

ORIGINAL

# OFFICIAL TRANSCRIPT PROCEEDINGS BEFORE

NUCLEAR REGULATORY COMMISSION

COMMISSION MEETING

CLOSED MEETING - EXEMPTION NO. 10

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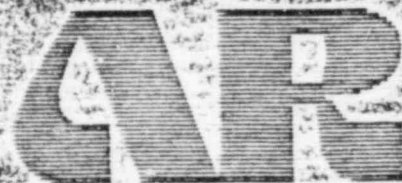
TITLE DISCUSSION OF IMMEDIATE EFFECTIVENESS  
ISSUES IN TMI-1 RESTART PROCEEDING

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF IMMEDIATE EFFECTIVENESS ISSUES IN  
TMI-I RESTART PROCEEDING

CLOSED MEETING - EXEMPTION NO. 10

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

Friday, December 17, 1982

The Commission convened in closed session at  
2:35 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. KENNEKE
- J. MONTGOMERY
- R. LEVI

AUDIENCE SPEAKERS:

- J. ARON
- R. SHERRY
- D. GARNER

\* \* \*

P R O C E E D I N G S

1  
2 CHAIRMAN PALLADINO: I wonder if we could get  
3 started.

4 This meeting continues our discussion of the  
5 TMI draft order, but before getting into the substance  
6 of that order I wonder if I might make a suggestion with  
7 regard to the discussion at the previous meeting.

8 I would suggest we wait and see what comments  
9 we get from the parties and then decide whether or not  
10 we want to make mention of that subject in the draft  
11 order.

12 COMMISSIONER AHEARNE: Aren't we also going to  
13 get a copy of GPU's submission on Monday?

14 CHAIRMAN PALLADINO: Yes, I would certainly  
15 hope so. After we get that information, then I think we  
16 ought to treat whether or not we want to say anything  
17 about that in the order because I think the order does  
18 say that things we didn't discuss we didn't consider  
19 significant to our decision.

20 Since the last meeting on the question of the  
21 draft order we received a revised draft on the TMI-I  
22 restart immediate effectiveness decision and that was  
23 based on Commission comments.

24 Today I expect to have the OPE lead us through  
25 the discussion and make changes in the revised December



1 15th order. However, there is a question of whether or  
2 not we want to take up Commissioner Asselstine's  
3 questions before we go through the document or would you  
4 like to wait until we get to that point in the document.

5 I was going to suggest that perhaps it is  
6 worth taking up the questions he raised so that in the  
7 event we don't get time to go through the whole document  
8 we will at least speak to them, but I am open to any way  
9 of proceeding.

10 COMMISSIONER AHEARNE: I would like to though  
11 make one comment directed to OPE. This was a problem  
12 which I used to have with OGC and I obviously can't  
13 require you to do anything, but I find it is very, very  
14 difficult to get a document which doesn't have the  
15 changes marked.

16 Now you can say well you marked the  
17 substantive changes. Well, unfortunately, all one has  
18 to do is find one substantive change unmarked and then  
19 you say well let's start checking. I had I guess it  
20 must have been four people in my office who had to spend  
21 six or seven hours yesterday going through the document  
22 so we could find changes. For example, there is one  
23 example on page 19 where it appears that there is a page  
24 and a half that wasn't in the previous order that is now  
25 here. It is not marked. Now maybe that is a minor



1 comment, a minor additional editorial change, but to us  
2 it looked to us very significant.

3 MR. MONTGOMERY: One of the problems we have  
4 in making changes at a point like this, and I apologize  
5 for the fact they weren't all changed, but the ones you  
6 are pointing out were not because what happened was of  
7 course in revising the sections were moved from one  
8 location to another and those didn't get marked.

9 COMMISSIONER AHEARNE: John, all I am saying  
10 is that I try very hard to understand what I am voting  
11 on and I read the stuff that comes up.

12 MR. MONTGOMERY: I appreciate that.

13 COMMISSIONER AHEARNE: It is very difficult to  
14 continue to do that if big documents of 30, 40 and 50  
15 pages come up and there are changes that aren't marked.  
16 Now if they are small changes, sure, I can understand  
17 that, but that looked like a big change and there were  
18 several others.

19 On the hand, there are places where a phrase  
20 was moved. There is a paragraph where a phrase was  
21 moved from one part of the paragraph to another part,  
22 and I gather that is for style, and that is marked as a  
23 change. So it is a little difficult.

24 MR. ZERBE: The Chairman also pointed out some  
25 comments and we definitely should not do that and we

1 don't intend to.

2           CHAIRMAN PALLADINO: As a matter of fact, for  
3 example, on page 12 I read a paragraph and I said, boy,  
4 I don't remember that being in the last one. There was  
5 no mark and I went back and I couldn't find it in the  
6 last one and I don't believe it is true, or if it is  
7 true, it is a surprise to me.k

8           COMMISSIONER AHEARNE: It is very difficult.  
9 Since I wasn't one of the four people who spent all  
10 their time comparing, I am expressing the grief that I  
11 got from the four people that did spend their time.

12           MR. ZERBE: We certainly don't want to do that.

13           CHAIRMAN PALLADINO: Let me say this, as I was  
14 reading this after I reached that point then I pulled  
15 out my old one and I started to compare and it was quite  
16 late into the evening just because of that and I am not  
17 sure I covered them all because you reach a point when  
18 you are tired. But I support that comment a hundred  
19 percent.

20           MR. MONTGOMERY: I have already discussed that  
21 myself with the other person who is going to be doing  
22 the editing with me on this next section, and any  
23 change, whether it is a letter or anything else, will be  
24 marked, and if we have to take extra time to do that, we  
25 will.

1           CHAIRMAN PALLADINO: Okay. Any other comments?

2           (No response.)

3           CHAIRMAN PALLADINO: I think that was a very  
4 worthwhile one to make and I should have made it myself.

5           We had four suggestions from Commission  
6 Asselstine which I thought were worthy of discussion in  
7 seeing what the Commission's consensus is and maybe you  
8 would like to walk through them, Jim.

9           COMMISSIONER ASSELSTINE: As far as the order  
10 is concerned, I don't think it matters too much. So why  
11 don't we discuss Mr. Husted first, if that is acceptable.

12           COMMISSIONER AHEARNE: You have started off on  
13 something which I may be able to agree with.

14           COMMISSIONER ASSELSTINE: I figured I would  
15 start with that and from there on I figured it would go  
16 downhill.

17           (Laughter.)

18           CHAIRMAN PALLADINO: I will make some comments  
19 on Mr. Husted. I read the selected documents and I was  
20 less comfortable with my strong position after I read  
21 the documents than I thought I was when I started  
22 because I found neither the Special Master nor the Board  
23 could come up with any sanctions they would recommend  
24 other than the ones that are in the report. Even the  
25 Special Master said when it comes down to it he really



1 didn't know what to say.

2           So my feeling changed somewhat as a result of  
3 reading it. I discussed it with Bill Reamer and had him  
4 write up something that was in accordance with my  
5 feeling and if you want I will read it.

6           COMMISSIONER ASSELSTINE: I would like to hear  
7 it.

8           CHAIRMAN PALLADINO: The Commission shares the  
9 Licensing Board's concern about Mr. Husted's competence  
10 to instill a sense of seriousness for integrity,  
11 discipline and public confidence in the TMI training  
12 program. We also agree that his qualifications and  
13 delivery of performance should receive particular  
14 attention during the review of the TMI training  
15 program. If the concerns about Mr. Husted are found to  
16 persist, we believe he should be removed from training  
17 duties.

18           This is not quite as strong as I was willing  
19 to go at the last meeting, but it does say if he doesn't  
20 perform effectively, then I would say by golly, if he  
21 hasn't gotten the message we should remove him.

22           COMMISSIONER AHEARNE: Could I follow up on  
23 that?

24           COMMISSIONER ASSELSTINE: Yes, please.

25           COMMISSIONER AHEARNE: Joe, how would you

1 intend to have that follow-up done, recognizing that the  
2 NRC really doesn't track the detailed teaching or  
3 instructing in the program? We monitor, but the  
4 monitoring my understanding is is really done by a  
5 selected audit of the requalification exams and also  
6 looking at the program plan and maybe the qualifications  
7 of the instructors. But as far as the behavioral side,  
8 which is what the Board was speaking to, I don't think  
9 we have any inspection that looks at that.

10           CHAIRMAN PALLADINO: Well, as I recall in the  
11 order as we have it, and this is based on the Licening  
12 Board's recommendation, GPU was to monitor whether or  
13 not his performance continued to improve or didn't  
14 improve. I have forgotten the words. I would expect  
15 that they would develop a plan for monitoring his  
16 performance and make an evaluation of the performance  
17 and advise the NRC of its conclusions. If they find  
18 that he hasn't changed his ways ---

19           COMMISSIONER AHEARNE: Well, changed his ways  
20 from what?

21           CHAIRMAN PALLADINO: The Licening Board says  
22 we think we ought to monitor his performance.

23           COMMISSIONER AHEARNE: What I read the  
24 Licensing Board as saying is we didn't like the way he  
25 responded in the interview and we didn't like his

1 answers. As a training instructor he has a bad  
2 attitude. We do not conclude he cheated. So we are not  
3 going to take any sanction against him. That his  
4 performance should be monitored, I read that as they  
5 didn't really know what else to do.

6 CHAIRMAN PALLADINO: I am saying now as you  
7 monitor it if you find that there is still a persistent  
8 problem, then he ought to be taken from ---

9 COMMISSIONER AHEARNE: Well, I would guess  
10 that in order to have that kind of a monitoring end up  
11 being something the licensee could respond to we would  
12 have to say here is the criterion we are looking for and  
13 you to compare against, or here are the specific  
14 deficiencies we found and now monitor to see whether  
15 those deficiencies appear to persist.

16 CHAIRMAN PALLADINO: I was just trying to go  
17 one step further than what the Licensing Board did.  
18 They said monitor his performance and that was it. Now  
19 I am saying well suppose they monitor it and find it  
20 bad, then I would expect them to let him go. So if I  
21 were to amplify I would say I would like to have GPU  
22 prepare a plan for monitoring indicating what they plan  
23 to monitor, how they plan to do it, conduct an  
24 evaluation when they have got the data and make their  
25 conclusions and observations known to the NRC.



1                   COMMISSIONER AHEARNE: The monitoring proposal  
2 of the Board didn't seem to me to be something --  
3 (Inaudible.)

4                   COMMISSIONER ASSELSTINE: That was my feeling,  
5 too, is that the monitoring just wasn't very meaningful  
6 and I did not see how that was going to accomplish the  
7 purpose and it seemed more like an effort by the Board  
8 to do something simply because they couldn't think of  
9 something else to do.

10                  CHAIRMAN PALLADINO: Well, I take exception.  
11 Monitoring is something you can do in several different  
12 ways on instruction.

13                  COMMISSIONER AHEARNE: I wasn't saying that  
14 you can't monitor. I just have difficulty believing  
15 that GPU starting with they didn't see anything wrong  
16 with his attitude and there is no set criteria that have  
17 been laid out on what is acceptable performance. So  
18 what I think the Board was saying, and if we take action  
19 against him, what we are saying is our perception, our  
20 feeling is that his attitudes are wrong and therefore we  
21 are going to take action.

22                  I find it hard to see what GPU is going to do  
23 if they essentially try to first understand what our  
24 feelings are because they weren't their feelings and  
25 then check him to see whether his attitudes have changed

1 in such a way that these feelings would have changed.

2 It is too amorphous. It is too fuzzy.

3 CHAIRMAN PALLADINO: Well, I also find that  
4 here is the Special Master who had gone through the  
5 record and he had the direct evidence of the demeanor of  
6 the individual and didn't come up with any sanction.

7 COMMISSIONER ASSELSTINE: I think it is  
8 important to differentiate between the conclusions that  
9 the Special Master reached about Mr. Husted's  
10 performance and behavior and his recommendation on a  
11 sanction because I think they are two very different  
12 things.

13 The Special Master concluded that Mr. Husted  
14 did in fact cheat, he concluded that Mr. Husted did in  
15 fact lie and he concluded that Mr. Husted exhibited an  
16 uncooperative attitude throughout the investigation.

17 In terms of the sanction, he felt that even  
18 considering all of those elements he didn't recommend  
19 removing him totally from any responsibility, but he  
20 couldn't think of a lesser sanction that was meaningful  
21 and he felt that there wasn't a lot of guidance for him  
22 at least as to what standards he should use for behavior  
23 in imposing different kinds of sanctions.

24 CHAIRMAN PALLADINO: Well, nevertheless, he  
25 could have. He was in a position to do so. The

1 Licensing Board went through it all and said we think we  
2 ought to keep him under observation and that is about  
3 it. I say if you keep him under observation you ought  
4 to draw some conclusion from the observation, and I  
5 wanted it to be known that if that conclusion was that  
6 his attitude persisted the way it has been that he be  
7 fired.

8           Now when accrediting teams come into a  
9 university they sometimes won't put that in writing, but  
10 you will get it in a verbal exit interview that you had  
11 better monitor Professor So and So because the feedback  
12 we have from the students is thus and so, and we  
13 undertook to monitor it and did try to do as overtly as  
14 we could an assessment of whether that individual was an  
15 effective teacher or whether or not we should take some  
16 other action.

17           So I think it can be done. I didn't want to  
18 set out to say what the criteria ought to be, but I  
19 certainly would expect GPU to come up with a plan for  
20 monitoring and make an evaluation and come up with a  
21 recommendation. Now if you think that all ought to be  
22 written in here we could write it in. Well, that is  
23 what came out of my reading.

24           Also I had a problem with suddenly telling a  
25 guy your career is done on the tenuous nature of the



1 evidence we have here.

2 COMMISSIONER AHEARNE: Well, no, we wouldn't  
3 be. He is a senior reactor operator.

4 COMMISSIONER ASSELSTINE: That is right.

5 CHAIRMAN PALLADINO: I know.

6 COMMISSIONER AHEARNE: The statement is that  
7 he couldn't be on the training side. They didn't say  
8 anything about his now -- (Inaudible.)

9 CHAIRMAN PALLADINO: I agree, but assuming  
10 that training was something he wanted to do, it was a  
11 clear path that he would like to pursue. I think there  
12 is a question of due process in here.

13 COMMISSIONER ASSELSTINE: Well, there is.

14 COMMISSIONER AHEARNE: Oh, yes -- (Inaudible).

15 COMMISSIONER ASSELSTINE: That is right.

16 CHAIRMAN PALLADINO: Well, that is where I  
17 came out.

18 COMMISSIONER AHEARNE: I will say that the  
19 first part of Joe's statement I was somewhat similarly  
20 struck. I did go back and I read the parts of the  
21 Special Master and I read the parts of the Licensing  
22 Board and the Licensing Board referred to the submission  
23 of the Commonwealth. So I got the decision of the  
24 Commonwealth and read those paragraphs also.

25 My impression is those three were focused upon

1 cheating. It was only the Licensing Board that I really  
2 thought in a couple of its paragraphs carried it the  
3 rest of the way and essentially said that his attitude  
4 was bad for someone responsible for training. But the  
5 rest of them were really focused on cheating, the  
6 relationship of his testimony and his behavior to  
7 cheating.

8           So I came away with less information and less  
9 material to get at his unsuitability for training. I  
10 still end up concluding I would not want him involved in  
11 training on TMI-I, and I reached that conclusion because  
12 I think that the operation and the operators in the  
13 plant are too important, and that if it were not  
14 associated with that I would give him the balance of the  
15 doubt and wouldn't take any action. But because of the  
16 importance of operational personnel, it is just going  
17 back on the Rickover philosophy that if you have doubts  
18 then you remove the person because what they are running  
19 is just too serious.

20           So I would go along with just part of your  
21 statement. I would accept as a condition of restart and  
22 the continued operation of TMI-1 that the licensee shall  
23 not assign him any duties related to the training of  
24 reactor operators or other plant personnel for TMI-I.

25           COMMISSIONER ASSELSTINE: You wouldn't go with

1 the notification of assignment of other training duties?

2 COMMISSIONER AHEARNE: No. I think it is a  
3 very harsh sanction as it is.

4 COMMISSIONER ASSELSTINE: So that he could be  
5 transferred to Oyster Creek, for example, and do  
6 training of operators there.

7 COMMISSIONER AHEARNE: Yes, but I think at  
8 that stage he would have been very sober.

9 CHAIRMAN PALLADINO: He would have been what?

10 COMMISSIONER AHEARNE: Very sober. It is a  
11 very harsh sanction.

12 CHAIRMAN PALLADINO: I think if I were the  
13 individual being spoken about and I saw even what I  
14 wrote in there, boy, I would either shape up or ship out.

15 MR. ZERBE: But the difficulty, Joe, as I  
16 said, I am afraid the monitoring, I just don't know what  
17 the licensee -- (Inaudible).

18 CHAIRMAN PALLADINO: Incidentally, with regard  
19 to, and I think this is the Special Master, he says  
20 "Because I can find no reliable standard for judging the  
21 seriousness of his poor attitude and lack of cooperation  
22 with public regulation, I cannot conclude or recommend  
23 that he should be removed from licensed duties. A  
24 lesser sanction is no doubt appropriate. However, as in  
25 the case of GG a lesser sanction requires discretion,

1 and I do not possess the information necessary to  
2 exercise that discretion." He made no recommendation  
3 regarding the sanction.

4 COMMISSIONER AHEARNE: The proposal, the part  
5 that I am supporting with Jim doesn't remove him from  
6 licensing. The training is not -- (Inaudible.)

7 CHAIRMAN PALLADINO: We are talking about  
8 attitude here.

9 COMMISSIONER AHEARNE: The Special Master is  
10 saying he found nothing to remove him from licensed  
11 duties.

12 CHAIRMAN PALLADINO: I know, and then he says  
13 a lesser sanction is no doubt appropriate. It is in the  
14 paragraph. The sentence right before was talking about  
15 judging the seriousness. Here it is. "And because I  
16 can find no reliable standard for judging the  
17 seriousness of his poor attitude and lack of cooperation  
18 with public regulation, I cannot conclude or recommend  
19 that he should be removed from licensed duties."

20 COMMISSIONER AHEARNE. That is right. He  
21 cannot conclude he should be removed from licensed  
22 duties. (Inaudible).

23 CHAIRMAN PALLADINO: But he says because he  
24 can find no reliable standard for judging the  
25 seriousness. Actually; those two don't even seem



1 connected.

2 COMMISSIONER AHEARNE: Well, no, I think they  
3 are.

4 COMMISSIONER ASSELSTINE: They are, yes.

5 COMMISSIONER AHEARNE: What he is saying is if  
6 a person has a license just as if a facility has a  
7 license, to remove the license there must be a standard  
8 against which you measure performance, find it lacking  
9 and therefore the license can be removed. There is no  
10 standard he says against which he can compare his  
11 behavior to remove him from licensing duties.

12 CHAIRMAN PALLADINO: All right. So now then  
13 he says still I believe talking about the attitude, "A  
14 lesser sanction is no doubt appropriate."

15 COMMISSIONER ASSELSTINE: I would argue that  
16 what I have proposed is a lesser sanction than removing  
17 him from licensed activities.

18 CHAIRMAN PALLADINO: I would just go on with  
19 there is a lesser sanction, but he didn't find it.

20 COMMISSIONER AHEARNE: No, but realize that a  
21 Licensing Board member doesn't really have as much  
22 flexibility has the Commission has.

23 CHAIRMAN PALLADINO: Oh, I agree.

24 COMMISSIONER AHEARNE: And he was not even a  
25 licensing ---

1 COMMISSIONER ASSELSTINE: And a Special Master  
2 even less than that. That is right.

3 CHAIRMAN PALLADINO: But here are two bodies  
4 that were more intimately associated, one the Special  
5 Master and one the Licensing Board that were more  
6 intimately associated with the case and they didn't come  
7 up with this.

8 COMMISSIONER AHEARNE: Let me quote then from  
9 the Licensing Board on Husted.

10 CHAIRMAN PALLADINO: What page is that?

11 COMMISSIONER AHEARNE: Page 63, 2167. "These  
12 facts are not exactly quantifiable, but they add up to a  
13 conclusion that Mr. Husted is a representative of the  
14 TMI-1 training department and his attitude may be a  
15 partial explanation of why there was disrespect for the  
16 training program and the examinations."

17 Then if I come down to the bottom, in their  
18 conclusion they are saying "We question whether he is  
19 able or, if able, willing ---

20 CHAIRMAN PALLADINO: What is it, 2167?

21 COMMISSIONER ASSELSTINE: Yes.

22 COMMISSIONER AHEARNE: Yes. "We question  
23 whether he is able or, if able, willing to impart a  
24 sense of seriousness and responsibility to the TMI-I  
25 operators."

1           CHAIRMAN PALLADINO: But then you have to go  
2 on.

3           COMMISSIONER AHEARNE: It says "Any action  
4 against his license would be inappropriate. "We have no  
5 evidence that the attitude we criticize is manifested in  
6 his performance as a teacher, but, as noted above, we  
7 fear that such is the case."

8           CHAIRMAN PALLADINO: Then they go on to say  
9 "It is also a widely held view in the field of education  
10 that the attitude of a teacher is irrelevant to his or  
11 her incompetence." I am not asking to get you to agree.

12           COMMISSIONER AHEARNE: Joe, do you agree with  
13 that?

14           (Laughter.)

15           CHAIRMAN PALLADINO: I just said I wasn't  
16 going to ask you to agree with that.

17           (Laughter.)

18           COMMISSIONER AHEARNE: But I am asking you.

19           CHAIRMAN PALLADINO: No, I want to go on. I  
20 want to pass that point.

21           (Laughter.)

22           CHAIRMAN PALLADINO: "Mr. Husted does not have  
23 to love or respect the NRC to do his duties. Yet, our  
24 doubts persist." And I have doubts and I express it in  
25 here, but I am saying they concluded that "We recommend

1 that the qualifications and delivery of performance of  
2 Mr. Husted receive particular attention in the  
3 forthcoming review of the TMI training program and we  
4 impose no direct sanction." I say well I would like to  
5 do that, but I would like to know that if we find that  
6 it is lousy that we are ready to fire him.

7 COMMISSIONER AHEARNE: My conclusion is after  
8 reading the material of the Licensing Board and in  
9 particular reading these two paragraph, 2167 and 2168,  
10 that I would go farther than the Licensing Board.

11 CHAIRMAN PALLADINO: And I want one step  
12 further here. I want a lesser sanction than your lesser  
13 sanction. I am saying I am willing to have that  
14 performance evaluated, and I want it evaluated and then  
15 I want a decision on whether or not he should be removed.

16 COMMISSIONER AHEARNE: I would go a step  
17 farther and -- (Inaudible.)

18 CHAIRMAN PALLADINO: Tom?

19 COMMISSIONER ROBERTS: I would not go any  
20 further than what the Licensing Board did.

21 (Laughter.)

22 COMMISSIONER ASSELSTINE: Well, I guess that  
23 exhausts that one.

24 COMMISSIONER AHEARNE: Now there is a  
25 question. Marty, was your proposal is only if he was

1 removed from the licensing duties.

2           MR. MALSCH: No. Let me explain where we are  
3 on that. We have been looking into whether there are  
4 due process rights involved here and so far we have  
5 ascertained what the law is. What is difficulty is  
6 applying the law to the facts. The law appears to be  
7 that you have a property right to practice your chosen  
8 profession and your professional livelihood, as it were,  
9 is deserving of due process protection. On the other  
10 hand, you have no property right to hold a particular  
11 position in an organization that is deserving of any due  
12 process protection.

13           Now the problem here is that we are apparently  
14 removing him as his position of trainer of operators but  
15 not removing him in his position as senior reactor  
16 operator.

17           We haven't been able to tell from the record  
18 what really is this individual's chosen profession. Is  
19 it nuclear reactor engineer and operator or is it  
20 trainer of operators. If it is the former, then he  
21 doesn't appear to have a property right deserving of due  
22 process protection. If it is the latter, he clearly  
23 does.

24           We have been debating back and forth among  
25 ourselves and it isn't a question that we have been able



1 to answer.

2 COMMISSIONER AHEARNE: If it is that close a  
3 call, I would go ahead and assume he has the right.

4 MR. MALSCH: I think it clearly is going to be  
5 a close call no matter how we come out.

6 CHAIRMAN PALLADINO: There is another aspect.  
7 As a senior reactor operator he is constantly training  
8 others. You can't be a supervisor without training  
9 other people. This is what gives me a bother on this  
10 approach.

11 MR. MALSCH: Well, if that is the case then  
12 there is an inconsistency between that and stopping  
13 short.

14 CHAIRMAN PALLADINO: That is why I say I would  
15 like to know whether his attitude is so bad ---

16 COMMISSIONER AHEARNE: Let me again modify  
17 that my concern is as a member of the training  
18 department.

19 MR. MALSCH: Let me say this about our  
20 language. Our language doesn't, I don't think,  
21 sufficiently distinguish between his attitude as it  
22 might affect his capacity as a trainer and his attitude  
23 as it might affect his capacity as a senior reactor  
24 operator. If we are going to only take action against  
25 him in his capacity as a trainer we have to be careful

1 about drawing that kind of a distinction.

2           COMMISSIONER AHEAPNE: That would be my  
3 proposal, just take action against him in his capacity  
4 as a member of the training department.

5           MR. MALSCH: Based upon his attitude toward  
6 training.

7           COMMISSIONER AHEARNE: Yes.

8           COMMISSIONER ASSELSTINE: I would say my  
9 position on the question of the hearing right, not only  
10 for the case of Husted, but also in the case of the  
11 others is that I would be prepared to give them a  
12 hearing before the action would become effective, but at  
13 least from my own standpoint I would not allow restart  
14 of the plant until that hearing had been completed.

15           CHAIRMAN PALLADINO: Because of the people he  
16 has trained up till now?

17           COMMISSIONER ASSELSTINE: No, because in the  
18 case of the group as a whole I am not able to find that  
19 that plant can operate safely with those people involved.

20           COMMISSIONER AHEARNE: Well I reached the same  
21 conclusions as you did on the sanctions against them and  
22 I would agree with you. I don't agree with the sanction  
23 against them. So in Husted's case I would give him the  
24 opportunity for the hearing, but I would not make a  
25 condition of restart because of that one issue.

1           COMMISSIONER ASSELSTINE: In any event, I  
2 don't see any reason why these hearings, whether it is  
3 on Husted or the others, couldn't be completed prior to  
4 restart. They are fairly narrowly confined and give the  
5 person an opportunity to have a hearing to confront  
6 those who presented testimony that was adverse to his  
7 interests.

8           CHAIRMAN PALLADINO: It would be a hearing  
9 solely on his attitude as a trainer.

10          COMMISSIONER AHEARNE: It is his attitude  
11 towards NRC requirements as indicated in the TMI-I  
12 restart hearings.

13          COMMISSIONER ASSELSTINE: That is right.

14          COMMISSIONER AHEARNE: That is what the Board  
15 found so troubling.

16          CHAIRMAN PALLADINO: Well, let's see, at the  
17 moment we are two to two on whether to include it. If I  
18 couldn't convince Tom to go with my approach, I would  
19 say then I wouldn't put it in.

20          COMMISSIONER ASSELSTINE: I think that is  
21 right.

22          MR. MALSCH: There is another related  
23 question, and that is whether we are talking about a  
24 Part 2 hearing or some other kind of hearing.

25          CHAIRMAN PALLADINO: What is a Part 2 hearing?

1           MR. MALSCH: Well, the usual kind of hearing  
2 that we hold. We had done a redraft of our insert to  
3 clarify these and some other points and have just made  
4 the sort of arbitrary assumption that we would use Part  
5 2 hearing rules since that is the only set of rules we  
6 have that are easily put together.

7           It doesn't necessarily follow that since he  
8 has a due process right he has a right to hearing under  
9 Part 2 procedures, but they are the simplest collection  
10 of procedures that we have.

11           COMMISSIONER AHEARNE: But it can be with an  
12 ALJ.

13           MR. MALSCH: Oh, yes.

14           COMMISSIONER ASSELSTINE: It does seem to me  
15 that given the adverse impact on the individual that  
16 probably a Part 2 hearing probably makes the most sense.

17           CHAIRMAN PALLADINO: I am going to urge that  
18 if we have this hearing that we not have only one person  
19 adjudicate the hearing because different people react  
20 differently and different people incite different  
21 responses from people being interviewed.

22           MR. MALSCH: Let me raise sort of an issue  
23 that just occurs to me.

24           CHAIRMAN PALLADINO: Attitude is what is being  
25 explored and attitude is a more subtle thing.

1 MR. MALSCH: I will say one thing, that it  
2 occurs to me that if the order says that the hearings  
3 shall be completed prior to restart, restart obviously  
4 means a lot to the licensee and I am sure they will  
5 place all kinds of pressures ---

6 COMMISSIONER AHEARNE: I wouldn't say that  
7 because at that point I wouldn't be supporting it.

8 CHAIRMAN PALLADINO: I will say though that if  
9 this passes, please don't make it a single person  
10 because you are assessing the demeanor and attitude. I  
11 will bet you that you could get three different views  
12 from the Commission if we each conduct a hearing on  
13 attitude and demeanor and I am not sure that we would  
14 all come up with the same answer. However, if three of  
15 us sat together we would probably come up with a better  
16 balance.

17 COMMISSIONER ASSELSTINE: Single federal  
18 district court judges though makes those kinds of  
19 judgments all the time.

20 (Laughter.)

21 COMMISSIONER AHEARNE: (Inaudible)

22 (Laughter.)

23 COMMISSIONER ASSELSTINE: The traditional  
24 argument in favor of three-member panels I am not sure  
25 adds much here. It is just a question of whether you



1 want three people ---

2           CHAIRMAN PALLADINO: I remember just comments  
3 on interviews that we have done with different people  
4 and I remember my comments about an individual's  
5 demeanor and others had different comments about the  
6 same individual's demeanor.

7           COMMISSIONER ASSELSTINE: I can probably go  
8 through the next three pretty quickly.

9           (Laughter.)

10          COMMISSIONER ASSELSTINE: I suspect.

11          COMMISSIONER AHEARNE: I don't think so.

12          CHAIRMAN PALLADINO: On the fourth one I  
13 didn't have time and I wanted to get some information  
14 from the staff, but why don't we go through them.

15          COMMISSIONER ASSELSTINE: The findings of the  
16 Special Master versus the findings of the Licensing  
17 Board.

18          CHAIRMAN PALLADINO: I don't favor this  
19 proposal.

20          COMMISSIONER AHEARNE: I think I read every  
21 one of the paragraphs and I would say some of the  
22 paragraphs are not clear why you would strike one and  
23 keep the other.

24          COMMISSIONER ASSELSTINE: Sometimes there are  
25 elements in one of those paragraphs that I disagreed

1 where there is one key element and other elements don't  
2 go to the disagreement.

3 CHAIRMAN PALLADINO: Tom?

4 COMMISSIONER ROBERTS: I agree with you.

5 COMMISSIONER ASSELSTINE: In terms of the  
6 assignment of specified individuals, I think you all  
7 indicated you are not in agreement with that one.

8 CHAIRMAN PALLADINO: I don't favor it.

9 COMMISSIONER ASSELSTINE: Increased  
10 inspections. Joe, is that the one you had ---

11 CHAIRMAN PALLADINO: I am interested in this  
12 proposal if we can agree on how much of an increase and  
13 for how long. I wanted to check with the staff and,  
14 unfortunately, I didn't get a chance to find out what  
15 impact it would bring about on the resources, but I also  
16 was more interested in what it would take to get a level  
17 sufficient to cover all the operating shifts of Unit I  
18 for a period of time.

19 COMMISSIONER AHEARNE: Covering them when?

20 CHAIRMAN PALLADINO: I was saying it would be  
21 nice to have a resident inspector on every shift. If  
22 there is any merit to this, the things that go wrong are  
23 the shifts that are not ---

24 COMMISSIONER AHEARNE: I was raising a  
25 question and I would just would like to understand what

1 it is that you believe our resident inspectors are going  
2 to be doing for TMI-I that requires the additional  
3 resident inspector?

4 CHAIRMAN PALLADINO: Well, I guess some of  
5 this concerns about how people comport themselves and  
6 whether they are really paying attention to the  
7 instruments and whether problems are arising with the  
8 instruments.

9 COMMISSIONER AHEARNE: Now is this unique to  
10 TMI-I?

11 CHAIRMAN PALLADINO: Perhaps, yes. You see, I  
12 express some lingering concerns not, but there are some  
13 lingering concerns in other areas.

14 COMMISSIONER AHEARNE: (Inaudible)

15 (Laughter.)

16 COMMISSIONER AHEARNE: Well, I guess my  
17 concern is if you are really not comfortable with the  
18 operational staff of the plant ---

19 COMMISSIONER ROBERTS: How can you authorize  
20 restart?

21 CHAIRMAN PALLADINO: Well, this plant has been  
22 down for quite some period of time and there are going  
23 to be unique problems in such a plant. What do we do  
24 when we start up plant? That is another question I want  
25 to ask Bill. Do we have residents ---

1 COMMISSIONER AHEARNE: (Inaudible)

2 COMMISSIONER ROBERTS: No.

3 COMMISSIONER AHEARNE: What I am trying to  
4 understand is that if it is ---

5 CHAIRMAN PALLADINO: The crew that while it  
6 has been fussing with the reactor, so to speak, it  
7 hasn't been up to power for quite some time.

8 COMMISSIONER ROBERTS: What about analogizing  
9 that with the start-up of a new reactor that has been to  
10 power?

11 CHAIRMAN PALLADINO: That is why we make such  
12 statements that we would like to see some experienced  
13 people in there.

14 COMMISSIONER AHEARNE: Are you saying then for  
15 all the new reactors that are starting up we should be a  
16 resident inspector ---

17 CHAIRMAN PALLADINO: Well, I don't know what  
18 we do. So that is why I wanted to check. So I am not  
19 quite as prepared on this because I didn't get to Bill  
20 Dircks.

21 COMMISSIONER ASSELSTINE: I think there is a  
22 special combination of circumstances for this particular  
23 plant that does not exist either for new OLS or for an  
24 existing plant that has been shut down.

25 COMMISSIONER AHEARNE: What I guess I would

1 really like to understand is the additional NRC presence  
2 there because certainly to the public it will look good  
3 to have additional NRC presence. I certainly can  
4 understand that part. Or is it because we don't trust  
5 the operational crew, or is it because we believe that  
6 the NRC people are so good at operations that they can  
7 provide the advice if things begin to go wrong?

8           COMMISSIONER ROBERTS: That is a mistaken  
9 assumption.

10           COMMISSIONER AHEARNE: Now across that  
11 spectrum, No. 3 I couldn't support. (Inaudible)

12           COMMISSIONER ROBERTS: Nor could I.

13           COMMISSIONER AHEARNE: The one about public  
14 perception at least I can understand it. If it is No.  
15 2, that we don't trust them, then I don't think we  
16 should ---

17           CHAIRMAN PALLADINO: You didn't encompass the  
18 whole spectrum.

19           COMMISSIONER ASSELSTINE: I would agree with  
20 that. That is right.

21           CHAIRMAN PALLADINO: We haven't had experience  
22 with starting up a plant that has been down for "X"  
23 number of years, and I think that would be three, that  
24 have had problems with the injection of sulfate material  
25 and have had, I don't know ---



1 COMMISSIONER AHEARNE: Sure, it is unique.

2 CHAIRMAN PALLADINO: So I say I sure would  
3 like to have somebody observing what is going on until  
4 we see they get over the hump.

5 COMMISSIONER ROBERTS: How far is King of  
6 Prussia from -- go ahead.

7 COMMISSIONER AHEARNE: But if it is bad, then  
8 I would guess you would want, for example, someone from  
9 Research or perhaps our contractors who are more  
10 familiar with the details of plants so they can  
11 understand the behavior of the plant.

12 CHAIRMAN PALLADINO: I didn't speak to the  
13 qualifications of who this inspector ought to be.

14 COMMISSIONER ASSELSTINE: I guess for my part,  
15 John, it seems to me that there are a couple of  
16 elements. I would agree with you that there is a  
17 benefit in terms of public perception, although that is  
18 not a reason that ---

19 COMMISSIONER AHEARNE: I didn't say --  
20 (Inaudible). I said I could well understand it.

21 COMMISSIONER ASSELSTINE: You said you could  
22 well understand ---

23 COMMISSIONER AHEARNE: Why the public would be  
24 happy.

25 COMMISSIONER ASSELSTINE: I suspect that that

1 is an advantage, but that is not a basis upon which I  
2 offered the proposal. I offered it basically on two  
3 grounds, one, because of the length of time involved in  
4 the shutdown of this particular plant and, second,  
5 because I don't necessarily want our inspectors to make  
6 operational decisions for the plant.

7           It does seem to me that both our resident and  
8 our regional inspection program are the way that we go  
9 about assuring that particular licensees adhere to our  
10 requirements. It seems to me that in this case,  
11 regardless of whether you buy the Licensing Board's  
12 decision or the Special Master's decision, the fact of  
13 the matter is that this plant's operational staff has  
14 been involved in the not too distant past in a series of  
15 events that, if nothing else, portrays a fairly  
16 widespread pattern of violation of our requirements.

17           Some individuals, both the Licensing Board and  
18 the Special Master agree, were involved in that that  
19 have not even been identified.

20           COMMISSIONER AHEARNE: But the Licensing Board  
21 I think would disagree with your "widespread." They in  
22 fact went out of their way to try to make that point.

23           COMMISSIONER ASSELSTINE: Well, as I recall,  
24 there was some acknowledgement that at least on the  
25 utility quizzes there was a general admission by

1 operators that there was widespread cooperation on  
2 those. There is an agreement by the Licensing Board  
3 that only O, W, G and H, but also at least two other  
4 individuals were involved in cheating incidents.

5 COMMISSIONER AHEARNE: My point, Jim, and I  
6 don't have the quote, but as I recall the Licensing  
7 Board did try to make the point that the bulk --  
8 (Inaudible).

9 COMMISSIONER ASSELSTINE: Well, proportionally  
10 speaking in terms of the total staff, all right, yes.

11 CHAIRMAN PALLADINO: Can I ask you a question  
12 though.

13 COMMISSIONER AHEARNE: Sure.

14 CHAIRMAN PALLADINO: If we don't discuss  
15 adding, why do we have any? I am trying to accomplish  
16 in a better way the same purpose that we have in having  
17 any residents.

18 COMMISSIONER AHEARNE: But we have residents  
19 that are there on an ongoing basis. They are available  
20 when problems. They are the NRC presence and they also  
21 serve as an interface with both the outside and the  
22 management. Now we have inspection teams that come  
23 through to do this periodic audit check because there  
24 are sets of regulations.

25 I am sorry but I can't see anything other than

1 those three reasons why we would put in increased  
2 inspection during this period of time. If it is for the  
3 reason that we are uneasy about the operations and you  
4 don't to keep them down, then you ought to require them  
5 to get experienced operational people to be there during  
6 these start-up times. That is the approach we have  
7 taken in plants that are starting up. We have said you  
8 have to make sure you have experienced people there.

9           Our people are experienced in what the  
10 regulations are and some of them are experienced in  
11 construction, but we have very few, and I am not going  
12 to say none because we may have some, but we certainly  
13 have very few people who are really experienced in the  
14 operation of a plant.

15           CHAIRMAN PALLADINO: But we are going to have  
16 some of them there and you said they are going to be  
17 called on for advice or they might give advice.

18           COMMISSIONER AHEARNE: No, I said you might  
19 want to have them there. Our people aren't operational  
20 experts. If your concern is that this crew, because  
21 this plant has been down for so long, may be getting  
22 into operational modes that we are not familiar with,  
23 then I would say in the start-up period you ought to  
24 have, and I don't know who you would say, and since it  
25 is a B&W plant you would probably want to have B&W

1 provide expert technical people and in fact you might  
2 want to say you want some senior people from some other  
3 B&W operating plants, maybe Duke since they do so well  
4 in their operation. But if that is the concern, then  
5 you want to make sure that the people in the control  
6 room and in the plant during this start-up time, in the  
7 first couple of months, are ready and available to  
8 handle things if they come up quickly, then get  
9 operationally experienced people because the NRC people  
10 dont have it.

11 COMMISSIONER ROBERTS: Let me ask a question,  
12 several. How far is King of Prussia from Harrisburg?

13 CHAIRMAN PALLADINO: 90 or 100 miles.

14 COMMISSIONER ROBERTS: How many present  
15 resident inspectors are there are the TMI complex?

16 COMMISSIONER ASSELSTINE: Four.

17 COMMISSIONER ROBERTS: How many are at the TMI  
18 program office on site?

19 COMMISSIONER ASSELSTINE: There are about five  
20 more.

21 COMMISSIONER ROBERTS: I think it is eight  
22 engineers and health physicists. I appreciate that  
23 those people are primarily there for the clean-up, but  
24 good gracious, what an NRC presence.

25 CHAIRMAN PALLADINO: Maybe what we are talking



1 about is whether or not to have more than present.

2 COMMISSIONER ASSELSTINE: Focusing on Unit 1.

3 CHAIRMAN PALLADINO: Well, I wanted to get a  
4 little more information.

5 COMMISSIONER ROBERTS: I think your spectrum  
6 is pretty accurate.

7 CHAIRMAN PALLADINO: Well, I don't your  
8 spectrum is by any means complete. It presumes things  
9 will go only the way we think they are going to go, but  
10 they are going to have some, or they may very well have  
11 operating situations that we have not anticipated. I  
12 agree that having some technical experts there would be  
13 desirable and maybe even better than this. But Jim's  
14 question really prompted thinking about that particular  
15 issue and maybe we want to change it to where we do ask  
16 during the start-up phase for "X" months or whatever  
17 period you think is appropriate that there be additional  
18 experts made available. They don't necessarily have to  
19 be NRC experts.

20 COMMISSIONER AHEARNE: I would probably end up  
21 supporting that.

22 CHAIRMAN PALLADINO: Well, maybe we ought to  
23 work on that.

24 COMMISSIONER AHEARNE: For that I could see a  
25 justifiable rationale.

1           COMMISSIONER ASSELSTINE: I do think, John,  
2 that you underestimate the operational background and  
3 experience of at least some of our residents. I found  
4 that there are a number of our residents that do have  
5 operational experience. Now granted they aren't going  
6 to be licensed on that plant and they are not going to  
7 be as familiar with that particular plant, but in terms  
8 of understanding the operations of plants and being able  
9 to readily identify the extent to which a utility is  
10 complying or violating our requirements in that initial  
11 period of operation, I think they are fully capable.

12           COMMISSIONER AHEARNF: Jim, I agree that we  
13 can identify -- (Inaudible). I have no problem with  
14 that. I can talk to a lot of our residents, and when I  
15 am talking about operating experience I am talking about  
16 someone that has either managed a plant or has been a  
17 senior reactor operator for a number of years on a  
18 plant. That is the kind of operating expertise. Now I  
19 haven't found that among our residents.

20           COMMISSIONER ASSELSTINE: I can tell you we  
21 just had two residents hired away each to become plant  
22 superintendents within the past month, and I think that  
23 both of those people had some pretty detailed  
24 operational experience.

25           CHAIRMAN PALLADINO: Incidentally, I have been

1 very impressed with our ---

2           COMMISSIONER AHEARNE: Yes, we have very good  
3 residents. I am not critical about residents, and I  
4 think you will find more of them being hired away  
5 because one of the things that they have which is an  
6 increasingly important part of running any plant is a  
7 detailed knowledge of what satisfies the NRC and what  
8 are the requirements. That is critical and that is a  
9 big plus from the utility point of view.

10           CHAIRMAN PALLADINO: Well, I hate to use  
11 anecdotal experience. I am not a reactor operator.  
12 However, in Shipping Port the first thing I noticed when  
13 we were approaching power was that they were  
14 overshooting, and I thought there was much too little  
15 attention being paid to overshooting. I finally got the  
16 operating people's attention and said, hey, hey, this is  
17 60 megawatts and not 62 or 64, because they happened to  
18 have a turbine that could take all the power that they  
19 put out.

20           COMMISSIONER AHEARNE: But your anecdote  
21 proves my point.

22           (Laughter.)

23           COMMISSIONER AHEARNE: You were not a reactor  
24 operator. However, what you were was a highly skilled  
25 nuclear engineer, and absolutely I have no problem. As

1 I said, if you put it in that context and get some  
2 extra -- (Inaudible).

3 CHAIRMAN PALLADINO: I just happened to know  
4 the regulations at that time.

5 (Laughter.)

6 CHAIRMAN PALLADINO: Well we are split on that  
7 one. However, I would be amenable to putting the trust  
8 on getting some expert help or observers.

9 COMMISSIONER AHEARNE: Expert technical help I  
10 have no problem with because I would agree that just as  
11 if Dresden ever gets started up I would imagine --  
12 (Inaudible).

13 COMMISSIONER ROBERTS: Well, would it be  
14 appropriate to find out from the licensee if they have  
15 any plans for any extraordinary measures?

16 COMMISSIONER AHEARNE: Sure.

17 CHAIRMAN PALLADINO: That is a good idea.

18 COMMISSIONER ROBERTS: Well, depending on what  
19 you find out, could that possibly allay your concerns?

20 COMMISSIONER AHEARNE: Fine.

21 COMMISSIONER ROBERTS: That is one way of  
22 doing that.

23 CHAIRMAN PALLADINO: Well, I guess we could  
24 get the staff to do it. Do we have any ex parte  
25 problems. I never know whether we have ex parte

1 problems.

2 MR. MALSCH: There might be. I guess we would  
3 first go see what there is in the record.

4 COMMISSIONER ROBERTS: I certainly have no  
5 knowledge of anything they might have in mind, but maybe  
6 they do.

7 CHAIRMAN PALLADINO: Why can't we ask the  
8 staff to get that.

9 MR. MALSCH: I would think we could ask the  
10 staff what there is in the record.

11 COMMISSIONER AHEARNE: We can't ask the staff  
12 or ask the licensee what they are going to do for  
13 start-up?

14 MR. MALSCH: Oh, we could ask them. It is  
15 just that if we ask them the question, the implication  
16 will be the Commission is considering adding additional  
17 measures and other parties would wish to contribute to  
18 that issue as well. That is all.

19 COMMISSIONER AHEARNE: I see.

20 MR. MONTGOMERY: What we have looked at that I  
21 know is on the record, and we did this I think in the  
22 management decision, indicates what the backgrounds are  
23 of their operating staff now.

24 COMMISSICNER AHEAPNE: I understand that.

25 MR. MONTGOMEPY: So we would be able to look



1 at that again.

2 COMMISSIONER AHEARNE: I was interested in  
3 whether, in response to these points, whether their GPU  
4 plans on making arrangements, whether it is Duke or B&W,  
5 to have an extra complement of technical experts to  
6 advise them, say, during start-up in the first couple of  
7 months. That is the question.

8 CHAIRMAN PALLADINO: Marty, you do raise an  
9 interesting point. What in the record would lead to  
10 Jim's proposal, or aren't we tied to the record? I  
11 guess we are allowed to use our own good judgment, but  
12 you make such a point of the record that I ask is there  
13 anything in the record that leads to this?

14 MR. MALSCH: What do you mean by his proposal?

15 CHAIRMAN PALLADINO: Jim proposes that we add  
16 more resident inspectors there.

17 MR. MALSCH: I think it is a matter of drawing  
18 inferences from the facts and applying your judgment.

19 COMMISSIONER AHEARNE: Well, actually there is  
20 nothing that would prevent us from doing that anyway, is  
21 there?

22 MR. MALSCH: No.

23 COMMISSIONER AHEARNE: That has nothing to do  
24 with the record, the restart decision, et cetera. We  
25 could just say that we are assigning -- (Inaudible).

1 MR. MALSCH: That is true.

2 CHAIRMAN PALLADINO: I was making the  
3 recommendation in the order.

4 COMMISSIONER AHEARNE: Well, I would ask the  
5 staff to do that.

6 MR. MALSCH: The only question comes about if  
7 you are not so much talking about internally assigning  
8 more inspectors, but are you considering imposing some  
9 condition upon the licensee to go out and get some  
10 additional expert assistance. That is where you might  
11 have to go outside the record because I am not sure he  
12 would reasonably be aware that that is even a  
13 possibility at this point and may wish to contribute to  
14 the resolution of that question. I don't know. You  
15 could certainly ask him if he has any ---

16 COMMISSIONER AHEARNE: Isn't that just a  
17 factual question?

18 MR. MALSCH: That is what I am saying. You  
19 could ask him whether he has and I think that would be  
20 perfectly open and shut and I don't know if you need to  
21 get further comment on that.

22 COMMISSIONER AHEARNE: That is just a factual  
23 status question. (Inaudible)

24 MR. MONTGOMERY: We will do that.

25 CHAIRMAN PALLADINO: And I think you ought to

1 have the staff do it.

2 Well, we seem to be a day of two to two. We  
3 have got two items settled and the others we were two to  
4 two. On the other two we were two to two, but the last  
5 one maybe we can resolve.

6 Well I think on the first one we ought to get  
7 input from Commissioner Gilinsky.

8 COMMISSIONER ASSELSTINE: Yes.

9 CHAIRMAN PALLADING: And when we have another  
10 proposal on the last one we may also want to get other  
11 input.

12 Okay, do you want to go through the document.

13 MR. ZERBE: Of course, it was our intent to  
14 have marked the places, but we had so many people  
15 editing it that we didn't get all those places obviously.

16 COMMISSIONER AHEARNE: Can you provide a copy  
17 with the changes marked -- (Inaudible).

18 MR. ZERBE: You mean mark up one of these  
19 copies to show all the places?

20 COMMISSIONER AHEARNE: Yes.

21 MR. ZERBE: We can't do it today probably.

22 COMMISSIONER AHEARNE: But you see because  
23 otherwise we are in the situation of reading the whole  
24 thing in detail or else having someone continue this  
25 check.

1           CHAIRMAN PALLADINO: I would suggest now that  
2 we have a little more time ---

3           MR. KENNEKE: We will give you as a frame of  
4 reference Mod. 1 to Rev. 4 before we go to Rev. 5.

5           COMMISSIONER AHEARNE: Good.

6           CHAIRMAN PALLADINO: Which is Rev. 4?

7           MR. KENNEKE: The one you have.

8           MR. ZERBE: We are going to take this one and  
9 mark it.

10          MR. KENNEKE: We will give you all the changes.

11          COMMISSIONER AHEARNE: (Inaudible.)

12          CHAIRMAN PALLADINO: What is going to be the  
13 reference, Mod. 4 or Mod. 3.

14          MR. KENNEKE: Before we come out with a new  
15 revision based on your comments here, we will give you a  
16 reference document.

17          COMMISSIONER AHEARNE: Reference 3.

18          CHAIRMAN PALLADINO: Yes, Reference 3.

19          MR. ZERBE: The last one we had in the last  
20 meeting.

21          COMMISSIONER ASSELSTINE: So you would give us  
22 this copy, just the same in terms of text but with all  
23 of the changes from the last version.

24          MR. KENNEKE: Correct.

25          COMMISSIONER AHEARNE: Excellent.

1           CHAIRMAN PALLADINO: Now do you want to walk  
2 through it. I think we might as well.

3           COMMISSIONER AHEARNE: What I would like to do  
4 is for you to get that and then I look at the changes  
5 that I haven't seen in here, but there are some things  
6 here I would like to comment on if you have the time.

7           CHAIRMAN PALLADINO: Yes, I think we ought to  
8 go through it. When we don't have comments, let's just  
9 hurriedly go through it.

10          MR. ZERBE: Now do you want to address all the  
11 places where we have marked it or only the ones ---

12          COMMISSIONER AHEARNE: For myself I was just  
13 going to raise questions on points I want to raise  
14 questions on.

15          CHAIRMAN PALLADINO: The first one I have is  
16 on page 2. It is a question of fact. In the middle it  
17 says "Although the NRC has not presented its final  
18 analysis and conclusions on these issues, it has  
19 examined a method of proposing generator repair which  
20 are now underway and are reported to the Commission on  
21 their acceptability." I am not aware that they reported  
22 to us on their acceptability.

23          MR. MONTGOMERY: That is on page 3.

24          CHAIRMAN PALLADINO: Oh, on page 3.

25          (Laughter.)



1           CHAIRMAN PALLADINO: I had better get my  
2 magnifying glass. Numbers give me a problem.

3           (Laughter.)

4           CHAIRMAN PALLADINO: Page 3, I am sorry.

5           COMMISSIONER AHEARNE: They sent us something  
6 I think.

7           MR. MONTGOMERY: Well, I went back and  
8 verified this and I think it is accurate that they have  
9 not reported on its acceptability. What has happened is  
10 the licensee provided the staff with a discussion and  
11 they decided it was not a safety question which is in a  
12 way saying go ahead without formal approval.

13          COMMISSIONER AHEARNE: Didn't Eisenhut send a  
14 letter?

15          MR. MONTGOMERY: That was the letter. So in a  
16 way they have said go ahead with the repair, but they  
17 haven't made any formal statement about its  
18 acceptability. My suggestion is to end that sentence at  
19 generator repairs and just cut out the last part of the  
20 phrase "which are not underway and reported to the  
21 Commission on their acceptability."

22          COMMISSIONER AHEARNE: I will have to go back  
23 and get Eisenhut's letter, but I read it as Eisenhut  
24 saying okay, you can go ahead and start the repairs.

25          MR. MONTGOMERY: That is right. That is how I

1 would read it.

2 COMMISSIONER AHEARNE: Well, I think you will  
3 have to something like that then, has informed the  
4 licensee that they may go ahead with the repairs.

5 CHAIRMAN PALLADINO: I am sorry. I thought I  
6 was on page 2. It is on page 3.

7 Any before that?

8 (No response.)

9 CHAIRMAN PALLADINO: Do you want to go on.

10 MR. ZERBE: Page 4, there is an item in here  
11 that Commissioner Ahearne I believe pointed out, but it  
12 is still in here.

13 COMMISSIONER AHEARNE: Which one?

14 MR. ZERBE: That is on today's decision  
15 culminates that the Commission's immediate effectiveness  
16 does not affect the ongoing merits review. Was that not  
17 one that you had thought about taking out? That does  
18 not affect the ongoing merits review. I don't know how  
19 strongly you felt about that.

20 COMMISSIONER AHEARNE: Let's see, whereabouts?

21 MR. ZERBE: I am sorry. It is right under  
22 Roman numeral II, the fourth line down.

23 COMMISSIONER AHEARNE: Yes.

24 MR. ZERBE: The thought being that is hard to  
25 have that effectiveness review complete and not have

1 some effect on the ---

2 COMMISSIONER AHEARNE: Yes.

3 CHAIRMAN PALLADINO: What do you propose, to  
4 cross that out?

5 COMMISSIONER AHEARNE: I was so busy trying to  
6 develop the comparison that I didn't ---

7 (Laughter.)

8 COMMISSICNER AHEARNE: I did notice on the  
9 bottom you did make the change I asked for.

10 MR. ZERBE: On page 5 at the bottom there,  
11 that should have been marked and it wasn't, that  
12 footnote.

13 CHAIRMAN PALLADINO: Which footnote?

14 MR. ZEPBE: Footnote 2 on page 5. That should  
15 have been marked as changed.

16 CHAIRMAN PALLADINO: As what?

17 MR. ZERBE: That was a change

18 COMMISSIONER AHEAPNE: You still have an  
19 "unusual" in there. I thought there was a question  
20 about "unusual." "In this case, however, the Commission  
21 took the unusual step." It was not one that bothered  
22 me, but I remember the discussion.

23 MR. MONTGOMERY: I am sorry, where is that?

24 CHAIPMAN PALLADINO: On page 5, the third line  
25 from the bottom over to the right. It says "The

1 Commission took the unusual step," and you wanted to  
2 cross it out.

3 MR. ZERBE: Okay.

4 COMMISSIONER AHEARNE: I thought we were just  
5 trying to give a factual description without --  
6 (Inaudible).

7 MR. ZERBE: Anything on 6?

8 (No response.)

9 COMMISSIONER AHEARNE: On 7, I guess I would  
10 stike in the middle of the page right at the beginning  
11 where your change is marked, I would strike "under our  
12 political system." I would just start "Such referenda  
13 can be translated." I guess it seems that a word is  
14 missing or ---

15 MR. ZERBE: The word "act" should be out of  
16 there. That was a typo.

17 COMMISSIONER AHEARNE: Then getting down to  
18 the bottom, I would strike a whole phrase there in the  
19 second to the last sentence and end up saying "Thus, the  
20 Commission cannot let public preference determine our  
21 decision."

22 CHAIRMAN PALLADINO: Yes, that gets to my  
23 problem with "control." I didn't like the "control."  
24 Now what are you going to say?

25 COMMISSIONER AHEARNE: I would just say "Thus,

1 the Commission cannot let public preference determine  
2 our decision." I would strike the phrase "while the  
3 Commission is mindful of public preferences and concerns  
4 as expressed in the referenda" because I think that  
5 almost says that we are going to allow that to weigh in  
6 and we just finished saying we can't.

7 CHAIRMAN PALLADINO: "Thus, the Commission ---

8 COMMISSIONER AHEARNE: "--- cannot let public  
9 preference determine our decision."

10 CHAIRMAN PALLADINO: Yes, I like the word  
11 "determine" there.

12 Are you through on page 7?

13 COMMISSIONER AHEARNE: Yes.

14 CHAIRMAN PALLADINO: Up at the top, the third  
15 line, something seems ---

16 MR. ZERBE: We were going to reword that.

17 CHAIRMAN PALLADINO: Okay.

18 MR. ZERBE: What was suggested is we would say  
19 "and we have taken appropriate care in our safety  
20 review" rather than saying "we have been very careful."

21 CHAIRMAN PALLADINO: Well, that sentence left  
22 me cold.

23 (Laughter.)

24 CHAIRMAN PALLADINO: I wanted a punchline on  
25 it. We have been very careful in our safety study to do



1 so.

2 COMMISSIONER AHEARNE: As we are always.

3 CHAIRMAN PALLADINO: As we always are. You  
4 are going to reword it.

5 MR. ZERBE: What are we going to say there now?

6 CHAIRMAN PALLADINO: We are waiting for your  
7 rewording.

8 COMMISSIONER AHEARNE: (Inaudible)

9 CHAIRMAN PALLADINO: Or did you have it?

10 MR. KENNEKE: Say it again, Jack.

11 MR. ZERBE: The way the sentence we were  
12 suggesting it be reworded was "We recognize that those  
13 concerned look to us to safeguard their interests and we  
14 have taken appropriate care in our safety review."

15 COMMISSIONER AHEARNE: Why don't you just put  
16 a period after "interests."

17 MR. ZERBE: Okay.

18 CHAIRMAN PALLADINO: Well, and we have done so.

19 COMMISSIONER AHEARNE: Well, I hope we are  
20 always careful -- (Inaudible).

21 MR. ZERBE: That is probably right. We will  
22 put a period after "interets" and cross out the rest?

23 CHAIRMAN PALLADINO: I think you need to say  
24 more. Many of those opposed were greatly concerned  
25 about their own safety and the safety of their

1 families. We recognize that those concerned look to us  
2 to safeguard their interests and we certainly do ---

3 COMMISSIONER AHEARNE: You can say and because  
4 our regulations require adequate protection in terms of  
5 operation and also adequate emergency plans, we are  
6 confident that their concerns are taken care of.

7 COMMISSIONER ROBERTS: We are confident of  
8 what?

9 CHAIRMAN PALLADINO: That their concerns are  
10 taken care of.

11 COMMISSIONER AHEARNE: That is about the best  
12 I can do now.

13 MR. ZERBE: But their concerns were to shut  
14 the plant down. They don't want to start it up.

15 COMMISSIONER ROBERTS: Well, I don't think you  
16 can say we have taken care of their concerns in order to  
17 restart.

18 COMMISSIONER AHEARNE: There are two groups of  
19 concerns. One concern is they are worried the plant  
20 isn't safe to operate and they are worried that  
21 emergencies can't be handled. There is another group  
22 that says no matter what you do, the plant should not be  
23 allowed to operate. There is a way we can address the  
24 second concern, but at the moment I don't think there  
25 are three votes to do that and I don't think we should

1 therefore say we are addressing those concerns.

2           The people who are concerned about safe  
3 operation and adequate emergency planning, I believe --  
4 (Inaudible).

5           CHAIRMAN PALLADINO: Why don't you try a  
6 rewording based on John Ahearne's proposal.

7           MR. ZERBE: Okay.

8           COMMISSIONER ROBERTS: Is this what you handed  
9 out at the last meeting?

10          CHAIRMAN PALLADINO: There is something wrong  
11 in the middle of 8. It says "shares the public concern  
12 with the lack of progress." I think it is "the slow  
13 progress." You can't say there has been complete lack  
14 of progress. You can change that to "slow."

15          COMMISSIONER ASSELSTINE: Very slow?

16          (Laughter.)

17          CHAIRMAN PALLADINO: Sometimes it is slow and  
18 sometimes ---

19          COMMISSIONER ROBERTS: Is the statement that  
20 "The restart of TMI-I may provide the licensee  
21 additional funds to use during clean-up," do you want to  
22 say that?

23          COMMISSIONER AHEARNE: That is a positive  
24 reason. Also, I think it is perhaps a little nod  
25 towards the Pennsylvania PUC. -- (Inaudible.)

1 CHAIRMAN PALLADINO: Any more on 8?

2 (No response.)

3 COMMISSIONER AHEARNE: (Inaudible.)

4 CHAIRMAN PALLADINO: I have something on 12.

5 MR. ZERBE: 12 was another section that was  
6 added there.

7 CHAIRMAN PALLADINO: And I was surprised to  
8 learn this. "The Licensing Board in accordance with the  
9 Commission's direction in the August 1979 order did not  
10 limit the scope of the proceeding to whether the  
11 concerns specified by the Board had been resolved.  
12 Rather, the Licensing Board admitted those contentions  
13 by the parties concerning the safety issues related to  
14 the accident in order to determine whether the actions  
15 recommended by the director were sufficient."

16 MR. ZERBE: Related to the accident at TMI-2.

17 COMMISSIONER AHEARNE: They had to be related  
18 to the accident.

19 CHAIRMAN PALLADINO: They had to what?

20 COMMISSIONER AHEARNE: They had to be related  
21 to the accident.

22 CHAIRMAN PALLADINO: Well, there is something  
23 wrong. "Did not limit the scope of proceeding to  
24 whether the concerns specified by the Commission had  
25 been resolved." I thought it was.

1           COMMISSIONER AHEARNE: No. You see, that was  
2 one of the difficulties I had in one of the previous  
3 meetings.

4           CHAIRMAN PALLADINO: Incidentally, that  
5 paragraph, I couldn't find it in the old draft.

6           MR. ZERBE: That is a new one, that is right.  
7 You pointed that out to us and you are correct.

8           COMMISSIONER AHEARNE: We laid out a set of  
9 concerns and then we put together a Licensing Board. We  
10 did not limit the Licensing Board to those set of  
11 concerns. We reformulated here is what we want the  
12 Licensing Board to do. So what we tasked the Licensing  
13 Board to do was not merely to look at the concerns we  
14 had expressed when we put out the immediately  
15 effectiveness shutdown, but we asked them to reformulate  
16 it.

17           The Licensing Board decision therefore is  
18 based upon what we asked them to do and not what were  
19 the concerns when we issued the original order.

20           CHAIRMAN PALLADINO: I guess I have got to go  
21 back and read the orders again. I did read them, but  
22 that was quite a while ago.

23           COMMISSIONER AHEARNE: That was the difficulty  
24 I had. The way this draft is written is we had some  
25 concern, and then they had a lot of words about the

1 Licensing Board, and then you end up with concerns that  
2 weren't satisfied. It is true, but there is a lot more  
3 in the Licensing Board than just the concerns, one of  
4 the reasons being we took the action on keeping the  
5 plant down and said some general concerns and we worked  
6 harder to try to formulate more a specific description  
7 in order to get a Licensing Board to look at it.

8 MR. ZERBE: Anything on 13?

9 CHAIRMAN PALLADINO: Does anybody have  
10 anything before? Well, all right, go ahead. I don't  
11 have anything until 15.

12 MR. ZERBE: Are we up to 15? Okay.

13 COMMISSIONER AHEARNE: I don't understand why  
14 you put in Judge Eddles dissented. So what!

15 COMMISSIONER ROBERTS: And why the next  
16 sentence?

17 COMMISSIONER AHEARNE: What difference does it  
18 make that someone dissented?

19 MR. KENNEKE: We can take it out.

20 COMMISSIONER AHEARNE: I know, but I would  
21 like an answer. I don't understand what difference it  
22 would make that someone dissented.

23 MR. LEVI: It is just the procedural  
24 background of what happened and what the Board found,  
25 just background material. It is not important.



1 MR. KENNEKE: No substantive intent. Do you  
2 want the last sentence out also?

3 COMMISSIONER AHEARNE: There are a number of  
4 Commission orders that you mentioned through here which  
5 were not -- (Inaudible.)

6 MR. ZERBE: I guess the point was this was  
7 under procedural background. We are going to cross out  
8 that sentence and the next one?

9 COMMISSIONER ROBERTS: I would. I don't  
10 understand what is the purpose and what does it provide.

11 MR. LEVI: The next sentence, we had this on  
12 all the ALABs saying what the current status was. Since  
13 it has fallen out somewhere on the others, we should  
14 take it out on this one, too.

15 CHAIRMAN PALLADINO: When I got to footnote 12  
16 I had trouble putting it into context. It says "The  
17 Commission therefore must now decide whether to let the  
18 immediate effectiveness of the original shutdown order,"  
19 and it says 12. "The Appeal Board decision on emergency  
20 planning and on environmental analysis Class 9 accidents  
21 also become immediately effective once the Commission  
22 lifts the immediate effectiveness of the original  
23 shutdown orders unless the Commission directs  
24 otherwise." What are you trying to tell us in that? I  
25 don't follow you.

1           COMMISSIONER ROBERTS: Let me ask one thing.  
2 Why isn't there just a period after "orders"? Delete  
3 the "unless the Commission directs otherwise."

4           COMMISSIONER AHEAPNE: Well, because the we  
5 were going to direct otherwise.

6           (Laughter.)

7           CHAIRMAN PALLADINO: What is the source of  
8 this No. 12?

9           MR. MONTGOMERY: I believe that was there  
10 before. What has changed is before it simply said  
11 emergency planning. Now there has been a second Appeal  
12 Board opinion come out and so now it covers two  
13 opinions. I think Marty can explain the fact that the  
14 difference in an Appeal Board opinion and a Licensing  
15 Board opinion, about which would become effective once  
16 the Commission made an immediate effectiveness decision.

17           CHAIRMAN PALLADINO: Why does this become  
18 immediately effective?

19           MR. ZERBE: Because the Appeal Board is at a  
20 higher level than the Licensing Board and therefore ---

21           CHAIRMAN PALLADINO: But we are not speaking  
22 to the merits.

23           COMMISSIONER AHEARNE: No, these are. The  
24 Appeal Board decision goes to the merits decision.

25           MR. MALSCH: The question is while the

1 Commission gets a chance to wrap up this entire case or  
2 the merits what is the official Commission pronouncement  
3 on what should be done and what controls. I think what  
4 we have said before is that up until now whoever is the  
5 last to speak, the Licensing Board or the Appeal Board  
6 or the Commission, is what is controlling.

7 We are just pointing out that in these  
8 particular areas the last body within the Commission to  
9 speak happens to be the Appeal Board and not the  
10 Licensing Board and so its rulings are controlling  
11 rather than the whatever the Licensing Board may have  
12 said.

13 CHAIRMAN PALLADINO: Well, that means then  
14 that we will never get done because ---

15 MR. ZERBE: If this goes on you will have to  
16 continue to ---

17 CHAIRMAN PALLADINO: I haven't reviewed that.  
18 I honestly don't understand what it means, or I am  
19 afraid that maybe I do understand what it means and  
20 don't like it.

21 (Laughter.)

22 COMMISSIONER AHEARNE: Maybe I don't  
23 understand it either. I had thought that the way the  
24 process was supposed to work is the Licensing Board  
25 makes its partial initial decision and it then goes

1 through this quick immediate effectiveness review. The  
2 theory is that that Licensing Board decision obviously  
3 was a merits decision. At the same time the Appeal  
4 Board now starts.

5           Now the theory was that we would issue an  
6 immediately effectiveness decision prior to the Appeal  
7 Board finishing their merits review, and at that time  
8 what we would be doing is allowing the Licensing Board's  
9 decision to become effective. The Appeal Board would be  
10 going through its merits review. When finally the  
11 Appeal Board finished its merits review, that would, to  
12 whatever extent necessary, supersede any of the  
13 Licensing Board's merits review decision and we would  
14 then still have at the end of this path our merits  
15 review if we chose to do so.

16           MR. MALSCH: That is right.

17           COMMISSIONER AHEARNE: In this particular case  
18 the Appeal Board has managed to finish some of its  
19 merits review before we are finishing our immediately  
20 effectiveness, and since it has, then the outstanding  
21 order, which is now going to become immediately  
22 effective, is not the Licensing Board because the Appeal  
23 Board being a higher Board has ---

24           CHAIRMAN PALLADINO: I know, but then once  
25 they get ahead of us they stay ahead of us because they

1 come out with a new rule and we have got to go and  
2 change this.

3 COMMISSIONER AHEARNE: Well, we are not going  
4 to do another immediately effectiveness. The next thing  
5 we do is a merits review.

6 CHAIRMAN PALLADINO: No, I am just saying the  
7 Appeal Board next week ---

8 MR. ZERBE: Yes, they could.

9 COMMISSIONER AHEARNE: Oh, that is possible.

10 CHAIRMAN PALLADINO: I don't think we will  
11 ever catch up once they get ahead.

12 MR. ZERBE: Every time you issue you are  
13 caught up.k

14 COMMISSIONER AHEARNE: All the catching up  
15 that is necessary is -- well there are actually two.  
16 One is a phrase in here that says -- or we could just  
17 say the Appeal Board opinions become immediately  
18 effective and then you wouldn't have to worry about  
19 catching up because we could say the Appeal Board  
20 opinions on TMI-1 restart that have already been issued,  
21 or something like that, and you wouldn't have to bother  
22 listing them.

23 CHAIRMAN PALLADINO: But I would like to fix  
24 it as of a certain date if we have to do it this way and  
25 then I would like to go back and look at them. I don't

1 know what they said about ---

2           COMMISSIONER AHEARNE: Marty, correct me if I  
3 am wrong, but this is just a factual statement. Under  
4 our regulations they become immediately effective. We  
5 are not making them this way. This is just a factual  
6 explanation of by the way this is what is going to  
7 happen whether the footnote is in there or not.

8           COMMISSIONER ASSELSTINE: That is right. This  
9 is not an operative provision.

10           MR. MALSCH: It automatically occurs when the  
11 Appeal Board issues their opinion. Their opinion  
12 insofar as it differs from the Licensing Board  
13 supersedes it.

14           MR. ZERBE: But if you don't want it to apply  
15 you have to specify it.

16           CHAIRMAN PALLADINO: It is the fact that you  
17 caught my eye with Class 9 accidents that gave me ---

18           MR. MALSCH: In fact, I think what happened  
19 there is the Appeal Board agreed with the Licensing  
20 Board that it needn't consider Class 9 accidents. So it  
21 is not a very contentious issue.

22           CHAIRMAN PALLADINO: So what did they say,  
23 that we don't have to consider Class 9 accidents?

24           MR. MALSCH: And agreed with the Licensing  
25 Board.



1 MR. ZERBE: They all agree.

2 (Laughter.)

3 CHAIRMAN PALLADINO: I wasn't sure what they  
4 said and I wanted to go back and look at it.

5 MR. ZERBE: As John mentioned, that footnote  
6 has been there for a while before and it is just that  
7 the Class 9 accident thing just came up. So that was  
8 added in there in the footnote.

9 MR. MALSCH: The problem doesn't arise because  
10 of what has happened so far, but there would be a  
11 problem if, let's say, a week before the Commission was  
12 about to issue a decision the Appeal Board would come  
13 out with something that the Commission had they know  
14 about it would have had a real big problem with it. In  
15 that event you would have had to check it out and speak  
16 to it.

17 COMMISSIONER AHEARNE: I suppose one of the  
18 things to do there is for OGC to be at least abreast of  
19 the pace of the Appeal Board. They are not one to tell  
20 you what they are going to do, but at least they will  
21 tell you when they are going to do it.

22 MR. MALSCH: That is true. In fact, we would  
23 call them and ask them what they expect to issue between  
24 now and mid to late January.

25 CHAIRMAN PALLADINO: There is still a problem

1 with this. It says "The Appeal Board opinions also  
2 become immediately effective once the Commission lifts  
3 the immediately effectiveness original shutdown order  
4 unless the Commission directs otherwise."

5 MR. ZERBE: You have the control now until you  
6 lift it. Once you lift it, then theirs would become  
7 immediately effective.

8 CHAIRMAN PALLADINO: Unless we choose to  
9 review.

10 COMMISSIONER AHEARNE: Well, not only choose  
11 to review. We can choose to review and there is still  
12 -- (Inaudible). We have to stay it.

13 MR. MALSCH: That is right.

14 CHAIRMAN PALLADINO: Since now I understand it  
15 better as a point of explanation, maybe you just want to  
16 keep it more general.

17 COMMISSIONER AHEARNE: You could just say the  
18 Appeal Board final opinions on TMI-1 restart become  
19 immediately effective.

20 CHAIRMAN PALLADINO: Yes.

21 COMMISSIONER AHEARNE: I threw in the word  
22 "final" just to draw the distinction between they have  
23 put out some preliminary --- (Inaudible).

24 CHAIRMAN PALLADINO: Are you going to fix that  
25 up?

1 MR. ZERBE: Yes, we will fix that up.

2 COMMISSIONER AHEARNE: My next one is on 22.

3 CHAIRMAN PALLADINO: Yes, my mine is on 22  
4 also.

5 MR. ZERBE: And I guess we were going to  
6 change that Husted to DD, right?

7 MR. MONTGOMERY: Yes.

8 CHAIRMAN PALLADINO: What is that?

9 MR. ZERBE: The Husted would be taken out. It  
10 didn't get caught when we went through it the last time.

11 CHAIRMAN PALLADINO: You were going to take  
12 that out?

13 MR. ZERBE: We were just going to put DD in  
14 there instead of Mr. Husted.

15 MR. KENNEKE: We have done it everywhere else.

16 MR. ZERBE: You will recall were are not going  
17 to refer to him by Mr. Husted.

18 CHAIRMAN PALLADINO: Why did we put that in?

19 MR. MONTGOMERY: This whole section, this  
20 change?

21 CHAIRMAN PALLADINO: Yes.

22 MR. MONTGOMERY: This change is in response to  
23 a request at the last meeting that we change it. The  
24 way it used to read was "The Commission notes that the  
25 Special Master made some conclusions which" and we were

1 asked to specify which ones were based primarily on  
2 judgmental determinations rather than just saying there  
3 were some that were that way.

4           COMMISSIONER AHEARNE: You have a quote "the  
5 judgment of -- (Inaudible) -- and factfinders" --  
6 (Inaudible). Rather than "The Commission believes the  
7 Board's judgment should be accepted," I would just say  
8 "The Commission accepts the Board's judgment."

9           CHAIRMAN PALLADINO: Dan Garner had something  
10 that he gave me and I hope I understand it. Down near  
11 the bottom where the line goes speaking to "The major  
12 flaw uncovered during the examination of TMI management  
13 involved an inadequate oversight of the implementation  
14 of some aspects of the licensee training and test  
15 administration. This is a significant failure which the  
16 Commission is handling through a separate enforcement  
17 action."

18           COMMISSIONER AHEARNE: Where are we?

19           MR. KENNEKE: At the bottom of 23.

20           MR. MONTGOMERY: We are with you now.

21           CHAIRMAN PALLADINO: I am on 23. I am sorry.  
22 I have got to read numbers carefully. I am on 23.

23           The question is while this is a significant  
24 failure which the Commission is handling through a  
25 separate enforcement action, I don't think a decision

1 has been made.

2 MR. MONTGOMERY: That is correct. We have  
3 picked that up and we have a change to the wording so it  
4 will not imply that ---

5 MR. MALSCH: Our proposal was to say while  
6 this is a significant failure which the Commission is  
7 analyzing as a possible basis for a separate enforcement  
8 action, it does not outweigh the bulk of the evidence in  
9 the record which supports a finding of management  
10 incompetence.

11 Then we should probably in the footnote add an  
12 also. The Commission notes that it has also directed  
13 the staff to investigate a possibly material false  
14 statement.

15 CHAIRMAN PALLADINO: On page 23 I had one.

16 MR. MALSCH: It is a sentence in the middle of  
17 the page that needs to have a word struck.

18 "Investigations" should be struck and it should read  
19 "Later allegations that management aided cheating were  
20 not proven during an extensive adjudicative hearing."

21 CHAIRMAN PALLADINO: All right.

22 MR. ZERBE: On page 24 we were proposing to  
23 strike that lower paragraph there except for the last  
24 sentence and move the last sentence up to the end of the  
25 second paragraph, this being covered earlier now in the

1 way this thing was reformed. We are cutting out the  
2 paragraph saying "The licensee has substantively  
3 improved," that paragraph would be removed since it is  
4 covered in what we did back a few pages and just keep  
5 the last sentence in that paragraph but move it up to  
6 the end of the preceding paragraph.

7 COMMISSIONER AHEARNE: What is it that you  
8 believe has covered that point?

9 MR. ZERBE: Well, it is back ---

10 MR. MONTGOMERY: A fair amount of it is in the  
11 new information on page 23.

12 CHAIRMAN PALLADINO: But I thought it was more  
13 general. Page 23 wasn't as general as page 24 is.

14 MR. MONTGOMERY: I think that is true. This  
15 is just our view. We would have taken it out because as  
16 I read it I thought that what is on 24 is redundant.

17 COMMISSIONER AHEARNE: Did you pick up the  
18 concept of actual numbers of -- (Inaudible) --  
19 personnel performing various functions that have  
20 increased substantially -- (Inaudible.)

21 MR. MONTGOMERY: The first one, "The licensee  
22 made a strong showing," and I am going back to page 23,  
23 the human resources part of that.

24 What was the second one?

25 COMMISSIONER AHEARNE: The other one was the



1 several senior managers.

2 MR. KENNEKE: The overall strength of the  
3 management structure. One is general and the one is  
4 specific.

5 COMMISSIONER AHEARNE: The difference is on  
6 page 24 you are saying that they have increased  
7 substantially a certain number of people and you have  
8 then brought in senior managers from outside. No. 23  
9 says they have made a strong showing of the strength and  
10 the human resources. That could be based upon no  
11 increase. It could just be based upon the --  
12 (Inaudible) -- the system as it was.

13 CHAIRMAN PALLADINO: I would be inclined to  
14 keep it.

15 MR. KENNEKE: Just keep the paragraph.

16 CHAIRMAN PALLADINO: Okay, go ahead.

17 COMMISSIONER AHEARNE: I would strike "more  
18 importantly" in the second line.

19 MR. ZERBE: 27.

20 CHAIRMAN PALLADINO: On 27 we get into our  
21 dilemma on what we want to do with DD.

22 COMMISSIONER ASSELSTINE: Yes.

23 CHAIRMAN PALLADINO: You say in the case of DD  
24 the Board did not recommend that any specific action be  
25 taken. At least the Board noted what the licensee was

1 going to do and said it was okay. So this implies a  
2 disinterest by the Board or a lack of even attention.  
3 Actually they noted what the licensee was going to do  
4 and ---

5 COMMISSIONER AHEARNE: Well, I would --  
6 (Inaudible.)

7 CHAIRMAN PALLADINO: I am on 27. I am just  
8 going on the basis of fact there. Now we have got the  
9 whole question of what we want to do.

10 COMMISSIONER AHEARNE: I guess we have to wait  
11 and hear from Victor.

12 CHAIRMAN PALLADINO: Will you fix that up?

13 MR. MONTGOMERY: Yes.

14 CHAIRMAN PALLADINO: Do you see what I am  
15 talking about?

16 MR. MONTGOMERY: Yes.

17 CHAIRMAN PALLADINO: It goes on to page 28.

18 MR. ZERBE: There have been some potential  
19 modifications down on page 28 that we were proposing.

20 COMMISSIONER AHEARNE: On 28 I had a problem,  
21 and I am not sure that I can track it for you, but you  
22 have in this base paragraph, you have "The Aamodts, UCS  
23 and TMI criticized the sense of evidence on information  
24 flow. The decision whether the licensee intentionally  
25 withheld is a judgmental decision. The Commission has

1 revised the issue of possible licensee wrongdoing and  
2 the results remain inconclusive in the Commission's  
3 judgment.

4 I for myself would turn those around. I would  
5 keep your first sentence. I would take the third  
6 sentence and make that your second sentence.

7 CHAIRMAN PALLADINO: Which is the third  
8 sentence?

9 COMMISSIONER AHEARNE: "The Commission has  
10 revisited the issue of possible licensee wrongdoing."

11 CHAIRMAN PALLADINO: What page are you on?

12 MR. ZERBE: 28.

13 COMMISSIONER AHEARNE: I am on 28.

14 CHAIRMAN PALLADINO: On page 28.

15 COMMISSIONER AHEARNE: I am looking at the  
16 main paragraph. I would take the third sentence which  
17 is "The Commission has revisited the issue of possible  
18 licensee wrongdoing" and make that the second sentence  
19 in the paragraph. So it says the Aamodts, et cetera, et  
20 al. criticized the information flow. The Commission has  
21 revisited the issue. Then I would say the decision  
22 where the licensee intentionally withheld is a  
23 judgmental decision, and I would say "and which the NRC  
24 has decided in favor of the licensee" rather than "one  
25 which has been decided." The NRC has decided in favor

1 of the licensee. Then I would strike the sentence "The  
2 results remain inconclusive in the Commission's  
3 judgment."

4 MR. ZERBE: Yes, we were going to change that.

5 MR. MONTGOMERY: We already had that  
6 suggestion and I was waiting for you to ---

7 MR. MALSCH: We had one additional suggestion,  
8 and that was to say "The Commission has revised based on  
9 the hearing record."

10 COMMISSIONER AHEARNE: I would have put in  
11 "frequently."

12 (Laughter.)

13 COMMISSIONER AHEARNE: I would say then where  
14 you have then where you have "Additionally, the major  
15 figures in the alleged incidents are no longer  
16 associated with GPU Nuclear," I would put a period. I  
17 wouldn't go on to say, "and, hence, cannot repeat any  
18 earlier actions whether right or wrong."

19 CHAIRMAN PALLADINO: Where are you?

20 MR. ZERBE: Right after the third line down on  
21 the line's new addition.

22 MR. KENNEKE: Marty, you had one other change  
23 in the previous sentence. Did you still want to get  
24 that in? "We found no basis to modify our earlier  
25 judgment" rather than the words "the results remain

1 inconclusive."

2 MR. MALSCH: It was to strike "The results  
3 remain inconclusive in the Commission's judgment." I  
4 think Commissioner Ahearne has fixed it up.

5 MR. KENNEKE: Okay, strike the whole thing.

6 COMMISSIONER AHEARNE: Then at the end of that  
7 paragraph I would say "The Commission has reviewed the  
8 record in this proceeding and has concluded that no  
9 further inquiry is warranted." I don't understand what  
10 is "sufficient evidence was adduced."

11 MR. MALSCH: In fact it is incorrect because  
12 some of the investigation reports were not sponsored  
13 into evidence. So it would have been an awkward  
14 statement for the Commission to make.

15 COMMISSIONER AHEARNE: So I would just say no  
16 further inquiry is warranted."

17 MR. ZERBE: There was one word up above there  
18 where it says "Of even greater importance is the much  
19 improved emergency responses which in itself will  
20 affect." I guess you wanted that in there, Marty. We  
21 were going to use the word "eliminate."

22 CHAIRMAN PALLADINO: What page are you on?

23 MR. ZERBE: 28 still, right in the middle of  
24 the page there where if you see the word "affect" put  
25 the word "eliminate."

1 COMMISSIONER AHEARNE: Who is sponsoring  
2 "affect" -- (Inaudible.)

3 (Laughter.)

4 MR. ZERBE: Well, "affect" goes either way.

5 COMMISSIONER ASSELSTINE: Who is sponsoring  
6 "much improved emergency responses"?

7 (Laughter.)

8 MR. ZERBE: I guess we are.

9 (Laughter.)

10 CHAIRMAN PALLADINO: I am not sure that we  
11 haven't added to the confusion.

12 (Laughter.)

13 MR. ZERBE: Maybe you want to leave the word  
14 "affect" in.

15 COMMISSIONER ASSELSTINE: Aren't you sorry you  
16 brought this one up, Jack?

17 (Laughter.)

18 COMMISSIONER AHEARNE: I would leave "affect"  
19 in. You have already said -- (Inaudible) -- much  
20 improved.

21 (Laughter.)

22 MR. ZERBE: Okay, leave it alone.

23 CHAIRMAN PALLADINO: All I remember at the  
24 time of the accident is all these cameras coming from  
25 all over the country waiting for the big evacuation and



1 there was none that was apparent to them. I forget how  
2 many, but over a hundred thousand people I believe left  
3 the area very quietly without organization.

4 (Laughter.)

5 CHAIRMAN PALLADINO: Okay. What did you do  
6 "eliminate"?

7 MR. ZERBE: We are leaving it alone.

8 CHAIRMAN PALLADINO: What, you are leaving it  
9 alone?

10 MR. ZERBE: The "affect" word.

11 CHAIRMAN PALLADINO: I thought you were going  
12 to put "eliminate."

13 MR. ZERBE: Well, I thought you folks didn't  
14 want to change it.

15 CHAIRMAN PALLADINO: I was willing to change  
16 it.

17 MR. KENNEKE: "Affect" is a little vague and  
18 that is what was bothering us.

19 CHAIRMAN PALLADINO: I am not against  
20 "eliminate." I was just thinking about the practicality  
21 of some of our ---

22 COMMISSIONER AHEARNE: "Elimimate" is a little  
23 strong.

24 COMMISSIONER ROBERTS: It is pretty strong.

25 COMMISSIONER ASSELSTINE: It sure is.

1 MR. ZERBE: It doesn't say eliminate all. It  
2 says eliminate many.

3 COMMISSIONER ASSELSTINE: I think you are  
4 going to have a lot of the same information ---

5 COMMISSIONER AHEARNE: I would say that it has  
6 improved it and it will certainly ---

7 MR. KENNEKE: Alleviate?

8 COMMISSIONER AHEARNE: --- alleviate the  
9 problems, but "eliminate" ---

10 COMMISSIONER ROBERTS: What about "alleviate."

11 MR. KENNEKE: "Significantly alleviate."

12 (Laughter.)

13 MR. ZERBE: Not significantly.

14 (Laughter.)

15 CHAIRMAN PALLADINO: Boy, I hope we have  
16 eliminated some of them.

17 MR. MONTGOMERY: It is not quite "eliminate."

18 MR. ZERBE: We will alleviate many, right?

19 COMMISSIONER AHEARNE: Yes.

20 CHAIRMAN PALLADINO: Now are we going to  
21 address this potential insert or wait?

22 MR. ZERBE: I presume you are going to wait  
23 until you ---

24 MR. KENNEKE: I think we have to wait.

25 CHAIRMAN PALLADINO: We have to wait until we

1 hear from Victor.

2 MR. ZERBE: 29.

3 COMMISSIONER AHEARNE: The next one I have is  
4 on page 5.

5 MR. ZERBE: Page 5 in the second section.

6 (Laughter.)

7 CHAIRMAN PALLADINO: I had a problem on page  
8 29 with a sentence, and I guess I had problems even  
9 before. "While the record does reveal weaknesses with  
10 GPU Nuclear management, the Commission does not believe  
11 that the weaknesses show a major flaw or failure with  
12 management." It says we made a decision, but we are not  
13 sure we made the right one, or we are not sure it is  
14 really a strong one.

15 COMMISSIONER AHEARNE: Yes. I think we have  
16 to acknowledge the record does show some weaknesses of  
17 their management.

18 MR. ZERBE: But it is not a fundamental flaw.

19 MR. KENNEKE: Maybe you want to delete the  
20 main part of the sentence and go on to the next  
21 sentence, the second clause. Delete the part "The  
22 Commission does not believe," and go to the positive  
23 statement.

24 CHAIRMAN PALLADINO: The Commission believes  
25 that its management concerns have adequately been

1 addressed.

2 MR. KENNEKE: Drop the "don't believe" part.

3 COMMISSIONER AHEARNE: Well, I think you have  
4 to rearrange it to saying something that the record does  
5 reveal weaknesses. However, the Commission --  
6 (Inaudible.)

7 CHAIRMAN PALLADINO: Now in the new part there  
8 were a number of things that seemed new to me.

9 MR. ZERBE: Which part is this?

10 CHAIRMAN PALLADINO: I thought you were going  
11 to the new numbering.

12 MR. ZERBE: On, yes. I am sorry.

13 CHAIRMAN PALLADINO: I was making an  
14 observation that there were a number of things in this  
15 part that were marked that seemed like they were new to  
16 me.

17 COMMISSIONER AHEARNE: Jack is going to be  
18 providing -- (Inaudible).

19 MR. KENNEKE: Much of that is just  
20 reorganization.

21 MR. MONTGOMERY: Yes, it has been moved from  
22 up front I think is what happened.

23 COMMISSIONER AHEARNE: On page 5, right at the  
24 top you are speaking about the TMI Program Office in  
25 Region I developed plans. You say "which appear to

1 satisfy the Board's concerns." I would put in something  
2 "appeared to satisfy that aspect of the Board's  
3 concerns."

4 COMMISSIONER ASSELSTINE: That is right, only  
5 a part.

6 CHAIRMAN PALLADINO: Can I go back to page 4,  
7 and maybe I am remembering wrong. It says in the first  
8 full paragraph and I think it is the second sentence,  
9 "Although the Appeal Board found that permanent record  
10 dosimeters are not required under regulations, the  
11 Commonwealth and licensee have reached substantial  
12 agreement in principle regarding the personal dosimetry  
13 requirements for the TMI off-site emergency workers."

14 Have they?

15 MR. ZERBE: That is new information in there.

16 CHAIRMAN PALLADINO: Did they do it recently?

17 MR. MONTGOMERY: Yes.

18 CHAIRMAN PALLADINO: What did they do? Did  
19 GPU decide to buy ---

20 MR. KENNEKE: They are going in that direction.

21 CHAIRMAN PALLADINO: Okay. I wasn't aware of  
22 that. They are doing what they did in Susquehanna.

23 MR. MALSCH: I don't think we know the  
24 details. I think it was just a notification that they  
25 are negotiating and they are on the verge of reaching

1 some agreement.

2 CHAIRMAN PALLADINO: Well, maybe you want to  
3 flesh it up a little bit, but I took it as something I  
4 didn't know and I wanted to check on it.

5 MR. MALSCH: Well, it is new information.

6 Rick, do you know about the details?

7 MR. LEVI: The Commonwealth submitted a motion  
8 that we defer consideration to the ALAB because they  
9 have settlement negotiations underway with the licensee  
10 and they expect the negotiations to be concluded one way  
11 or the other by January 17th and they asked us not to  
12 consider the ALAB TLDs until that date.

13 CHAIRMAN PALLADINO: Well, have they reached  
14 substantial agreement in principle?

15 MR. LEVI: Yes.

16 COMMISSIONER AHEARNE: That is too strong then.

17 MR. KENNEKE: It looks like a paragraph that  
18 we have to watch as this goes on.

19 COMMISSIONER AHEARNE: Perhaps they are  
20 negotiating and -- (Inaudible).

21 MR. LEVI: The paragraph ought to be changed,  
22 depending on what happens, to make it accurate.

23 MR. KENNEKE: Yes, we will have to watch it.

24 COMMISSIONER AHEARNE: On page 5, if you put  
25 in that second line "that aspect of important concerns,"



1 then I would suggest you should rewrite the next  
2 sentence, something like "However, the Commission is  
3 staying this portion until a later date because some of  
4 the issues require additional Commission action." We  
5 are not staying it because of the TMI Program Office.

6           The "substantial agreement in principle"  
7 language, I have just received -- (Inaudible) -- The  
8 "substantial agreement in principle comes from the  
9 Commonwealth's -- (Inaudible).

10           CHAIRMAN PALLADINO: It was new to me.

11           My next one is on page 8. Some of these come  
12 from Dan and one of them comes from me. About half way  
13 through the paragraph at the top of the page, or I guess  
14 a little further down, he says this is not accurate  
15 where they talk about the pressure points, and he says  
16 the pressure points ---

17           MR. ZERBE: The pressure set points?

18           CHAIRMAN PALLADINO: The pressure set points  
19 of the high pressure reactor trip and the pilot operator  
20 relief valve, the PORV, have been inverted such that the  
21 reactor trip will now occur before the PORV is actuated.  
22 What is stated there is technically wrong, but the way  
23 he has revised it is technically right.

24           Dan.

25           MR. SHERRY: No, I believe what is said in

1 there is correct. The code safety set valves are set at  
2 a lower set point than the PORV.

3 CHAIRMAN PALLADINO: Where is my good man, Dan  
4 Garner?

5 MR. GARNER: The code safety set valves have  
6 never been touched. The set points were switched as a  
7 result of the bulletin 7905B which asked them to make  
8 sure that when the reactor trip occurs it does so before  
9 the PORV to reduce the frequency of the PORV lifting.  
10 However, it still has to remain below the set point of  
11 the safeties because it reduces the challenges to the  
12 safeties.

13 I think the Board's decision ---

14 (Laughter.)

15 CHAIRMAN PALLADINO: Can you resolve it?

16 MR. KENNEKE: Yes.

17 MR. ZERBE: Yes.

18 CHAIRMAN PALLADINO: Now the next paragraph on  
19 the emergency feedwater system, my question was is this  
20 where we are going to into ---

21 COMMISSIONER ROBERTS: The last statement.

22 CHAIRMAN PALLADINO: Which one?

23 COMMISSIONER ROBERTS: "The licensee has also  
24 committed . . . "

25 CHAIRMAN PALLADINO: Maybe by Monday it will

1 be true.

2 MR. ZERBE: They is what they said they were  
3 going to do.

4 CHAIRMAN PALLADINO: I would suggest though  
5 that you put a flag on that paragraph to make sure it is  
6 true.

7 MR. KENNEKE: Doesn't it better belong on page  
8 10 also?

9 MR. ZERBE: We addressed that emergency  
10 feedwater system two places. Let John explain the  
11 reason he did it that way.

12 MR. MONTGOMERY: Because the second discussion  
13 is a specific discussion and is different than this  
14 listing of general things that have been accomplished  
15 since the accident.

16 MR. ZERBE: It can be combined though. We can  
17 put all the emergency feedwater system information  
18 together. Now it is separated between 8 and 10.

19 MR. KENNEKE: We could put it on page 10 as a  
20 second paragraph.

21 CHAIRMAN PALLADINO: I would say go ahead and  
22 do that if that is what you think is right, but I  
23 certainly would want to check that paragraph or keep it  
24 on the front burner.

25 MR. ZERBE: Yes, we have to watch it relative

1 to what they say they are going to do.

2           CHAIRMAN PALLADINO: All right, on page 9 we  
3 have another Dan Garner one in about the middle of the  
4 full paragraph where it says "The pressurizer heaters  
5 which are used to control reactor primary system  
6 pressure are now connected to the emergency power  
7 supply," and he points out they may now be connected to  
8 the emergency power supply. Again, that may be  
9 something you would want to ---

10           MR. ZERBE: We will check it out.

11           CHAIRMAN PALLADINO: Now there is another one  
12 though that occurs several times, and again we are not  
13 sure are true. The example is at the end of that  
14 paragraph. "The PORV and safety valves have been  
15 modified to include direct indications of the positions  
16 of these valves and a device which directly indicates  
17 flow through the PORV has been installed."

18           Well, have they made a commitment and has it  
19 been installed, and I think there are several of them  
20 where it would be worth checking the true status or  
21 indicating, if we are not sure, that they are committed  
22 to do it, if that is the truer statement.

23           MR. ZERBE: These statements presumably came  
24 out of the record.

25           MR. SHERRY: Most of these statements were

1 taken out of the Board's partial initial decision on  
2 hardware. I will check all these to make sure they are  
3 accurate, but I believe they are.

4 MR. ZERBE: Now if the question is ---

5 CHAIRMAN PALLADINO: No, they were raised just  
6 as a question. I think there is a similar one somewhere  
7 else that I lost. Dan, I must have lost my paperclips  
8 because I can't find the other place you had it.

9 MR. GARNER: I think that was the end of it.

10 CHAIRMAN PALLADINO: That was the end of it?

11 MR. GARNER: Yes.

12 CHAIRMAN PALLADINO: Well then I missed some  
13 along the way.

14 COMMISSIONER AHEARNE: (Inaudible)

15 MR. MONTGOMERY: We will get with Dan.

16 CHAIRMAN PALLADINO: All right. I have a  
17 question at the bottom of page 10, but I have to check  
18 that.

19 MR. MONTGOMERY: That raises this fully safety  
20 grade again in your comment.

21 CHAIRMAN PALLADINO: Oh, yes. Okay.

22 Are there any others before page 11?

23 (No response.)

24 CHAIRMAN PALLADINO: I still have a problem  
25 with the way you describe this feed and bleed, and then

1 I know later on I believe you bring up the staff  
2 reputation, but they are so far apart that one could  
3 draw the wrong impression.

4 The Appeal Board stated, and I think this is  
5 page 11, but the Appeal Board stated that the ability of  
6 the feed and bleed cooling mode has been called into  
7 question by recent semiscale test results which raise  
8 questions about the viability of feed and bleed.

9 I think the staff response to that is as  
10 important as the allegation. I think you do cover it  
11 later, but it somehow seemed to me that that is a time  
12 where attention ought to be called ---

13 MR. ZERBE: You mean you want to cover the  
14 other side of it in the same location?

15 CHAIRMAN PALLADINO: Yes. I think the other  
16 side is as important and, as a matter of fact, I believe  
17 more important.

18 (Laughter.)

19 MR. KENNEKE: Is the staff response on the  
20 record, Marty?

21 MR. MALSCH: The ones that are quoted here are.

22 MR. KENNEKE: Are you talking about the staff  
23 response?

24 MR. ZERBE: No. He is talking about something  
25 in here.



1 MR. KENNEKE: In this section.

2 COMMISSIONER ASSELSTINE: So you would  
3 reference the statements by the other parties and then  
4 you would jump back to the more detailed discussion of  
5 the basis for the Appeal Board's ---

6 CHAIRMAN PALLADINO: Well, I was looking for  
7 that one because it was missing the last time and when I  
8 saw it missing again I marked it.

9 COMMISSIONER ASSELSTINE: I guess I would  
10 prefer it the way it is. It just means you jump back  
11 and forth a little bit.

12 CHAIRMAN PALLADINO: I don't mind a reference  
13 to the fact that further discussion is given on page 10  
14 or page whatever it is.

15 COMMISSIONER AHEARNE: You could put a  
16 reference.

17 CHAIRMAN PALLADINO: Yes, a reference would do.

18 MR. KENNEKE: We could run those two  
19 paragraphs together so you would have all of the Appeal  
20 Board's statements in one section.

21 CHAIRMAN PALLADINO: I wasn't trying to  
22 destroy the symmetry of your presentation.

23 COMMISSIONER AHEARNE: You could put a  
24 footnote that the staff's response -- (Inaudible).

25 CHAIRMAN PALLADINO: A reference would satisfy

1 me.

2 I have another number listed here but I can't  
3 read it.

4 COMMISSIONER AHEARNE: My next comment is on  
5 page 10 in Section 2.

6 MR. ZERBE: You mean this is ---

7 MR. MONTGOMERY: It is in the appendix.

8 MR. ZERBE: Oh, in the appendix. Okay.

9 COMMISSIONER AHEARNE: The items you have in  
10 brackets, is that because you are pointing we haven't  
11 voted on whether to do that?

12 MR. MONTGOMERY: No. They were bracketed  
13 there just to point out that that was where I had placed  
14 that sentence. They had earlier been part of a footnote  
15 and it was not clear to me at the last meeting whether  
16 there was some interest in having that stated at the  
17 start of those conditions or at the end.

18 COMMISSIONER AHEARNE: I see.

19 CHAIRMAN PALLADINO: What page are you on?

20 MR. ZERBE: Page 10 of Section 2 of the  
21 appendix.

22 COMMISSIONER AHEARNE: And then down in No. 10

23 ---

24 MR. KENNEKE: And 11.

25 COMMISSIONER AHEARNE: It is just the way it

1 is phrased. It starts out with a bracketed sentence and  
2 I was more curious as to what the brackets meant.

3 CHAIRMAN PALLADINO: What does the bracket  
4 mean?

5 COMMISSIONER AHEARNE: I think John is saying  
6 that it is raising a question of where to put that ---

7 MR. ZERBE: It calls attention to the fact  
8 that you ---

9 MR. KENNEKE: --- you wanted it noted.

10 MR. MONTGOMERY: My preference was to put it  
11 first so that nobody missed it, and I just want to get a  
12 reading is that is so. The bracket will come out and I  
13 will just put it in parentheses.

14 COMMISSIONER AHEARNE: (Inaudible.)

15 CHAIRMAN PALLADINO: I am sorry, John, what  
16 are you proposing, leaving it as it is?

17 MR. MONTGOMERY: Yes.

18 COMMISSIONER AHEARNE: Without the brackets.

19 MR. MONTGOMERY: Just instead of brackets it  
20 will be in parentheses.

21 COMMISSIONER AHEARNE: The next one was on  
22 page 2 of Section 3. This is for clarification. The  
23 first item, tech spec changes to be completed in 1/83,  
24 is that a whole category or is that the last item under  
25 I&E Bulletins?

1 MR. SHERRY: I believe that is the last item.

2 MR. MONTGOMERY: He says that is the last item  
3 in the I&E Bulletins.

4 COMMISSIONER AHEARNE: I would suggest that  
5 either you try to get it on the previous page or else at  
6 the top you might just put description and estimate a  
7 completion -- (Inaudible).

8 COMMISSIONER AHEARNE: Then on page 3 more  
9 just a question. On page 3, the last item before Roman  
10 numeral II, "The NRC is going to be reviewing the  
11 on-site technical support center." Do you know what  
12 criteria they are going to use -- (Inaudible)?

13 MR. MONTGOMERY: No. Maybe we can find out.  
14 Joan, do you know?

15 MS. ARON: No.

16 MR. ZERBE: We will have to check that.

17 COMMISSIONER AHEARNE: On page 4 you have  
18 listed -- (Inaudible) -- it is the fifth item from the  
19 bottom, control room design correcting NUREG 0752  
20 deficiencies. You have that the long-term deficiencies  
21 being corrected as a licensee condition. Where did that  
22 licensee condition come from? Is it in this order?

23 (At this point in the proceedings, at 4:30  
24 p.m., Commissioner Asselstine left the meeting.)

25 MR. MONTGOMERY: I hope so. I will have to

1 look, but it should be.

2 COMMISSIONER AHEARNE: The last item, the  
3 Board questions NUREG 0694 items. That is going to be  
4 completed during low-power testing. I don't understand  
5 the phrase "the Board questions." Is it that they are  
6 questioning items in 0694 or are they Board questions  
7 with respect ---

8 MR. KENNEKE: Concerning.

9 COMMISSIONER AHEARNE: Well, whichever way ---

10 MR. MONTGOMERY: We will clarify it.

11 COMMISSIONER AHEARNE: Then on page 5 under  
12 emergency planning findings, the first item on the  
13 right-hand side there is an asterisk in front of the  
14 Appeal Board -- (Inaudible).

15 MR. SHERRY: That was footnoted at one time.

16 MR. KENNEKE: We will have to check it. That  
17 is what it was. We had previously a footnote that said  
18 the Commission has stayed. So that asterisk should just  
19 be eliminated now up there.

20 COMMISSIONER AHEARNE: The item "B" "The NRC  
21 is advising the Commission." Is this the NRC staff  
22 advising the Commission and does this say they have to  
23 come in this month ---

24 MS. ARON: I will have to check that.

25 COMMISSIONER AHEARNE: Let's see, on page 6,

1 "H" certifying that the EPZ school plans are complete.  
2 It says, "The FEMA review is complete." There was one  
3 college that was slow in getting its ---

4 MS. ARON: It is in.

5 COMMISSIONER AHEARNE: It is in?

6 MS. ARON: Yes. It has already been reviewed  
7 by FEMA.

8 COMMISSIONER AHEARNE: In the last item you  
9 have "The Appeal Board imposed a requirement that the  
10 NRC emergency response plan as modified to be completed  
11 1/83." Has the staff said they are complete the  
12 modification as requested by the Appeal Board? I  
13 question that.

14 CHAIRMAN PALLADINO: This is the EOF?

15 COMMISSIONER AHEARNE: The Appeal Board wanted  
16 the staff to revise the plan to be clear on when the NRC  
17 is going to take over, and I just doubt that the staff  
18 is going to have that completed.

19 CHAIRMAN PALLADINO: Can that be checked?

20 MR. ZERBE: Yes. We are going to try to check  
21 that right now.

22 CHAIRMAN PALLADINO: Any other questions?

23 (No response.)

24 CHAIRMAN PALLADINO: Well you are now going to  
25 take these comments and you are going to take Revision



1 or Mod. 3 or whatever it is, you are going to use that  
2 as a reference and you are going to mark up all the  
3 changes.

4 COMMISSIONER ASSELSTINE: Since that one.

5 MR. KENNEKE: We will give you the proper  
6 Revision 4 as a starting point and then give you  
7 Revision 5.

8 MR. ZERBE: Wait a minute. We are using the  
9 last revision before this.

10 MR. KENNEKE: This is Revision 4, but it  
11 doesn't show all the markings. So we need to give you  
12 Revision 4 prime so that you have all the changes.

13 MR. LEVI: Wouldn't it be better to give just  
14 Revision 5 and identify all the changes?

15 MR. MONTGOMERY: That is what I would suggest.

16 COMMISSIONER AHEARNE: From?

17 MR. LEVI: From Revision 3.

18 CHAIRMAN PALLADINO: From No. 3, yes. Take  
19 No. 3 and mark all the changes to date.

20 MR. KENNEKE: Up to No. 5.

21 CHAIRMAN PALLADINO: And give it the No. 5.

22 COMMISSIONER AHEARNE: Yes, call it No. 5, but  
23 it is reference based.

24 MR. ZERBE: Yes, it goes back to the prior.

25 CHAIRMAN PALLADINO: Now I have two things. I

1 will get together with Commissioner Gilinsky on the  
2 Husted matter and at least get him to think about it so  
3 we would be prepared to vote, and I will also chat a  
4 little more with the staff about people at TMI.

5 COMMISSIONER AHEARNE: John was going to  
6 request to ask the staff to find out what the licensee  
7 was going to be -- (Inaudible).

8 MR. MONTGOMERY: If they have any plans to do  
9 anything additional with their personnel.

10 COMMISSIONER AHEARNE: Right.

11 CHAIRMAN PALLADINO: Okay. Anything more to  
12 come before us?

13 (No response.)

14 CHAIRMAN PALLADINO: Thank you very much.  
15 We will stand adjourned.

16 (Whereupon, at 4:37 p.m., the closed meeting  
17 adjourned.)

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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-1 Restart Proceeding  
Date of Proceeding: December 17, 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)