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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

CONSIDERATION OF OPTIONS FOR DEALING
WITH MANAGEMENT ISSUES
(TMI-I RESTART PROCEEDING)

Docket No.

CLOSED MEETING

Location: Washington, D. C.

Pages: 1 - 93

Date: Tuesday, November 8, 1983

B407130158 B40604
PDR FOIA
DETJEN83-27 PDR

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CONSIDERATION OF OPTIONS FOR DEALING
WITH MANAGEMENT ISSUES
(TMI-1 RESTART PROCEEDING)

- - -

CLOSED MEETING
(Exemptions 5 and 10)

- - -

Nuclear Regulatory Commission
11th Floor
Commissioners' Conference Room
1717 "H" Street, N.W.
Washington, D. C.

Tuesday, November 8, 1983

The Commission met in closed session, pursuant to notice, at 2:05 o'clock p.m., NUNZIO J. PALLADINO, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

- NUNZIO J. PALLADINO, Chairman of the Commission
- VICTOR GILINSKY, Member of the Commission
- THOMAS ROBERTS, Member of the Commission
- JAMES ASSELSTINE, Member of the Commission
- FREDERICK BERNTHAL, Member of the Commission

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- S. CHILK
- H. PLAINE
- M. MALSCH
- R. LEVI
- J. ZERBE
- J. MONTGOMERY

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AUDIENCE SPEAKERS:

A. KENNEKE
E. GOODWIN

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P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: Good afternoon. The purpose
3 of today's meeting is to consider alternative approaches to
4 the TMI-1 management integrity question. On October 7, 1983
5 the Commission issued a statement expressing its willingness
6 to consider alternative approaches for dealing with management
7 confidence and integrity issues.

8 The licensee responded by taking the position that
9 the outstanding investigations in other matters did not
10 provide a basis for continuing the immediately shutdown
11 order and that the present record obligated the Commission to
12 lift the 1979 shutdown order.

13 The licensee referred to its June 10 submittal to
14 address concerns arising from the TMI-2 accident and pre-
15 accident practices.

16 We have a memorandum from Commissioner Asselstine
17 dated October 17 which suggests that we address the GPU
18 proposal. We also have Commissioner Roberts' questions for
19 OGC of October 31 on which I would like OGC to give us a
20 status report. Also, we have Commissioner Gilinsky's
21 proposal of September 28, 1983.

22 OPE has provided us a discussion paper on alterna-
23 tive approaches to TMI-1 management integrity decision making.
24 This is dated October 27. Also I should mention the
25 indictments returned yesterday against MET-ED arising from

1 the Hartman allegation. I would be interested in any prelimin-
2 ary comments that OGC might have on th impact of that.

3 COMMISSIONER GILINSKY: I suggest you start with
4 that.

5 CHAIRMAN PALLADINO: Let me suggest differently
6 but I am open to suggestions. I was going to suggest that we
7 start with OPE having them highlight their paper and any
8 additional remarks it might have.

9 COMMISSIONER GILINSKY: I think it has been over-
10 taken by events.

11 CHAIRMAN PALLADINO: I am willing to reverse it.
12 I would also like OGC to address the questions of Commissioner
13 Roberts. I think we should raise questions and discuss it
14 among the Commissioners. I think we should also consider
15 today what we want to do with Thursday's meeting. Are there
16 other remarks? You believe we should start with OGC.

17 COMMISSIONER GILINSKY: That having been the subject
18 of the later news. It would be useful to hear a little bit
19 about it and its significance insofar as the general counsel
20 can tell us at this point.

21 CHAIRMAN PALLADINO: Why don't we start with that.

22 MR. PLAINE: There is no doubt that it is signifi-
23 cant if it turns out to be that the indictment results in
24 conviction because then you have an established fact that
25 there was cheating if you will and that obviously does

1 reflect on the integrity or character or whatever you want to
2 talk about in terms of describing the concern we have with a
3 licensee who has been convicted of any violation of the Act.

4 It reflects on his ability to carry out his
5 obligations as a licensee.

6 I might say that so far as the dollar amount is
7 concerned that is insignificant really. I think the real
8 element is guilty or not guilty. In that connection our
9 own investigation which has commenced and has been temporarily
10 stalled because of the fact that the 26 witnesses that we
11 subpoenaed have declined to appear on the ground that they
12 might be in peril as a result of the indictment.

13 They have a better case than they had last time we
14 had to go around a couple of years ago with some of them
15 because at this point there is a Grand Jury that is indicting
16 people.

17 COMMISSIONER ROBERTS: Are they indicting people or
18 the corporate entity?

19 MR. PLAINE: I am talking now in general terms.
20 The corporate entity. But these individuals are concerned
21 that the Grand Jury may not have finished its work and may
22 possibly go after them. In this connection I had an interest-
23 ing conversation yesterday with counsel for them who called
24 me to say that if Justice were in a position at this point
25 to make clear that they had no intention of seeking further

1 indictments against people below a certain grade that
2 includes their 26 people they would be willing to stipulate
3 to a dismissal of the law suit and stipulate that its people
4 will come and testify. But he needs that assurance from
5 Justice that they have no intention at this point of going
6 any further with seeking new indictments.

7 That may be a little premature at this point but
8 it is still a very good suggestion and I intend to follow it
9 up with the Justice Department just as soon as they are
10 willing to talk about it. If they do, it saves everybody
11 a lot of work and we certainly eliminate a lot of delay and
12 we can get on with our own investigation and make our own
13 determination in connection with any civil violation that we
14 think has occurred.

15 COMMISSIONER BERNTHAL: Do I misunderstand an
16 implication that might be there that it seems to be is very
17 troublesome and the whole business of our relationship with
18 the Department of Justice is troublesome, frankly to me.
19 Does that somehow imply that we might be put in the situation
20 of plea bargaining is not the right word but arguing on
21 behalf for our interest in the public health and safety,
22 arguing on behalf of employees that Justice might otherwise
23 consider indicting or pursuing indictments on?

24 MR. PLAINE: If Justice feels that they have cases
25 that they want to bring against these people, they will bring

1 them. They will tell us so or intimate even if they don't
2 want to tell us directly.

3 If on the other hand they feel that they have gone
4 as far as they can with indictments and the best they can get
5 is an indictment against the corporation, I think they might
6 be willing to go along with the suggestion.

7 Someone who is familiar with criminal work knows
8 on the average that when an indictment of this kind is
9 sought, you obtain only an indictment against the corporate
10 body without including individuals that perhaps they didn't
11 have a very strong case against any one individual. That
12 is an inference that you can fairly draw at this point.

13 That also might suggest that maybe they don't have
14 any strong case against any subordinates. If they still feel
15 that there may be further action to be expected of this
16 Grand Jury, we will be stalled a little longer in proceeding
17 with the obtaining of the completion of our own investigation.

18 COMMISSIONER BERNTHAL: Just to close the circle
19 here then, you are simply saying that you intend to inquire
20 of Justice whether they intend to pursue it.

21 MR. PLAINE: I have a call in to the right man, I
22 think, and as soon as he calls me back and lets me know.

23 COMMISSIONER ROBERTS: Just out of curiosity, who
24 is the right man?

25 MR. PLAINE: In this case he happens to be the

1 deputy assistant attorney general of the criminal division.

2 CHAIRMAN PALLADINO: What is his name?

3 MR. PLAINE: Mark Richards.

4 CHAIRMAN PALLADINO: What is the implication
5 that they are returning indictments against MET-ED so far
6 as present management is concerned? The MET-ED president
7 was moved or the vice-president was changed, their station
8 manager. I guess I am trying to get the impact of this
9 indictment on TMI-1 and the indictment is against MET-ED
10 which consisted of a certain management team that is not in
11 place.

12 MR. PLAINE: How far does that go? Do you know?
13 I am not familiar with the management personnel as it was
14 then. I know a little bit more about what it is now.

15 COMMISSIONER GILINSKY: They have changed their
16 arrangement so that MET-ED is no longer responsible for
17 operating the reactor. It is GPU Nuclear. MET-ED is the
18 owner or partial owner.

19 MR. PLAINE: How about the individuals, the
20 Chairman of the Board and the President?

21 COMMISSIONER GILINSKY: I don't know who is on
22 their board but their president was certainly changed. I
23 don't know who their president is. In fact, we have not paid
24 any attention because they are not licensees.

25 MR. MONTGOMERY: For MET-ED, the president

1 previously is no longer involved at all.

2 COMMISSIONER GILINSKY: Who is the president?

3 MR. MONTGOMERY: Previously it was Walter --

4 CHAIRMAN PALLADINO: Who is it now?

5 MR. MONTGOMERY: The president now of MET-ED, I
6 don't know.

7 COMMISSIONER GILINSKY: Who is the Chairman of the
8 Board?

9 MR. MONTGOMERY: I assume that the chairman of the
10 board and the chairman of the overall company GPU.

11 COMMISSIONER GILINSKY: MET-ED has a separate board.

12 MR. MONTGOMERY: Then we have no idea.

13 COMMISSIONER GILINSKY: They all have separate
14 boards.

15 MR. MONTGOMERY: We have no idea who is on their
16 board whether it is the same or different.

17 MR. PLAINE: Is it still a functioning corporation?

18 COMMISSIONER GILINSKY: I believe they own
19 reactors. They are simply not operators of these plants.
20 That is the whole point of forming a GPU Nuclear.

21 CHAIRMAN PALLADINO: Could we clarify the status of
22 MET-ED? What I was getting is that this has implications
23 but I am not sure that the indictment have implication to
24 TMI-1 because the management team is quite different.

25 COMMISSIONER GILINSKY: They will certainly be

1 seen to have implications for TMI-1.

2 CHAIRMAN PALLADINO: I am trying to understand what
3 the impact truly is.

4 COMMISSIONER ASSELSTINE: What is the status if I
5 can follow up on that, Joe, of the transfer. Is there an
6 application for a transfer of the license from MET-ED to GPU?

7 MR. MALSCH: It has already been granted.

8 COMMISSIONER ASSELSTINE: So that is done.

9 MR. MALSCH: Without objection, I think.

10 COMMISSIONER ASSELSTINE: The caption of the
11 proceeding is still MET-ED.

12 MR. PLAINE: The caption is still MET-ED?

13 COMMISSIONER ASSELSTINE: Yes.

14 COMMISSIONER GILINSKY: I wouldn't think so.

15 COMMISSIONER ASSELSTINE: It is.

16 COMMISSIONER GILINSKY: Somebody has forgotten to
17 change the name.

18 COMMISSIONER GILINSKY: It is on the licensee's
19 submission and the staff's submission.

20 COMMISSIONER GILINSKY: That is pretty revealing,
21 I would say.

22 COMMISSIONER ASSELSTINE: It is still in the matter
23 of Metropolitan Edison Company which led me to ask the question
24 about it.

25 COMMISSIONER GILINSKY: It is a dead giveaway.

1 CHAIRMAN PALLADINO: I am confused now. Who has the
2 license?

3 COMMISSIONER GILINSKY: GPU Nuclear.

4 CHAIRMAN PALLADINO: Why is this in the matter of
5 Metropolitan Edison?

6 COMMISSIONER GILINSKY: Maybe it is a Freudian slip.

7 CHAIRMAN PALLADINO: Maybe it is not so Freudian.
8 I don't know. That is curious. I didn't look at that.

9 COMMISSIONER BERNTHAL: I think that is a question
10 of competence not integrity.

11 (Laughter.)

12 COMMISSIONER GILINSKY: This is my personal view
13 but I think it is a reasonable one. I think it is really all
14 one company. I think you don't get very far by trying to
15 disentangle.

16 CHAIRMAN PALLADINO: I wasn't going on that. I
17 was going that the organization now that is ready to operate
18 this plant is different from the one that was in place in
19 operating unit "2".

20 COMMISSIONER GILINSKY: That's right. You can
21 argue that the people involved are different or very
22 different or however you want to characterize it than the
23 ones who were running the plant before. I think just the
24 fact that one indictment names a particular entity in that
25 grouping and we are dealing with another one, I think formally

1 is that in and of itself a big distinction.

2 CHAIRMAN PALLADINO: I wasn't thinking in terms of
3 the technicality of whether it is GPU Nuclear or MET-ED. I
4 question whether we should immediately draw an inference that
5 this is directly related to TMI-1 because it is not clear to
6 me that it is because it concerns a different organization
7 and by different organization I mean a different set of person-
8 nel.

9 COMMISSIONER ASSELSTINE: It is a mix.

10 COMMISSIONER GILINSKY: I would say that it concerns
11 the past of the same grouping of organizations. Now if you
12 think there is an important difference between the past and
13 the present, that is something that we can argue over. I
14 wouldn't make too much of the fact that it is a different
15 organization.

16 CHAIRMAN PALLADINO: By organization I mean
17 including the personnel.

18 COMMISSIONER ROBERTS: You are saying that there
19 are different faces, is that what you are saying?

20 COMMISSIONER GILINSKY: Yes. That comes up in
21 every one of the things that we do.

22 COMMISSIONER ASSELSTINE: Some of them are and some
23 of them aren't.

24 COMMISSIONER GILINSKY: After all, we are conducting
25 an investigation of our own on these issues and that concerns

1 the past too.

2 CHAIRMAN PALLADINO: I think for restart what we are
3 looking at is the organization that is in place now, qualified
4 in terms of competence and integrity to operate this plant.

5 I just throw that out because I think it is a
6 pertinent point.

7 Any more comments on the indictment?

8 MR. PLAINE: I was just thinking though about what
9 Victor was talking about and it reminds me what I was a boy
10 in law school they used to talk about "piercing the corporate
11 veil." You may have to resurrect that concept.

12 COMMISSIONER GILINSKY: I like that.

13 CHAIRMAN PALLADINO: Are there any more questions
14 on the indictment at least for the moment?

15 MR. MALSCH: One just additional thought occurred
16 to me. That is if the utility, MET-ED, goes to trial on the
17 criminal indictment, just thinking out loud here, I would
18 guess that as long as that trial is pending no matter how
19 complete you may think our own investigation department is,
20 there will be the argument that you should wait and not rely
21 upon your own investigation, still more revelations will
22 come to pass during the course of a trial.

23 COMMISSIONER GILINSKY: Let me ask you this. Can
24 the company just pay the \$85,000.00 and be done with it?

25 MR. PLAINE: I suppose they could. I would assume

1 at this juncture that the Justice Department would not give
2 them in effect a plea bargain or a settlement which would say
3 without prejudice or something of that sort. I think they
4 might hesitate to let them off with a plea in which they pay
5 the fine but they stipulate that this is without prejudice
6 to the company. That would kind of white-wash them in a way.

7 COMMISSIONER ROBERTS: Can they plead no lo conten-
8 dre?

9 MR. PLAINE: I suppose they could, sure.

10 COMMISSIONER GILINSKY: It is a test of intelligence.

11 CHAIRMAN PALLADINO: Why is this limited to
12 \$85,000.00? That was a point of curiosity on my part.

13 MR. PLAINE: There are 11 counts and if you look
14 at the statute for each of these there were five counts
15 where the section of the statute fixes \$5,000.00 fine as the
16 maximum penalty, five counts which fix \$10,000.00 as the
17 maximum and one false statement statute where they fix
18 \$10,000.00 as the maximum.

19 CHAIRMAN PALLADINO: So it is stipulated in the law.

20 MR. PLAINE: So you get \$25,000.00, \$50,000.00 and
21 \$10,000.00 or \$85,000.00.

22 CHAIRMAN PALLADINO: Anything more?

23 COMMISSIONER BERNTHAL: I just have another question
24 to focus on the indictments and what we don't know right know
25 about Department of Justice intentions. It just seems to me

1 that a key question is whether they intend to pursue individual
2 indictments as you have already pointed out. If they do not
3 choose to do that, then somehow the Commission gets itself into
4 the situation of trying to judge corporate integrity.

5 I have a completely open mind on that issue but I
6 would like to hear some discussion if we can today on how
7 we would intend to define the bounds for that kind of discus-
8 sion and I must say at a first naive glance it seems to me
9 you largely come up with a yes or no answer. Unless we are
10 prepared to do what the Justice Department is not now
11 prepared to do, dip into the corporate chart of boxes and
12 sort of say that this individual has the requisite integrity
13 and this one does not. If you don't do that you sort of say
14 that the corporation does not have sufficient integrity. Then
15 what do you do?

16 I would like to hear some discussion on that point.

17 COMMISSIONER ROBERTS: I think that was the purpose
18 of the questions that I asked.

19 CHAIRMAN PALLADINO: Maybe we ought to turn to those
20 questions. I found those very interesting.

21 MR. PLAINE: Let me say that taking the very first
22 question, where in the Atomic Energy Act is there a require-
23 ment that management or other personnel or firms to which
24 the NRC issues reactor licenses must be persons found by NRC
25 to be of suitable integrity.

1 We are going to be preparing a paper that elaborates
2 on this very carefully but as a conclusary statement for you
3 at this point we are well satisfied that the statute does
4 require that the management personnel have what the statute
5 refers to as suitable character which is the equivalent in
6 all respects as we see it of integrity and that is borne
7 out by a research of cases that go back as far as 1960 under
8 the Act and which show a series of adjudications in which
9 it has been held that you have in effect a requirement of
10 personal good character or integrity or whatever phrase you
11 want to use.

12 Indeed, I think character is the equivalent of
13 integrity in this sense. With that basis and by the way
14 the fact that we haven't had any rule-making on this is not
15 significant at all because the courts including the Supreme
16 Court has held that you don't have to implement your statute
17 entirely by the rule or regulation. It can be by judicial
18 decision, the inside plus the outside judicial decision.

19 So interpretation done by adjudication, there has
20 been laid upon the statutory language a requirement for a
21 showing of integrity or character which ever phrase you
22 use.

23 COMMISSIONER BERNTHAL: Let me see if I understand
24 what you have said or get you to repeat perhaps what you
25 said. You are saying that the Commission in the past and you

1 can cite cases on the record where the Commission has
2 inquired into the character in the sense of integrity not
3 the character in the sense of financial integrity, for example,
4 or financial capability.

5 MR. PLAINE: That is right. Those are in addition.

6 COMMISSIONER BERNTHAL: Can you give me cases where
7 the Commission has done that, has made those inquiries?

8 MR. PLAINE: We are going to give you a whole
9 dossier of cases on that.

10 COMMISSIONER BERNTHAL: All right. Thank you.

11 MR. PLAINE: So far as finishing up the total
12 question that Commissioner Roberts has asked and it is very
13 useful that he has done this, this will take us a little more
14 time. We don't have it this week and maybe you will have it
15 by the Friday, the 17th, I think. You will have a memorandum
16 dealing in detail with the questions and a summary of cases
17 that back the whole thing up.

18 COMMISSIONER BERNTHAL: Let me just see if I can
19 anticipate a little bit of that dossier. Is it true that the
20 Commission has in specific cases made that consideration in
21 respect to licenses for nuclear power plant operation and is
22 on the record as having done so?

23 MR. PLAINE: I don't recall whether they are all
24 power plant licenses. Many of them are different kinds of
25 licenses.

1 COMMISSIONER BERNTHAL: Not all. I am just saying
2 are there such cases?

3 MR. PLAINE: Yes, we have several on power plants.

4 COMMISSIONER GILINSKY: Many times in licensing a
5 plant we find that there are questions of whether or not we
6 were told the truth about something or another. We check into
7 them and regard it as unacceptable if we weren't.

8 CHAIRMAN PALLADINO: Then we usually take enforce-
9 ment action. Have we gone so far in that enforcement action as
10 to revoke a license?

11 COMMISSIONER GILINSKY: I don't remember our
12 revoking a license but certainly we have regarded it as some-
13 thing that needs to be cleared up before granting a license.

14 MR. PLAINE: I think we have some revocation cases.

15 COMMISSIONER GILINSKY: In fact, it seems to me
16 that these are questions that have been raised recently.

17 CHAIRMAN PALLADINO: Let me ask you this. Are there
18 cases where we had a similar circumstance involving integrity
19 and we waited to resolve it before we granted a license?

20 MR. PLAINE: I don't know if I can give you an
21 "all fours" type of case. There have been frequent revocations
22 in connection with radiography type licenses and things of
23 that sort based on the apparent dishonesty of the operator
24 in dealing with his obligation.

25 COMMISSIONER GILINSKY: I think as far as I know

1 GPU has never questioned our raising the issue of integrity.
2 They have argued that in fact they have satisfied any reasonable
3 standard but they have not argued that it is improper to raise
4 such a question.

5 COMMISSIONER ASSELSTINE: That's right.

6 COMMISSIONER BERNTHAL: Let me get back for a moment
7 to the earlier point then and inquire in specific cases now
8 that you know of on the record, has the Commission ever made
9 a finding or made a consideration of cases where it was
10 unable to identify individuals responsible and instead had to
11 make some overall judgement that this organization somehow
12 lacks the appropriate integrity to be deserving of the
13 license?

14 MR. PLAINE: My vague recollection is that frequently
15 you were dealing with a corporate entity that held the license
16 and the revocation was based on the action of some person in
17 authority who cheated if you will on what he was supposed to be
18 doing and the revocation was based in those cases on that
19 kind of action. You can't help it with a corporation. Some-
20 how you have to find somebody who did something in order to
21 get down to the point where either they did something or they
22 neglected to do something.

23 COMMISSIONER BERNTHAL: But we have just heard that
24 in this case we don't know yet but suppose that you can't find
25 somebody that did something and then you are left knowing that

1 somebody did something.

2 MR. PLAINE: You are back to the GPU case?

3 COMMISSIONER BERNTHAL: Certainly. I actually have
4 asked them the question of whether there is a precedent where
5 you couldn't identify that somebody and therefore the remedy
6 it seems to me is not apparent.

7 The thing that concerns we here is that the Commis-
8 sion gets into this morass of trying somehow to determine
9 organization integrity and then you are left with two
10 choices it seems to me, either you dip into the organization
11 chart and start making your own determinations and wherever
12 that leads you or you finally are left with the decision of
13 throw the whole organization out and bring in an entirely new
14 organization.

15 It seems to me that that is the path we are headed
16 down unless you can identify individuals.

17 COMMISSIONER GILINSKY: The issues we faced in the
18 past have usually been better defined. Questions that relate
19 to integrity usually have to do with whether or not someone
20 told us the truth. We have brought action against companies
21 for failing to tell us the truth. In at least one case we --
22 I think in a number of cases but certainly in one, we spoke
23 to the people in charge until we were satisfied that some
24 change was being made.

25 I think had we gotten a different response -- I

1 was thinking of Diablo Canyon actually which Dick DeYoung,
2 I guess, talked to the Chairman of the Board and came back
3 and reported on it and whether it was all right or not is
4 another matter. In any event, that was the process. We
5 decided as a Commission that the company was headed on a better
6 track and therefore we would go back to where we were.

7 I think had we been say "stiff-armed," we might
8 have concluded differently. I don't think we have any other
9 cases that are quite of the magnitude of this one. It is
10 hard to find a direct precedent.

11 COMMISSIONER BERNTHAL: I don't think the magnitude
12 is even the question. It is the nature of the case. We don't
13 know yet but we could be faced with the situation, that
14 apparently you might be unable to identify the individuals
15 responsible and yet there is the pervasive belief that the
16 corporate entity somehow lacks integrity.

17 COMMISSIONER GILINSKY: I guess I don't myself feel
18 in the position or I can't identify individuals but it is
19 really an alternative to taking action against individuals
20 that one deals with the company. You say the entity as a whole
21 has to meet some kind of a standard. One of the things you
22 expect them to do is to solve their problems, their own
23 problems, in house, et cetera. You can differ on whether they
24 have done it or they haven't done it but I think everyone
25 agrees that they really need to do that.

1 CHAIRMAN PALLADINO: In this connection GPU has
2 made a proposal of an organization that they think is both
3 competent and has the integrity that we seek. We never
4 responded to them. Perhaps what we ought to do is hear their
5 update on that and then say yes or no.

6 If it is yes, then the management integrity issue
7 and competence issue are solved. If we say no, then we ought
8 to be able to say what it is in that particular proposal that
9 we don't like. I think that will do two things. It will get
10 us to the point of recognizing where we want to go and can give
11 some guidance.

12 On of the things that I would propose for Thursday's
13 meeting and the only thing that deters me from proposing it
14 a little bit is the fact that it is only two days but I would
15 propose that we ask GPU to come on Thursday, review their
16 present organizational proposal which may be the June 10
17 proposal or it may be some additional things and then we might
18 get written comments from the other parties and then decide
19 yes or no and give reasons if it is no or give some guidance.

20 I think that could be a very effective way to go.
21 So far as only having two days, they did address us in the
22 June 10 meeting and they do have this long report that they
23 just submitted to us on the 27th, so I am not sure it is all
24 that big a chore for them to prepare. I would think the view
25 that it ought to be Mr. Kuhns that comes to do it but I am

1 more flexible than I imply there.

2 I think that is a very salutary approach. We can
3 ask questions and get whatever input we need to eventually
4 reach a decision yes or no on it.

5 I also have another comment and I will try it and
6 see how much trouble I get in with it. I was looking. Where
7 are our real questions of management integrity? I think I
8 can list them all on one hand. I don't know whether to start
9 at the top or the bottom but Mr. Kuhns, Mr. Dieckamp, Mr.
10 Arnold, Mr. Ross and then any other that might come out of the
11 woodwork at the lower levels by some of our investigations.

12 If I go in the reverse order and say well, is it
13 necessary and sufficient to do something about those people
14 at the lower level, I would say we will find that out when
15 the investigations are over and we take appropriate enforcement
16 action.

17 With regard to Mr. Ross, maybe I would put him in
18 the same category. Then if I go up and ask if it is a
19 requirement in the minds of these commissioners that Mr.
20 Arnold has to go, is that necessary, is that sufficient and
21 what are the reasons for it.

22 I read a lot of the allegations. I don't find
23 direct allegations affecting Arnold although there are implied
24 allegations. There are implications in the allegations that
25 might have affect Arnold. I also think he is one of the keys.

1 So I say here that all of the investigations so far have not
2 pinned anything on him and even the allegations don't go that
3 strongly directly to him. I don't want to indicate where I
4 come down on him but I think we ought to discuss it.

5 My inclination would be at this present time, I
6 don't think it is necessary to get rid of Arnold.

7 I go to Dieckamp, and he is a little farther along
8 and I don't think it is necessary to get rid of him at this
9 time. Kuhns, I think, is above all of this -- at least so far.
10 I say we ought to go through that kind of questioning and see
11 where the Commission stands on those particular individuals.
12 I think that is where our integrity questions arise.

13 All our investigations are aimed at saying were
14 these people involved in some way or another.

15 COMMISSIONER GILINSKY: Suppose you just put aside
16 for the moment the strict legalities of all of this, just on
17 a common sense level.

18 CHAIRMAN PALLADINO: I wasn't thinking legal. I
19 was trying to find out how the Commission sits on these various
20 people.

21 COMMISSIONER GILINSKY: Suppose you were sitting on
22 the board. There have been just a lot of problems with this
23 place. The people at the top have to take responsibility.
24 You have to assume that they are the ones who set the direction
25 for this ship. I think it is proper that we hold them

1 responsible. I frankly am amazed they are still there. I am
2 amazed they haven't just stepped aside out of common decency
3 if nothing else. It has left us to deal with the situation.
4 We can't go around checking down every last guy in the 843
5 members of the staff or however many they have.

6 It seems to be that to straighten things out, you
7 have to put people in at the top whom you have confidence in
8 and count on them to straighten things out and keep things
9 running right.

10 CHAIRMAN PALLADINO: They did.

11 COMMISSIONER GILINSKY: They are right there, the
12 same people.

13 CHAIRMAN PALLADINO: That is why I stuck to those
14 people because they did change the president of MET-ED. They
15 did change the vice-president. They did change the station
16 manager. Now whether or not those the right changes to have
17 made, I don't know.

18 COMMISSIONER GILINSKY: Joe, I can rationalize it
19 on the other side too. Arguments can be made in all directions
20 here. The fact of the matter is they are the people who set
21 the course before. In fact, they ran not only TMI but Oyster
22 Creek into the ground because they were all building forked
23 river or God knows what they were doing, that was where all
24 the effort was going.

25 The result was that we had this accident and I must

1 say the way they dealt with the situation afterwards left me
2 with a decided lack of confidence in them. There are just so
3 many different things in so many different areas that I think
4 that organization needs new direction. If I were on the board,
5 I guess I would call for it. If I were loaning them money, I
6 would demand it. Being here and having responsibility for
7 public health and safety, I think it is necessary.

8 CHAIRMAN PALLADINO: Then if I understand you --

9 COMMISSIONER GILINSKY: There are more specific
10 concerns which I can tell you in a more legal way of why I
11 think one or another of these is responsible for setting the
12 course or not dealing with one or another of these problems.

13 That seems to be to be the situation.

14 CHAIRMAN PALLADINO: You are saying that all of these
15 people ought to go.

16 COMMISSIONER GILINSKY: I will tell you, I suggested
17 an alternative to having them go which is just to turn them
18 into a kind of MET-ED and just say take them out of a line
19 of operating this facility at all and just say let's have
20 somebody completely different who would be at the head of the
21 operation, not somebody they appoint.

22 CHAIRMAN PALLADINO: Not somebody they appoint?

23 COMMISSIONER GILINSKY: Somebody they hire but in
24 a different relationship, not someone like Bob Arnold who I
25 regard as sort of Kuhns and Dieckamp's sort of lieutenant.

1 CHAIRMAN PALLADINO: I was just trying to find out
2 how Commissioners feel because we get down to where these, I
3 think, we are hung up.

4 COMMISSIONER GILINSKY: The question is should we be
5 doing this, are we going beyond our authority and so on. If
6 we are not going to do it, no one else is. I think it is
7 within the bounds of our authority and if it isn't, I think we
8 will hear about it.

9 COMMISSIONER BERNTHAL: Lightening may strike for
10 me to argue that we should worry about legalities perhaps
11 more than common sense here and I probably ran out of rope
12 on my legal expertise five minutes before the meeting started
13 but I must say that I just am very concerned that if you start
14 pinpointing names of individuals that in the Commission's
15 judgment are of insufficient character to run this plant,
16 I would like to get some legal advice and unfortunately I
17 think the only member of the Commission with legal training has
18 not spoken very much yet but I would like to hear some opin-
19 ions on where that leads you.

20 If the Justice Department, for example, has
21 determined that it does not find indictable offenses in the
22 cases of individuals, then where does that leave us legally?

23 COMMISSIONER GILINSKY: We have loads of room even
24 if they don't convict anyone because the standards for our
25 decisions is a rather weaker one than the standard for their

1 decisions because they can deprive someone of his liberty and
2 we can't do that. We can just liberate them from GPU.

3 COMMISSIONER BERNTHAL: Don't we have to I should
4 think in any case come forward with some Bill of Particulars
5 if you will that say these are the reasons.

6 COMMISSIONER GILINSKY: Let's take another area.
7 Let's get away from questions of moral character and so on.
8 Let's say you are talking about safety matters. Suppose you
9 had a bunch of incidents, valves have been misaligned and so
10 on and this happens over and over again and you just don't have
11 confidence in whether this fellow really has a grip on things
12 and he is guy in charge and there is no indictable offense.
13 There is nothing you can pin on him. There is just not the
14 discipline in the plant that this agency thinks there ought
15 to be.

16 We have the authority to say this place is just not
17 run right. We don't usually say that this manager has to
18 go but we certainly have leaned on companies to move people
19 and if it comes to it, I think we can say that that person has
20 to go.

1B 21 COMMISSIONER ASSELSTINE: What we can say is as
22 long as that group of individuals has responsibility for
23 operating or running the plant, that plant in our view does
24 not meet the requisite level of safety that we think permits
25 it to operate. The emphasis is on the plant rather than

1 individuals, I think.

2 CHAIRMAN PALLADINO: That is exactly what led me to
3 say there may be percepts about these people but in the end
4 we do have a proposal on an organization that they intend to
5 use if they get authority to start up this plant. It may have
6 been modified since June 10. We ought to hear it. But then
7 I think we owe them a yes or a no. If it is yes, the questions
8 are answered. If no, then we ought to indicate what it is
9 that ought to be done or what we don't like about their
10 particular proposal.

11 COMMISSIONER BERNTHAL: I agree with that. It is
12 just that normally I would be the first one to leap at the
13 opportunity to just be practical and take this thing on an ad
14 hoc basis and consider the case of GPU and the Three Mile
15 Island facility.

16 I really wonder where we are headed and I wonder if
17 at least I and maybe the other Commissioners are very
18 comfortable with the legal and policy foundation for where we
19 are headed, but I feel that I need some better understanding
20 if not of legalities then at least of the policy that we
21 intend to follow if we pursue this thing in the direction that
22 it seems to me it will going.

23 That direction may very well be to put the finger on
24 three or four or however many of senior management individuals
25 and say that these guys go before we allow the plant to run.

1 If that is the way it goes and we have a policy
2 foundation established, a legal foundation, so be it. I
3 don't have a problem with that necessarily.

4 COMMISSIONER GILINSKY: I don't think it is a matter
5 of saying we just have ~~some vague feeling that things~~ are not
6 right.

7 COMMISSIONER BERNTHAL: I don't disagree with the
8 whole issue necessarily.

9 COMMISSIONER GILINSKY: It is a whole chain of
10 events. Now you may feel one or another is more important or
11 less important but let's just take one thing at random, there
12 is the matter of operator cheating. The responsibility of the
13 top people is to have dealt with that. If you think that
14 they have disposed of it properly then there is nothing
15 more that attaches to the top. If you think they haven't,
16 then there is a problem. Whether it is precisely that a
17 certain three individuals or another group or whatever, I
18 personally feel that there has to be a substantial change in
19 the direction of that company.

20 COMMISSIONER BERNTHAL: I don't necessarily disagree
21 with that proposition. You are essentially advancing the
22 proposition again or the proposal that you raise and it goes
23 back, I think, to a comment that I made early on here in this
24 meeting that you may have reached the point where you say we
25 don't care how you do it, this organization is not qualified to

1 run the plant. Give us a different organization. That is
2 different from putting the finger on three or four people
3 it seems to me.

4 CHAIRMAN PALLADINO: That is why in going down this
5 list of three or four people, I said look, we have a proposal,
6 is it good enough, do we accept it or don't we. Incidentally,
7 with regard to the cheating, it was adjudicated. I think the
8 GPU proposal is not to have any of those people operate the
9 plant.

10 COMMISSIONER GILINSKY: Incidentally, you are
11 uncomfortable with fingering guys, but in fact we have been
12 fingering people all along. It is just that we have been
13 fingering small-fries. Everyone is comfortable with fingering
14 small-fries, guys with blue collars but when you start getting
15 up a little higher, you say, "Hey, wait a minute."

16 COMMISSIONER ASSELSTINE: I think that has been an
17 element of this proceeding. You missed a lot of the earlier
18 discussions since it was before your time on the cheating
19 incidents. If you look at that, it is really repleat with
20 looking at the conduct of individuals and of the organization
21 and making judgments about both elements.

22 CHAIRMAN PALLADINO: But it always comes down to
23 the several individuals that I just mentioned.

24 COMMISSIONER ASSELSTINE: Except for the fact that
25 now you have a lot more that are implicated with all of the

1 matters that are under investigation.

2 CHAIRMAN PALLADINO: Which others are implicated?

3 COMMISSIONER ASSELSTINE: You haven't mentioned
4 TMI-2 operators or TMI-1 operators on leak rate testing.

5 CHAIRMAN PALLADINO: TMI-2 operators are not operat-
6 ing this plant.

7 COMMISSIONER ASSELSTINE: Some of them have
8 responsibilities.

9 CHAIRMAN PALLADINO: One had responsibility.

10 COMMISSIONER ASSELSTINE: One had responsibility in
11 the waste area and one of them has training responsibilities,
12 I think.

13 CHAIRMAN PALLADINO: They are not operators.

14 COMMISSIONER ASSELSTINE: But they are responsible
15 for safety having to do with this plant.

16 CHAIRMAN PALLADINO: I said there may be some
17 others down but with regard to the TMI-1 leak rate, some small
18 number have been placed in question. I forgot whether it is
19 30 or 33 out of 1,200. If there was a grand plan to falsify
20 the leak rate, I would expect the number to come out
21 proportionately more on the falsification. It is not clear to
22 me that any of the implications attach to the top level
23 management at this point.

24 COMMISSIONER GELINSKY: I just want to make one more
25 point about this business of fingering people. I really

1 suggested two possibilities. One is if you are going to stay
2 with this organization and get new leadership; otherwise, get
3 a new organization.

4 COMMISSIONER BERNTHAL: Those are the two options
5 and I would not -- I guess what I am asking and perhaps
6 reflecting your earlier memo, Vic, is that we not lose sight
7 of those two very different things it seems to me. You
8 can't jump from one to the other. Either you are going to
9 get into business of dealing with the very top management in
10 the organization and for some list of particulars saying that
11 these individuals deserve to be thrown out because, because,
12 because or you make a broad and general statement that this
13 organization clearly is not capable of running that plant and
14 therefore find yourselves a new organization.

15 COMMISSIONER GILINSKY: The way that came about and
16 I suggested rightly or wrongly and there was a lot of
17 unhappiness about it that they ought to get new leadership.
18 It then seemed to me that that wasn't happening.

19 On the other hand it didn't look to me like GPU was
20 going to prevail either. We seem to be kind of at an impasse.
21 So I said, "Well, here is another approach."

22 COMMISSIONER ASSELSTINE: It also seems to me that
23 there are really two issues, the one is the longer term issue
24 which is if GPU intends to stay as the long term owner and
25 manager and licensee of this plant then what judgments do we

1 reach about that organization and members of that organization
2 from the senior people right on down to some of the lower
3 level people that we have talked about in terms of their
4 capability to run the plant and our ability to rely on them.

5 The other question is the one that the GPU proposal
6 and, I believe, Victor's memo puts before us and that is,
7 given the time that that is probably going to take, is there
8 another alternative, something that would a decision earlier
9 on before all these matters are finally resolved.

10 I happen to think that we probably ought not to make
11 the longer term judgments yet. There are still some things
12 that have to be looked at and I think the jury is still out on
13 some of that. I think personally they would be better off
14 if they made some decisions themselves. I don't think we can
15 force those on them at this time.

16 CHAIRMAN PALLADINO: But they have made some decisions
17 and they have proposed them to us.

18 COMMISSIONER ASSELSTINE: On the interim approach.
19 That's right.

20 CHAIRMAN PALLADINO: I don't know what interim is
21 except that presumably it is the period in which they start up.
22 If we find that that is acceptable under certain conditions
23 we can highlight the conditions. If it is unacceptable
24 because of certain reasons, we can outline those.

25 They may have made some changes since that proposal.

1 We ought to hear what they have.

2 COMMISSIONER ASSELSTINE: It could be but isn't
3 one of the proposals the one that was included in their
4 October package.

5 CHAIRMAN PALLADINO: I think we ought to hear them.
6 We ought to say yes or no and under what conditions and for
7 what reasons and that would be the best guidance we could give
8 them.

9 COMMISSIONER ASSELSTINE: Yes.

10 CHAIRMAN PALLADINO: Otherwise, we are going to be
11 in a position of our having to propose something. At least if
12 they propose it, we can get some feedback on it. It reminds
13 me of the fellow in the Army that was going around picking up
14 paper saying, "No, that's not it. No, that's not it. No,
15 that's not it." Everybody thought he was nuts so he got a
16 Section (3) discharge. "Ah," he says, "that's it."

17 (Laughter.)

18 CHAIRMAN PALLADINO: Maybe we will follow the same
19 procedure.

20 COMMISSIONER ASSELSTINE: I guess my reaction to the
21 GPU proposal at least as it has been constituted so far is
22 that I don't think it goes far enough and I guess I would be
23 uncomfortable with allowing the operation of that plant with
24 anyone having any responsibility for TMI-1 that is potentially
25 implicated by any of the investigations that we have put

1 underway. Staff has taken that view that they can't reach a
2 judgment on the integrity of this organization until those
3 investigations are completed and I don't see how we can say
4 even though those matters are under investigation, we are
5 comfortable with those people being involved with the plant.

6 I would just go right down the list and say if
7 you want to propose an alternative, you exclude everyone
8 who is potentially implicated by any of the matters under
9 investigation.

10 CHAIRMAN PALLADINO: That is a never ending
11 process because allegations continue on ad infinitum.

12 COMMISSIONER ROBERTS: And they will.

13 CHAIRMAN PALLADINO: And they probably will.

14 COMMISSIONER BERNTHAL: As a practical matter
15 isn't that the whole organization?

16 COMMISSIONER ASSELSTINE: I think as a practical
17 matter, it is.

18 COMMISSIONER BERNTHAL: What you are really saying
19 then and it is a possibility to get rid of the plant and let
20 somebody else run it.

21 COMMISSIONER ASSELSTINE: Or if they want to run it
22 in the interim, get someone else to run it for them in the
23 interim. If they want to continue on the process of
24 ultimately validating their organization, I don't see anything
25 wrong with doing that and we can continue to do that.

1 But as a practical matter, I think you are right.
2 All of the matters that are now under investigation sweep
3 in so many of their people, that there are not enough people
4 left to run the plant.

5 CHAIRMAN PALLADINO: They point out in their June 10
6 letter that the organization down through two levels of manage-
7 ment below the GPU Nuclear Vice-President encompassing 86
8 such positions contain 16 individuals that were with MET-ED
9 prior to the accident. Of the balance, 30 are new employees
10 since the accident and the remaining 40 come from other
11 components of the GPU system which says that the fraction
12 is smaller than one might first think.

13 COMMISSIONER ASSELSTINE: It could be.

14 CHAIRMAN PALLADINO: However, I think before one
15 accepts such a premise, we ought to go through and see
16 whether the things that we have under investigation have a
17 high likelihood of bearing on TMI-1. That, I think, is one
18 of the variations on option one that OPE had in its paper
19 and maybe we ought to go through those. I don't want to
20 forestall other points.

21 COMMISSIONER ASSELSTINE: I think you are right
22 that there is some of that that we could do. I think we
23 could probably screen out a few things that are probably
24 not going to have a bearing on the restart. The "mystery
25 man" was one that was mentioned. I suspect that is probably

1 right.

2 CHAIRMAN PALLADINO: I am also recalling another
3 point under a different heading that I think is some
4 increased presence of the NRC during a period time would be
5 in order regardless of what else we might do.

6 COMMISSIONER ROBERTS: INPO?

7 CHAIRMAN PALLADINO: I wasn't thinking INPO. I was
8 thinking of NRC. I did ask Dennis Wilkinson whether this
9 approach would be something INPO might be interested in and
10 he said we sure wouldn't like to do it.

11 COMMISSIONER ROBERTS: Would not like to do it?

12 CHAIRMAN PALLADINO: That was his first reaction.
13 But he says that he would not close it out as a possibility.

14 COMMISSIONER BERNTHAL: If INPO doesn't want to do
15 that --

16 CHAIRMAN PALLADINO: That was his first reaction.
17 Remember, I was getting a gut feeling from him. He came
18 back and said that if it was important to do, they would give
19 serious consideration to doing it.

20 COMMISSIONER BERNTHAL: I was just saying that if it
21 turned out that we felt that that was desirable and INPO
22 didn't want to do it, that leaves us. How close do you get
23 then to the NRC effectively running or taking over the
24 nuclear power plant?

25 COMMISSIONER ROBERTS: Too close as OPE points out.

1 CHAIRMAN PALLADINO: I agree. There are problems.
2 We do have a resident inspector. I think there is only one,
3 maybe one per plant. It is not inconceivable that we could
4 have one per shift and that gives greater presence. There are
5 activities that involve maintenance that we want to oversee or
6 just observe. I would not want to take the responsibility
7 away from them for operating the plant effectively.

8 The only thing would be if our question is integrity
9 if they observe that they haven't reported something that
10 ought to be reported, they remind them that they ought to do
11 it and if they don't do it, then he reports to us.

12 COMMISSIONER ASSELSTINE: I think the increased
13 inspection presence if this plant gets operating is a good
14 idea. I raised that issue earlier.

15 CHAIRMAN PALLADINO: You proposed that earlier, yes.

16 COMMISSIONER ASSELSTINE: I think there are some
17 reasons why that is a good idea but I don't think you can
18 substitute for having confidence in the organization. Our
19 people aren't operators and I think there are just limits
20 to what they can accomplish.

21 COMMISSIONER GILINSKY: Let me ask you, Joe. Are
22 you comfortable turning a plant over to GPU as it is presently
23 constituted?

24 CHAIRMAN PALLADINO: That is why I wanted to hear
25 more from them and make that determination after I hear from

1 them. Also, after we hear from them I would like to see
2 what input I get from the parties and then make that decision.
3

4 I am not as uncomfortable as you appear to be,
5 Vic.

6 COMMISSIONER GILINSKY: That still leaves a lot of
7 room.

8 (Laughter.)

9 COMMISSIONER ROBERTS: It certainly does indeed.

10 CHAIRMAN PALLADINO: Unless you have other points
11 you want to bring up, I was going to propose that we go
12 through the option paper by OPE. Any further comments before
13 we move on?

14 (No response.)

15 CHAIRMAN PALLADINO: I would like to take a two-
16 minute break before we do that.

17 (Whereupon, a short recess was held.)
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1 CHAIRMAN PALLADINO: Well, I wonder if we could
2 reconvene. The word I got from Commissioner Roberts, we
3 should start without him. He is involved on a call.

4 Jack, would you like to proceed?

5 MR. ZERBE: Okay. Of course, a lot of discussion
6 has already gone on here that talked to some of the items
7 in the paper, but I would want to call your attention to
8 specific items.

9 Initially, this paper was generated to respond
10 to the October 7th Order to give the Commission something to
11 discuss relative to options plus the other papers that were
12 written, other memos that were written by Commissioners
13 Gilinsky and Asselstine.

14 We came up with these options to try to cover as
15 many of the possibilities as we saw and all the options
16 came under the assumption that the management question was
17 one of integrity that was left. It wasn't one of
18 competence. The staff has never withdrawn their position
19 on management competence, and in light of the various
20 things that GPU has done to improve the competence of the
21 organization through added staffing, training, procedures
22 and organizational structure.

23 COMMISSIONER ASSELSTINE: Although I gather the
24 board notification that we received yesterday cast at least
25 a little cloud on that.

1 MR. ZERBE: There was some new issue that did come
2 down yesterday and we haven't had a chance to review it.

3 CHAIRMAN PALLADINO: Which issue is that?

4 COMMISSIONER ASSELSTINE: We received a board
5 notification yesterday that indicated that recent inspections
6 indicated a number of problems for TMI-1.

7 MR. ZERBE: Separation of the plants, as I recall,
8 was one.

9 COMMISSIONER ASSELSTINE: Valve mispositions,
10 surveillances.

11 CHAIRMAN PALLADINO: We seem to get them late.

12 COMMISSIONER ASSELSTINE: Yes. It came in late
13 yesterday afternoon.

14 CHAIRMAN PALLADINO: Do we have that?

15 COMMISSIONER ASSELSTINE: And the staff said that
16 they are looking at those to see if they have any
17 implications for their previous conclusion on competence,
18 as opposed to integrity.

19 CHAIRMAN PALLADINO: They also had one on RHR and
20 BETA.

21 COMMISSIONER ASSELSTINE: That is right.

22 CHAIRMAN PALLADINO: They said they didn't find
23 anything substantive. That doesn't necessarily alleviate
24 the integrity problem.

25 MR. ZERBE: Some of the options, though, would be

1 based on the fact that we feel you would want to feel that
2 the plant could be technically operated in a competent
3 manner or you wouldn't want to proceed with them. So, that
4 was the basis of one of our -- that was behind some of our
5 considerations.

6 We came up with the three options, then, that
7 appeared to us to encompass all the areas that we had
8 considered or heard about from others.

9 The Option 1 being the present approach or
10 alternates to the present approach where one would consider
11 such things as you have already discussed, possibly
12 eliminating some of the investigations as being necessary
13 prior to an immediate effectiveness restart decision,

14 Possibly as some of the investigation were
15 completed you could maybe separate out some of the staff,
16 operating staff until further completion, and make a partial
17 substitution.

18 Then Option 2 ---

19 CHAIRMAN PALLADINO: Before you leave that, I
20 would propose after you have highlighted the options we go
21 back to look whether there is agreement on certain ---

22 MR. ZERBE: Yes. I was just going to summarize.

23 CHAIRMAN PALLADINO: I appreciate that. I am just
24 saying, after you are through, I would like to come back and
25 take a look at the items we have listed here and see the

1 extent to which we have agreement that they do or do not
2 relate to TMI-1.

3 MR. ZERBE: Yes. The Option 2 would be to
4 immediately try to separate out personnel and presumably
5 ~~move those aside that had some question about them through~~
6 some of the investigations. But as we point out in the
7 memo, when you do that -- and it has been pointed out here
8 earlier -- that when you do that you get to a point where
9 you essentially have to bring in a surrogate operating
10 staff because potentially so many could be involved with the
11 various investigations that are currently on the books.

12 The third option was the one you have also
13 discussed of bringing in additional inspectors. And again,
14 that one is one that would draw heavily on your feeling
15 that the TMI-1 organization is competent to run the plant
16 and all these inspectors would be doing would be ensuring
17 that things were done in a manner so that integrity issues
18 wouldn't affect the health and safety of the public from
19 operation of that plant. And the thought here being that
20 their competence would rule their ability to operate that
21 plant on any emergency type operation, and the integrity
22 items would only come in over a long period of time, how
23 they might potentially, if they were there, influence and
24 affect the health and safety of the public.

25 And if you have added inspectors to ensure that

1 they were, in fact, following the procedures, the regulations
2 and what have you, you could catch any possibilities that
3 might creep in that would be associated with any integrity
4 question and squelch them before they came to the point where
5 they could affect the health and safety.

6 So, we thought that -- in looking, the whole
7 concept was to try to find some way of potentially addressing
8 the restart decision earlier than what would be available if
9 you went down the road that we are currently going down of
10 all the investigations, then the possible board reviews and
11 staff reviews that would take place.

12 And this was one that we thought possibly could
13 come up with potentially the shortest way to coming to that
14 restart decision.

15 Now, the problem then, though, is that all of these
16 approaches have downsides, and they are identified in there.

17 In the last case, of course, if it is NRC there,
18 one would believe if there is any little bit of misoperation
19 maybe NRC could get blamed if they were there in the
20 inspection capacity. So, we had that option of having an
21 outside outfit like the INPO.

22 COMMISSIONER GILINSKY: INPO to do what?

23 MR. ZERBE: The over inspection, just like we would
24 be doing. It would not be to operate the plant. It would just
25 be to do that inspection function that would help ensure that

1 there were no integrity questions that would creep into the
2 operation.

3 COMMISSIONER GILINSKY: What does that mean, no
4 integrity questions creep into the operation?

5 MR. ZERBE: Well, I am talking about maybe
6 slackening off in attending classes, cheating on leak rates,
7 the sorts of things that are under investigation now that
8 presumably took place.

9 COMMISSIONER GILINSKY: You mean violate the rules?

10 MR. ZERBE: Yes. They would have nothing to do
11 with operation. That would be the TMI, the current GPU
12 staff would do all of the operations of that plant. There
13 would be no question about who was operating the plant. It
14 would only be an insurance policy against somebody starting
15 to cheat, falsify records, or what have you, that would be
16 things that would take place presumably over a longer period
17 of time. And so, if you could squelch them early on, they
18 wouldn't add up to any health and safety problem.

19 COMMISSIONER BERNTHAL: It sounds to me like a
20 mini version of "big brother is watching", unless INPO is
21 doing it.

22 MR. ZERBE: Well, that is true, that is potentially
23 a downside. But on the other hand, we were looking at how
24 the devil do you get that plant operating. You have got a
25 plant sitting there ready to go and how do you get it

1 operating safely from a health and safety of the public
2 point of view while all these investigations continue and
3 ultimately all the people that are at fault get penalized.

4 COMMISSIONER BERNTHAL: I don't want to be
5 facetious. So you find out the operator cheats at poker or
6 something more serious than that perhaps, what do you do?

7 MR. ZERBE: Well, that gets handled in the normal
8 course by the staff in the way they normally dish out
9 penalties for people who are found to be doing a wrongdoing.
10 I don't think any of these would necessarily reach the level
11 of shutting down the plant, but that would remain to be
12 seen, you know.

13 I mean, whoever was found to be guilty of the
14 allegations, if they were found to be guilty, they would be
15 presumably dealt with appropriately.

16 COMMISSIONER BERNTHAL: So, we would really have a
17 permanent OIA task force, more or less.

18 MR. ZERBE: Well, you are going to have that -- if
19 the investigations go on now, you are going to have to deal
20 with that in the end anyway, right?

21 CHAIRMAN PALLADINO: But let me make an
22 observation. We do have a resident inspector there and I
23 would say we have already decided that we are going to do
24 some oversight. Now the question is how far.

25 MR. ZERBE: As a matter of fact ---

1 CHAIRMAN PALLADINO: Let me finish the paragraph.

2 MR. ZERBE: Excuse me.

3 CHAIRMAN PALLADINO: I could see certainly going to
4 at least one every shift. Certainly the off-shifts are
5 where you tend to have problems anyhow.

6 I didn't necessarily buy everything that you
7 suggest here, but I would be willing to discuss how far we
8 ought to go.

9 But additional presence is not out of order. That
10 is what they do when they build airplanes. They have lots
11 of inspectors that are representatives of the FAA.

12 COMMISSIONER BERNTHAL: Well, I guess I was maybe
13 erroneously assuming -- it sounded like you were talking
14 about something bigger than that. If it is a matter of a
15 resident inspector there constantly, that is a little
16 different.

17 CHAIRMAN PALLADINO: Or maybe two resident
18 inspectors.

19 MR. ZERBE: We gave a suggestion maybe on the
20 conservative side of what we had in mind. That would have
21 to be fleshed out by the staff.

22 CHAIRMAN PALLADINO: But you could have two per
23 shift so that they have greater flexibility. But we do have
24 at least one now. So, we have established the fact that we
25 have them. Now the question is how far more do we want to go.

1 MR. ZERBE: This idea of having inspectors in to
2 watch this type of situation, the integrity type situation ---

3 COMMISSIONER BERNTHAL: That is where I really am
4 getting hung up.

5 MR. ZERBE: Yes. Well, we found a precedent for
6 that in one of the documents that OGC has been reviewing
7 relative to Commissioner Roberts' thing. There was a -- and
8 I can quote you the numbers. It was 6 NRC 1227-1251, the
9 North Anna Case, which took place, I think, prior to the
10 use of inspectors, resident inspectors in plants. And the
11 board that was reviewing that was suggesting that they, as
12 I recall, speed up that situation of getting those resident
13 inspectors assigned because it would assist in finding any
14 of these integrity type -- they didn't call them integrity --
15 character, maybe, or something like that -- character type
16 items and prevent them from becoming significant and
17 important to the health and safety of the public.

18 So, in other words, that was a situation not
19 unlike what we are talking about but we are talking about,
20 of course, a little bit more extensive than what they were
21 suggesting there. They were talking about, I think, one
22 inspector or so at the plant.

23 COMMISSIONER BERNTHAL: Let me just ask one more
24 question on this issue. How much of the time of our
25 resident inspectors, a percentage, would you guess is

1 currently spent on looking for cheating? How much of their
2 charge is that kind of activity?

3 MR. ZERBE: I wouldn't say it was very high.

4 COMMISSIONER BERNTHAL: I mean, I assume there is
5 the presumption that these guys are all good men and women
6 and true and that they are trying their best, whereas here
7 you have just the opposite presumption.

8 CHAIRMAN PALLADINO: No, I didn't make the
9 opposite presumption. If you are talking about a few
10 people, you have to have the presumption that these people
11 by and large are trying to do their job effectively.

12 COMMISSIONER BERNTHAL: But, I mean, Jack is
13 sitting there telling us, essentially, their job is to sniff
14 out integrity issues, to watch for them. Not to sniff them
15 out. Watch for them.

16 MR. ZERBE: We were trying to establish what would
17 it take to have you folks and the public happy with
18 operating that plant, you know, when there is a lot of
19 allegations associated with some of the people in the
20 plant, and we felt that this was a way that you might
21 consider.

22 COMMISSIONER BERNTHAL: Yes. I am not attacking
23 your word, Jack.

24 MR. ZERBE: I know, but you might consider it as
25 being heavy enough in oversight of what they were doing ---

1 COMMISSIONER GILINSKY: It isn't just a matter of
2 allegations about particular individuals. It is that there
3 has been a climate in this organization that, you know, has
4 gone easy on people who have done wrong.

5 MR. ZERBE: Well, I think that very likely might
6 have been in the past, but I am not so sure that is the
7 climate that exists today in that organization. I mean, I
8 think they are pretty -- I would presume that they are
9 pretty sensitive to this whole area and, boy, I would
10 imagine they would be bending over backwards to make sure ---

11 COMMISSIONER GILINSKY: Well, you would imagine.
12 You have looked at it? Actually, I wasn't even going to
13 argue the point. I am just surprised that you come back so
14 vehemently.

15 MR. ZERBE: No. I am just stating that I feel
16 that that would be the case.

17 COMMISSIONER GILINSKY: That would be the case or
18 is the case?

19 MR. ZERBE: I would feel that they would be --
20 you know, if there was laxness in the past that might have ---

21 COMMISSIONER GILINSKY: Listen, we used to have
22 a chairman here who when asked if the reactors were safe
23 would say, well, if they weren't safe we would have shut
24 them down, wouldn't we have.

25 (Laughter.)

1 That is the way he responded. I wasn't even going
2 to argue the point, but certainly I think we agree in the
3 past that that was the case.

4 MR. ZERBE: Yes, no question.

5 COMMISSIONER GILINSKY: And the kind of thing that
6 concerns me above and beyond whether particular people have
7 done wrong is that the guys in charge have gone easy in the
8 past on wrongdoers and there is just -- I am concerned that
9 the people who might go astray are going to feel that they
10 will be taken care of as guys in the past were and not a
11 whole lot is going to happen to them unless the NRC catches
12 them dead to rights.

13 You know, the guys at the top set the style, just
14 like in any organization, and I don't think that we can
15 cover every last one of these characters.

16 I thought Fred was saying something a little
17 differently. I got the impression from you that you are
18 devising this scheme to make sure that a bunch of cheaters
19 and falsifiers can operate this plant safely, you know. You
20 are going to have the controls that still make it possible
21 to protect the public health and safety, at least that is
22 the way it came across. I am sure you didn't mean that.

23 MR. ZERBE: We certainly believe, would assume
24 that the large number of them -- I mean, the majority of
25 the people are not that way. The current people, the majority

1 aren't the ones that are in contention on any of these
2 issues.

3 COMMISSIONER GILINSKY: But, you know, time after
4 time they did not deal with people who had acted improperly,
5 in some cases wrongly, until events just forced them to act.

6 CHAIRMAN PALLADINO: That was a different
7 management team.

8 COMMISSIONER GILINSKY: The management team of
9 Kuhns, Dieckamp, those are the guys that run the place. I
10 mean, you are kidding yourself if you think anybody else is
11 running the place. They call the shots.

12 CHAIRMAN PALLADINO: Well, from my experience ---.

13 COMMISSIONER GILINSKY: The other guys are
14 errand boys, a bunch of technicians.

15 CHAIRMAN PALLADINO: In my industrial experience,
16 I very seldom saw a member of the board of directors, and
17 the vice president that sat downtown didn't know what was
18 going on in the organization. But my local management did
19 and I was very responsive to them.

20 Now, they have changed that and we can't go back
21 and say to those people that were downtown or over -- I
22 have forget where, Parsippany -- that therefore they were
23 managing that plant.

24 So, I think we have to be careful. There has been
25 a change in the organization and we have to assess whether

1 or not that change is adequate.

2 COMMISSIONER GILINSKY: Well, it depends on how
3 high you set your sights and where the actual responsibility
4 is.

5 CHAIRMAN PALLADINO: Actually, now I got to a
6 different experience, my Army experience. The fellow that
7 was in combat, boy, sure knew what was right and what was
8 wrong. He may not have known it beforehand.

9 I remember when my company went into the Cerise
10 Forest and I went around and tried to tell them, you have
11 got to dig those foxholes deeper, and everybody said, oh,
12 that is just the same old stuff. And we were strafed, and
13 after that you couldn't find the company. They had deep ---

14 (Laughter.)

15 No, I don't mean they ran away. They were dug in
16 with railroad ties on top. But after that you never had to
17 ask about foxholes.

18 So, I say here, this organization went through a
19 traumatic experience and they may be in better shape,
20 actually, to carry forward.

21 COMMISSIONER BERNTHAL: But are you suggesting we
22 adopt different methods here?

23 COMMISSIONER GILINSKY: You know, that has a
24 certain plausibility, but the fact is, when I ask, are you
25 comfortable about these guys operating a plant, you want to

1 hear what the guy is going to say in a few days.

2 CHAIRMAN PALLADINO: Well, I want to hear it. My
3 general reaction is that if I hear what I want to hear, I
4 am prepared to go with them.

5 COMMISSIONER GILINSKY: If I hear what I want to
6 hear, I am prepared to go with them, too.

7 (Laughter.)

8 This is going to sound like I concocted this, but
9 I was asking the Japanese about, you know, how they
10 manage to maintain discipline and so on, and they just
11 volunteered, they said, look, you have the worst accident
12 in the history of the civilian program and the guys are
13 still there. He said, we had a tiny leak in Seruqa which
14 was within specifications, I think, within the tech specs,
15 but they had covered it up and not informed the local
16 authorities and they had taken some measures to keep people
17 from finding out about it. And as a result of that, just a
18 whole slew of guys had to resign.

19 Now, as a matter of fact, they got their jobs
20 back, but not the president.

21 COMMISSIONER ROBERTS: Absolutely. I was told the
22 same story, Victor, and they kind of winked and said, sure,
23 and they get taken care of, they work for a non-profit
24 entity and then a few years later they are all back,
25 including the president. I was told the same story.

1 COMMISSIONER GILINSKY: No, I was told not the
2 president. Everybody but the president.

3 COMMISSIONER ROBERTS: Well, we talked to two
4 different people because I was told the same story and they
5 winked and said, you know, that is just for appearances.
6 They quit for a while, but then we take care of them.

7 COMMISSIONER GILINSKY: What do you think is going
8 to happen if these guys quit? Don't you think they are
9 taken care of?

10 COMMISSIONER ROBERTS: I have no idea.

11 COMMISSIONER GILINSKY: That isn't the point. Well,
12 you can be damn sure they are going to be taken care of, but
13 there is a point in it nevertheless, and I think there is a
14 very valuable lesson that is learned.

15 CHAIRMAN PALLADINO: Were you through?

16 COMMISSIONER BERNTHAL: I wanted to get back to
17 Jack's presentation and just say that aside from the question
18 of what these inspectors may or may not find out, the reason
19 I asked what they are used to doing is that I am concerned
20 partly about the inspectors themselves, because it seems to
21 me you have a fundamental change in the nature of the job
22 that they are being asked to do if you go with this kind of
23 approach.

24 Well, I see some people disagreeing, but ---

25 COMMISSIONER GILINSKY: I must say, I personally,

1 even though I don't think this solves the problem, see that
2 as a fundamental change. You are just going to inspect more
3 heavily. Instead of sampling one out of a hundred items or
4 one out of a thousand items, you are going to sample three
5 or five.

6 CHAIRMAN PALLADINO: That was the basis on which
7 I was going. Greater presence. And I don't know if two
8 people per shift ---

9 COMMISSIONER BERNTHAL: Well, two guys sample
10 twice as many things, but the whole perspective is to look
11 for cheating, not necessarily to ---

12 CHAIRMAN PALLADINO: I said I would go along with
13 greater presence.

14 COMMISSIONER GILINSKY: Listen, we can go around
15 these things, you know, around and around and around. It
16 seems to me one has to suggest what alternatives are
17 available. Maybe we ought to hear from the commissioners.
18 Some of us have spoken.

19 MR. ZERBE: Well, we had one other item I wanted
20 to make.

21 You know, what we finally concluded was that it
22 wasn't obvious if you look at the times potentially involved
23 with these various ways of doing business, that you could
24 gain much on the current approach if the investigations were
25 completed early in the spring. You might still be ahead of

1 the game if you go that way, particularly if you take
2 Option 1, the current approach, and kind of weed out some of
3 the things you don't think are worthy of investigating before
4 you have a restart decision.

5 And one of the key swing items there that could
6 influence you in any event would be the decision on the
7 steam generator hearing or need for or not need for a hearing
8 on that issue.

9 COMMISSIONER ROBERTS: Do you have any idea when
10 that decision is going to be made?

11 CHAIRMAN PALLADINO: I spoke to Bill Dircks telling
12 him I was concerned that we kept slipping it and I asked him
13 to check into it, and he came back and said he has talked
14 to Harold Denton and they still have as a target to get it
15 by the 15th or the middle of November, which is earlier than
16 we had been told.

17 MR. ZERBE: Yes. There is a meeting scheduled for
18 the 2nd of December, but if you got it earlier, maybe you
19 could ---

20 CHAIRMAN PALLADINO: We want to take this up when
21 we do agenda planning.

22 MR. ZERBE: Because if that thing were to require---

23 CHAIRMAN PALLADINO: They would be prepared to give
24 us their position or have a paper on giving their position
25 about that time, which is different from what we were told

1 at agenda planning.

2 MR. ZERBE: So, if that were made, then, and
3 there was not going to be required or you went along with
4 not requiring a hearing in series before that decision was
5 made on the steam generator issue, then you might want to
6 look at some of these alternate approaches that might speed
7 up the restart decision above what it will be if you go down
8 the present road.

9 And, in fact, prior to even getting to that
10 point you might want to ask the staff, if you are interested
11 in anything like that third option, how might they flesh
12 that thing out, what might be involved and whether any
13 outside outfit might be interested and how much time it might
14 take.

15 We just didn't go into great detail on it, but it
16 just looked like a possibility that might be a shorter
17 range option.

18 COMMISSIONER ROBERTS: Let me ask a question. You
19 may not know the answer. Forget the licensing process.
20 What is the status of the plant?

21 MR. MONTGOMERY: The last I heard, which was maybe
22 three weeks ago, maybe six weeks away. I guess, I don't
23 really know to give you a straight answer today. I don't
24 know what it is today.

25 COMMISSIONER ASSELSTINE: What does the GPU

1 submittal say?

2 MR. GOODWIN: They are six weeks away. They are
3 in the final stages of steam generator testing.

4 CHAIRMAN PALLADINO: That is what Dieckamp in his
5 AIF speech said, that they were just about complete with
6 the steam generator and would be ready to start up shortly
7 thereafter.

8 Let me ask a question. I would propose that we take
9 a look at these issues to see if there are any of them that
10 we don't feel are necessary for TMI-1's restart. However,
11 it was suggested that you would rather have commissioner
12 opinions. I am willing to go either way on the general
13 subject.

14 COMMISSIONER GILINSKY: I am willing to go either
15 way, too. Well, Fred has got all these questions about
16 various proposals. I must say I have got questions, too.

17 CHAIRMAN PALLADINO: Well, do you want to go to
18 that?

19 COMMISSIONER GILINSKY: It seems to me you have
20 to suggest some alternative, because we have got to go one
21 way or another.

22 CHAIRMAN PALLADINO: Well, I suggested that one
23 alternative is that we hear what their proposed organization
24 is, either accept it with or without conditions -- I presume
25 it would be with conditions -- or don't accept it with

1 explanation of why.

2 I would also consider as one of the conditions
3 greater presence of inspectors, and I was thinking maybe two
4 per shift around the clock, and then also look and see if
5 there is any of these things that would influence our
6 ultimate decision, because you might feel we don't need to
7 wait for them. That is why I wanted to go look at this.

8 Would anyone else like to speak?

9 COMMISSIONER GILINSKY: There may be a problem
10 in getting ten resident inspectors.

11 CHAIRMAN PALLADINO: Well, it might be a problem.

12 MR. ZERBE: There could be a problem of
13 accomplishing that in the staff and it could lead to some
14 training of some people and that could take a number of
15 months. We recognize that and that is why that would have to
16 be looked at in some detail before -- I mean, what the staff
17 would have to say about it. We don't know what their
18 position would be.

19 COMMISSIONER GILINSKY: Well, it is also their
20 position on the integrity issue altogether. It seems to me
21 they have backed into a position of just not taking a
22 position. I mean, that is my impression. And I don't think
23 you are going to get the staff approval on any of these
24 plans, no matter what. Because for one thing, they are a
25 little more attuned to the winds than some of us are.

1 COMMISSIONER ASSELSTINE: Yes.

2 CHAIRMAN PALLADINO: Well, maybe we can't
3 accomplish all the greater presence we would like, but it
4 is still worth looking at.

5 COMMISSIONER GILINSKY: And I would say that
6 unless you can argue intellectually about the relevance of
7 the indictment to a Commission finding, I think the
8 practical effect of it is going to be to back the staff off
9 even further, to cause them to be even more reluctant to
10 make any sort of approval here.

11 They are just going to say, well, you know, we
12 have said our piece and done our investigation and here are
13 the documents, and let the Commission decide.

14 MR. MONTGOMERY: I don't know about your last
15 point on the indictment, but certainly as late as June 7th,
16 when Bill Dircks sent down his proposal, staff at that time
17 was suggesting -- at least the one variation where you
18 deal with integrity of individuals and separating them
19 out -- whether or not they would still be willing to
20 entertain that ---

21 COMMISSIONER GILINSKY: But that was a long time
22 ago.

23 MR. MONTGOMERY: That is true.

24 COMMISSIONER GILINSKY: And what happened is that
25 the Commission did not embrace that proposal.

1 MR. MONTGOMERY: That is right.

2 COMMISSIONER GILINSKY: I am referring to what
3 happened after that, and my impression is they then said,
4 very well, you know, you take the wig.

5 MR. MONTGOMERY: Well, I don't know what they would
6 do if, for example, the Commission were to reconsider it.

7 COMMISSIONER GILINSKY: Well, I don't know either.
8 If you want to experiment, it is okay with me.

9 CHAIRMAN PALLADINO: Jim or Fred or Tom?

10 COMMISSIONER BERNTHAL: Well, I have no objection
11 to -- it seems to me we almost have no choice but to in
12 fairness look at their proposal. I think I know where we
13 are being led here, but that is all right. I think that is
14 what we have to do first.

15 CHAIRMAN PALLADINO: Tom?

16 COMMISSIONER ROBERTS: Can you explain to me the
17 process of this indictment and what happens and give me some
18 sense of procedurally what is the next step?

19 MR. PLAINE: A trial.

20 COMMISSIONER ROBERTS: When would that likely be?
21 And I know that is speculation.

22 MR. PLAINE: I couldn't guess at this point. It
23 would depend on the court calendar and so on.

24 COMMISSIONER ROBERTS: What is the jurisdiction?

25 MR. PLAINE: It is the Middle District of

1 Pennsylvania, I guess: U. S. District Court in the Middle
2 District of Pennsylvania is the likely place. Somebody
3 might ask for a change of venue. That is a possibility, on
4 the ground that the jurors there have all prejudged this
5 issue, you know. This varies.

6 COMMISSIONER GILINSKY: Well, how damaging would
7 it be for them to simply pay the \$85,000 and accept the
8 charges?

9 MR. PLAINE: It might not be damaging.

10 CHAIRMAN PALLADINO: It might what?

11 MR. PLAINE: It might not be damaging, but I
12 would suspect that it depends on the basis on which the
13 U. S. attorney makes the proposal, or the proposal that is
14 made to him and how far he will go in accepting it.

15 If they want him to accept it without any
16 implication of guilt, he may think hard about it. I just
17 don't know.

18 CHAIRMAN PALLADINO: What is the implication of
19 nolo contendere?

20 MR. PLAINE: Well, you say I don't intend to
21 plead or defend against this and I throw myself on the
22 mercy of the court.

23 MR. LEVI: I understand that the district attorney
24 has just stated at a press conference that he will not
25 accept a plea of nolo contendere.

1 MR. PLAINE: And the judge, of course, could
2 reject it.

3 COMMISSIONER ROBERTS: I was going to say, that is
4 not his call, is it?

5 MR. PLAINE: Well, he might oppose it is what he
6 is saying, and the judge then makes the call.

7 Does that answer the question you have?

8 COMMISSIONER ROBERTS: Yes.

9 MR. MALSCH: One thing that had me thinking
10 about, what effect on the lawsuit against us a guilty plea
11 would have.

12 CHAIRMAN PALLADINO: Are there other comments?
13 Jim?

14 COMMISSIONER ASSELSTINE: I don't have any problem
15 with hearing from the licensee and hearing what their
16 proposal is. I guess I am skeptical that it is going to
17 be much beyond what they have already sent us, both in the
18 June letter and also, I guess, as they elaborate on it in
19 the big October submission. But I don't have any problem
20 with doing that and with giving them our reaction to it.

21 I think my reaction to it, if it is the same
22 proposal that we have before us now, will be as I
23 described earlier.

24 I would also be willing to go through the items
25 that OI has referred to it for investigation and see if

1 there are things that we can trim out of there that aren't
2 material or relevant to the restart decision. I think that
3 is something that could be useful to do, although again I am
4 not optimistic that that is going to substantially reduce
5 the number of items or the scope of involvement that that
6 carries with it within the company. But I would be prepared
7 to do that, as well.

8 CHAIRMAN PALLADINO: Incidentally, with regard to
9 having them in on Thursday, Mr. Kuhns did say in his letter
10 that he would like to come after he has gotten Rickover's
11 report, which I think he said is due on the 23rd. But that
12 wouldn't preclude us from hearing what their current
13 thinking is, and if they change it as a result of Rickover's
14 recommendations ---

15 COMMISSIONER ROBERTS: Can you elaborate on what
16 did Rickover do?

17 CHAIRMAN PALLADINO: I don't think I know any more
18 than you do.

19 COMMISSIONER ROBERTS: Well, I know nothing, so
20 you have got to know more than I do. You just referred to
21 it.

22 CHAIRMAN PALLADINO: As far as I know, they asked
23 him to come in and assess their management organization.

24 COMMISSIONER ROBERTS: And has he done that?

25 CHAIRMAN PALLADINO: He is working on it. He has

1 hired a staff of people.

2 COMMISSIONER GILINSKY: What I had heard was that
3 Kuhns had hired Rickover without -- on his own, more or less.
4 It was not the group. It wasn't Kuhns and Dieckamp and the
5 others collectively getting Rickover. It was Kuhns getting
6 Rickover to look over the operation.

7 I don't even know if that is true.

8 CHAIRMAN PALLADINO: I would say if Kuhns wants to
9 come back after he has heard from Rickover, there is nothing
10 that would preclude our having him come back.

11 COMMISSIONER GILINSKY: Well, let me ask you, you
12 said they would tell you what you would like to hear and that
13 would be okay. Now, does that plan meet your conditions?

14 CHAIRMAN PALLADINO: Well, there are a few other
15 questions I would like to ask. One with regard to the
16 extent of their commitment to high integrity.

17 COMMISSIONER GILINSKY: And committed.

18 CHAIRMAN PALLADINO: Well, I would like to see how
19 they exemplify that, and I would like to get it said. If
20 they won't say it, then I would like to explore something
21 I think you would like to explore. But I will have to
22 think about whether this is the right forum. I would like
23 to know the extent to which they undertake their
24 responsibility and not be looking for other people to blame
25 when they have problems.

1 I think that is an essential feature, looking to
2 the future.

3 I would like to hear a little more about their
4 commitments that they generalized in their paper with
5 regard we are not going to have anybody that worked on
6 TMI-2 -- I forgot some of their things.

7 I would like to hear a commitment that they are
8 not going to have anybody in there that was involved in the
9 cheating in the program, and how far down in the
10 maintenance ---

11 COMMISSIONER GILINSKY: Isn't that part of their
12 proposal?

13 CHAIRMAN PALLADINO: And I think hearing the
14 right things on those, I would be prepared to say I don't
15 have any qualms about their competence in start-up because
16 the competence has been adjudicated. The question has to
17 do primarily with what we call integrity.

18 And if there are people that are found along the
19 way that need indictment or whatever comes out of it, then
20 we take those steps as enforcement actions.

21 COMMISSIONER GILINSKY: Well, fair enough. Have
22 you got any thoughts you want to share with us, Tom? Are
23 you comfortable with their proposal?

24 COMMISSIONER ROBERTS: I like the Chairman's
25 answer to that question.

1 COMMISSIONER GILINSKY: You like it?

2 COMMISSIONER ROBERTS: I liked his answer to the
3 same question.

4 COMMISSIONER GILINSKY: Yes. Do you have any
5 thought?

6 COMMISSIONER BERNTHAL: I haven't studied the
7 proposal in detail yet, but I must say that it seems to me
8 other events may relieve us, in the short term at least, of
9 needing to concern ourselves with more than what I think
10 we really do owe them, and that is a review of that
11 document. And then we can take the next step.

12 MR. PLAINE: Mr. Chairman, would you permit me a
13 comment?

14 The notice that you sent on October 7th to the
15 parties concluded with the following statement:

16 "Given the estimated time necessary to resolve the
17 issues listed in the attached schedule, the Commission is
18 prepared to consider alternative approaches for dealing with
19 the management competence and integrity issues. In addition,
20 the Commission expects to address the subject of alternative
21 approaches in the near future."

22 Now, three of you at least, I sense, feel that
23 the alternative approach already presented by TMI is not
24 quite adequate, that maybe the quarantine they suggest
25 doesn't go far enough.

1 Is it possible for you to agree that you will
2 indicate to the parties that you are not quite satisfied
3 with the quarantine suggestion now on the table, but that
4 you might be willing to deal with a quarantine that goes
5 further and extends higher in the management scale?

6 CHAIRMAN PALLADINO: I haven't drawn that
7 conclusion.

8 COMMISSIONER ROBERTS: I have not drawn that
9 conclusion, either.

10 CHAIRMAN PALLADINO: No. I would say, I want to
11 have the opportunity to hear their expression, their
12 description of the proposal and have the opportunity to
13 question them, and then give them either an acceptance
14 with or without conditions, or a denial and the reasons why.

15 I can't say that ---

16 MR. PLAINE: Well, you could probably phrase it
17 a little more iffy than I did. I came out flat.

18 CHAIRMAN PALLADINO: Yes, I perceived that.

19 MR. PLAINE: You could say, if the Commission is
20 not satisfied with the extent of the proposed quarantine,
21 how far should the licensee go in dealing with the question
22 of the current management.

23 And if you phrase it that way, that gives an
24 opportunity for both the licensee and the parties to make a
25 suggestion as to what they think ought to be.

1 CHAIRMAN PALLADINO: If we go which way?

2 MR. PLAINE: If you phrase it in that form, it
3 invites both the comment not only of the licensee, but of
4 the parties as to how far.

5 CHAIRMAN PALLADINO: If we go which way?

6 MR. PLAINE: In which you say, if it should prove
7 that the Commission is not satisfied with the present
8 quarantine proposed by the licensee, how far are the
9 parties suggesting the Commission go.

10 CHAIRMAN PALLADINO: I really expect that the
11 discussed -- I would expect, then, our yes or no, we would
12 give an indication of whether we want to go farther or not,
13 and the decision would be made after we have heard from
14 GPU, gotten comments from the other parties.

15 COMMISSIONER GILINSKY: I gather you are ready to
16 move forward without a favorable assessment from the staff.

17 CHAIRMAN PALLADINO: That is why I wanted the
18 comment from the parties, because they are an important part
19 of that.

20 COMMISSIONER ASSELSTINE: But the staff has been
21 very clear on that. I think the staff has said, here is a
22 list of items that we think have to be investigated and we
23 are not prepared to reach a conclusion, a favorable
24 conclusion, until that is done.

25 CHAIRMAN PALLADINO: They went on the basis that

1 we said we didn't want to go this quarantine procedure on
2 individuals.

3 COMMISSIONER GILINSKY: I must say -- I may be
4 wrong -- but I would be very surprised if they would ---

5 CHAIRMAN PALLADINO: Well, I wish I was allowed to
6 talk to the staff on some of these. Maybe we could get some
7 answers.

8 COMMISSIONER GILINSKY: Well, I am just judging on
9 the basis of the recent indictment.

10 COMMISSIONER ROBERTS: I would put a different
11 light on what the staff has done. I think the staff has
12 said, to hell with you commissioners, you figure it out.
13 That is my reaction.

14 COMMISSIONER GILINSKY: Well, I don't disagree with
15 that.

16 COMMISSIONER ROBERTS: But, I mean, I don't think
17 they are taking a position.

18 COMMISSIONER GILINSKY: They are not going to take
19 a position.

20 COMMISSIONER ROBERTS: Well, I think they are
21 clearly not.

22 COMMISSIONER GILINSKY: That is what I am saying.

23 COMMISSIONER ASSELSTINE: That is right.

24 COMMISSIONER GILINSKY: But we are separating by
25 agreement, again.

1 CHAIRMAN PALLADINO: Let me explore my own
2 thinking a little bit with regard to an important policy
3 question that maybe is implied in my thinking.

4 And that is that if later we find individuals that
5 ~~we didn't identify in the quarantine~~, that were for some
6 reason questioned or proven that they either cheated or
7 did something else, then take appropriate enforcement
8 action. And this, I think, is an implication in what I
9 would be doing.

10 MR. PLAINE: You see, one of the things that you
11 can do under the suggestion that I tried to make is you can
12 say it may be necessary, in view of the fact that these
13 are matters that take a long time to resolve, to indicate
14 that if you want to get going, give us a more satisfactory
15 quarantine that will ensure that at the start anybody who
16 is under question is not part of this operation, assuring
17 them in turn that if the investigations clear these people
18 then we will withdraw our objections to them participating
19 in the future.

20 COMMISSIONER ASSELSTINE: I think that is a
21 reasonable approach, but I think the practical effect of that
22 is to rule out large portions of the organization.

23 COMMISSIONER ROBERTS: And in your very words, you
24 would exclude everyone potentially implicated by allegation.
25 Hell, that is everybody there.

1 CHAIRMAN PALLADINO: Well, not necessarily. There
2 were 16 individuals who were with MET-ED prior to the
3 accident. I don't know, maybe that has grown to some other
4 number.

5 But I think I would like to look a ~~little~~ further
6 before I say, oh, well, just because you worked prior to
7 the accident that you, therefore, are potentially suspect.
8 I would like to know what they are suspect on, because
9 there are some of these -- that is why I wanted to go
10 through this chart -- there are some of these I don't think
11 relate to TMI-1.

12 MR. ZERBE: The more recent ones, though, involve
13 the management that is there now, including Clark.

14 COMMISSIONER GILINSKY: And including Kuhns.

15 MR. ZERBE: Yes.

16 COMMISSIONER ASSELSTINE: And Dieckamp.

17 CHAIRMAN PALLADINO: We have got to watch that
18 the allegations don't become the same as convictions, and
19 that is what we are doing. We are saying, well, until you
20 are proven innocent you just can't work at this plant.

21 COMMISSIONER GILINSKY: In the ordinary case I
22 would say you are absolutely right. But this is a different
23 case. You have the first utility that has been criminally
24 indicted for violating our requirements, and although it is
25 a different company there are large portions that are still

1 the same.

2 You have a very large number of areas of concern
3 that involve a variety of different aspects of the
4 operation of the plant and a variety of different aspects of
5 the management of the operations here, which is very
6 pervasive.

7 CHAIRMAN PALLADINO: That is why I would like to
8 explore with them when they come. I just can't take their
9 "16" and say that answers all my questions.

10 COMMISSIONER GILINSKY: It is entirely possible,
11 but I don't myself know, that some of the people we are
12 talking about were, in fact, on the board of MET-ED and may
13 even have chaired the board.

14 MR. MONTGOMERY: Let me make sure I understand
15 your point, that the prior board members might somehow be
16 in today's GPU unit?

17 COMMISSIONER GILINSKY: Well, it would be
18 interesting to know who was on the board, the MET-ED board.

19 At one time, and I believe however this was after
20 the accident, when they had moved some people out and a
21 number of vacancies, Kuhns and Dieckamp were on every board
22 and one or the other of them was chairman of every one of
23 the four boards, and it was clear that those were the two
24 guys running the whole show.

25 CHAIRMAN PALLADINO: Incidentally, if we want to

1 have them here and make a presentation on Thursday, we ought
2 to give them some notice, and I also don't know exactly what
3 is the proper procedure to get in touch with them and get
4 that message to them.

5 COMMISSIONER BERNTHAL: I don't disagree with the
6 idea of having them come down here, but I just again throw
7 out the thought that I just can't imagine what we really
8 are going to get out of inquiries as to whether everyone is
9 going to be a good boy. Now, that is basically what we are
10 going to ask, and they are going to say, yes, we really do
11 care about integrity and ---

12 CHAIRMAN PALLADINO: Let me give you some other
13 examples of questions. I will take their June 10th. They
14 talk about 16 individuals that were with MET-ED prior to
15 the accident. I would like to know what they are doing,
16 what if we were to say, well, one of the conditions of
17 proceeding is that they are quarantined until such time as
18 they are proved innocent, what is the consequence on your
19 organization.

20 Now, maybe Kuhns can't answer that, but he ought
21 to have somebody on the staff that could answer it, so we
22 know how much flexibility we have with regard to their
23 capability to operate.

24 COMMISSIONER BERNTHAL: Yes, I agree, those are
25 certainly legitimate questions. But I thought that your

1 comments earlier indicated some desire to sort of put them
2 on the spot and determine the level of integrity that they
3 have.

4 CHAIRMAN PALLADINO: That is part of it.

5 COMMISSIONER BERNTHAL: And I just ---

6 CHAIRMAN PALLADINO: But I think that here they
7 have a proposal we have never answered. They have
8 amplified it.

9 COMMISSIONER BERNTHAL: And I agree we need to do
10 that.

11 CHAIRMAN PALLADINO: So, in the process of
12 answering it, we may give them the best advice there is,
13 and that is why I came back to talk in terms of the
14 individuals because I have a feeling that that is the
15 underlying feature of the thinking -- may be the underlying
16 feature of the thinking.

17 COMMISSIONER GILINSKY: My own feeling is that
18 when you have a company that is basically in good shape and
19 you are about to give them a license, there is a certain
20 value in having the president or the chairman come up and
21 express his commitment to the public health and safety,
22 because I think these words, just like our "Pledge of
23 Allegiance" and all these things, they have a certain effect
24 on people, and I think it is important.

25 But when you have got deep doubts, it isn't too

1 helpful to have him come up and say what is in his obvious
2 interest to say.

3 CHAIRMAN PALLADINO: Well, I don't know what you
4 have deep doubts about.

5 COMMISSIONER GILINSKY: Well, I am just not
6 privyng these deep doubts to you.

7 CHAIRMAN PALLADINO: Well, that is an approach that
8 we could take. I am open to other approaches. Otherwise, I
9 don't know exactly what we are ready to do on Thursday.

10 COMMISSIONER BERNTHAL: Well, I agree, basically.
11 As a practical matter, I think you are suggesting the only
12 reasonable thing to do at this point and I think we should
13 just go ahead and do that on Thursday.

14 COMMISSIONER ROBERTS: What time is the meeting?

15 COMMISSIONER ASSELSTINE: 9:30, I think.

16 CHAIRMAN PALLADINO: Is that what it is?

17 MR. CHILK: 9:30.

18 COMMISSIONER BERNTHAL: Let me ask one other ques-
19 tion of Jack, if I may. Do I understand the basic conclusion
20 of your document to say that -- it seemed like somewhere in
21 there there was a statement that there is basically nothing
22 the Commission can do to make things move any more quickly
23 than the course we are presently embarked on and that time
24 line, I guess, that we put out along with our previous Order.
25 Is that correct?

1 MR. ZERBE: What we were saying was that the
2 optimistic time line - we gave an optimistic and a
3 pessimistic ---

4 COMMISSIONER BERNTHAL: That is right, yes.

5 MR. ZERBE: The optimistic was back in the middle
6 of '84. That it is not clear to us that any of the
7 approaches that we looked at can get you there any faster
8 than that, and particularly our thought was that even if the
9 utility said, well, we would be willing to dump everybody
10 and we will bring in a surrogate outfit, that is not going
11 to get you there faster than that, we suspect, because, you
12 know, you are going to have to go through, review all those
13 people. They have got to get them in the first place. You
14 might have to have a regular hearing on that subject.

15 So, why would they want to propose that rather than
16 just why wouldn't they rather sit tight and let the hearings
17 go through and get their people cleared, if they were
18 innocent. It would be better, maybe, than to monkey around
19 with that other thing.

20 But we felt that at this stage in the game you
21 might sit tight, but maybe you want to do some investigation
22 of some of the possibilities on the alternates, either
23 looking and seeing if any of the investigations could be
24 moved out or getting the staff to look at what might be
25 involved in an added inspection approach, if you wanted to

1 do that.

2 And then, you know, if you found that the schedule
3 were to continue to move out, then maybe you might want to
4 put those in.

5 There hasn't been any additions in the way of
6 allegations or what have you of a significant nature yet
7 since that schedule was made up that has continued to move
8 it like it was moving there. You know, it was moving very
9 rapidly there for a while, and there haven't been that many
10 new ones added in the last few months.

11 COMMISSIONER ROBERTS: But you certainly can't
12 predict.

13 MR. ZERBE: You can't predict that, and that is
14 why we suggested maybe you want to start looking at some of
15 these other options and get ready in case you find that the
16 thing has moved out another year, and then maybe you want
17 to -- you know, even investigating the surrogate situation
18 might turn out to be a shortcut, if that happened, you
19 know, if they were willing to do it.

20 MR. MALSCH: Let me just add a comment on the
21 quarantine approach. I don't think GPU knows enough about
22 what it is we are investigating to make an effective offer
23 or who should be quarantined.

24 A lot of the documents -- as an example, the GPU
25 v. B&W transcript review done by the staff has big blanks

1 in it, and there would be no way for the licensee at the
2 present time to know who is implicated by all the pending
3 investigations.

4 CHAIRMAN PALLADINO: That is why the whole
5 fuzziness of the whole process gives me a little bit of
6 problem.

7 MR. MALSCH: There has certainly been a problem
8 with that concept all along. It sounds nice in theory if
9 you had certain knowledge, which no one ever seems to
10 possess.

11 CHAIRMAN PALLADINO: Incidentally, if we were to
12 call GPU and ask them if they would be prepared to do that,
13 if their answer is, oh, God, no, we can't be ready by
14 Thursday, what do we do on Thursday?

15 MR. PLAINE: Maybe you should have a fallback
16 date right now.

17 COMMISSIONER GILINSKY: Or a fallback subject.

18 MR. PLAINE: You can include that, too.

19 CHAIRMAN PALLADINO: One possibility would be
20 that is where we go through and discuss whether or not we
21 have to wait for each one of these. I don't know whether
22 that inhibits anybody or not.

23 COMMISSIONER ASSELSTINE: Well, I don't know. To
24 what extent can we talk about the details, for example, of
25 what is in the B&W versus GPU trial transcript?

1 CHAIRMAN PALLADINO: Yes.

2 MR. LEVI: It might be appropriate to point out
3 that Mr. Blake, the attorney for GPU, called yesterday to
4 ask if GPU was expected to make any oral presentations at
5 Thursday's meeting, and we advised him that to our
6 knowledge they were no.

7 COMMISSIONER BERNTHAL: Tell him we changed our
8 mind.

9 CHAIRMAN PALLADINO: Let's see, what is the proper
10 way to get in touch with them and tell them what we want to
11 do, if this is what we want to do?

12 MR. PLAINE: Our usual method is notice to all of
13 the parties, and you can start by telephoning and follow it
14 in writing.

15 CHAIRMAN PALLADINO: And confirm it in writing?

16 MR. PLAINE: Yes.

17 CHAIRMAN PALLADINO: And the proposal would be to
18 have them come and describe their present proposed
19 organization and the ground rules around which they are
20 going to build, if they need to build, and respond to
21 questions.

22 Afterwards, we would propose to have the parties
23 comment on what was presented.

24 COMMISSIONER ASSELSTINE: And then we will let them
25 know what we think about their proposal.

1 CHAIRMAN FALLADINO: And then we would let them
2 know what we think about the proposal. I don't know how
3 much comment period one normally gives after a meeting like
4 that and how long it takes to send -- but I have a feeling
5 that it would take at least a week to get it out to them
6 and just this time of the year I don't know what you think
7 a reasonable turnaround time is.

8 They will have had -- I presume they all got
9 copies of this document.

10 COMMISSIONER ASSELSTINE: Yes.

11 CHAIRMAN FALLADINO: Is a week too short? Two
12 weeks too short?

13 COMMISSIONER ASSELSTINE: It depends upon what
14 they say. If basically what they say is, look, we don't
15 have much of anything to add to what we have already told
16 you, it is in our blue book, and ---

17 CHAIRMAN FALLADINO: Oh, no. I am thinking of
18 the other parties commenting.

19 COMMISSIONER ASSELSTINE: I know, but I guess what
20 I am saying is, if all GPU is going to do is repeat their
21 earlier offer, which is we think this is a reasonable
22 approach, you have had it before, and this is it and we
23 don't intend to offer much more beyond that, then I would
24 think the comments by the other parties could be fairly
25 straightforward.

1 COMMISSIONER ASSELSTINE: Maybe they will come up
2 with the right proposal.

3 (Laughter.)

4 CHAIRMAN PALLADINO: There is no right time to do
5 anything. That is why we are in this dilemma.

6 MR. KENNEKE: Mr. Chairman, I remind you of what
7 you mentioned before, that Kuhns had offered to come in at
8 the end of the month when he had his other report.

9 CHAIRMAN PALLADINO: But I was going to ask him to
10 come in now, and then if he has got anything more to add at
11 the end of the month, to do it again.

12 We are in the bind that we scheduled a meeting
13 for Thursday and this is one profitable thing to do. If
14 there is another profitable thing to do in place of it, I am
15 willing to do it.

16 COMMISSIONER BERNTHAL: Well, I think Victor has
17 raised a serious question, though, now that you think about
18 it. If they are under indictment and three days later -- I
19 can't imagine that it is reasonable to expect them to come
20 in and speak to this issue while they may still be
21 deciding how they ought to respond to the indictment,
22 frankly. It almost seems inappropriate for us not to give
23 them -- I don't know how long it would normally take for
24 them to respond. What, a week or two weeks, or more? What
25 is normal?

1 CHAIRMAN PALLADINO: When you get up to bat, if
2 you don't swing, there is no chance in getting a hit. So,
3 if they get up to bat and flub it, maybe I question their
4 comments.

5 (Laughter.)

6 COMMISSIONER ASSELSTINE: I think it depends on
7 what they say. If they get an elaborate alternative
8 proposal, maybe a couple of weeks.

9 CHAIRMAN PALLADINO: Well, let me ask if that is
10 what the Commission would like to do? I am open to any
11 other suggestion.

12 COMMISSIONER ASSELSTINE: I am willing to do that
13 as a way to get to the point where we can give them a
14 decision on what we think of their proposal and any other
15 guidance that we think, collectively or individually, we
16 can give them on whether there are other alternatives
17 available.

18 CHAIRMAN PALLADINO: Is it appropriate to hav
19 Herzel call?

20 COMMISSIONER ASSELSTINE: Sure. Yes, call all
21 the parties.

22 COMMISSIONER GILINSKY: I think they will wonder
23 what it is about our informing them on two days notice
24 right after they have been indicted to present a proposal.
25 I would.

1 MR. PLAINE: You could do it on a week's notice.
2 That wouldn't be too bad.

3 COMMISSIONER BERNTHAL: No. I am speaking of
4 their response to the indictment.

5 MR. PLAINE: Oh, they can just sit pat and just
6 start preparing for trial, or just carry on discussions with
7 the U. S. attorney as to what it would take to settle, if he
8 is in the mood to settle, or, you know, whatever it is.

9 I just can't speculate on what they are going to
10 be doing. But I was going to come back to your question
11 about talking to them on the phone and saying, you are
12 expected to come down here and discuss certain things.

13 I would think the first thing that whoever is
14 listening to me or one of my colleagues would be, well, what
15 do you want us to talk about, what does the Commission want
16 us to talk about. And I think you are better off if you
17 put what you want to say in writing. Give them enough time
18 to respond, and then you avoid the implications that
19 Victor indicated, that giving them such short two day notice
20 that we attach some great significance to this indictment,
21 and maybe we don't at this point.

22 CHAIRMAN PALLADINO: Then what do you suggest we
23 do Thursday?

24 MR. PLAINE: Call it off and postpone it.

25 CHAIRMAN PALLADINO: That was one of my thoughts.

1 COMMISSIONER BERNTHAL: I think we ought to forget
2 it.

3 COMMISSIONER ROBERTS: Can we switch the afternoon
4 meeting to the morning if we do cancel it?

5 (Laughter.)

6 CHAIRMAN PALLADINO: What is this other? I
7 brought my schedule in at every meeting except this one.

8 COMMISSIONER ASSELSTINE: Atlas, your Atlas
9 meeting.

10 CHAIRMAN PALLADINO: Now, are we suggesting that
11 we not contact them at all and just cancel the meeting?
12 Not contact them at all with regard to anything on
13 Thursday?

14 COMMISSIONER ASSELSTINE: I guess what Herzel is
15 proposing is that we send them some kind of writing saying
16 what it is we want them to address, and then pick another
17 meeting date which would give them more time to get ready
18 for it.

19 CHAIRMAN PALLADINO: If they hadn't written
20 their June 10th and they hadn't written there -- what is
21 this, October 27th or whatever -- document, I would say,
22 yes, that is pretty short notice.

23 COMMISSIONER ASSELSTINE: I don't know, maybe they
24 have got something to add to the big one. But that was the
25 response to the first Order where the Commission said we are

1 prepared to entertain alternatives, and that is what they
2 sent us. But I don't have any problem, I guess.

3 MR. PLAINE: The other thing you might want to keep
4 in mind is the fact of the indictment might have a very
5 severe impact on the ~~board of directors of the company,~~
6 which might impose a different light on the response. But
7 give them a little time to think about it. Don't sweep them
8 off their feet by saying come in tomorrow. That is what it
9 basically amounts to, come in tomorrow with a new plan or
10 a different plan or a revised plan.

11 CHAIRMAN PALLADINO: Well, let me ask you the
12 question, would you invite them in for a date after they
13 get Rickover's report, or would you like not to tie it to
14 Rickover's report? That is what he ---

15 MR. PLAINE: I think what you need to do is -- if
16 you can practically do it in the way you are timing it
17 without referring to it, you can do it by the way you
18 time this.

19 COMMISSIONER BERNTHAL: Yes, I agree entirely, and
20 part of the reason for our earlier Order was really what I
21 see as the responsibility to the licensee and, frankly, to
22 the customers that they serve that, look, it is going to
23 take this long under circumstances that we thought we
24 foresaw then.

25 And therefore, it seems to me it is just in the

1 spirit of fairness to recognize they are going to have
2 their minds on other things right now and that we just ought
3 to give them the time to work that out without pressing
4 further on this for the moment.

5 CHAIRMAN PALLADINO: All right. Then you would
6 propose not having the meeting.

7 COMMISSIONER BERN'THAL: I think just no meeting and
8 wait. That is what I would propose.

9 CHAIRMAN PALLADINO: Jim?

10 COMMISSIONER ASSELSTINE: Well, I have felt all
11 along and certainly for the past month or so that we ought
12 to make it clear to the parties where we think this
13 proceeding is heading, and we ought to explore with them
14 other options, if there are other options. That is why I
15 wanted to have this meeting in public.

16 Quite frankly, I think it would have been very
17 useful to all the parties to have heard our discussion,
18 and I reluctantly went along with the closed meeting today,
19 but I would have had this one in public, as well. I think
20 we ought to have a public meeting and I think we ought to
21 have it fairly soon.

22 If it means a couple of weeks, that is okay with
23 me, but I don't think we ought to drag this ---

24 COMMISSIONER ROBERTS: Let me ask you just a very
25 general thought. You don't think our decisionmaking and our

1 interchange of ideas is inhibited by a public meeting?

2 COMMISSIONER ASSELSTINE: I don't think mine is,
3 no. Everything I said today I wouldn't have had any
4 difficulty at all in saying in a public meeting.

5 COMMISSIONER GILINSKY: But now that you are not
6 inhibited, you can now release the transcript.

7 COMMISSIONER ROBERTS: I didn't say that.

8 CHAIRMAN PALLADINO: I would have been inhibited
9 in one of my lines of discussion.

10 COMMISSIONER GILINSKY: That would meet all the
11 various concerns expressed here. We could cancel the
12 meeting and release this transcript.

13 (Laughter.)

14 CHAIRMAN PALLADINO: I would suggest that if we are
15 going to go this way that we actually put out a piece of
16 writing that says we have canceled the meeting -- let's
17 see, that we would want to hear from GPU on their most
18 recent organizational structure. We want to give them time
19 to prepare.

20 After that we would ask for the parties' comments.
21 And since this decision was made so late relative to the
22 proposed open meeting, we have canceled that meeting, and
23 it can be written.

24 COMMISSIONER BERNTHAL: Well, is it appropriate
25 to say what we have all said, the fact that they are also

1 terribly busy with this other little matter enters into the
2 decision, or should we not?

3 COMMISSIONER ASSELSTINE: I don't think so. Quite
4 frankly, it is their business. You know, if we ask them to
5 come and they say, hey, we are really worried about this
6 other thing and we are trying to sort out where we are,
7 that would be a different thing. But I think it is somewhat
8 speculative on our part.

9 COMMISSIONER BERNTHAL: And by the way, Jim, I
10 should just say that I don't think we need to wait longer
11 than two weeks, either, in the next week or two. But I just
12 think it is almost courtesy to give them a few days here.

13 CHAIRMAN PALLADINO: Today is the 8th. Two weeks,
14 22nd. Thanksgiving, the 24th.

15 Well, I think we ought to write something out
16 that maybe we send out as a notice to the parties and use
17 it to read over the phone.

18 MR. PLAINE: Would you want us to call the parties
19 to let them know that they are not expected to be here
20 Thursday, but they will be receiving a notice on an
21 adjourn date?

22 CHAIRMAN PALLADINO: All right. I was going to
23 propose you try to write something rather quickly.

24 MR. PLAINE: We can do both.

25 CHAIRMAN PALLADINO: All right. I think they ought

1 to be notified that we are not going to have the meeting.

2 MR. PLAINE: Yes, sure. People have plans to come
3 on down.

4 CHAIRMAN PALLADINO: But we ought to indicate that
5 we will put out a piece of paper explaining to them -- what
6 is that, a notice or what?

7 MR. PLAINE: I guess it would be a notice.

8 CHAIRMAN PALLADINO: Okay. Well, is that the
9 general concensus?

10 COMMISSIONER ASSELSTINE: Yes.

11 CHAIRMAN PALLADINO: All right. Anything more that
12 you would like to discuss on this?

13 COMMISSIONER ROBERTS: If the meeting is canceled,
14 we have a meeting in the afternoon. Could we do that meeting
15 in the morning?

16 COMMISSIONER ASSELSTINE: That is fine with me.

17 COMMISSIONER GILINSKY: Sure.

18 COMMISSIONER ROBERTS: Terrific.

19 CHAIRMAN PALLADINO: Now, I had forgotten, I
20 wanted to go through these items. Are you too tired to go
21 through them?

22 COMMISSIONER ROBERTS: Yes.

23 COMMISSIONER ASSELSTINE: Yes. Let's stop.

24 (Laughter.)

25 CHAIRMAN PALLADINO: Well, let me suggest that you

1 look at them and I will try to be in touch with you and see
2 if I can get any concensus.

3 I gather everybody is tired.

4 Okay, thank you. We stand adjourned.

5 (Whereupon, at 4:20 p. m., the meeting was
6 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
Nuclear Regulatory Commission

in the matter of: Consideration of Options for Dealing with
Management Issues (TMI-1 Restart Proceeding)
(CLOSED meeting - exemptions 5 and 10)

Date of Proceeding: Ruesday, November 8, 1983

Docket Number: _____

Place of Proceeding: 1717 "H" Street, N.W.
Washington, D. C.

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

Marilynn M. Nations

Official Reporter (Typed)

Marilynn M. Nations

Official Reporter (Signature)