan and procedures?

1 COMMISSIONER AHEARNE: I would like at some
2 point to know what was modified so that if we put in a
3 sentence saying this satisfies the Appeal Board at least
4 I could have some confidence it does satisfy the Appeal
5 Board.

6 COMMISSIONER ASSELSTINE: I agree.

7 CHAIRMAN PALLADINO: Do you have that, Jack?

8 MR. ZERBE: Yes, we have that.

9 There was a possibility there that along the
10 lines of one of the earlier comments that perhaps we
11 would propose adding some sort of an introductory
12 paragraph to this section on emergency preparedness that
13 would give the flavor that a considerable amount has
14 been done here since it was initially in operation.

15 COMMISSIONER AHEARNE: In addition to training
16 and really good exercise.

17 MR. ZERBE: Yes.

18 COMMISSIONER AHEARNE: A lot of those people
19 are no longer around ---

20 (Laughter.)

21 CHAIRMAN PALLADINO: That is why emergency
22 planning in part is a continuing process.

23 MR. ZERBE: Any other items on 32?

24 (No response.)

25 CHAIRMAN PALLADINO: There is 32 A or B.

1 COMMISSIONER AHEARNE: Actually 34 was struck
2 and it is 33. That is a 4 struck out.

3 CHAIRMAN PALLADINO: Where are we, on page 32?

4 MR. ZERBE: Well, we are finished with 32.

5 33 okay.

6 COMMISSIONER AHEARNE: Down at the bottom you
7 have UCS so commented on its contentions 1 and 2, and
8 then you go on to say "The Commission believes the Board
9 adequately resolved these issues."

10 Part of contentions 1 and 2 of the UCS was
11 feed and bleed and you say the Board adequately resolved
12 these issues. I guess you better say which Board
13 because the Board differed in their resolution.

14 MR. MONTGOMERY: I have an insert that I will
15 try to put into the next version. In fact, it is a
16 paragraph explanation.

17 CHAIRMAN PALLADINO: Where are you?

18 MR. ZERBE: Down in the next to the last
19 paragraph on page 33.

20 CHAIRMAN PALLADINO: That goes on over to the
21 top of page 34.

22 MR. MONTGOMERY: Well, we ourselves aren't
23 satisfied with that one sentence that we have there.

24 CHAIRMAN PALLADINO: Which sentence is that?

25 MR. MONTGOMERY: The Commission believes the

1 Board adequately resolved these issues.

2 COMMISSIONER AHEARNE: I was also having some
3 trouble with the discussion of the Appeal Board and the
4 issue that was being handled. As I recall, the Appeal
5 Board also addressed the inadequacy of the coil and
6 condenser mode. They took exception to that. They also
7 put in a dedicated operator requirement. I didn't think
8 the discussion was really adequate of what the Appeal
9 Board concluded.

10 Then I wasn't sure where we were coming out
11 when we were saying that "The bounding capability is
12 sufficient pending completion in the review of the
13 subject by the Appeal Board." Now I thought the
14 decision we were going to do was to stay the Appeal
15 Board until we looked at the issues. At least that is
16 what I hope we do.

17 MR. ZERBE: Well, the Appeal Board, have they
18 come out with a final position on this yet?

19 COMMISSIONER AHEARNE: No, but they certainly
20 put the shot across the bound.

21 COMMISSIONER ASSELSTINE: I think, first of
22 all, I agree with John, and I would add that I don't
23 think the paragraphs on 33 to 34 quite accurately convey
24 what the Appeal Board said either. They didn't
25 recommend that certain things be done. It was their

1 tentative view that certain changes needed to be made or
2 the record had to be reopened because now the record ---
3 didn't support a finding that ---

4 CHAIRMAN PALLADINO: That is where I
5 disagree. I think this whole business has to be
6 rewritten because the Licensing Board first found that
7 the emergency feedwater system is adequately reliable.
8 So that implies that you don't really need the bleed and
9 feed. It says here "We now address the central question
10 is the EFW system as backed up by the HPI adequately
11 reliable, and we believe the evidence supports an
12 affirmative answer." Then there is a concept of a
13 backup by by feed and bleed.

14 I think the Appeal Board just ignores it.
15 That statement about the adequacy says, oh, well, if you
16 need a feed and bleed, we don't think that is adequate
17 because of some tests. The staff wrote and said the
18 result of those tests are not accurate enough or
19 appropriate enough, and I forget which, and I think that
20 ought to be discussed if we are going to discuss this
21 issue. I think we ought to come down that the emergency
22 feedwater system has been upgraded and has appropriate
23 reliability.

24 COMMISSIONER AHEARNE: Well, I agree we ought
25 to do a merits review of that also.

1 (Laughter.)

2 COMMISSIONER ASSELSTINE: I am not sure I can
3 agree to that middle paragraph on 34 the way it is now.
4 I guess I lean towards where John is going.

5 CHAIRMAN PALLADINO: But could we get a more
6 accurate representation of the situation and then ---

7 MR. MONTGOMERY: Right now as a drafter I
8 think I am confused as to ---

9 CHAIRMAN PALLADINO: What is that?

10 MR. MONTGOMERY: I think I am confused as to
11 where you are at.

12 CHAIRMAN PALLADINO: What do you mean, you are
13 confused as to where I am at?

14 MR. MONTGOMERY: No, no, where the Commission
15 is at.

16 CHAIRMAN PALLADINO: Oh, where do we come down?

17 MR. MONTGOMERY: Right.

18 CHAIRMAN PALLADINO: Well, I don't know how
19 the Commission comes down.

20 COMMISSIONER AHEARNE: What I really wanted
21 was a more accurate description of what the Appeal Board
22 said. Then I would go on to have the Commission stay
23 the Appeal Board's decision in that area.

24 MR. ZERBE: But has the Appeal Board made a
25 decision? They haven't made one yet.

1 COMMISSIONER AHEARNE: I am not sure how to
2 say it exactly. What I read what their order said is
3 they were alerting the parties and us that they intend
4 to come out with a decision saying that actions must be
5 taken before restart is going to be allowed.

6 COMMISSIONER ASSELSTINE: That is right.

7 COMMISSIONER AHEARNE: I believe that I will
8 want to stay the effect of that and take review of the
9 Appeal Board decision. I am not sure how to handle this.

10 MR. ROTHSCHILD: I have talked to the Appeal
11 Board and I don't think their opinion is probably going
12 to be out until January, and that will be long before
13 any actual restart.

14 I wonder if the correct course of action is to
15 decide on as far as staying any aspect of the Appeal
16 Board decision until it comes down, and if sometime in
17 January they come down with an opinion that gives us
18 some difficulty, at that point we could stay their
19 opinion and say we are not going to put that portion in
20 effect pending a review and then that will take away any
21 impediment to restart. It seems premature to get into
22 it now ---

23 COMMISSIONER AHEARNE: Yes, it is premature.

24 MR. ROTHSCHILD: --- because the Appeal really
25 did go out for comments and they got rather extensive

1 comments back from the parties. I think the Appeal
2 Board can change its mind and I think you may be a
3 little quick.

4 COMMISSIONER AHEARNE: You are right.

5 CHAIRMAN PALLADINO: But isn't there an order
6 dated November, and I can't read this date, where the
7 Board said we are in the process of reviewing the
8 evidentiary record as well as the papers now before us,
9 and it is our present view that the viability of feed
10 and bleed has been called into question by the test
11 recently performed at the semi-scale facilities.

12 COMMISSIONER AHEARNE: They started out that
13 order I think saying something like it is a
14 preliminary ---

15 CHAIRMAN PALLADINO: Preliminary views and
16 concerns. Well, can't we stay a preliminary view and
17 concern or stay a result of an action based on a
18 preliminary ---

19 COMMISSIONER ASSELSTINE: The part of the
20 Appeal Board's order that gives me difficulty is where
21 they say it is our tentative view that in the absence of
22 the changes suggested in this opinion we would need more
23 evidence possibly in the form of additional test results
24 before we would be able to conclude on this record that
25 there is reasonable assurance that the plant can be

1 operated without endangering the public.

2 I guess I was leaning the other way in saying
3 that I would put this in as another condition to restart.

4 CHAIRMAN PALLADINO: Where are you reading,
5 Jim?

6 COMMISSIONER ASSELSTINE: On page 10.

7 CHAIRMAN PALLADINO: Of that order?

8 COMMISSIONER ASSELSTINE: Yes.

9 CHAIRMAN PALLADINO: Why do you come out with
10 bleed and feed? The Licensing Board found ---

11 COMMISSIONER AHEARNE: I have difficulty with
12 the conclusion --- (Inaudible)

13 COMMISSIONER ROBERTS: The Appeal Board
14 conclusion.

15 COMMISSIONER AHEARNE: Yes. I don't
16 understand how they got there.

17 CHAIRMAN PALLADINO: The Licensing Board said
18 the feedwater system is fine. I forgot what they say
19 about the need for feed and bleed. The Appeal Board
20 just ignored that and said well, if you need a feed and
21 bleed, it isn't going to work.

22 We can't stay this?

23 COMMISSIONER AHEARNE: I guess the point Trip
24 well makes is that it isn't a final decision yet.

25 COMMISSIONER ASSELSTINE: That is right.

1 COMMISSIONER AHEARNE: But when it comes out
2 we could then stay it. It would be still well before
3 restart is actually initiated.

4 CHAIRMAN PALLADINO: How would you fix this up?

5 COMMISSIONER AHEARNE: I would just say what
6 the Appeal Board has done and then go on to say ---

7 CHAIRMAN PALLADINO: But why don't we also say
8 what the Licensing Board has done on this issue.

9 COMMISSIONER AHEARNE: I have no problem with
10 that.

11 COMMISSIONER ASSELSTINE: I don't have a
12 problem with that.

13 CHAIRMAN PALLADINO: Then say what the Appeal
14 Board said and say what the staff said because they took
15 important exception to the Appeal Board's conclusion.

16 COMMISSIONER ASSELSTINE: I am not sure I
17 would get into reciting the position of every party.

18 CHAIRMAN PALLADINO: Well, if you are going to
19 put the Appeal Board view, I would just go along and put
20 the Licensing Board view since we don't have any other.

21 COMMISSIONER ASSELSTINE: Whether it is right
22 or wrong, I guess I have a hard time in ignoring or not
23 mentioning the Appeal Board position.

24 CHAIRMAN PALLADINO: If they are going to call
25 it preliminary and therefore you can't knock it, you are

1 in a Catch-22. I would rather say the Licensing Board
2 found this, that ---

3 MR. ZERBE: Briefly state what the Appeal
4 Board apparently finds differently, although they
5 haven't come out with it. We will review it when it
6 comes out ---

7 CHAIRMAN PALLADINO: But see, the basis for
8 that is only that test and the staff spoke very strongly
9 about that.

10 COMMISSIONER AHEARNE: I guess I believe we
11 still have to mention it because otherwise it looks like
12 we are going ahead and saying we don't have any problems
13 with removing the immediate effectiveness and we know
14 there is this statement of a major element to the staff
15 in their statement. But I think if you first say the
16 Licensing Board findings, then you can cover what the
17 Appeal Board did. Then we could go on to say something
18 about pending completion.

19 COMMISSIONER ASSELSTINE: The Appeal Board
20 decision will be completed before restart.

21 CHAIRMAN PALLADINO: But I feel strongly if we
22 are going to say that the Board this because of this
23 data, I think it is important to put in a sentence that
24 the staff does not agree with it. In other words, they
25 don't think it is an appropriate basis.

1 COMMISSIONER AHEARNE: I guess I would just
2 say at the present time, given what both the Licensing
3 Board found and the preliminary nature of the Appeal
4 Board conclusions, we have no difficulty with removing
5 the immediate effectiveness.

6 CHAIRMAN PALLADINO: All right, you are going
7 to go with the Licensing Board.

8 COMMISSIONER AHEARNE: I would say given what
9 the Licensing Board found and the preliminary nature of
10 the Appeal Board position, the Commission can remove the
11 immediate effectiveness.

12 COMMISSIONER ASSELSTINE: I guess I would add
13 in and given we are going to get a final result from the
14 Appeal Board before the time of restart.

15 CHAIRMAN PALLADINO: But if you say about
16 calling this bleed and feed into question because of the
17 test data, then I think you have got to say something,
18 that the test data aren't right, or at least there is a
19 dispute on it. I am willing to admit there is a dispute.

20 (Laughter.)

21 COMMISSIONER AHEARNE: All right, I will go
22 along with admitting there is a dispute on it.

23 COMMISSIONER ASSELSTINE: If you want to
24 reflect the positions of the parties before the Appeal
25 Board, I would not have trouble with that.

1 CHAIRMAN PALLADINO: Just on this one anyhow.

2 COMMISSIONER ASSELSTINE: Yes.

3 CHAIRMAN PALLADINO: You are going to rewrite
4 those two paragraphs.

5 MR. ZERBE: Yes.

6 COMMISSIONER AHEARNE: At the bottom of the
7 page ---

8 MR. ZERBE: 34?

9 COMMISSIONER AHEARNE: Page 34, again this
10 begins to build to a more complete conclusion, and I
11 would have said something like we have concluded with
12 respect to the 1979 order the conditions have been met
13 and therefore the plant can be operated, but it is in
14 that context.

15 CHAIRMAN PALLADINO: Where, in the last
16 sentence here?

17 COMMISSIONER AHEARNE: It is similar to my
18 other comments earlier that it is a more sweeping
19 conclusion.

20 The final comment on that page I would have is
21 that I think, and maybe it is not appropriate on this
22 page but maybe somewhere else, but the Board did apply
23 this recapture provision and I think there ought to be
24 some ---

25 CHAIRMAN PALLADINO: What is the recapture

1 provision?

2 COMMISSIONER AHEARNE: That is where they
3 required the staff to come back and given them a plan of
4 how things were going to be built.

5 CHAIRMAN PALLADINO: And what do you want to
6 say about that?

7 COMMISSIONER AHEARNE: I would just to
8 summarize what happened.

9 MR. MONTGOMERY: Does that mean the
10 appropriate place for that is in the procedural section?

11 COMMISSIONER AHEARNE: Somewhere.

12 MR. MONTGOMERY: Somewhere.

13 (Laughter.)

14 MR. ZERBE: Okay, we are on 35.

15 COMMISSIONER ROBERTS: Don't you have some
16 words omitted?

17 COMMISSIONER AHEARNE: I think so.

18 MR. ZERBE: Yes, there is something, in the
19 human factors area and have been implemented by GPU is
20 the way it is supposed to read in the middle of the
21 first paragraph there.

22 CHAIRMAN PALLADINO: Human errors area?

23 COMMISSIONER ASSELSTINE: In the human errors
24 area and have been ---

25 COMMISSIONER AHEARNE: It the human factors ---

1 CHAIRMAN PALLADINO: I am not going to try to
2 fix it up. You handle it.

3 MR. ZERBE: We will fix it.

4 Anything else on 35?

5 (No response.)

6 MR. ZERBE: 36.

7 COMMISSIONER AHEARNE: On 36. We may end up
8 with such condition, put prior to that what was the
9 condition or what were the conditions the Commission was
10 imposing?

11 MR. ZERBE: The conditions of the Commission,
12 do you mean the long and short-term list?

13 COMMISSIONER AHEARNE: No. This decision
14 requires the licensee to meet the conditions imposed by
15 the Licensing Board, the Appeal Board and the Commission.

16 MR. MONTGOMERY: It would have been that one
17 condition that you discussed earlier. That doesn't
18 apply any more.

19 COMMISSIONER AHEARNE: Together with any
20 conditions we might impose on individuals.

21 MR. MONTGOMERY: I take that back. It may
22 apply.

23 COMMISSIONER AHEARNE: So it may.

24 COMMISSIONER ASSELSTINE: Yes.

25 MR. MONTGOMERY: It may.

1 CHAIRMAN PALLADINO: At 3:45 were to have an
2 affirmation session. Incidentally, I have comments on
3 the attachment, but the Secretary has suggested that
4 maybe we ought to break so we can have that affirmation
5 session. There are people waiting outside. Then we can
6 come back to this.

7 COMMISSIONER AHEARNE: We have a TMI meeting
8 tomorrow.

9 Before we close on this, I was hoping that we
10 could try to get to closure by Friday so that we can
11 schedule a public meeting. I think we are doing very
12 well.

13 COMMISSIONER AHEARNE: I think we can do a
14 complete reviewing of our comments, but there are a lot
15 of things that these guys have to go back out and do and
16 come back in with.

17 MR. ZERBE: I don't know if we can turn this
18 whole thing around by tomorrow morning.

19 CHAIRMAN PALLADINO: Oh, I didn't expect you
20 to. But in the interim, sometime next week, early next
21 week we ought to get the revised version and walk around
22 it and see if there are any problems.

23 MR. KENNEKE: We should have a complete set of
24 comments by tomorrow and give you the new version the
25 first thing next week.

1 COMMISSIONER AHEARNE: You will have I think a
2 complete set of comments on this version from those of
3 us who are here, but Vic is sick. So we don't know.

4 (Whereupon, at 4:00 p.m., the meeting
5 recessed, to reconvene at 9:00 a.m., Friday, December
6 10, 1982.)

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NUCLEAR REGULATORY COMMISSION

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

in the matter of: CLOSED MEETING - EXEMPTION no. 10 - Discussion of
Immediate Effectiveness Issues in TMI Restart Proceeding

Date of Proceeding: December 9, 1982

Docket Number: _____

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)